

# NORTHERN CALIFORNIA PIPE TRADES TRUST FUNDS FOR UA LOCAL 342

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## **RESTATED PROCEDURES FOR ADMINISTERING QUALIFIED DOMESTIC RELATIONS ORDERS (“QDROs”) FOR ACTIVE PARTICIPANTS (Revised as of May 2024)**

Pursuant to the Employee Retirement Income Security Act, as amended by the Retirement Equity Act of 1984 ("ERISA"), the Board of Trustees of the Northern California Pipe Trades ("NCPT") Pension Trust adopts these procedures for administering Domestic Relations Orders which affect the Benefits of Participants in the NCPT Pension Plan ("Pension Plan") and/or the NCPT Supplemental 401(k) Retirement Plan ("Supplemental Plan"). The Trust shall comply with a Qualified Domestic Relations Order ("QDRO") as required by ERISA and any lawful regulations.

A QDRO is a Court Order that addresses the division of benefits under the Plan(s) for an Individual ("Alternate Payee"), such as a former Spouse, Child or other Dependent who has the right to receive some or all of the Plans' benefits. Legal Counsel ("Trust Counsel") must review any proposed order to determine whether it is a QDRO. Once a QDRO has been approved by Trust Counsel and filed with the Court, the Court filed copy must be submitted to the Trust Fund Office ("TFO").

### **A. PROCEDURE FOR HANDLING PROPOSED ORDERS OR INQUIRIES**

1. **Written Request of the TFO.** Inquiries and questions on an Alternate Payee's community property interest in the Plan(s) should be made in writing to the TFO at the address listed above. This includes a Joinder requesting to formally "join" the Pension Plan in a dissolution/divorce proceeding and/or submission of any proposed Order for review. The Joinder and related documents should be sent directly to Trust Counsel: Richard K. Grosboll, Neyhart, Anderson, Et Al., 369 Pine Street, Suite 800, San Francisco, CA 94104-3323 / Phone: 415/677-9440, ext. 130.

A Participant or Alternate Payee may obtain a Sample QDRO on the TFO website, [www.ncpttf.com](http://www.ncpttf.com) or by contacting the TFO at 925/356-8921, ext. 712.

A Participant or Alternate Payee may request a determination on the community property interest as of the date of separation or dissolution from the Plan(s) provided they submit a court filed document listing the date of separation.

2. **Trust Counsel Review.** The TFO will forward any Joinder, proposed Order, and/or any correspondence or information relating to a pending dissolution or support Order to Trust Counsel. Trust Counsel is responsible for filing a Notice of Appearance and contacting the parties or their counsel regarding the Joinder or proposed Order.

Upon being served with a Joinder the Trust may not distribute a Participant's entire interest in the Plan(s) at least for a reasonable period, to allow time for preparation of a QDRO.

Trust Counsel will furnish the Alternate Payee with information on their community property interest in the Plan(s), as well as general information on the Plan(s). Trust Counsel will make the final determination as to whether an Order is a QDRO. Any proposed Order must be approved by Trust Counsel prior to filing with the court.

3. Submission of a Court Filed Copy of Order. The Plans are not required to follow a proposed Order. The Plans will follow an Order which has been filed with the Court and signed by the Judge ("Final Order"). Thus, parties should submit a Final Order to Trust Counsel immediately after Court filing and approval.

B. DETERMINING WHETHER AN ORDER IS A QUALIFIED ORDER

1. Qualified Domestic Relations Order ("QDRO"). A QDRO is a Court judgment, decree, or Order (including approval of a property settlement agreement) that is made pursuant to a State's Domestic Relations Law and:
  - a. Relates to the payment of child support, alimony; or
  - b. Marital property rights to an Alternate Payee.

An Order is a QDRO:

- a. If it creates or recognizes the existence of an Alternate Payee's right to, or assigns to an Alternate Payee the right to, receive all or a portion of the benefits payable to a Participant under the Plan(s); and
- b. If it specifies certain information as set forth in subsection 2 below; and
- c. If it does not alter the amount or form of Plan benefits.

2. Contents of a QDRO.

- a. Requirements for Both Plans. For an Order to be a QDRO it must clearly specify at least the following information:
  - 1) The correct name of the Trust ("Northern California Pipe Trades Pension Trust"); and
  - 2) The correct name of each Plan: "Northern California Pipe Trades Pension Plan" and the "Northern California Pipe Trades Supplemental 401(k) Retirement Plan"; and
  - 3) The name, Social Security Number, dates of birth, last known address of the Participant and each Alternate Payee covered by the Order, and, if applicable, the date of marriage and date of separation. The Social Security Number(s) and dates of birth may be provided in a separate letter or document for privacy reasons; and
  - 4) The Alternate Payee's amount or share (i.e., percentage or amount) of interest in the Participant's Plan(s) or a precise formula for determining such benefits; and
  - 5) The date payments to the Alternate Payee are to commence and, if applicable, terminate; and
  - 6) The Order must also specify that:
    - a) The Plans are not required to provide any type or form of benefit, or any option, not otherwise provided under the Plan; and
    - b) The Plans are not required to provide increased benefits (determined on the basis of actuarial value); and
    - c) The Plans are not required to make payments to an Alternate Payee that are required to be paid under another QDRO.
- b. Requirements for the Pension Plan. The Order should specify:
  - 1) The method of determining the Alternate Payee's community property or a specific amount; and
  - 2) The Alternate Payee may select any benefit option provided under the Plan; and
  - 3) The Alternate Payee shall have the right to designate Beneficiaries only to the extent that death benefits may be available under the form of benefit option elected for the Pension Plan. If the Alternate Payee elects a life annuity based on his/her lifetime, the benefits

cease upon the later of the Alternate Payee's death or the guaranteed months of payments being made. If the Alternate Payee dies before the guaranteed months of payments have been made, the remaining payments shall be made to the Alternate Payee's designated Beneficiary. If no Beneficiary has been designated, payments shall be made to the Alternate Payee's children in equal shares (and if no children, then the next class of successive preference, in accordance with the Plan Document).

