Fact Sheet

U.S. Department of Labor
Employee Benefits Security Administration
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MEWA Enforcement

Background

Multiple Employer Welfare Arrangements (MEWAs) provide health and welfare benefits to employees of two or more unrelated employers who are not parties to bona fide collective bargaining agreements. In concept, MEWAs are designed to give small employers access to low cost health coverage on terms similar to those available to large employers. For certain employers they represent the only available option for providing employees with health care because insurance companies often will not insure small employers who do not fall within their desirable risk category.

MEWAs generally operate in one of two ways. Employers forward money to the MEWA (often including employee contributions) which is used either to pay premiums for a health insurance policy or to pay for benefits directly from the MEWA. It is the latter arrangement which more often causes problems. The MEWA organizers may not have conducted a prudent analysis to determine the amount of contributions needed in order to fully pay claims.

Although MEWAs can be provided through legitimate organizations, they are sometimes marketed using attractive but actuarially unsound premium structures that generate large administrative fees for the promoters. These high fees are often paid before any claims are paid, leaving insufficient funds available to pay for the benefits promised by the promoters. In addition, certain promoters will set up arrangements that they claim are established pursuant to a collective bargaining agreement and, therefore, are not MEWAs but legitimate benefit plans free from state insurance regulations. Often, however, these collective bargaining agreements are nothing more than shams designed to avoid state insurance regulation.

States and the federal government coordinate the regulation of MEWAs pursuant to a 1982 amendment to the Employee Retirement Income Security Act (ERISA). This dual jurisdiction gives states primary responsibility for overseeing the financial soundness of MEWAs and the licensing of MEWA operators. The Department of Labor enforces the fiduciary provisions of ERISA against MEWA operators to the extent a MEWA is an ERISA plan or is holding plan assets. State insurance laws that set standards requiring specified levels of reserves or contributions are applicable to MEWAs even if they also are covered by ERISA.

EBSA Enforcement Efforts

The Department has devoted significant resources to investigating and litigating issues connected with abusive MEWAs created by unscrupulous promoters who sell the promise of inexpensive health benefit insurance, but default on their obligations. Particular emphasis has been put on identifying ongoing abusive and fraudulent MEWAs, and working to shut down such operations.

Enforcement Efforts To Date

To date, the Department has:

- Initiated **800** civil and **276** criminal investigations and obtained monetary results of over **$225** million. There are currently **51** civil and **85** criminal investigations open.

- Filed **99** civil complaints.

- Indicted **168** individuals with **130** convictions or guilty pleas.

- Published technical assistance materials, including a booklet explaining federal and state regulation of MEWAs.

- Issued numerous advisory opinions to assist state prosecutors and regulators to enforce state insurance laws against MEWAs.

- Convicted individuals have been sentenced to total prison terms of approximately 500 years. Most of these investigations have been jointly investigated with other agencies, including the Department's Office of Labor Racketeering and Fraud Investigations, the FBI, the U.S. Postal Inspection Service, and the Internal Revenue Service's Criminal Investigative Division.

Recent Civil Litigation Cases

W.I.N. Association (WIN) - The Department filed a complaint on February 22, 2011 in District Court against the W.I.N. Association, Michael Ray Bianchi, President, and the W.I.N. Association Health Plan for the failure to make payments on health care claims, excessive fees, disgorgement of profits, self-dealing, and the non-disclosure of fees to the employers. The complaint was filed in the U.S. District Court, Southern District of Texas, Houston Division. The Department's suit alleged that Michael Bianchi withdrew funds from the Plan with no justification that such expenditures were associated with reasonable and necessary expenses for the Plan's administration and management. The suit also alleged that Bianchi and W.I.N. mismanaged Plan assets causing the Plan to incur unpaid health claims, failed to prudently operate the Plan, and failed to properly segregate Plan assets and corporate funds. The Department's investigation found at least $198,000 in unpaid claims to be outstanding.

