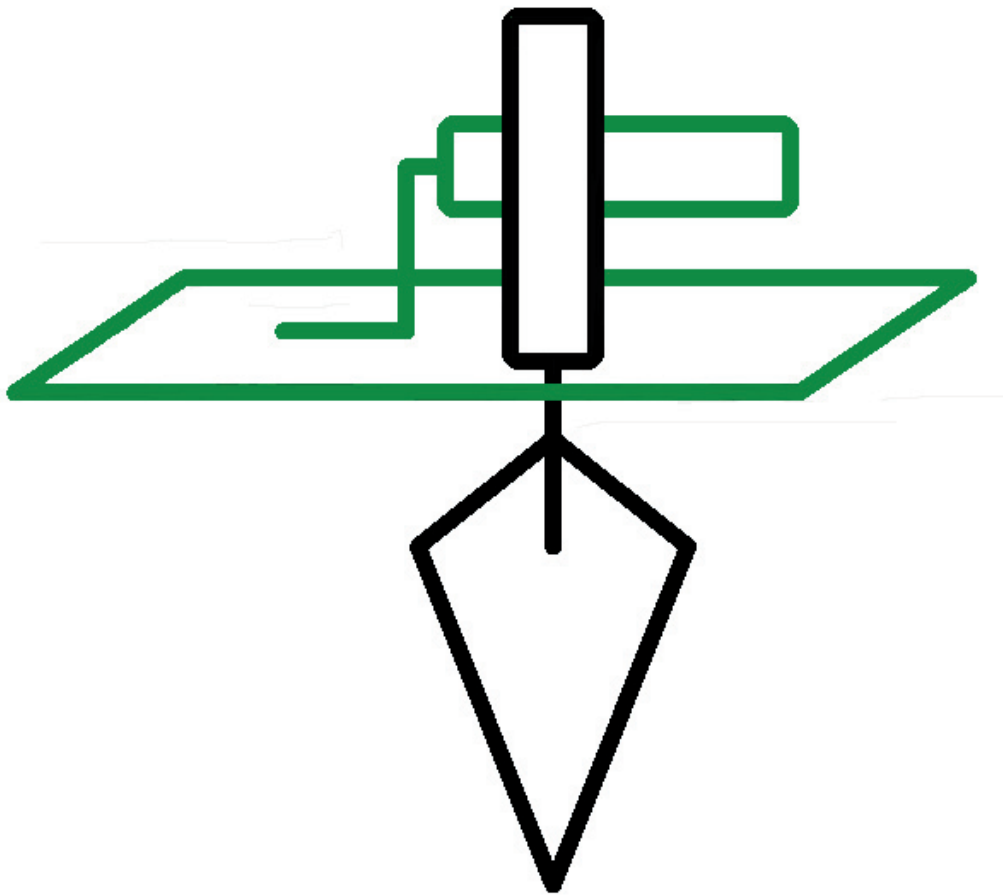


**CEMENT MASONS  
VACATION/HOLIDAY TRUST FUND  
FOR NORTHERN CALIFORNIA**



**VACATION/HOLIDAY PLAN**

**JANUARY 2010**

# **CEMENT MASONS VACATION/HOLIDAY TRUST FUND FOR NORTHERN CALIFORNIA**

220 Campus Lane  
Fairfield, California 94534-1499  
TELEPHONE: (707) 864 - 3300 • TOLL-FREE NUMBER: (888) 245 - 5005

WEB SITE: [www.norcalcementmasons.org](http://www.norcalcementmasons.org)  
EMAIL: [customerservice@norcalcementmasons.org](mailto:customerservice@norcalcementmasons.org)

## **BOARD OF TRUSTEES**

### **EMPLOYER TRUSTEES**

Byron C. Loney  
Thomas R. Estrada  
Bill Koponen  
Brian Gardner

### **EMPLOYEE TRUSTEES**

Hector Cortez  
Ben Espinoza

## **LEGAL COUNSEL**

Bullivant Houser Bailey PC  
Weinberg, Roger & Rosenfeld

## **CONSULTANT**

The Segal Company

## **ADMINISTRATIVE OFFICE**

Northern California Cement Masons Funds Administration, Inc.  
Edward J. Smith, Secretary

# INFORMATION REQUIRED BY THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

## Statement of Rights under the Employee Retirement Income Security Act of 1974

As a participant in the Cement Masons Vacation/Holiday Trust Fund for Northern California, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all Plan participants will 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 Plan documents governing the Plan, including insurance contracts, 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.

