Employee Retirement Income Security Act 2000 Report to Congress

U.S. Department of Labor
Pension and Welfare Benefits Administration

DEPARTMENT OF LABOR · UNITED STATES OF AMERICA ·

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Introduction

The Pension and Welfare Benefits Administration (PWBA) of the U.S. Department of Labor protects the integrity of pensions, health plans and other employee benefits for more than 150 million people. The Agency administers and enforces the fiduciary, reporting and disclosure, and coverage provisions of Title I of the Employee Retirement Income Security Act of 1974 (ERISA). The provisions of Title I were enacted to address public concerns that funds of private employee benefit plans were being mismanaged and abused.

Since its enactment in 1974, ERISA has been amended to meet the changing retirement and health care needs of employees and their families. The role of PWBA has evolved to meet these challenges. In 1986, the Consolidated Omnibus Budget Reconciliation Act (COBRA) was passed, and PWBA was charged with certain notification requirements under the Act. The passage of the following health care legislation also added new responsibilities:

- The Health Insurance Portability and Accountability Act of 1996 (HIPAA)
- The Mental Health Parity Act of 1996 (MHPA)
- The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA), and
- The Women's Health and Cancer Rights Act of 1998 (WHCRA)

The Savings are Vital to Everyone's Retirement (SAVER) Act of 1997 required the Secretary to maintain an ongoing program of public outreach to effectively promote retirement savings and to plan and coordinate three National Summits on Retirement Savings.

In carrying out these responsibilities, the Agency undertakes a wide range of activities, including research, policy development, regulatory guidance and interpretation, enforcement, participant and compliance outreach and assistance.

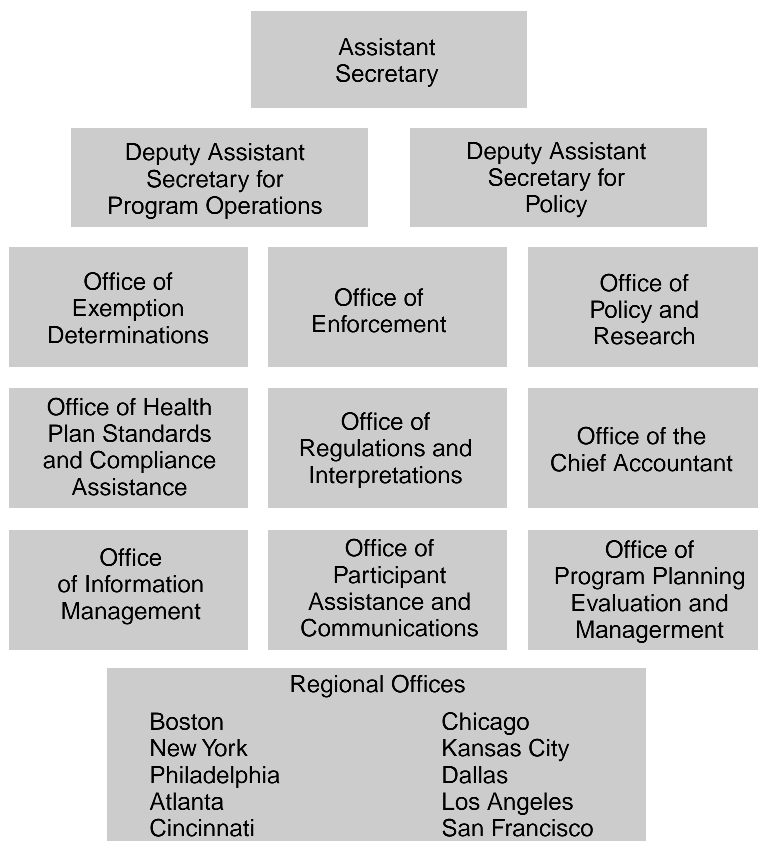
The Agency's mission is to:

- Assist workers in getting the information they need to protect their benefit rights;
- Assist plan officials to understand the requirements of the relevant statutes in order to meet their legal responsibilities;
- Develop policies and laws that encourage the growth of employment-based benefits; and,
- Deter and correct violations of the relevant statutes.

This report details the accomplishments of the Agency in calendar year 2000.