On March 31, 2011, the Department obtained a Consent Judgment and Order against W.I.N. Association, LLC, Bianchi, and the W.I.N. Association Health Plan. The Consent Judgment and Order confirmed that the defendants violated ERISA from April 2006 through April 2008, when they failed to pay approximately $341,215 in health care claims and withdrew approximately $238,383 without authorization from the Plan. Additionally, the Consent Judgment and Order permanently enjoined the defendants from violating ERISA or from acting as fiduciaries, and authorized the Secretary to bring a collection action for the Plan losses of $579,597 if defendants are found to have assets to effect restitution.

Castleton Group Health Plan - On January 4, 2010 the Department filed a District Court action against the Castleton Group, as well as Suzanne Clifton, the Castleton Group's owner and President, for failure to fund accounts maintained for the purpose of paying promised benefits. The Department filed a corresponding Bankruptcy Adversary Proceeding against Suzanne Clifton on January 5, 2010. The Department filed its action in the U.S. District Court, Eastern District of North Carolina.

The Castleton Group ceased operations and filed for Chapter 7 bankruptcy protection in December 2007. Suzanne Clifton subsequently filed for personal bankruptcy. The Department's suit alleged that the Castleton Group had failed to forward employee and employer contributions to the third party administrator, thereby underfunding benefits owed to participants. The amount not remitted to the Plan was estimated to be at least $247,000.

The Department filed a fully executed Consent Judgment with the District Court on January 7, 2011. The Consent Judgment was approved by the District Court on January 19, 2011, and the remaining settlement actions were taken, including: payment of insurance proceeds, distribution of $45,000 to the 401(k) Plan in the Castleton Group bankruptcy and subsequent reduction of the Plan's Proof of Claim; payment of $84,000 to the 401(k) Plan Special Counsel and subsequent withdrawal of application for fees; withdrawal of the 401(k) Plan Successor Trustee's Proof of Claim in the Clifton bankruptcy; recognition of a priority claim of $66,705 on behalf of the Health Plan in the Castleton Group bankruptcy; and forwarding of the insurance proceeds to the independent fiduciary, in the amount of $265,000 for deposit and distribution.

Contractors and Merchants Association (CMA) and Small and Independent Business Associates, Inc. (SIBA) – The Department sued a purported employer association, a health fund trustee, and the fund's consultant over alleged imprudent management of the Manufacturing and Industrial Workers Benefit Fund (MIWU) of Bryan, Texas. The defendants' actions allegedly resulted in more than $3.4 million in unpaid health claims affecting participants in Arizona, California, Florida, Georgia, Illinois, Texas and other states.

According to the lawsuit, Raymond Palombo, Mitchel Coneley, Leonard Steinberg, Contractors and Merchants Association (CMA), and the Small and Independent Business Associates Inc. (SIBA) violated ERISA by causing the insolvency of the MIWU health fund and by their failure to hold the fund assets in trust. The defendants permitted Palombo to transfer the health claim liabilities of members of his alleged sham employer association, CMA, to the MIWU fund. Palombo allegedly diverted plan assets to benefit him, the defendants and others, improperly set contribution rates for 880 participants of CMA, enrolled ineligible individuals in the health fund, and failed to properly fund the plan.

The MIWU health fund became financially insolvent in 2005 due to the transfer of CMA members to the fund. At the time of the improper actions, Palombo was the president and sole shareholder of CMA, and Steinberg was the president of SIBA and provided consulting services to the MIWU health fund through SIBA. Coneley was the fund's trustee.

The amended complaint, filed July 2, 2008 in the U.S. District Court for the Northern District of Georgia in Atlanta, sought to have the defendants restore to the fund all losses with interest, undo all prohibited transactions, offset any claims for benefits against the MIWU fund, and permanently bar the defendants from serving in a fiduciary capacity to any ERISA-covered plan in the future. In related Department litigation, the court appointed an independent fiduciary to pay health claims of affected participants and beneficiaries and to manage the more than $1.9 million in fund assets recovered by the Department and collected by the independent fiduciary as of May 2008.