- c. Requirements for the Supplemental 401(k) Retirement Plan. The Order should specify:
- 1) The method of determining the Alternate Payee's community property or a specific amount; and
  - 2) The Alternate Payee's share will be segregated, and an account established in the Alternate Payee's name;
    - a) Once segregated, the Alternate Payee will be entitled to future earnings/losses and appreciation in the value of the assets minus any expenses and depreciation in value of the assets;
    - b) Once segregated, the Alternate Payee will have total control over the account established, including the right to designate Beneficiaries, to the extent allowed under Plan provisions; and
  - 3) The Participant will have total control over his/her remaining interest in the Plan and the Alternate Payee will not have any right to the Participant's portion, including as a future Beneficiary before or after the Participant's death (unless the Participant subsequently designates the Alternate Payee as a Beneficiary); and
  - 4) The Plan's \$500 QDRO administration fee shall be paid equally between the parties. Such amount (\$250) will be deducted from each person's Individual Account balance, unless otherwise directed by the court or a written stipulation by the parties.
- d. Optional Provisions. Although not specifically required by ERISA, the Order may contain the following provisions:
- 1) Distribution Even if the Participant is Working.
    - a) Pension Plan: The Order may provide that the Alternate Payee is entitled to receive their community property of the Participant's Pension Plan benefits as of the Participant's earliest eligible Date of Retirement.
    - b) Supplemental 401(k) Retirement Plan: If the parties reach an agreement, the Order may provide that the Alternate Payee receives their community property of the Participant's Individual Account with the Supplemental 401(k) Retirement Plan prior to attainment of the Participant's eligibility for benefits under that Plan.
  - 2) Disability - Pension Plan. Disability benefits that commence prior to early retirement age are not subject to division, unless specified in a Court Order.
  - 3) Surviving Spouse - Pension Plan. If the Participant dies before retirement, the Alternate Payee is to be considered the Surviving Spouse for purposes of the Pre-Retirement Survivor Annuity or any death benefits, but only to the extent of the community property as provided in the Order.
3. Escrow for Determination Period – Supplemental 401(k) Retirement Plan. This section is included to comply with specific provisions of ERISA. However, usually segregation of an Alternate Payee's interest in an escrow account is not necessary because the Trust's QDRO determination is completed in a timely manner.

During a period in which the question of whether a Domestic Relations Order is a QDRO is being determined, the Plan may segregate in a separate account or in an escrow account the amounts that would be payable to the Alternate Payee during such period.

If it is determined that the Order is not a QDRO or, if after an 18 month period has elapsed, the issue of whether the Order is qualified has not been resolved, any segregated amounts may be paid to the Participant and his/her Beneficiary as set forth in the Plan.

4. Notice to Participants of a Domestic Relations Order – Both Plans. Within a reasonable period after receipt of a proposed Order, Trust Counsel will notify the parties whether the Order is a QDRO.

The Plans' Claims and Appeals Procedures apply to a determination on whether an Order is a QDRO, the interpretation of such an Order, and any other related issue.

Trust Counsel shall have total discretion in reviewing such Orders. In particular, for Orders entered prior to 1985, Trust Counsel may use discretion in deciding whether a formal QDRO is necessary if such Order does not meet the requirements of a QDRO. Trust Counsel is authorized to have the parties agree on an interpretation of an Order to avoid the time and expense of returning to Court and to expedite the matter.

5. Lump Sum Distribution/Required Minimum Distribution (“RMD”) Age – Both Plans. If the Participant or Alternate Payee is entitled to a Pension Benefit with a lump sum value of \$7,000 or less and has not exceeded that amount, such distribution may be in one lump sum.

Benefits must commence being paid to the Alternate Payee by no later than April 1<sup>st</sup>, of the year following the year the Participant attains RMD age.

6. Time Period to Submit Order – Both Plans. An Alternate Payee and/or their attorney may not unreasonably delay the process of obtaining a QDRO or delay payments to the Participant by failing to cooperate. After 18 months have passed from the earliest contact by the Alternate Payee, the Plans have the discretion to make a distribution to the Participant if a final Order has not been received.
7. QDRO Fee – Supplemental 401(k) Retirement Plan. Pursuant to Department of Labor rules, the Plan assesses a \$500 QDRO Administration Fee to be shared equally by the parties. The fee will be deducted from each party's respective share in the Supplemental 401(k) Retirement Plan unless directed otherwise by the Court or pursuant to a written stipulation of the parties.
8. Additional Payment(s) and Cost of Living Adjustments (“COLAs”). Entitlement to a portion of any additional payment(s), 13<sup>th</sup> check, or COLAs are not payable to an Alternate Payee unless so specified in the Order.
9. Required Documents. If an Alternate Payee is awarded community property in the NCPT Pension Trust and there is no QDRO or Marital Settlement Agreement submitted to the TFO, distribution by the Plan(s) will be delayed.
10. Overpayments. If there is an overpayment on file at the TFO for any of the Plans, no benefits will be paid until the overpayment is resolved.