

§ 901.30

§ 901.30 Authority to suspend or terminate enrollment.

Under section 3042(b) of ERISA the Joint Board may, after notice and opportunity for a hearing, suspend or terminate the enrollment of an enrolled actuary if the Joint Board finds that such enrolled actuary

- (a) Has failed to discharge his/her duties under ERISA, or
- (b) Does not satisfy the requirements for enrollment in effect at the time of his/her enrollment.

§ 901.31 Grounds for suspension or termination of enrollment.

(a) *Failure to satisfy requirements for enrollment.* The enrollment of an actuary may be terminated if it is found that the actuary did not satisfy the eligibility requirements set forth in §§ 901.12 or 901.13, whichever is applicable.

(b) *Failure to discharge duties.* The enrollment of an actuary may be suspended or terminated if it is found that the actuary, following enrollment, failed to discharge his/her duties under ERISA. Such duties include those set forth in § 901.20.

(c) *Disreputable conduct.* The enrollment of an actuary may be suspended or terminated if it is found that the actuary has, at any time after he/she applied for enrollment, engaged in any conduct set forth in § 901.13(e)(1)(i)-(vi) or other conduct evidencing fraud, dishonesty, or breach of trust. Such other conduct includes, but is not limited to, the following:

- (1) Conviction of any criminal offense under the laws of the United States (including section 411 of ERISA, 29 U.S.C. 1111), any State thereof, the District of Columbia, or any territory or possession of the United States, which evidences fraud, dishonesty, or breach of trust.
- (2) Knowingly filing false or altered documents, affidavits, financial statements or other papers on matters relating to employee benefit plans or actuarial services.
- (3) Knowingly making false or misleading representations, either orally or in writing, on matters relating to employee benefit plans or actuarial services, or knowingly failing to dis-

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close information relative to such matters.

(4) The use of false or misleading representations with intent to deceive a client or prospective client, or of intimations that the actuary is able to obtain special consideration or action from an officer or employee of any agency or court authorized to determine the validity of pension plans under ERISA.

(5) Willful violation of any of the regulations contained in this part.

§ 901.32 Receipt of information concerning enrolled actuaries.

If an officer or employee of the Department of the Treasury, the Department of Labor, the Pension Benefit Guaranty Corporation, or a member of the Joint Board has reason to believe that an enrolled actuary has violated any provision of this part, or if any such officer, employee or member receives information to that effect, he/she may make a written report thereof, which report or a copy thereof shall be forwarded to the Executive Director. If any other person has information of any such violation, he/she may make a report thereof to the Executive Director or to any officer or employee of the Department of the Treasury, the Department of Labor, or to the Pension Benefit Guaranty Corporation.

§ 901.33 Initiation of proceeding.

Whenever the Executive Director has reason to believe that an enrolled actuary has violated any provision of the laws or regulations governing enrollment, such individual may be reprimanded or a proceeding may be initiated for the suspension or termination of such individual's enrollment. A reprimand as used in this paragraph is a statement informing the enrolled actuary that, in the opinion of the Executive Director, his/her conduct is in violation of the regulations and admonishing the enrolled actuary that repetition of the conduct occasioning the reprimand may result in the institution of a proceeding for the suspension or termination of the actuary's enrollment. A proceeding for suspension or