The Department's Motion for Default Judgment was granted by the Court against four of five defendants. The June 9, 2009 Judgment enjoined the defendants from serving as fiduciaries or service providers, or having control over the assets of any ERISA covered employee welfare benefit plan. The Court concluded that defendants CMA, Coneley, Steinberg, and SIBA had breached their fiduciary duties under ERISA when the defendants failed to establish a reserve or a funding policy to ensure that the MIWU Fund could meet its financial obligations, neglected to perform any underwriting activities and failed to discharge their duties under the terms and requirements of the documents and instruments establishing the MIWU Fund. The defendants were further found to have engaged in self-dealing for their part in assisting Palombo in diverting MIWU Fund assets to CMA and others, and for assisting in schemes to allow the enrollment of ineligible participants, all of which personally benefited Palombo. The Court also found that Steinberg, as the consultant to the MIWU Fund, was a knowing participant who enabled Coneley to breach his fiduciary duties by assisting Coneley with transferring 880 participants into the MIWU Fund with unpaid health claims that could not be financially supported by the Fund. The motion against Palombo was initially dismissed without prejudice due to his Chapter 7 bankruptcy filing. The Department's motion that the ERISA claims be exempt from the Palombo bankruptcy stay was granted, however, on July 15, 2009, allowing the civil prosecution of Palombo to proceed.

On October 8, 2009, the U.S. District Court for the Northern District of Georgia permanently enjoined Palombo from serving directly or indirectly as a fiduciary or service provider to ERISA covered plans. The District Court found that Palombo was liable for multiple violations of ERISA for his part in the MIWU fund's insolvency. Further, within 60 days, Palombo must provide a copy of the Order to any person or entity through whom he solicited participants for the MIWU, IUPIW and IUIIW Funds. Palombo must also post a copy of the District Court Order on his website. The Order binds anyone who has notice of it and works in concert with Palombo. On October 26, 2009, the District Court granted the Secretary's Motion for Entry of Judgment Awarding Monetary Relief in the amount of $2.9 million.

On December 8, 2008, the Department filed an adversary complaint against Palombo's filing for Chapter 7 bankruptcy protection, to determine the non-dischargeability of any monetary judgment that the District Court might award against Palombo. On December 29, 2010, the Bankruptcy Court ruled in favor of both of the

Department's two motions: 1) that Palombo was a functional fiduciary with respect to the assets of the Manufacturing and Industrial Workers Benefit Fund (MIWU Fund); and had breached his fiduciary duties committing an act of defalcation, and 2) the issues decided in an earlier District Court action (default judgment) were precluded from being relitigated in the Bankruptcy Court. As a result of the ruling on the first motion, Palombo's request in bankruptcy to discharge his debt of $2,958,681 for unpaid health claims to the MIWU Fund was denied.

On March 23, 2011, the Bankruptcy Court issued an order approving the Department's Motion for Summary Judgment. The Bankruptcy Court held that issues decided in the second Default Judgment were precluded from being re-litigated in the Bankruptcy Court action, that the District Court's findings supported a finding of defalcation against Palombo, and that Palombo was barred from relitigating facts and issues already adjudicated. As a result, the Bankruptcy Court refused to discharge Palombo's $2,958,681 debt to the MIWU fund.

