

**MARBLE INDUSTRY  
PENSION FUND**

253 West 35th Street  
12th Floor  
New York, NY 10001

(212) 505-5050

**PROGRAM  
OF  
BENEFITS**





# **MARBLE INDUSTRY PENSION FUND**

253 West 35th Street  
12th Floor  
New York, NY 10001  
(212) 505-5050

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### **Consultant**

Federation Pension Bureau, Inc.

### **Administrator**

Daniel H. Cook Associates Inc.



**MARBLE INDUSTRY PENSION  
SUMMARY PLAN DESCRIPTION  
INCLUDING ALL PLAN AMENDMENTS TO  
JANUARY 1, 2007**

The following supplements the information contained in the official text of the Plan and sets forth certain rights and protection that Plan participants are entitled to under ERISA.

The purpose of this Summary Plan Description is to provide you with information about the rules and level of benefits available to you. It is not intended to be an official text of the Plan. If the terms, conditions and provisions of this Summary differ in content from that of the official text of the Plan of Benefits, then the official text of the Plan shall govern.

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## 1. PLAN FISCAL YEAR

January 1st to December 31st of a calendar year.

## 2. ELIGIBILITY FOR PARTICIPATION

You become a Participant in the Plan, on the earlier of (i) the date you complete 430 hours of credit within the 12-month period following your date of employment, or (ii) at the beginning of a calendar year when you first complete 430 hours of credit.

## 3. CREDITING SERVICE EACH CALENDAR YEAR

### *Service for Benefit Computation (Service Credits):*

From	To	Need	For	Max/year
January 1, 1951	December 31, 1955	\$ 750 Wages	1 Year Past Serv.	9 Credits
January 1, 1956	December 31, 1972	\$ 750 Wages	1 Credit	9 Credits
January 1, 1973	December 31, 1975	\$1,000 Wages	1 Credit	9 Credits
January 1, 1976	December 31, 1984	125 Hours	1 Credit	9 Credits
January 1, 1985	December 31, 1994	125 Hours	1 Credit	12 Credits
January 1, 1995	Current	125 Hours	1 Credit	No limit

### *Service for Vesting and Pension Eligibility:*

From	To	Need	For	Max/year
January 1, 1951	December 31, 1975	\$750 Wages	.25 Year	1.00 Year
January 1, 1976	Current	430 Hours	.50 Year	.50 Year
		645 Hours	.75 Year	.75 Year
		860 Hours	1.00 Year	1.00 Year

If you believe that your hours have been underreported by an Employer, you may provide the Fund Office with records of covered employment, such as pay stubs from that Employer, and request the Fund to credit you with those hours. It is a participant's responsibility to provide such records of covered employment to the Fund Office. The Trustees are the sole judges of whether or not to accept the proof submitted and credit the participant for those hours.

## 4. BREAK IN SERVICE CREDIT

You will be charged with a one-year break in service for any calendar year during which you worked less than 430 hours of Covered Employment. Covered Employment means employment by a contributing employer for which contributions to the Pension Fund are required.

## 5. CANCELLATION OF SERVICE CREDITS AND YEARS OF PARTICIPATION

If you have less than 5 Years of Service for Vesting Purposes\*, your accumulated years of service credits and participation will be canceled when the number of consecutive one-year breaks in service equals or exceeds 5 years or, if larger, the total number of years of service prior to such break. Once you have been credited with at least 5 years of Service for Vesting Purposes\*, neither your service credits, nor your participation may be canceled by reason of breaks in service.

**\* If you have not earned an hour of service on or after January 1, 1999, 10 years of Service for Vesting Purpose is required.**

Vesting Schedule	Vesting Percentage if you	
	Worked After	Last Worked Before
	Dec. 31, 1998	Jan. 1, 1999
0-4	0%	0%
5-9	100%	0%
10+	100%	100%

## 6. DEFERRED PENSION BENEFIT (VESTING)

If you have 5 Years of Service for Vesting Purposes\* in effect on or after January 1, 1976, your years of service credit and years of participation cannot be cancelled and you will have a vested interest in 100% of your accrued monthly benefit.

However, if after you are 100% vested and you do not work at least 430 hours in two consecutive calendar years, you will no longer be an active employee. You will be considered to be a Participant in the Plan on Deferred Pension Status. This means that you can apply for your pension when you reach age 62 or, if you have at least 15 Years of Service for Vesting Purposes, you can apply for a reduced Early Retirement Pension between the ages of 55 and 62.