### 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 vacation benefit or exercising your rights under ERISA.

### Enforce Your Rights

If your claim for a vacation benefit is denied, 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. 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 Employee Benefits Security Administration (EBSA), U.S. Department of Labor, listed in your telephone directory. Alternatively, you may obtain assistance by calling EBSA toll/free at 1-866-444-EBSA (3272) or writing to the address at the back of this pamphlet.

# Questions and Answers About Your Plan

## **WHO IS COVERED BY THE PLAN?**

Only Employees of Contributing Employers who work under the Collective Bargaining Agreement with the Northern California District Council of Plasterers and Cement Masons or one of its local unions or who perform work for the District Council of Plasterers and Cement Masons for which Contributions are made to the Trust Fund Office.

## **WHAT IS THE VACATION/HOLIDAY PLAN?**

The Vacation/Holiday Fund is a legal Trust Fund set up for the purpose of providing vacation benefits for participating Cement Masons.

## **WHO CONTRIBUTES TO THE PLAN?**

The contributions to the Plan are made by participating Employers who contribute to the Vacation/Holiday Fund in accordance with their written agreement with the Union.

## **WHEN ARE THE PAYOUTS OF THE VACATION/HOLIDAY BENEFIT?**

Payments are mailed to Active Participants every November 30.

## **HOW DO I RECEIVE THE PAYMENT?**

Benefit payments are made in the form of a check which will be mailed directly to the Participant based on the most recent address on file with the Trust Fund Office.

It is suggested that you cash your benefit check as soon as possible after payment is made, but no later than six-months after the date the check was issued. Checks that are not cashed within the six-month period are void.

You also have the option to receive your payment electronically. For the option of Electronic Direct Deposit, contact the Trust Fund Office.

## **HOW IS THE PAYMENT BENEFIT CALCULATED?**

The Benefit Payment calculated amount is the portion of contributions made to the Vacation/Holiday account minus supplemental union dues during a six-month period.

## **HOW CAN I PROVE UNPAID VACATION/HOLIDAY EARNINGS?**

Each Employer must provide a check stub or statement of earnings and deductions to each Employee. It is advised that you retain the check stubs to verify accuracy of your benefit payment.

## **HOW CAN I FIND OUT THE PAYMENT AMOUNT?**

Previous to your Benefit Payment, the Trust Fund Office will send you a Statement of Account that lists the hours reported and paid by your employer during the six-month work period. Benefit payment will be paid only to the extent that contributions have been received by the Trust Fund.

If the Vacation/Holiday column shows SUSP that means that the employer reported the hours, but did not submit the contributions.

It is important to review and report any discrepancy you find to the Trust Fund Office. The Trust Fund Office will make an effort to collect contributions from delinquent Employers. Keep a copy of your Statement for future reference.

## **PAYMENTS IN THE EVENT OF DEATH**

Each Participant entitled to benefits under the Plan should file a Beneficiary designation. The individual designated as Beneficiary will be the person to whom benefits will be paid in the event of a Participant's death.

If the Participant has not named a Beneficiary or if the designated Beneficiary is deceased or cannot be located, the benefits will be paid to the person or persons entitled to the benefits under the law.

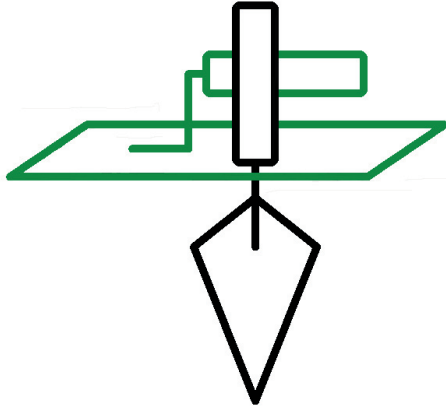
## Important Information About Your Plan

Only the full Board of Trustees is authorized to resolve any questions concerning the interpretation of the Vacation/Holiday Plan described in this pamphlet. Only the Board can give binding answers, and then only if you have furnished full and accurate information concerning your situation. No Employer or Union, nor any representative of any Employer or Union, is authorized to interpret the Plan on behalf of the Board, nor can any of these persons act as an agent of the Board.

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The Vacation/Holiday Plan became effective in 1963. The Trust Agreement provides that Individual Employers are not required to make any further payments or Contributions to the cost of the operation of the Trust Fund or of the Plan, except as may be provided in the Collective Bargaining Agreement, a Subscriber's Agreement, or the Trust Agreement. All contributions to the Vacation/Holiday Trust Fund are the wages of the participant. The following information of this Plan are in general terms only.