Manufacturing and Industrial Workers Union (MIWU) Benefit Fund – On March 28, 2007, the Department filed a complaint against Bryan, Texas-based Manufacturing and Industrial Workers Union Benefit Fund and against four trustees of the Paramount, California-based International Union of Public and Industrial Workers (IUPIW) Canadian Benefit Fund: William Hope, Gary Couch, Roger "Tim" Gue, and Robby Larkin, and Pamela Barlow, Secretary-Treasurer of the related IUPIW, for their role in causing the financial collapse and ultimate demise of the MIWU Fund in 2005. The action was filed in the U.S. District Court, Northern District of Georgia, Atlanta Division, in an effort to secure the MIWU Fund assets, protect the plan participants and halt alleged ongoing violations of federal law. The Department's suit alleged that the defendants mismanaged the Fund by admitting large groups of participants into uninsured medical plans without any underwriting and by failing to set contribution rates sufficient to fund the benefits offered in violation of ERISA. Further, the complaint alleged that the IUPIW Fund officials illegally transferred millions in unprocessed and unpaid claims from the IUPIW Canadian Benefit Fund in an effort to preserve IUPIW Canadian Benefit Fund solvency to the detriment of the MIWU Fund. The MIWU Fund allegedly owes more than $4.8 million in unadjudicated and unpaid health care claims for approximately 2,000 workers and their families in Georgia, Illinois, Texas, Arizona and other states. The lawsuit sought restoration of Fund losses, the appointment of an independent fiduciary and other equitable relief.

On May 11, 2007, the Department obtained a consent judgment appointing an independent fiduciary and barring the defendants from continuing to act in a fiduciary capacity with respect to any employee health benefit plan subject to ERISA, including the MIWU Fund. The independent fiduciary will terminate the MIWU Fund and collect, marshal, and administer any remaining assets, and will process and pay claims. Participants with health claims or questions should contact Betty Cordial, the independent fiduciary, at (602) 240-6821.

Georgia Plumbers Trade Association for Continuing Education, Inc. (GPTA) – On March 15, 2007, the Department filed a complaint in the U.S. District Court for the Northern District of Georgia, Atlanta Division, against Marc Meixner, Leslie E. Smith, David Sherman, GPTA Benefits Group, Inc. and Employers Onesource, Inc. The plan sponsor, Georgia Plumbers Trade Association for Continuing Education, Inc. (GPTA), located in Griffin, Georgia, is a non-profit organization established in 1994 to provide plumbers in the state of Georgia with education and resources to comply with changing plumbing codes.

The complaint alleges that the defendants mismanaged the GPTA Health Plan by paying illegal commissions and fees and by failing to pay plan benefits when due. As a result, $646,875 in benefits has allegedly not been paid. The suit seeks a court order requiring that the defendants restore all plan losses with interest and return any illegal profits. The suit also seeks to permanently bar the defendants from serving any employee benefit plan governed by ERISA in the future and to appoint an independent fiduciary to manage the plan and its assets.

On January 15, 2008, the Court entered a consent judgment and order requiring Marc Meixner to restore $509,624 to the Georgia Plumbers Trade Association Health Plan. On February 5, 2008, the Department filed a Complaint against the Georgia Plumbers Trade Association, Ron Anderson and Windell Peters. On November 21, 2008 and January 6, 2009 the Department obtained consent judgments restoring an additional $250,000 to the GPTA Health Plan and requiring the payment of a $50,000 civil penalty.

International Union of Public and Industrial Workers (IUPIW) Canadian Benefit Fund – On November 30, 2005, the Department filed a complaint against the International Union of Public and Industrial Workers (IUPIW) Canadian Benefit Fund (Fund) in the U.S. District Court, Northern District of Georgia (Atlanta Division). The complaint sought payment of over $1.2 million in unpaid medical claims, as well as the appointment of an independent fiduciary to take over operation of the Fund. The suit also sought to bar the current Fund fiduciaries from further involvement with any plans covered by ERISA.

The defendants named in the complaint were the Fund and its fiduciaries, including its four trustees: William Hope (Hope), Gary Couch, Robby Larkin and Roger Gue, as well as Pamela Barlow, Secretary-Treasurer of the Petroleum Workers Union. The complaint alleges that the fiduciaries repeatedly admitted large groups of participants into the Fund's self-funded component even though they knew or had reason to know that many individuals in the groups had serious and/or chronic health conditions and, therefore, posed significant risks to the Fund's solvency. Since at least 2002, the Fund's fiduciaries imprudently failed to set contribution rates commensurate with the level of benefits offered and failed to perform any underwriting activities even when admitting large enrollee groups.