It is important to know that your monthly accrued benefit will be based on the pension amount in effect at the end of the last calendar year you worked at least 430 hours. It is also important to know that, if you become disabled, or if death occurs while you are on a deferred pension status, there will be no Disability Award Benefit, Disability Retirement or Death Benefit payable under the Plan. If you return to work after being on Deferred Pension Status and benefits have been increased since your break in service, you will accrue your new benefits at the new rates.

**\* If you have not earned an hour of service on or after January 1, 1999, 10 years of Service for Vesting Purposes is required.**

## 7. WITHDRAWAL BENEFIT

If you are no longer a Participant and are not vested and are not eligible for any benefits from the Plan, you are entitled to receive the total amount of any contributions that you made to the Plan, prior to January 1, 1976 with interest.

## 8. ACCRUED MONTHLY BENEFIT

Years of Past Service x \$2.00 (maximum \$30.00) +  
Service Credits through December 31, 1984 x \$10.56 +  
Service Credits after December 31, 1984 x \$7.92

**Example 1:** You have been working in Covered Employment since January 1, 1976 with 1,700 hours in each year. You want to retire at age 62 on January 1, 2006. You have earned 9 credits/year from 1976 through 1984 (9 years) for a total of 81 Service Credits, 12 credits/year for 1985 through 1994 (10 years) for 120 Service Credits and 13 credits/year for 1995 through 2004 (10 years) for a total of 130 Service Credits.

Your pre-1985 Service Credits total 81.

Your post-1984 Service Credits total 120 + 130 = 250

Your accrued benefit calculation is:

81 x \$10.56 = \$ 855.36  
250 x \$7.92 = \$1,980.00  
\$2,835.36/month

## 9. ELIGIBILITY FOR A NORMAL RETIREMENT PENSION

To be eligible for a Normal Retirement Pension, you must meet each of the following requirements:

- A) you must be age 62 or older;
- B) you must have at least 5 Years of Service for Vesting Purposes;\*
- C) you must have terminated employment in the Marble trades in the same geographic area covered by the Plan.

If you do not meet the above years of service, you may be eligible for Normal Retirement at age 62 provided you have reached the 5th Anniversary of the date you commenced Participation in the Plan, and your years of Service Credits have not been canceled by the Break in Service rules (Section 5) and you are not on deferred Pension Status (Section 6). The retirement benefit will be determined by your years of service for benefit computation purposes.



**\* If you have not earned an hour of service on or after January 1, 1999, 10 years of Service for Vesting Purposes is required.**

## **10. ELIGIBILITY FOR AN EARLY RETIREMENT PENSION**

To be eligible for an Early Retirement Pension, you must meet each of the following requirements:

- A) you must be age 55 or older;
- B) you must have at least 15 Years of Service for Vesting Purposes;
- C) you must have terminated employment in the Marble Industry trades in the same geographic area covered by the Plan.

If you retire before age 62, your pension is reduced by 1/4% for each month by which the starting date of pension payments precedes your 62nd birthday.

The following examples illustrate a monthly benefit payable for 60 months guaranteed, and a benefit with reduction for early retirement.

**Example 2:** Use the same benefits determined in Example 1 but assume that you will be retiring at age 58. Your monthly accrued benefit is \$2,835.36 payable at age 62. If you retire at age 58 (4 years early = 48 months) it will be reduced by 1/4% for each month prior to age 62 ( $1/4 \times 48 = 12\%$ ):  $\$2,835.36 \times 0.12 = \$340.24$ .

Your reduced benefit is:	\$2,835.36
	<u>-340.24</u>
	\$2,495.12

## **11. ELIGIBILITY FOR A DISABILITY RETIREMENT PENSION**

There are two types of Disability Retirement Pensions:

- A) Disability Award Benefit

To be eligible for this benefit prior to January 1, 2001, you must have at least 10 years of Vesting Service and have been awarded a Social Security Disability Pension. This benefit is payable at any age. The amount of this benefit is the reduced actuarial equivalent of your monthly accrued benefit however, the benefit may not be less than 40% of your monthly accrued benefit. This benefit will be payable on the same terms as though you had reached your Normal Retirement Age and retired.