# Cement Masons Vacation/Holiday Trust Fund for Northern California



## Vacation/Holiday Plan Summary Plan Description

1. The Plan is administered and maintained by a Joint Board of Trustees at the following address:

Board of Trustees  
Cement Masons Vacation/Holiday Trust Fund for Northern California  
220 Campus Lane  
Fairfield, California 94534-1499  
(707) 864-3300

The above is the name, address and telephone number of the Plan Administrator.

2. The Fund Office will provide any Plan Participant or beneficiary, upon written request, information as to whether a particular employer is contributing to this Fund with respect to the work of Participants in the Fund and if the employer is a contributor, the employer's address.
3. The Employer's Identification Number (EIN) issued to the Board of Trustees by the Internal Revenue Service is 94-6108055.
4. Plan Number: 501
5. Type of Plan: Vacation/Holiday
6. The person designated as agent for the service of legal process is:

Mr. Edward J. Smith, Secretary  
Cement Masons Vacation/Holiday Trust Fund for Northern California  
220 Campus Lane  
Fairfield, California 94534-1498

The service of legal process may also be made upon an individual Trustee or the Board of Trustees.

7. The names and business addresses of the Board of Trustees at the time of printing this statement are:

**EMPLOYER TRUSTEES**

Mr. Edward T. Bergo, Chairman  
519 Townsend Drive  
Aptos, CA 95003

Mr. Tomas R. Estrada  
2493 Turnberry Court  
Brentwood, CA 94513

Mr. Byron Loney  
Teichert & Son, Inc.  
P. O. Box 15002  
Sacramento, CA 95851

Mr. John Sloan  
American Paving Company  
P. O. Box 4348  
Fresno, CA 93744

**EMPLOYEE TRUSTEES**

Mr. Hector Cortez, Co-Chairman  
Cement Masons Local 400  
810 West Stadium Lane  
Sacramento, CA 95834

Mr. Ben Espinoza  
Cement Masons Local 400 Area 631  
404 Nebraska St  
Vallejo, CA 94590

8. This program is maintained pursuant to various collective bargaining agreements. Copies of the collective bargaining agreements are available for inspection at the Fund Office during regular business hours and upon written request will be furnished by mail. A copy of any collective bargaining agreement which provides for contributions to this Fund will also be available for inspection within 10 calendar days after written request at any of the local union offices or at the office of any contributing employer to which at least 50 Plan Participants report each day.

9. The Plan's requirements with respect to eligibility for benefits.

The payment to the Fund by an Individual Employer on behalf of an employee covered by one or more of the various collective bargaining agreements establishes eligibility for participation and benefits.

10. Description of circumstances, which may result in disqualification, ineligibility, denial or loss of benefits.

Benefits will be paid to each Participant only to the extent that contributions have been received by the Fund for him, and further, provided that the Participant has filed with the Fund Office an Enrollment Form with his current address. It is presumed that the Vacation/Holiday payment is accurate unless challenged by the recipient within 60 days of the transmittal of the check.

If the Board is not advised of an address to which notices and checks may be sent to a Participant within 4 calendar years after the start of a Vacation Year, or if the amount in his account is not withdrawn within 4 calendar years for any reason, the amount in that account, including any amount received after the start of a Vacation Year, with respect to that Vacation Year, will be deemed contributed to the cost of maintaining the Plan in effect, and any check issued for any amount will be void and ineffective.

11. All contributions to the Plan are made by Individual Employers in accordance with collective bargaining agreements in force with the Northern California District Council of Plasterers and Cement Masons or one of its affiliated local unions, or by the District Council or an affiliated local union with respect to certain of their employees pursuant to Board regulations. To the extent permitted by the earnings of the Fund, supplemental payments are distributed annually to Participants.
12. Benefits are provided from the Cement Masons Vacation/Holiday Trust Fund for Northern California.
13. The end of the year for purposes of maintaining the Fund's fiscal records is August 31.
14. Procedures to be followed in presenting claims for benefits under the Plan.

The period during which vacations may be taken will be from January 1 through December 31 of each year (designated the "Vacation Year"). The sums credited to each Vacation/Holiday account for work performed during the period from August 1 of one calendar year through July 31 of the following calendar year, (designated "Work Year") will be distributed within a reasonable time before the start of the Vacation Year beginning January 1 of the following calendar year. The distribution of Vacation/Holiday benefits and supplemental payments, if any, will be made by checks mailed to participants in a single as directed by the Board of Trustees not later than December 31, immediately preceding the Vacation Year. The Board has selected November 30 as the disbursement date for Vacation/Holiday benefit checks.