On March 21, 2007, the Department obtained a consent judgment shutting down the International Union of Public and Industrial Workers Canadian Benefit Fund. The judgment also restores $542,727 to pay pending health claims of more than 2,000 workers and families, removes officials from their positions with the Fund, and appoints an independent fiduciary to manage the Fund's assets of $762,606, terminate the plan and pay health claims. Plan officials must pay a civil monetary penalty and are permanently barred from service to any plan governed by the Employee Retirement Income Security Act in the future. Participants with health claims or questions should contact Betty Cordial, the independent fiduciary, at 602-240-6821.

Riscomp Industries, Inc. – On November 10, 2005, the Department filed a complaint in Minnesota U.S. District Court against the executives of Riscomp Industries, Inc. for their imprudent management of the firm's health plan. The health plan was a multiple employer welfare arrangement (MEWA) that provided medical, dental, life and death benefits. The complaint alleges that Robert Wood, Kurt Wood, and David Nelson, who were trustees of the plan, violated ERISA by retaining more than $1.2 million of health plan contributions from employers and employees in the firm's corporate account. When Riscomp filed for bankruptcy protection in November 2002, it left over $2.1 million in unpaid claims.

On February 1, 2007, the Department obtained a consent judgment resolving the Department's complaint against Riscomp Industries, Inc., Robert Wood, Kurt Wood, David Nelson, and the RJ Associates Employee Benefit Plan and Trust. Under the Judgment, Riscomp, Robert Wood, Kurt Wood and David Nelson were required to pay $512,313 to resolve the unpaid health claims of the MEWA, $207,000 to an independent fiduciary to cover the costs of administering the claims payments, and $102,463 in ERISA civil penalties.

New Jersey Licensed Beverage Association – On November 18, 2004, the Department sued the trustees, plan administrators, and other fiduciaries to the New Jersey Licensed Beverage Association health plan in Trenton, New Jersey, for mismanagement of the plan. The self-insured health plan left participants with more than $6 million in unpaid health claims. The plan ceased operating in August 2003.

The lawsuit alleged that the defendants violated ERISA by failing to determine and maintain adequate funding levels to pay benefits from 1998 to 2003, and did not have adequate contribution rates to support benefit payments. The suit names as defendants the New Jersey Licensed Beverage Association, Inc., plan administrator Midlantic Healthcare, Inc., and numerous fiduciaries associated with the plan.

The suit alleged that Midlantic Healthcare, Inc. did not provide information to the plan trustees and fiduciaries regarding the financial condition of the plan, and did not manage the plan in a financially sound manner. The plan fiduciaries allegedly failed to remove Midlantic and its principal and did not properly monitor the actions of the plan administrator. In August of 2003, the plan had an unpaid claim backlog of $6,220,323.

The New Jersey Licensed Beverage Association, Inc. sponsored the medical plan for as many as 3,895 employees who work in bars and restaurants throughout the state of New Jersey and elsewhere.

On January 5, 2006, Judge Joel A. Pisano for the United States District Court for the District of New Jersey entered a stipulation and order pursuant to the All Writs Act that stays all current federal and state court litigation and enjoins future suits against the plan, its participants, beneficiaries and fiduciaries for unpaid medical claims pending resolution of the Secretary's suit.

On March 30, 2007, the Department obtained a partial consent judgment ordering the fiduciaries to make restitution of $1.5 million to the New Jersey Licensed Beverage Association Welfare Benefit Plan, less any applicable ERISA Section 502(1) penalties, and an additional $150,000 for the court-appointed independent fiduciary to marshal the plan's assets, pay unpaid claims and terminate the plan. The judgment also enjoins each of the fiduciaries from serving as a fiduciary or service provider to any ERISA-covered plan based on their mismanagement of the plan. This judgment concludes the litigation and follows an earlier Partial Consent Judgment that was entered in February 2007 against Midlantic Healthcare, Inc., operated by co-defendant Stephan DiTomasso. The Midlantic Judgment provided for restitution of $600,000.