Overview of PWBA's Organization

PWBA, headed by an Assistant Secretary and two Deputies, accomplishes its mission through the collective efforts of seven program and two management support offices based in PWBA's headquarters in Washington, D. C., and 15 field offices. The field offices are organized into 10 regional offices located in Atlanta, Boston, Chicago, Cincinnati, Dallas, Kansas City, Los Angeles, New York, Philadelphia and San Francisco, and five district offices located in Detroit, Miami, Seattle, St. Louis and Washington, D. C. The Agency also provides support for a bipartisan, independent council that considers current benefits issues under ERISA and makes recommendations to the Secretary of Labor.



A description of the program offices follows.

Office of Enforcement

Title I of ERISA imposes substantial law enforcement responsibilities on the Department of Labor. Additional law enforcement responsibilities regarding employee benefit plans are imposed by Federal criminal laws. The goal of these statutes is to ensure the integrity and fairness of the private employee benefits plan system in the United States. Section 504 of ERISA authorizes the Secretary of Labor to conduct investigations of potential violations of ERISA's fiduciary provisions.

PWBA's National Office of Enforcement (OE) provides leadership and coordinates the Agency's enforcement program through activities directed toward:

- policy formulation,
- project identification and program planning,
- guidance development and implementation,
- field liaison, and
- field and project evaluation.

Investigations to detect and correct violations of Title I of ERISA and related criminal laws are conducted by the investigative staff in PWBA's field offices. As of December 31, 2000, PWBA has 334 investigators in the field. Civil litigation and other legal support are provided by the Solicitor's Office and criminal prosecutions are handled by the Department of Justice.

The Office of Enforcement is headed by a director who oversees the Division of Field Operations, which coordinates national civil enforcement policy with PWBA field offices and various governmental agencies; the Division of Enforcement Support, which oversees national targeting efforts and provides technical and administrative assistance to PWBA field offices; and the Criminal Coordinator, who coordinates national criminal enforcement policy with PWBA field offices and with other governmental agencies such as the Department of Justice.

Legal support for its investigations is primarily provided by the Department's Office of the Solicitor, both through the Regional Solicitors' offices and the Plan Benefits Security Division in the National Solicitor's Office.

Office of Participant Assistance and Communications

The new Office of Participant Assistance and Communications (OPAC) was created in 2000 to improve the delivery of outreach, participant assistance, retirement and health benefits education to individuals in benefit plans covered by the Employee Retirement Income Security Act (ERISA).

Today, PWBA employs 108 highly trained and dedicated Benefits Advisors who work out of PWBA's regional and national office. These Benefits Advisors respond to telephone and written inquiries from plan participants, employers and plan sponsors, assisting them in understanding their rights and obligations under the law and in obtaining benefits that may have been denied. OPAC develops the strategic plan, provides guidance, establishes policies and operating procedures, and oversees quality reviews and customer satisfaction surveys related to the Agency's outreach, education and assistance program, providing support to the regional offices in carrying out these activities. Its Division of Quality Assurance monitors and evaluates participant assistance activities performed by OPAC's Divison of Technical Assistance and Inquiries and by the 10 regional offices.

OPAC is also responsible for external communications with the public through a variety of methods including the media, public outreach activities, brochures, other educational materials, national educational campaigns, public service announcements, PWBA's Web site, and participant and compliance assistance activities. OPAC's media team coordinates media releases for significant enforcement actions, important litigation actions and program initiatives. The Office leads the development and publication of a variety of educational materials for consumers and plan officials and is responsible for policy and the content of the Agency's Web site. The Office is also responsible for coordinating two major education campaigns — the Retirement Savings Education Campaign and the Health Benefits Education Campaign.

OPAC also staffs the ERISA Advisory Council, providing logistical, clerical and technical support throughout the year and is responsible for responding to Freedom of Information requests and for the operation of the Agency's Public Disclosure Room.

OPAC is managed by a director who reports to the Deputy Assistant Secretary for Program Operations. The Director is assisted by two deputy directors responsible for participant assistance and communications, respectively.

Office of Regulations and Interpretations

ERISA assigns substantial regulatory authority and interpretive responsibilities to the Secretary of Labor. The Office of Regulations and Interpretations (ORI) is the organizational unit within PWBA primarily responsible for carrying out the Agency's regulatory agenda and interpretive activities. The Office also coordinates, as appropriate, the Agency's regulatory and interpretive activities with other Federal agencies such as the Department of Treasury, the Internal Revenue Service and the Pension Benefit Guaranty Corporation. The Office plays a major role in the development, analyses and implementation of pension and health care policy by providing technical assistance and support to the Assistant Secretary, external groups and other offices within PWBA.

