

# **SOUTHWESTERN TEAMSTERS SECURITY FUND**

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September 1, 2006

## **IMPORTANT NOTICE**

**TO: ALL PLAN PARTICIPANTS**

**FROM: BOARD OF TRUSTEES**

**RE: THIRD PARTY LIABILITY PROVISIONS**

The Board of Trustees has determined that, effective September 1, 2006, they will implement the Third Party Liability provisions of the Plan. A copy of that provision is on the back of this document.

Under these provisions, the Trust will expect reimbursement of benefits paid where there is an alternative source of recovery for the loss; i.e., third party liability. Recovery of payments in these circumstances will help to preserve Fund assets for the benefit of all participants and their dependent family members.

Claims incurred in such a situation on or after September 1, 2006 will be paid only if the individual claimant (or their representative) executes appropriate reimbursement documents. Also, claims incurred after September 1, 2006 for any injury or illness caused by a third party before September 1, 2006, will be subject to these reimbursement provisions.

Prompt identification of such claims and cooperation with the Administrative Office of the Trust Fund in implementing these provisions will be appreciated.

## ACTS OF THIRD PARTIES

THIS PROVISION APPLIES WHEN AN ELIGIBLE INDIVIDUAL HAS AN INJURY OR ILLNESS CAUSED BY THE ACT OR OMISSION OF ANOTHER PERSON OR PARTY. IN SUCH A CASE, TO THE EXTENT OF ANY BENEFIT PAYMENTS PROVIDED BY THE TRUST, THE ELIGIBLE INDIVIDUAL MUST REIMBURSE THE TRUST FROM ANY AND ALL RECOVERIES MADE BY THE ELIGIBLE INDIVIDUAL. IT IS THE INTENT OF THIS PROVISION TO ESTABLISH A CONSTRUCTIVE TRUST/EQUITABLE LIEN ON THE RECOVERIES MADE BY THE ELIGIBLE INDIVIDUAL AT THE TIME THE RECOVERIES COME INTO THE HANDS OF THE ELIGIBLE INDIVIDUAL OR THAT PERSON'S REPRESENTATIVE.

THE TERM "RECOVERIES MADE BY THE ELIGIBLE INDIVIDUAL" INCLUDES ANY AMOUNT RECEIVED BY WAY OF JUDGMENT, ARBITRATION AWARD, SETTLEMENT OR ANY OTHER ARRANGEMENT FROM ANY THIRD PARTY OR THIRD PARTY INSURER, OR FROM THE ELIGIBLE INDIVIDUAL'S UNINSURED OR UNDERINSURED MOTORIST COVERAGE. IT INCLUDES ALL MONIES RECEIVED REGARDLESS OF HOW HELD, AND INCLUDES MONIES DIRECTLY RECEIVED BY THE ELIGIBLE INDIVIDUAL AS WELL AS ANY MONIES HELD IN ANY ACCOUNT OR TRUST ON THEIR BEHALF. THE TRUST'S SHARE OF ANY RECOVERY WILL NOT BE REDUCED BECAUSE THE ELIGIBLE INDIVIDUAL HAS NOT RECEIVED THE FULL DAMAGES CLAIMED FROM THE THIRD PARTY, UNLESS THE TRUST AGREES IN WRITING TO A REDUCTION.

THE PLAN MAY REQUIRE THE ELIGIBLE INDIVIDUAL TO COMPLETE, IN A FORM ACCEPTABLE TO THE TRUSTEES AND PRIOR TO THE PAYMENT OF ANY BENEFITS IN RELATION TO THE INJURY OR ILLNESS, A REIMBURSEMENT AGREEMENT AND OTHER APPROPRIATE DOCUMENTATION. IN THE EVENT THAT AN ELIGIBLE INDIVIDUAL FAILS OR REFUSES TO EXECUTE SUCH AN AGREEMENT/DOCUMENT, THE TRUST SHALL, NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, BE RELIEVED OF ANY OBLIGATION TO PROVIDE BENEFITS TO THE ELIGIBLE INDIVIDUAL.

THE ELIGIBLE INDIVIDUAL SHALL TAKE SUCH ACTION AS MAY BE NECESSARY OR APPROPRIATE TO RECOVER PAYMENTS MADE BY THE TRUST FROM ANY RESPONSIBLE THIRD PARTY OR INSURER IN CONNECTION WITH THE INJURY OR ILLNESS. FURTHER, THE ELIGIBLE INDIVIDUAL SHALL NOT DO ANYTHING TO RELEASE, DISCHARGE OR PREJUDICE THE RIGHTS OF THE TRUST AS SET FORTH IN THIS PROVISION, AND THE ELIGIBLE INDIVIDUAL AND/OR THAT PERSON'S REPRESENTATIVE SHALL ASSIST AND COOPERATE WITH THE TRUST HEREUNDER, DOING EVERYTHING NECESSARY AND APPROPRIATE TO ENABLE THE TRUST TO ENFORCE ITS RIGHTS AS DESCRIBED HEREIN. IN THIS REGARD, THE ELIGIBLE INDIVIDUAL SHALL PROMPTLY RESPOND TO INQUIRY FROM THE TRUST CONCERNING THE STATUS OF ANY SUCH ACTION AND SHALL DIRECT ANY LEGAL REPRESENTATIVE RETAINED TO COMPLY WITH AND FACILITATE THE REIMBURSEMENT CONTEMPLATED BY THIS PROVISION.