Team America Corporation – On September 15, 2006, the Department filed a complaint against Team America Corporation, Steven Cash Nickerson, Ted Crawford and Andrew Johnson in the United States District for the Southern District of Ohio. It is alleged that Team America Corporation, a Professional Employee Organization, failed to, among other things, remit employee contributions and employer contributions, which Team America received from its client employers, for the payment of insurance premiums.

The suit seeks the removal and a permanent bar of the plan fiduciaries from serving any employee benefit plan governed by ERISA, and asks that the fiduciaries be ordered to make full restitution to the plans, including interest, and correct the alleged prohibited transactions.

On September 6, 2007, the Court entered a Default Judgment against Team America Corporation permanently enjoining Team America Corporation and ordering Team America to restore $2,371,193 to all its plans. On April 25, 2008, the Court entered a Consent Order and Judgment providing for the payment of approximately $950,000 to the plans and 20 hours of fiduciary instruction for Steven Cash Nickerson, Ted Crawford and Andrew Johnson.

Mutual Association Administrators, Inc. (MAA) – On July 30, 2008 the Department obtained a default judgment requiring Huntington, New York-based Mutual Association Administrators (MAA) to restore nearly $1.8 million to the Mutual Employees Benefit Trust (MEBT) and permanently barring the firm from providing service to plans covered by the Employee Retirement Income Security Act (ERISA) in the future. The judgment resolves a lawsuit filed by the Department in the federal district court in Central Islip, New York.

Mutual Employees Benefit Trust is a multiple employer welfare arrangement that provided health and other welfare benefits to 1,912 participants. Mutual Association Administrators was the plan administrator to MEBT.

The judgment requires MAA to pay $1,779,111 in restitution. The Department sued the defendants on November 15, 2001, alleging that they and 14 other MEBT trustees diverted the trust's assets to sham labor unions and the corporate defendants.

On May 4, 2002, the Department obtained a preliminary order requiring four of the trustees to resign, barring Leonard and Sharlene Slutsky, Clark Hower, Marketing Motivation Associates Inc., Netscor Inc., VCT Financial Services Inc., and Mutual Association Administrators Inc. from serving or exercising control over any ERISA-covered plan, and appointing an independent fiduciary to oversee MEBT. Under prior consent orders, the court ordered restitution to the plan and permanently barred MEBT's owner Susan Fisher from serving as a trustee or in any official capacity to any ERISA-covered plan.

Pennsylvania Builders Association (PBA) – On August 25, 2008, the Department obtained a consent judgment in the U.S. District Court for the Middle District of Pennsylvania, in which the Pennsylvania Builders

Association (PBA), its wholly-owned subsidiary and its trustees agree to restore $5 million to the fund and pay a civil penalty of $500,000. The judgment also permanently bars the trustees from using plan assets to pay royalties and/or licensing fees to the association, prevents the trustees from contracting with the subsidiary for administrative services in exchange for fees, and prohibits the use of trust assets for lobbying purposes. In addition, current and future trustees must receive eight hours of fiduciary training annually over the next five years.

The lawsuit being resolved alleged that PBA of Lemoyne, Pennsylvania; its wholly-owned subsidiary Builders Services Inc. (BSI); and trustees Robert Basile, Patrick Brewer, Dennis Brislin, Scott Cannon, James Conner, Brad Elliott, Charles Farrell, Chuck Hamilton, David Knipe, Gene Kreitzer, Gary Naeser, Michael Rodino, Toni Rogan, Mack Smith, Chauncey Wirsing, Clarence Yeagley, Jack Zimmer and Roger Zimmer violated their fiduciary duties to the Pennsylvania Builders Association Benefits Trust. PBA sponsored the trust, and BSI was administrator of the trust.

The suit alleges that PBA received royalty payments and BSI received administrative fees under arrangements with BSI and the trust's third party administrators. The royalties paid to PBA represented a percentage of the administrative fees paid by contributing employers. The Department alleged that these royalty payments were prohibited because the sponsor had provided its name and endorsement to the trust when it created and named the trust. The trustees allegedly misused plan assets to pay royalties to PBA from 2000 to 2007, administrative fees to BSI from 2000 to 2007 and for political lobbying from 2002 through 2004.