If you first apply for this benefit after December 31, 2000, you must

have been awarded a Social Security Disability Pension. If your Disability was caused by work in Covered Employment under the guidelines of the Workers Compensation Board of New York State, the amount of your benefit is your monthly accrued benefit. If your Disability was not work related, this benefit is the reduced actuarial equivalent of your monthly accrued benefit however, the benefit may not be less than 40% of your monthly accrued benefit. This benefit will be payable on the same terms as though you had reached your Normal Retirement Age and retired.

## **B) Disability Pension Benefit**

To be eligible for this benefit, you must have been a Participant in the Plan prior to January 1, 1961, have at least 4 years of Credited Service and be mentally or physically unable to work in the Marble Industry as established by medical evidence satisfactory to the Board of Trustees. This benefit is payable when you reach age 55. The amount of this benefit is the reduced actuarial equivalent of your monthly accrued benefit. This benefit will be payable on the same terms as though you had reached your Normal Retirement Age and retired.

You should notify the Administrator as soon as you have determined that you are disabled.

## **12. FORM OF PAYMENT FOR RETIREMENTS**

For Normal and Early Retirements, pension benefits are payable to you for your life, with 60 monthly payments guaranteed. If, however, you were married to the same spouse for the 12-month period preceding your Normal or Early Retirement date, Federal law requires that your pension will be paid on a Joint and Survivor basis with your spouse unless both you and your spouse elect not to take a Joint and Survivor pension. You will be given an opportunity when you file your retirement application form to make this election. With the Joint and Survivor pension, the amount of the benefit would normally be reduced (based on your age and your spouse's age at the time you retire) but the Fund subsidizes this benefit for as long as you, the Participant, live. Payments are made for as long as you live in an amount equal to your monthly accrued benefit when you retire, reduced for Early Retirement, if appropriate. If you should die before your spouse, the payments are continued to your spouse at equal to 50% of the amount that would have been payable had the benefit not been subsidized. If your spouse should die before you, the payments to you continue unchanged for life.

If both you and your spouse elect not to take the benefit in the form of a Joint and Survivor benefit or if you are not married at the time you

retire, it will be paid for as long as you live. If you should die before 60 monthly payments have been made, the payments will be made to your beneficiary until 60 payments have been made.

**Example 3:** Reduction and benefits under the Joint and Survivor Options. Assume the benefit determined in Example 2 (A monthly benefit of \$2,835.36 reduced for Early Retirement at age 58 to \$2,495.12). If you are not married or both you and your spouse elect not to take a Joint and Survivor form of benefit, this amount (\$2,495.12) would be paid to you for life with 60 months guaranteed.

If your spouse is 55 years old at the time you retire at age 58 and you elect the 50% Joint and Survivor form of payment, the applicable reduction factor would have been 89.9% but this reduction will not be applied as long as you are alive. When you retire, your benefit payment will be \$2,495.12/month (see the previous paragraph). If you should die before your spouse, her benefit will be 50% of the reduced benefit. The calculation is as follows:

$\$2,495.12 \times 0.899 = \$2,243.11$ . Your spouse would receive 50% of that amount, or:

$50\% \times \$2,243.11 = \$1,121.56$

This is the amount that would be payable for your spouse's lifetime.

If your spouse should die before you, the \$2,495.12 would continue for your lifetime.

### 13. PRE-RETIREMENT SPOUSE'S BENEFIT

To be eligible for a Pre-Retirement Spouse's Benefit, you must meet each of the following requirements:

- A) you must have a 100% vested interest in your accrued benefit (see Sections 4, 5 and 6);
- B) you must have a surviving spouse to whom you were married for at least twelve months prior to your date of death;

If you meet the above requirements, the amount of benefit payable to your spouse will be the spouse's benefit that would have been payable, as if you had retired on the date of your death (or if later, the earliest date on which you would have been eligible to retire) and elected a 50% Joint and Survivor Pension.

**Example 4:** Assume that at the time of your death, you are 48 years old and your wife is 43. You have an accrued benefit of \$1,500 and

20 years of Service for Vesting. Your spouse will be entitled to a benefit but because you were not yet 55 years old, the benefit will not be payable until you would have reached age 55, in seven years. The calculation of the amount is done in two steps, similar to Example 3:

- A) The benefit would be reduced as though you had taken Early Retirement at age 55. The reduction factor is  $1/4\% \times 84$  months (21%).  $\$1,500.00 \times 0.21$  is  $\$315.00$ .
- B) The benefit would be further reduced as though you had taken a 50% Joint and Survivor form of benefit payment. Based on your age (55) and your wife's age (50) in seven years, the reduction factor is 89.9%.

