Central States Pension Fund in Danger

WITHDRAWAL LIABILITY – THE UNTHINKABLE HAPPENS

BY WILLIAM DANIELS

⇛ **On May 6, 2016**, the Department of the Treasury, whose job it was to review and approve the application of the Central States Pension Fund (Central States) to reduce benefits under the Multiemployer Pension Reform Act of 2014, rejected Central States' application. Many experts felt that approval by the DOT was merely a formality, as a rejection could only be made upon a finding that the plan's assumptions were "clearly erroneous." Regardless of whether this criterion was met, though, the DOT has rejected the application and Central States must now find a viable solution to its massive funding problem or go insolvent.

The trade show industry relies heavily on the Teamsters whose members install trade shows and conventions, work in hotels and casinos and operate buses, limos and moving vans throughout the United States. Further, certain venues require the use of Teamsters, whose union members are also participants in Central States. Those employers who use Teamster employees, on whose behalf contributions are made to Central States, will be largely affected by the outcome of the Central States funding issue. To understand how such employers will be affected, we need to first understand the scope of the problem.

Central States is a multiemployer defined benefit pension plan. This means Central States is obligated under past, present, and future promises made to its participants that upon their retirement, if certain conditions were or are met, such participants will receive a defined amount of money for the rest of their lives. The risk is on Central States to ensure that it has enough money to pay the promised amounts when due. If Central States does not have enough money to pay its participants what it promised when due, then the contributing employers and possibly the Pension Benefit Guaranty Corporation are obligated to make up the difference (within certain limitations).

Central States holds the obligation of promised benefits to just over 400,000 union employees and retirees (including those working in the trade show industry). It has approximately $16 billion in assets and $35 billion in liabilities. According to the letter issued by the DOT in rejecting Central States' application, Central States is paying out $3.46 for every $1.00 it takes in. This means Central States will be insolvent within ten years (sooner if optimistic market conditions do not persist over this time period). Insolvent means Central States has no money left to pay benefits and is relying on the contributions of employers, and perhaps the PBGC, to meet its monthly obligations.

> **"Many companies may not be able to withstand the pressure of such added costs and will likely close shop."**

Upon insolvency, Central States must reduce benefits to the level guaranteed by the PBGC (it could be greater than this if supported by the contributions of the employers, but that does not seem likely under Central States' facts). If the level of contributions on or after the date of insolvency do not support the minimum required needed to pay benefits, the PBGC may loan money to Central States to cover the difference. Howeve[r] the PBGC has broad authorit[y] to set the terms of any loan it makes to a pension plan unde[r] these circumstances. This ma[y] result in contributing employers being obligated to make payments to Central States and/or the PBGC forever.

The maximum exposure of an employer under these circumstances can be determined by analyzing the withdrawal liability of the employer. While insolvency does not automaticall[y] result in withdrawal liability, it is possible that: (1) Central States will have already terminated via a mass withdrawal (a termination due to the cessation of all or substantially all contributing employers during a plan year) prior to insolvency thus forcing a withdrawal liability event for all employers; o[r] (2) the plan sponsor will decide to terminate the Central States plan upon or shortly after insolvency, again forcing a withdrawal liability event. Thus, the maximum exposure of all contributing employers can be analyzed using the withdrawal liability amounts Central States can collect from the contributing employers.

Withdrawal liability is calculated as a percentage of the contributing employer's

contributions compared to the total contributions of all contributing employers times the unfunded liability of Central States (i.e., the amount of money promised to all participants minus the current assets of Central States). The contributing employer's withdrawal liability may be extremely large, but its annual payments will be proportionately much smaller. This is because withdrawal liability is not amortized like a house or car loan. Instead, the law limits the total amount a fund may collect from the employer on an annual basis. This annual amount is roughly determined by multiplying the highest three year average of total annual contribution units (typically hours or weeks) contributed by the employer over the past ten years multiplied by the highest contribution rate as of the date of withdrawal. In accordance with this formula, if you employ Teamsters in your operations on whose behalf you make contributions to Central States, then the more work done by your Teamster employees and the more contributions you make to Central States on their behalf increases your withdrawal liability and the annual amount Central States can collect in satisfaction of this withdrawal liability.

This does not account for the total exposure to contributing employers. At some point, the Teamster Union is going to want to negotiate a new benefit structure for its membership. Whether this comes in the form of another multiemployer defined benefit plan or a defined contribution plan is unknown. But you can be certain that this new plan will cost the employer additional money to fund and maintain. Many companies may not be able to withstand the pressure of such added costs and will likely close shop. This event could dramatically change the landscape of the trade show industry as only the largest and most profitable would survive.

Where do we stand today? Shortly after the DOT rejected Central States' application, the trustees of Central States issued a statement that Central States "will carefully consider the most appropriate next steps." Such steps could include re-petitioning for a benefit reduction under the Multiemployer Pension Reform Act of 2014, seeking a federal bailout (which has been estimated to be in the neighborhood of $11 billion), or effectuating a mass withdrawal. Regardless of whether these options are feasible or likely, contributing employers should start developing a strategy today to plan for, reduce or eliminate, if possible, this withdrawal liability.

Corporate Communications, Inc.
Trade Show / Event Management

Exhibit / Trade Show Displays | Event Planning Services | Sporting Event Décor

(508) 870-1844
corpcom-events.com