The trust provided health, life insurance, dental, vision and temporary disability benefits to 12,616 participants as of 2006.

International Union of Industrial and Independent Workers Benefit Fund (IUIIW) - On September 9, 2008, a federal district court in Atlanta held two former trustees of the California-based International Union of Industrial and Independent Workers Benefit Fund (IUIIW) in civil contempt for failing to comply with a previous court order barring them from serving in a fiduciary capacity to plans governed by the Employee Retirement Income Security Act (ERISA).

Under the contempt order, Geoffrey Beltz and James Miller are barred from serving in a fiduciary capacity to any plans governed by ERISA; communicating with participants of the IUIIW fund, and marketing, selling and recruiting employers or employees for plans offering benefits under ERISA. Furthermore, to the extent that Beltz or Miller work for any employer, association or labor organization which sponsors an ERISA-covered employee benefit plan in the future, the contempt order requires them to notify the directors and officers of such organizations of the terms and requirements of the contempt order.

Under the 2004 court order, the fund's trustees were required to pay $840,000 in restitution to the fund and to pay civil penalties to the federal government. The trustees were also barred from serving as plan fiduciaries.

The Department alleged in the 2004 lawsuit that improper actions by Beltz, Miller and other trustees to a health fund sponsored by the International Union of Industrial and Independent Workers resulted in several million dollars in unpaid health claims. The fund, which purported to be a union-sponsored benefit plan, was marketed to employers and individuals in Texas, Georgia, Oklahoma, California and many other states. Several states, including Oklahoma and Georgia, ordered the fund's operators to stop all insurance-related activities.

Beltz and Miller admitted they later violated the 2004 contempt order by directly or indirectly controlling an ERISA-covered health plan offered by the International Union of Industrial and Independent Workers Local 30, another purported labor organization. The contempt order was entered in federal district court in Atlanta.

Recent Criminal Prosecutions of Corrupt MEWA Operators

United States v. Michael L. Millman – On March 24, 2011, Michael L. Millman was sentenced by the U.S. District Court, District of Connecticut in New Haven to 63 months of imprisonment, followed by five years of supervised release, and ordered to pay restitution of over $975,000 for stealing from a multiple employer welfare

arrangement. Millman had pleaded guilty in April 2010 to embezzlement from an employee benefit plan of more than $1 million, wire fraud and bank fraud. He had owned and managed the Nutmeg Benefit Group, LLC and the Nutmeg Welfare Benefit Plan and Trust. The two entities provided life insurance benefits to employees of numerous companies. Millman failed to send premiums to insurance companies by taking policy loans against the value of participant policies. He also defrauded Essex Savings Bank, which had served as the trustee of the Nutmeg Welfare Benefit Plan and Trust. The case was prosecuted by the United States Attorneys Office for the District of Connecticut. It was investigated jointly by the Boston Regional Office and DOL Office of Inspector General.

United States v. Jonathan Hogge – On March 28, 2011, Jonathan Hogge owner of My Smart Benefits was sentenced in Federal District Court in the Northern District of Indiana to 84 months in prison and two years of supervised release. Restitution was set at $254,425 to be paid to the victims with substantiated unpaid dental claims. Hogge had previously pled guilty to one count of conspiracy to commit theft or embezzlement from an employee benefit plan (18 U.S.C. 371); nine counts of mail fraud (18 U.S.C. 1341), and one count of wire fraud (18 U.S.C. 1343).

Jonathan Hogge and Amy Wadas Hogge had co-owned My Smart Benefits, Inc. (MSB), a third party administrator of self-funded direct reimbursement dental plans throughout the United States since February 2000. Jack Lait was the V.P. of Operation for MSB. Hogge closed MSB's doors in October 2003 because the company had insufficient funds to pay claims or employees' salaries. Hogge and Lait, along with other principals of MSB not charged, allegedly marketed and sold this direct reimbursement dental plan to various insurance agents and employers as though the plan had a stop loss component, knowing full well that there was no stop loss insurance in place. The case was a joint investigation of EBSA's Chicago Regional Office and the Office of the Inspector General of the U.S. Department of Labor.