The calculation is as follows:

Accrued Benefit	\$1,500.00
Reduced for Early Retirement	-315.00
Early Retirement Benefit	<u>1,185.00</u>
50% Joint & Survivor Factor	x 0.899
	<u>\$1,065.32</u>
50% Share	x .50
Pre-retirement Spouse's Benefit	\$ 532.66

The monthly amount of \$532.66 would be payable to your spouse for life beginning seven years from your death, when you would have been 55 years old. If you did not have at least 15 years of Vesting Service, the benefit would have been payable at age 62 and no Early Retirement reduction would have been applied.

#### **14. DEATH BENEFIT**

If you were a Participant during the period beginning January 1, 1951 and ending June 30, 1976 and you die after you are vested but leave no spouse who would be eligible for a Pre-Retirement Spouse's Benefit, your Beneficiary will be entitled to a lump sum benefit payment equal to 2% of gross wages earned while in the employ of one or more Contributing Employers during this period reduced by any pension payments you already received. Your beneficiary would have to elect the above lump sum benefit or the remainder, if any, at the time of your death, of the first 60 monthly benefit payments.

## **15. RE-EMPLOYMENT AFTER RETIREMENT - SUSPENSION OF BENEFITS**

If you return to work after you have begun to receive retirement benefits, your benefit payments may be suspended for the period during which you work. You must notify the Fund Office when you return to work and when you stop working. Your benefits will be suspended only for months in which you work at least 40 hours in the marble industry in the New York metropolitan area.

If you do not notify the Fund Office when you return to work and are over age 62, your benefits will be reduced by up to 25% until the benefits you received while you were working have been repaid. If you are less than age 62, your benefits may be suspended for an additional 12 months by the Trustees and your benefits will not begin again until the benefits you received while you were working are repaid.

If you retired under a reduced Early Retirement pension, an adjustment will be made to reflect the fact that you have not retired as early as previously determined.

## **16. VESTED ANNUITY BENEFIT**

### **A. Individual Annuity Accounts**

An Individual Annuity Account, fully vested, is the account established and maintained for each participant into which is placed employer contributions made on his behalf.

In general, it will be:

- The sum of all contributions made on your behalf, PLUS
- All investment earnings (realized and unrealized) credited to your account, MINUS
- All investment losses (realized and unrealized) credited to your account MINUS
- Your share of the expenses of operating the Fund.

The Trustees invest the assets of the Fund and continually monitor their performance.

All individual accounts are valued as of the last day of each calendar year and based on that valuation, the pro-rata share of earnings or losses as well as expenses is determined and applied to each individual account.

The Administrator will send you an annual statement showing the contributions, investment earnings, withdrawals and expenses applied to your account as well as details regarding any loans

in effect. If you believe that there are any discrepancies in your statement, you should contact the Fund Administrator as soon as possible.

You may receive the amount in your Individual Annuity when:

- 1) you retire;
- 2) you die prior to retirement;
- 3) you have no contributions made in your behalf for 12 or more consecutive calendar months, or
- 4) you have no contributions made on your behalf for 7 or more consecutive months and demonstrate to the Trustees that you no longer intend to work in the Marble Industry. This item 4) is effective October 4, 2006, for a one (1) year period.

## **B. Loans**

A Participant who has had an Individual Annuity Account may apply to the Trustees for a loan in an amount not to exceed the lesser of \$50,000 or one-half of the vested amount in his Individual Account reduced by the amount of any current or previously defaulted loans and accrued interest. Any Participant who is married throughout the one (1) year period ending on the Loan Application Date shall furnish and attach to the loan application his spouse's consent in writing witnessed by a Notary Public. A loan may be made in the event the Participant incurs expenses due to the occurrence of one or more of the following:

- (a) Expenses of at least \$500 incurred (and which the Participant is obligated to pay) because of sickness or injury which have not been reimbursed or compensable, or for which the Participant has no right to reimbursement from the Marble Industry Trust Fund or any other source.
- (b) Funeral expenses incurred by him because of the death of a spouse, dependent child or parent.
- (c) Expenses incurred by him in connection with the payment of tuition and/or room and board to maintain his dependent child, as defined by the IRS, as a full-time student in an accredited educational institution beyond the high school level.
- (d) Expenses incurred by him through the purchase of a motor vehicle to be used by the Participant for transportation incident to his employment in the Marble Industry.

