

## NOTICE OF CRITICAL STATUS

### FOR THE

### RETAIL FOOD EMPLOYERS AND UFCW LOCAL 711 PENSION TRUST FUND

This is to inform you that on March 31, 2010, the Plan actuaries certified to the U.S. Department of the Treasury, and to the Trustees, that the Plan is in critical status (“Red Zone”) for the Plan Year beginning January 1, 2010. Federal law requires that you receive this notice.

#### **Critical Status**

The Plan is considered to be in critical status because it has funding or liquidity problems, or both. More specifically, the Plan’s actuary determined that the Plan is expected to have a funding deficiency for the Plan Year ending December 31, 2010. In addition, the sum of the Plan’s normal cost and interest on the unfunded benefits for the current Plan Year exceeds the present value of all expected contributions for the year and the present value of vested benefits for inactive participants is greater than the present value of vested benefits of active participants.

#### **Rehabilitation Plan and Possibility of Reduction in Benefits**

Federal law requires pension plans in critical status to adopt a rehabilitation plan aimed at restoring the financial health of the plan. In addition to revising the Plan’s formula for future benefit accruals and making similar changes, the law permits pension plans in the Red Zone to reduce, or even eliminate, benefits called “adjustable benefits” as part of a rehabilitation plan. If the trustees of the plan determine that benefit reductions are necessary, you will receive a separate notice in the future identifying and explaining the effect of those reductions. Any reduction of adjustable benefits (other than a repeal of a recent benefit increase, as described below) will not reduce the level of a participant’s basic benefit payable at normal retirement age. In addition, the reductions may only apply to participants and beneficiaries whose benefit commencement date is on or after April 30, 2010. Please be advised that whether or not the Plan reduces adjustable benefits in the future, effective as of April 30, 2010, the Plan is not permitted to pay lump sum benefits or any other payment in excess of the monthly amount paid under a single life annuity (except for the payout of benefits worth \$1,000 or less) while it is in critical status. This includes the Level Income Option benefit and the Level Income Option with 50% Joint and Survivor benefit.

#### **Adjustable Benefits**

The Plan offers the following adjustable benefits that **MAY** be reduced or eliminated as part of any rehabilitation plan that **MAY** be adopted:

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- Early Retirement Benefit
- Unreduced Early Retirement Benefit
- Golden 85 Early Retirement Benefit
- Normal Retirement Benefit commencing prior to age 65
- Disability Retirement Benefit (not yet in pay status)
- Level Income Option
- 50% Qualified Joint and Survivor with “pop-up” feature
- 75% Qualified Optional Survivor Annuity
- Pre-Retirement Survivor Annuity
- Non-Spouse Survivor Benefit

## **Employer Surcharge**

The law requires that all contributing employers pay to the Plan a surcharge to help correct the Plan's financial situation. The amount of the surcharge is equal to a percentage of the amount an employer is otherwise required to contribute to the Plan under the applicable collective bargaining agreement. A 5% surcharge is applicable in the initial critical year and a 10% surcharge is applicable for each succeeding Plan Year thereafter in which the Plan is in critical status until the employer agrees to a collective bargaining agreement that implements the rehabilitation plan. The 5% surcharge is payable on work performed on and after May 30, 2010, until December 31, 2010 and the 10% surcharge is payable with respect to periods after that.

## **Where to Get More Information**

For more information about this notice, you may contact the Plan Administrator at the following address:

Administrator – Retail Food Employers and UFCW Local 711 Pension Trust Fund  
C/o JAS, Inc.  
4885 South 900 East, Suite 202, Salt Lake City, Utah 84117  
(801) 266-3271 or (800) 453-4584

The rehabilitation plan will be adopted by November 26, 2010. Shortly thereafter, the Plan will send a copy to contributing employers and unions, and a summary to participants and beneficiaries.