ORI is headed by the Director of Regulations and Interpretations, who operates with the assistance of two senior-level advisors and two division managers. The general interpretive and regulatory responsibilities of the Office are allocated on a subject matter basis between two divisions, the Division of Fiduciary Interpretation and the Division of Coverage, Reporting and Disclosure.

The Division of Fiduciary Interpretations is generally responsible for interpretive and regulatory matters pertaining to the qualified domestic relations order, fiduciary responsibility, preemption, and qualified medical child support order provisions of

Parts 2, 4, and 6 of Title I of ERISA, as well as related provisions of the *Code of Federal Regulations* and the Federal Employees Retirement System Act of 1986 (FERSA).

The Division of Coverage, Reporting and Disclosure is generally responsible for interpretive and regulatory matters relating to the coverage, reporting, disclosure, suspension of benefits, claims procedure, multiple employer welfare arrangements, COBRA and other provisions of Parts 1, 2, 5 and 6 of Title I of ERISA.

Both components of the Office perform a significant role in providing technical assistance to the senior policy officials of the Agency and the various other program offices, as well as other federal agencies.

Office of Policy and Research

ERISA requires the Department to engage in economic research, consider and disclose the economic effects of its regulatory actions, and participate in legislative and policy deliberations that affect private employee benefits. These activities are carried out by PWBA's Office of Policy and Research (OPR).

ERISA Section 513 directs the Secretary of Labor to undertake research studies on pension issues, with authorization to study health and other benefit issues. OPR maintains a program of policy research directed toward PWBA's statutory role and policy priorities.

ERISA also directs or authorizes the Secretary to promulgate regulations interpreting and implementing certain of its provisions. Several other Federal statutes, including the Paperwork Reduction Act, the Regulatory Flexibility Act, the Small Business Regulatory Enforcement Fairness Act and the Unfunded Mandates Act, require all Federal regulatory agencies to consider and disclose the economic effects of their regulatory actions. PWBA satisfies these requirements through OPR's participation in the development and promulgation of all of its regulations.

PWBA's responsibility to administer Title I of ERISA makes it both a respository of unique technical expertise on employee benefit issues and a critical participant in legislative and policy deliberations that affect benefits. OPR houses PWBA's staff specifically dedicated to legislative activities.

The Director of OPR reports to PWBA's Deputy Assistant Secretary for Policy. The Director is supported by two deputies, one with primary responsibility for OPR's policy and legislative activities and the other with primary responsibility for its research and regulatory activities. OPR's staff is organized into four interdisciplinary teams. Staff reporting to the Deputy Director for Policy and Legislation include two policy and legislative teams — one dedicated to pensions and one to health benefits — and PWBA's chief actuary. The Deputy for Research and Regulations oversees the data team, which houses PWBA's in-house quantitative expertise and produces PWBA's key data on benefit trends, and the regulatory team, which contributes the mandatory analytic expertise to PWBA's regulatory projects, as well as the management of policy research projects carried out under contracts with private vendors.

Office of the Chief Accountant

ERISA requires certain employee benefit plans to file detailed annual financial reports. Some of these employee benefit plans must also obtain an audit report from a qualified independent accountant to help ensure the completeness and accuracy of the information provided in these reports. In addition, FERSA assigns responsibility to the Secretary of Labor to carry out audits to determine the level of compliance with the fiduciary requirements of FERSA. The Office of the Chief Accountant (OCA) of PWBA is the organizational unit that is primarily responsible for the administration of these responsibilities.

OCA is primarily concerned with annual reporting and audit requirements by employee benefit plans, and enforcement of those provisions through the imposition of civil penalties of up to $1,100 per day against a plan administrator whose annual report is rejected, as provided in Part 1, Sections 103 and 104, and Part 5, Section 502 of Title I of ERISA. OCA also operates under the broad authority to conduct investigations and to inspect records, under Part 5, Section 504 of Title I of ERISA.