- (e) Expenses in excess of \$500 incurred by him due to the repair or remodeling of a home or cooperative or condominium apartment by the Participant and which is his principal place of residence.
- (f) The purchase of a home, or cooperative or condominium apartment, in which the Participant will principally reside and he has thereby incurred down-payment, contract and title expenses.
- (g) The preservation of the Participant's home, cooperative or condominium apartment, in which the Participant principally resides limited to foreclosures or dispossess proceedings.

The Trustees shall be the sole and absolute judges of whether or not these contingencies have occurred and, if they have occurred, whether they are of such a nature as to require the granting of a loan from the Fund and their judgment in this connection shall be final and binding on all parties.

**Administrative Requirements:**

- (h) Loan applications for any of the above purposes must be accompanied by documentation in support of the request for a loan, e.g., copies of death certificates where applicable, copies of itemized bills, copies of signed contracts and any other standards of proof the Trustees deem necessary.
- (i) The loan, when made, shall bear an interest rate equal to an average rate used by a lending institution in the same geographic area for a similar kind of loan as listed in the Wall Street Journal. In addition, a non-recurring administration fee of \$25 per loan shall be charged to the Participant when the loan is made. The loan shall be administered by the Fund Administrator, Daniel H. Cook and Associates, Inc.
- (j) The loan must be repaid in fixed quarterly installments for a period not to exceed 5 years from the date of such loan with the exception of loans for the purchase of a home to be used as a principal residence of the Participant which must be repaid within 10 years.
- (k) After the initial installment repayment, loan repayments are due and payable not later than March 1, June 1, September 1, and December 1. The initial installment repayment shall be for a period of six (6) months and deducted from the proceeds of the loan upon presentation of the loan check. Each loan shall come with a repayment schedule.

#### **Example 4:**

*A participant whose account balance is \$40,000 with no current or previously defaulted loans wants to borrow \$20,000 (the maximum amount permitted, 50% of the \$40,000). Assume that the interest rate on the loan is 8.0% and that his quarterly payment is \$1,223.13. If he receives the proceeds of the loan on March 1, he will get  $\$20,000 - 2 \times \$1,223.13 = \$17,553.73$ . The 2 payments deducted represent the first two quarterly repayment that would have been due by June 1 and September 1. The participant must make the December 1 payment himself.*

- (l) Upon granting of a loan to a Participant pursuant to the terms of this section, the Trustees shall require from the Participant an assignment of any benefit payments to which he is or may become entitled to under the Marble Industry Vacation Plan. Such assignment is to become effective immediately upon the default of the Participant in the repayment of the outstanding loan balance from this Fund. Such assignment may not be revoked so long as any principal of the loan, and interest thereon, remains unpaid. The loan shall be secured by one-half of the vested balance in the Borrower's account.

If the Participant fails to make the required installment repayment to the Fund, and it is determined that his assignment of benefits or assets are not sufficient to satisfy the outstanding loan balance and accrued interest due, the Trustees may, in their sole and absolute discretion, take any action necessary, including but not limited to judicial review in courts of law, to enforce such repayment, together with any accrued interest due and any and all expenses of legal action, including but not limited to counsel fees and court costs.

- (m) If the Participant fails to make the required installment repayment to the Fund by the date on which it is due then:
  - (1) The Participant shall have one additional quarter, the cure period, to repay the amount due with interest on the missed payment. This cure period will only be granted if the payment for the previous quarter (with interest) is accompanied by the current payment. The cure period is the three consecutive months beginning on the original date for the missed payment.
  - (2) The Fund Administrator shall notify the Participant as to the date that the cure period ends and the amount necessary to avoid a deemed default on the loan.
  - (3) If the Participant does not make the full payment described in



paragraph (m), then the entire amount owed, including interest to the end of the cure period, shall be deemed to be in default as of the last day of the cure period.

- (4) A defaulted loan which has not been cured: (1) cannot be paid by offsetting the vested balance in your Annuity Account and (2), together with accrued interest, reduces the amount you can borrow in the future.

**Example 5:**

*On July 1, 2007, a participant has an account balance of \$45,000 with no current or previously defaulted loans and borrows \$20,000 to be repaid by quarterly payments over 5 years. After making all payments due through March 1, 2008, he fails to make the payment due on June 1, 2008 or any other payments due thereafter. The plan administrator allows an additional 3 month cure period to September 1, 2008.*

*As a result of the failure, there is a deemed default on September 1, 2008. The amount of the deemed default is the outstanding balance of the loan with accrued interest through September 1, 2008.*

Upon request, the Fund Administrator shall provide a Participant with a loan application as well as a document detailing all relevant terms and conditions related to the loan, including this Loan Policy. Prior to being granted a loan, the borrower must acknowledge receipt of the Loan Policy and that he has read it and understands it.