It is important that each Participant keep his check stubs or statements of earnings provided by his employers. This is the best proof of how much should have been contributed by the employers for Vacation/Holiday benefits.

Each Participant should compare the total of the Vacation/Holiday deductions made by all of his employers for the period covered by each disbursement, with the amount of his Vacation/Holiday check. If the amount of his Vacation/Holiday check is less than the total of the amounts deducted, it indicates that the employer has not contributed the full amounts due the Vacation/Holiday Trust Fund. The Statement of Account, which the Participant receives during March and September of each year, reflects the dollars contributed by each employer on his behalf. The Participant will receive only those amounts actually paid by the employer to the Trust Fund. The dollars on the Statement of Account should be verified. This is an important record.

If there is a discrepancy, the Participant should file a written protest with the Fund Office within 60 days of the transmittal date of his check, supported by check stubs or statements. The Fund Office will determine which employer or employers failed to remit the Vacation/Holiday contribution to the Trust Fund and will initiate collection procedures for the amounts not paid.

The Participant will be credited with the amounts collected from the employer and these amounts will be paid during the month following the month collected.

15. Right of Appeal and Determination of Disputes.
  - a. No Participant, beneficiary or other person has any right or claim to benefits under the Vacation/Holiday Plan, or any right or claim to payments from the Fund, other than as specified in the Plan. Any dispute as to eligibility, or any right or claim to payments from the Fund will be resolved by the Board under the Vacation/Holiday Plan provisions. The decision by the Board of Trustees of any dispute, right or claim will be final and binding on all parties, subject only to civil action under §502(a) of ERISA that may be brought by the petitioner and any person claiming under the petitioner. These provisions apply to and include any claim to benefits from the Fund and any claim or right asserted under the Vacation/Holiday



Plan or against the Fund, regardless of the basis asserted by the claim and regardless of when the act or omission on which the claim is based occurred.

- b. If an application for benefits is denied, in whole or in part, by the Fund Office (acting for the Board of Trustees), the applicant will be notified of the denial, in writing, within a reasonable period, but not later than 90 days after receiving the application, unless the Fund Office determines that special circumstances require an extension of time for processing the application. In that case, a written notice of the extension will be furnished to the applicant prior to the end of the 90-day period. Under no circumstances, will the extension exceed 90 days from the end of the initial 90-day period. The notice of extension will indicate the special circumstances requiring an extension and the date by which the Plan expects to make a decision.
- c. The written notification of the denial of benefits will be set forth, in a manner calculated to be understood by the applicant, and include:
  - (1) The specific reason(s) for the adverse determination;
  - (2) Reference to the specific Plan provision(s) on which the denial is based;
  - (3) A description of any additional material or information necessary for the applicant to complete the claim and an explanation of why the material or information is necessary;
  - (4) A description of the Plan's review procedures and the time limits that apply to those procedures, including a statement of the applicant's right to bring a civil action under §502(a) of ERISA following an adverse benefit determination on review.
- d. Any person whose application for benefits under this Plan has been denied, in whole or in part, by the Board of Trustees, or whose claim to benefits is denied by the Board of Trustees, may petition the Board of Trustees to reconsider its decision. A petition for reconsideration:
  - (1) must be in writing; and
  - (2) must state in clear and concise terms the reason(s) for disagreement with the decision of the Board of Trustees; and
  - (3) may include documents, records, and other information related to the claim for benefits; and
  - (4) must be filed by the petitioner or the petitioner's duly authorized representative with or received by the Fund Office within 60 days after the date the notice of denial was received by the petitioner.

Upon good cause shown, the Board of Trustees may permit the petition to be amended or supplemented. Failure to file a petition for reconsideration within the 60-day period will constitute a waiver of the petitioner's right to reconsideration of the decision. Failure to file a petition, however, will not prevent the petitioner from establishing his entitlement at a later date based on additional information and evidence that was not available to him at the time of the decision by the Board of Trustees.

Upon request, the petitioner or the petitioner's duly authorized representative will be provided, free of charge, reasonable access to and copies of all documents, records and other information relevant to the petitioner's claim for benefits. A document, record, or other information is considered relevant to a petitioner's claim if it was:

- (a) relied upon in making the benefit determination,

- (b) submitted, considered or generated in the course of making the benefit determination, without regard to whether it was relied upon in making the benefit determination,
- (c) demonstrates that the benefit determination was made in accordance with Plan provisions and that Plan provisions have been applied consistently with respect to similarly situated claims.