The Office is headed by the Chief Accountant, who reports to the Deputy Assistant Secretary for Program Operations. OCA carries out its activities using staff from three operating divisions: the Division of Accounting Services (DAS), the Division of Reporting and Compliance (DRC) and the Division of FERSA Compliance (FERSA). DAS actively performs numerous liaison and outreach activities with professional groups that service employee benefit plans and ensures that plan audits are done in accordance with industry standards. DRC ensures that the ERISA database contains timely, complete and accurate information about the regulated plan community. FERSA conducts fiduciary compliance audits of the Thrift Savings Plan. These divisions also work extensively as teams on special projects and group activities common to each organizational component.

The Office devotes approximately 80 to 90 percent of its resources to frontline enforcement activities and customer services activities directly impacting the public and plan professionals.

Office of Health Plan Standards and Compliance Assistance

In September 1996, in response to the significant health care responsibilities given to the Secretary of Labor under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), a Health Care Task Force was established to develop regulations and other interpretive guidance required to implement the new requirements imposed on employer-sponsored health plans. These include the provisions of Part 7 of Title I of ERISA, as added by HIPAA, the Newborns' and Mothers' Health Protection Act of 1996 (Newborns' Act), the Mental Health Parity Act of 1996 (MHPA), the Women's Health and Cancer Rights Act of 1998 (WHCRA). The enactment of these health care laws marked a turning point in how group health plans are regulated at the Federal level and significantly changed the nature and scope of PWBA's interpretive and administrative responsibilities. The health care provisions in HIPAA, Newborns' Act, and MHPA created shared jurisdiction and shared regulatory responsibility for the Departments of Labor, the Treasury, and Health and Human Services. The health care provisions in WHCRA only created shared jurisdiction and regulatory responsibility for the Departments of Labor and Health and Human Services.

The permanent Office of Health Plan Standards and Compliance Assistance was established in December 1999. This office is the primary source of regulations and interpretations and compliance guidance related to the health care provisions imposed on group health plans (HIPAA, Newborns' Act, MHPA, WHCRA) and provides education, technical assistance and compliance assistance to health plans and plan administrators, other federal and state agencies with related responsibilities, policy makers, PWBA program and field offices, and participant and beneficiaries on health care matters. This office also has regulatory responsibility for the Form M-1, a reporting requirement of Multiple Employer Welfare Arrangements (MEWA).

OHPSCA is managed by a Director who reports to the Deputy Assistant Secretary for Program Operations. A Deputy Director who assists in the management of the Office supports the Director.

Office of Exemptions Determinations

The prohibited transaction provisions of ERISA restrict plan fiduciaries from causing employee benefit plans to engage in transactions with certain parties who have pre-existing relationships to a plan and from acquiring or holding employer property. These provisions also prohibit plan fiduciaries from engaging in transactions that involve self-dealing or conflicts of interest.

The prohibited transaction restrictions cover a wide range of transactions. However, ERISA authorizes the Secretary of Labor, through his or her authorized designate, to grant individual or class exemptions that relieve plan fiduciaries from all or part of these restrictions. In order to grant an exemption, a determination must be made that the exemption would be administratively feasible, in the interests of the plan and its participants and beneficiaries and protective of the rights of the plan's participants and beneficiaries.

PWBA's Office of Exemption Determinations (OED) has been delegated the responsibility for processing requests for individual and class exemptions from ERISA's prohibited transaction provisions.

OED is comprised of two divisions, the Division of Individual Exemptions and the Division of Class Exemptions. The Division of Individual Exemptions is staffed by a division chief and three teams of analysts, each of which is headed by a supervisor or team leader. The primary responsibilities of the Division of Individual Exemptions include analyzing individual exemption applications that involve a wide array of financial transactions, conducting denial conferences, preparing interpretive letters and *Federal Register* notices and reviewing petitions for good- faith waivers of Section 502(l) penalties of ERISA.

The Division of Class Exemptions is staffed by a division chief, a team leader and four analysts. The primary responsibilities of this division include analyzing applications for class exemptions, and major individual exemptions related thereto, conducting denial conferences, preparing *Federal Register* notices, reviewing petitions for good-faith waivers of Section 502(l) penalties of ERISA, drafting advisory opinions and information letters regarding class exemptions and handling special projects.