When a Participant takes a loan against his or her Individual Account, the amount of the loan shall not participate in the allocation of the annual earnings of the Plan and, in lieu thereof, the Individual Account shall be credited with the amount of interest paid with respect to such loan.

A deemed (“uncured”) default is a taxable event and at the end of the calendar year in which such a default has occurred, the Plan shall issue the appropriate tax form notifying the IRS that taxes on the amount of the default (without interest accrued subsequent to the date of the default) are due. In addition, depending on your age, an excise tax equal to 10% of the deemed default may be assessed against you.

**17. HOW TO APPLY FOR A PENSION**

You should file an application for Normal, Early or Disability retirement with the Trustees. The proper form will be provided to

you upon request by the Office of the Pension Fund. You should submit satisfactory proof of the dates of birth of yourself and your spouse, if any, and a copy of your marriage certificate, along with your application.

- A) **Filing of Claims:** All claims for benefits must be submitted on claims forms made available by the Fund office. Any claim submitted to the Fund office must be accompanied by any information or proof requested and reasonably required to process the claim. A claim will not be considered complete unless and until such information or proof is submitted.
- B) **Notification of Action on Claims:** A claimant will be notified of the decision on a claim within 90 days after receipt of the claim. If the claim has been wholly or partially denied, the notice will include specific references to the provisions of the plan on which the denial is based, a description of any additional material or information necessary for the claimant to complete the claim including an explanation of why such material is necessary, and an explanation of the plan's review procedure.
- C) **Review Procedure:** A claimant who has received a notice that his claim has been denied may request a review of the denied claims within 60 days of the receipt of the notice of denial. A claimant or his authorized representative may request a review, may have the opportunity to review pertinent documents, and may submit issues and documents in writing.

Requests for review must be made in writing and should be sent to the Fund Office for transmittal to the Board of Trustees.

- D) **Decision on Review:** The Board of Trustees will render a decision at the regular quarterly meeting following the receipt of a request for a review. If the request is received less than 30 days prior to the meeting, the review may be considered at the second meeting following receipt of a request for a review.

## 18. QUALIFIED DOMESTIC RELATIONS ORDERS

The laws governing this type of plan generally provides that a participant's benefits under a qualified plan cannot be assigned, pledged or otherwise encumbered. The Retirement Equity Act, effective January 1, 1985, established an exception to this rule - for "qualified" domestic relations orders - under which the plan may be required to pay benefits to a person (alternate payee) other than the participant. The Tax Reform Act of 1986 amended and further clarified this exception for qualified domestic relations orders.

In general, a domestic relations order (DRO) means any judgment, decree, or order that relates to the provision of child support, alimony payments or marital property rights which is made pursuant to a particular state's domestic relations law (including a community property law). If the order is found to be a "qualified domestic relations order" (QDRO), the plan must make payment of all, or part of, a participant's benefits to the alternate payee(s) specified in the order. An alternate payee is a spouse, former spouse, child, or other dependent of the participant who is recognized by the DRO as having a right to receive all, or a portion, of the participant's benefits under the plan. An alternate payee may designate a representative for receipt of copies of notices and plan information that are sent to the alternate payee with respect to a DRO. To be "qualified" under ERISA the order must satisfy certain requirements.

To be qualified, a domestic relations order **must** clearly specify:

- the participant and each alternate payee covered by the order by name and mailing address,

- the amount or percentage of the participant's benefits to be paid to each alternate payee, or the manner of determining the alternate payee's benefit,

- the number of payments to the alternate payee or the period during which payments are to be made to the alternate payee to which the order applies, and the plan or plans to which the order applies,

- Any other information necessary to properly administer the order.

In addition, the order to be qualified **cannot** require the plan to:

- provide benefits under a form of payment that is not provided for under the plan,

- provide benefit amounts which would be greater than the participant's, or

- pay to an alternate payee benefit amounts which are **required** to be paid to another individual under a prior domestic relations order.