United States v. Meixner – On November 10, 2009, Marc Harris Meixner, an insurance broker for the Georgia Plumbers Trade Association (GPTA), pleaded guilty to a criminal information in the U.S. District Court of the Northern District of Georgia. He admitted to having intentionally misappropriated assets of a health care benefit program sponsored by the GPTA, in violation of Title 18 U.S.C. Section 669. For nearly a year, from June 2003 through April 2004, Meixner defrauded the GPTA by sending invoices that overstated the amount of the monthly contributions. Meixner was sentenced to five years probation. In his plea agreement, Meixner promised to pay restitution of $348,672.86 to the plan. EBSA worked this case jointly with the Federal Bureau of Investigation, U.S. Department of Labor, Office of Inspector General, Office of Labor Racketeering and the Georgia Department of Insurance.

United States v. Andrea Mills – On September 21, 2009, Andrea Mills was sentenced in the Federal District Court of the Southern District of West Virginia to 37 months imprisonment and three years supervised release. She was also ordered to pay criminal restitution of $2,311,428.81. Mills had pleaded guilty to one count of embezzlement from an employee benefit plan in March 2009. Andrea Mills had been the owner of Allied Benefit Administrators, Inc., a third-party health benefit claims administrator located in Huntington, West Virginia. From March 2006 to January 2008, Mills had collected monthly premiums for reinsurance from various ERISA-covered employee health benefit plan clients. Rather than using the premiums to purchase insurance for her clients, Mills had instead converted the money to her own use and the use of her business. As a consequence, Mills's clients sustained losses exceeding $2 million for health claims that should have been covered by the reinsurance. The investigation was conducted by the Washington District Office of the PRO, the DOL OIG, and the FBI.

United States v. Pullen – James Pullen was sentenced on May 12, 2009 in the Federal District Court of Kentucky, Northern Division to 20 months imprisonment and three years supervised release for one count of mail fraud. Pullen was also ordered to pay criminal restitution totaling $312,113.14 to a number of his former clients. Pullen had owned the Triple Crown Financial Group, a self-funded health care benefit program that he marketed to private employers. The operation was based in Florence, Kentucky. In the plea agreement he filed in December 2008, Pullen admitted that he had used at least a portion of his clients' health care premium contributions to pay company expenses from July 2003 until November 2004. Instead of depositing the employers' monthly health care contributions in an appropriate bank account, Pullen had transferred his clients' payments to his own company's bank account.

United States v. Costello – On April 9, 2009, Ralph and Julie Costello (husband and wife) were sentenced in the Federal District Court, Northern District of Indiana, to 48 months incarceration, three years subsequent supervised release, and criminal restitution of $2,979,350.88. The Costellos had each pleaded guilty to one count of embezzlement from an employee benefit plan (18 U.S.C. § 664). Ralph and Julie had worked as the president and vice president, respectively, at CASI, Inc., a licensed third party administrator for employee health care plans.

CASI contracted with employers who had self-funded health care plans to gather and review employee health care claims, determine the validity of claims, and pay the claims with funds from the employer. Between November 2004 and February 2006, the Costellos essentially created a Ponzi scheme, commingling employer premiums into their own bank accounts. While CASI, Inc. did pay some health care claims and premiums for stop loss insurance, when the company collapsed in February 2006, it left many of its client companies high and dry, with outstanding employee medical claims and unpaid stop loss insurance.

This fact sheet has been developed by the U.S. Department of Labor, Employee Benefits Security Administration, Washington, DC 20210. It will be made available in alternate formats upon request: Voice phone: 202-693-8664; Text telephone: 1-202-501-3911. In addition, the information in this fact sheet constitutes a small entity compliance guide for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.