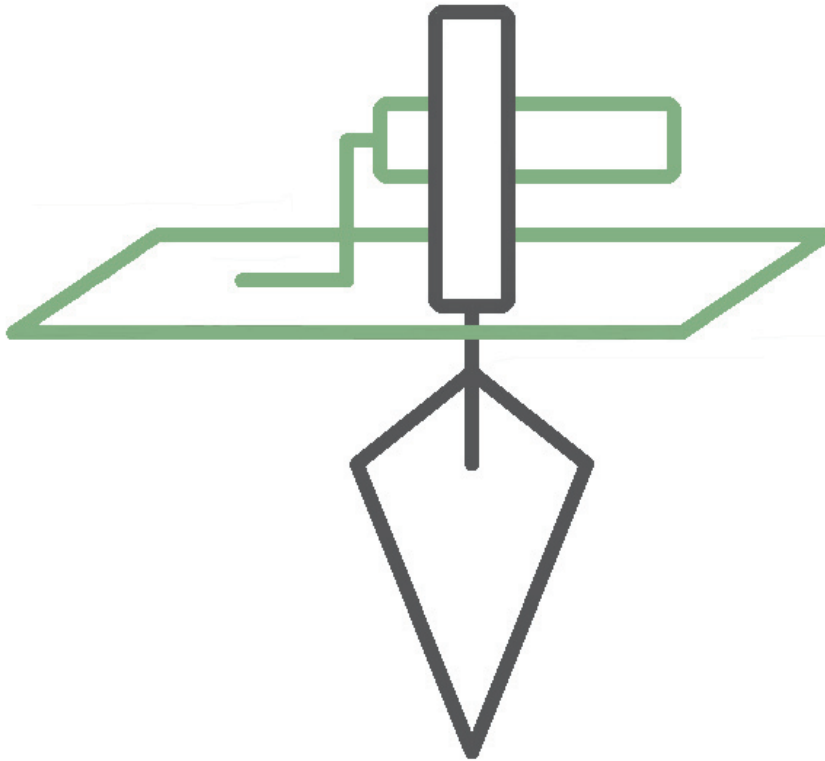
The review of the determination will take into account all comments, documents, records, and other information submitted by the claimant relating to the claim without regard to whether the information was submitted or considered in the initial benefit determination.

- e. A benefit determination on review will be made by the Trustees or by a committee designated by the Trustees no later than the date of the quarterly meeting of the Board of Trustees that immediately follows receipt of the request for review, unless the request for review is filed within 30 days preceding the date of the meeting. In that case, a benefit determination will be made no later than the date of the second meeting following receipt of the request for review. If special circumstances require a further extension of time for processing, a benefit determination will be made no later than the third meeting following receipt of the request for review. The Board of Trustees will provide the petitioner with a written notice of the extension, describing the special circumstances and the date by which the benefit determination will be made, prior to the commencement of the extension. The Board of Trustees will notify the petitioner of the benefit determination as soon as possible, but not later than 5 days after the benefit determination is made.

The notification of a benefit determination on review will be made in writing and will include the reason(s) for the determination, including references to specific Plan provisions on which the determination is based. It will include a statement that the petitioner is entitled to receive, upon request and free of charge, reasonable access to, and copies of all documents, records, and other information relevant to the claim for benefits.

- f. The denial of a claim to which the right to review has been waived, or the decision of the Board of Trustees or its designated committee with respect to a petition for review, is final and binding upon all parties, subject only to any civil action the applicant may bring under §502(a) of ERISA. Following issuance of a written decision of the Board of Trustees on an appeal, there is no further right of appeal to the Board of Trustees or right to arbitration.

However, a petitioner may reestablish his entitlement to benefits at a later date based on additional information and evidence not available to him at the time of the decision of the Board of Trustees.



For EBSA assistance, call toll-free at 1-866-444-EBSA (3272) or write to the following address:

Division of Technical Assistance and Inquires  
Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Avenue N.W.  
Washington, D.C. 20210

You may obtain certain publications about your rights and responsibilities under ERISA by calling the publications hot line of EBSA. For copies of publications, contact the EBSA brochure request line at 1-800-998-7542 or contact the EBSA field office nearest you.

You may also find answers to your plan questions and a list of EBSA field offices at the Web site of EBSA at [www.dol.gov/ebsa](http://www.dol.gov/ebsa).