While an order generally may not require a plan to provide a type or form of benefit not otherwise provided under the plan, the law includes special provisions which permit benefits to be paid to an alternate payee **before the participant** begins to receive benefits. However, the following requirements **must** be met:

Benefits to the alternate payee may not begin before the participant reaches his or her “earliest retirement age”. The participant’s “earliest retirement age” is the earlier of:

- (i) the age the participant could have begun to receive benefits under the plan, if he or she were “separated from service” as defined in the Plan (but not earlier than age 50)
- (ii) the earliest age the participant could elect to have his or her payments commence.

The order must provide for a benefit form available under the plan to the participant. (However, a joint and survivor annuity for the alternate payee and his or her new spouse is not permitted.)

In no event shall any payments be made to an alternate payee until a qualified person, such as the plan’s legal counsel, has determined that the order is qualified.

**Note:** If the plan administrator is notified that a DRO is being sought, the plan administrator may delay payments to a participant in anticipation of such order.

The law provides that the plan administrator shall have a reasonable length of time in which to determine whether an order is qualified. The plan administrator is to separately account for the amount called for in the order which would be payable to the alternate payee during an 18 month period beginning at the time the proposed QDRO requires payments to be made to the alternate payee but not earlier than the receipt by the Plan of the proposed QDRO. In the case of the Pension Plan, benefit payments will be restricted during the determination period. If benefits are in pay status, the amounts called for in the order will be withheld during this period from the participant’s benefit.

While the law requires only separate accounting of amounts currently payable to an alternate payee during the determination period, legal counsel may determine that an immediate segregation of the entire potential interest of the alternate payee is required in order to have the account records necessary to enable the plan to comply with the order.

If the order is determined to be nonqualified before the 18-month period ends, the plan administrator may (i) continue any withholding of benefit payments, and (ii) continue any separate accounting until the end of the 18-month period if he or she has notice that the alternate payee is attempting to rectify any deficiencies in the order.

If the plan administrator is unable to resolve the order’s qualified status

within 18 months of the date payments would first be required under the order, then the order shall be treated as not qualified with respect to continued withholding of any benefit payments. All payments withheld during this period (together with interest thereon) are to be paid to the individual who would have received them if the order was never issued. Furthermore, any separate accounting will be eliminated, and if a separate account was established under a defined contribution plan the accumulated segregated amounts (together with earnings thereon) must be paid to the participant or transferred to his or her plan account. If the order is found to be qualified after the 18-month period, the provisions of the order shall only be applied prospectively.

## **19. PARTICIPANTS' RIGHTS AND PROTECTIONS UNDER ERISA**

As a participant in the Marble Industry Pension Plan, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all plan participants shall be entitled to:

### **Receive Information About Your Plan and Benefits**

Examine, without charge, at the plan administrator's office and at other specified locations, such as worksites and union halls, all documents governing the plan, including insurance contracts and collective bargaining agreements, and a copy of the latest annual report (Form 5500 Series) filed by the plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Pension and Welfare Benefits Administration.

Obtain, upon written request to the plan administrator, copies of documents governing the operation of the plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The administrator may make a reasonable charge for the copies.

Receive a summary of the plan's annual financial report. The plan administrator is required by law to furnish each participant with a copy of this summary annual report.

Obtain a statement telling you whether you have a right to receive a pension at normal retirement age, (age 62) and if so, what your benefits would be at normal retirement age if you stop working under the plan now. If you do not have a right to a pension, the statement will tell you how many more years you have to work to get a right to a pension. This statement must be requested in writing and is not required to be given more than once every

twelve (12) months. The plan must provide the statement free of charge.

### **Prudent Actions by Plan Fiduciaries**

In addition to creating rights for plan participants ERISA imposes duties upon the people who are responsible for the operation of the employee benefit plan. The people who operate your plan, called “fiduciaries” of the plan, have a duty to do so prudently and in the interest of you and other plan participants and beneficiaries. No one, including your employer, your union, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a pension benefit or exercising your rights under ERISA.

### **Enforce Your Rights**

If your claim for a pension benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of plan documents or the latest annual report from the plan and do not receive them within 30 days, you may file suit in a Federal court. In such a case, the court may require the plan administrator to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the administrator. If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or Federal court. In addition, if you disagree with the plan’s decision or lack thereof concerning the qualified status of a domestic relations order, you may file suit in Federal court. If it should happen that plan fiduciaries misuse the plan’s money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

### **Assistance with Your Questions**

If you have any questions about your plan, you should contact the plan administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the plan administrator, you should contact the

nearest office of the Pension and Welfare Benefits Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Pension and Welfare Benefits Administration.

## **20. PLAN INSURANCE**

Your pension benefits (excluding your Vested Annuity Benefits) under this multiemployer plan are insured by the Pension Benefit Guaranty Corporation (PBGC), a federal insurance agency. A multiemployer plan is a collectively bargained pension arrangement involving two or more unrelated employers, usually in a common industry.

Under the multiemployer plan program, the PBGC provides financial assistance through loans to plans that are insolvent. A multiemployer plan is considered insolvent if the plan is unable to pay benefits (at least equal to the PBGC's guaranteed benefit limit) when due.

The maximum benefit that the PBGC guarantees is set by law. Under the multiemployer program, the PBGC guarantee equals a participant's years of service multiplied by (1) 100% of the first \$11 of the monthly benefit accrual rate and (2) 75% of the next \$33. The PBGC's maximum guarantee limit is \$35.75 per month times a participant's years of service. For example, the maximum annual guarantee for a retiree with 30 years of service would be \$12,870.

The PBGC guarantee generally covers: (1) Normal and early retirement benefits; (2) disability benefits if you become disabled before the plan becomes insolvent; and (3) certain benefits for your survivors.

The PBGC guarantee generally does not cover: (1) Benefits greater than the maximum guaranteed amount set by law; (2) benefit increases and new benefits based on plan provisions that have been in place for fewer than 5 years at the earlier of: (i) The date the plan terminates or (ii) the time the plan becomes insolvent; (3) benefits that are not vested because you have not worked long enough; (4) benefits for which you have not met all of the requirements at the time the plan becomes insolvent; and (5) non-pension benefits, such as health insurance, life insurance, certain death benefits, vacation pay, and severance pay.

For more information about the PBGC and the benefits it guarantees, ask your plan administrator or contact the PBGC's Technical Assistance Division, 1200 K Street, N.W., Suite 930, Washington, D.C. 20005-4026 or call 202-326-4000 (not a toll-free number). TTY/TDD

users may call the federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4000. Additional information about the PBGC's pension insurance program is available through the PBGC's website on the Internet at <http://www.pbgc.gov>.

**21. DISCLOSURE INFORMATION REQUIRED BY ERISA**

A) **Name of Plan & Employer Identification Number:** Marble Industry Pension Plan; Employer Identification Number 13-6118279; Plan Number 074.

B) **Name & Address of Union and Employer Associations:** B.A.C. Local 7, New York Tile, Marble and Terrazzo, located at 45-34 Court Square, Long Island City, New York 11101, representing the employees and Marble Industry of New York, c/o Petrillo Setting Corp., Attn: Kevin Ennis, located at 610 South Fulton Ave, Mt. Vernon, NY 10550, representing the contributing employers. Participants and beneficiaries may receive from the plan administrator, upon written request, information as to whether a particular employer or employee organization is a sponsor of the Plan, and if so, the sponsor's address.

C) **Type of Plan:** Defined Benefit Pension Plan with Defined Contribution features included.

This Fund is a tax exempt Fund and qualified under I.R.S. Code Section 401(a).

D) **Operation and Administration:** The operation and administration of the Plan is the joint responsibility of the Board of Trustees, consisting of:

**UNION TRUSTEES**

James Beecher  
Saverio Demercurio  
Christopher Guy  
Ernesto Jimenez  
Mortimer Lynch  
Ronald Nicastrì

**EMPLOYER TRUSTEES**

Patrick Barrett  
Kevin Ennis  
Thomas McNamara

and the Fund Administrator:  
Daniel H. Cook Associates, Inc.  
with offices at:  
253 West 35th Street  
New York, NY 10001  
Telephone: (212) 505-0505



The Administrator listed above is the agent for service of process and notices.

- E) **Collective Bargaining Agreements & Contributions:** Parties to the collective bargaining agreement relating to the Plan are: B.A.C. Local 7, New York Tile, Marble and Terrazzo, and the contributing employers. The Collective Bargaining Agreement contains a clause providing for the rate of contribution to the Pension Fund and a copy is available for your examination upon written request to the Board of Trustees.
- F) **Funding Medium:** The Marble Industry Pension is the funding medium used for the accumulation of assets and through which benefits are provided, and which is administered by the Board of Trustees.

## **22. AMENDMENT AND TERMINATION OF THE PLAN**

The Trustees may amend or terminate the Plan at any time. However, no amendment may be made which will allow any of the assets to be used for anything other than the benefits of the Participants and their beneficiaries.

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