ERISA Advisory Council

Section 512 of ERISA provides for the establishment of an Advisory Council on Employee Welfare and Pension Benefit Plans. The Council consists of 15 members appointed by the Secretary of Labor: three representatives of employee organizations (at least one of whom represents an organization whose members are participants in a multi-employer plan); three representatives of employers (at least one of whom represents employers maintaining or contributing to multi-employer plans); one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management, and accounting; and three representatives of the general public (one of whom represents those receiving benefits from a pension plan). Members must be qualified to appraise the programs instituted under ERISA. Members are appointed for three-year terms, with five terms expiring on November 14 of each year.

The duties of the Council are to advise the Secretary and submit recommendations regarding the Secretary's functions under ERISA. The Council customarily holds four meetings each year that are open to the public.

2000 Highlights

Leslie Kramerich served as the Assistant Secretary of the Agency throughout Calendar Year 2000. Some of the accomplishments of the Agency in 2000 are highlighted below:

- In the area of enforcement, the Agency closed a total of 4,510 civil and criminal cases and recovered $538.3 million.

- Building on its enforcement record by targeting major areas to direct and harness its resources, the Agency implemented the Rapid ERISA Action Team (REACT) to quickly respond to the problem of bankruptcies faced by a growing number of plan sponsors.

- Benefits Advisors handled nearly 158,000 inquiries and assisted participants in recovering more than $69 million in unpaid benefits.

- During its first year of operation, the Department processed more than 1.2 million plan filings through the ERISA Filing Acceptance System (EFAST).

- A Help Desk was established to provide technical assistance to the filing public on the Form 5500 and Form 5500-EZ reports, responding to more than 7,000 technical assistance inquiries during a six-month period.

- Final regulations for a streamlined and simpler annual reporting process for employee benefit plans were published.

- Educational and compliance-related materials were developed to help to educate plan administrators, participants and beneficiaries, and the states on their rights and responsibilities under the new health care laws.

- The year 2000 marked the 5th year of the Agency's Retirement Savings Education Campaign, and the beginning of a new partnership with the U.S. Chamber of Commerce, the Small Business Administration and Merrill Lynch to encourage small business owners to provide a retirement savings program for their workers.

- The Health Benefits Education Campaign marked its second anniversary in 2000, highlighting its 65 partner organizations, which continue to work together to create new participant educational material through committee participation.

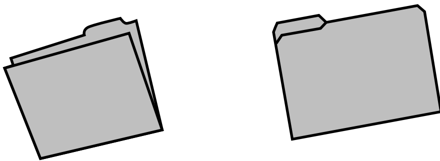
Enforcement

In 2000, PWBA recovered $538.3 million for employees in private employee benefits plans. This monetary recovery resulted from the Agency's closing of 4,355 civil cases and 155 criminal cases, which included 103 indictments (see Figure 1).

PWBA identified and targeted six major areas in which its resources could have the most impact on protecting plan assets and participants' benefits. These six areas also represented the Agency's national enforcement projects, some of which have been operational for several years. These projects are the Rapid ERISA Action Team, Multiple Employer Welfare Arrangements, Administrative Services Only, Employee Contributions, Orphan Plans and Health Disclosure and Claims Issues. The Agency's accomplishments in 2000, with respect to each of these projects, are summarized below.

Civil Investigations

5,061 Opened **4,355** Closed

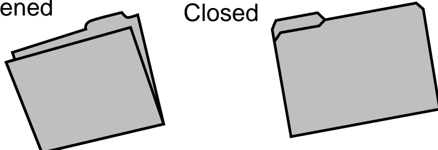


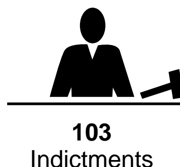
Monetary Recoveries

$538.3 Million

Criminal Investigations

115 Opened **155** Closed





103 Indictments

Figure 1. *Both civil and criminal cases may cc ıe from one calendar year to the next (i.e., a case opened in 1999 may not be closed 2000). The numbers in the chart above represent totals for the 1999 calendar year.*

Rapid ERISA Action Team (REACT) Project

PWBA launched the REACT initiative in the fall of 2000 to carry out its mission to protect the benefits of plan participants and beneficiaries and to respond to the growing number of plan sponsors filing for bankruptcy. REACT aggressively targets plan sponsors who are facing severe financial hardship or who have filed for bankruptcy. The initiative was developed based on the Agency's experience with bankruptcies of plan sponsors, in which plan assets were placed in jeopardy.

Under REACT**,** PWBA responds to employer bankruptcies by ensuring that all available legal actions have been taken to preserve employee benefit plan assets. When a company has declared bankruptcy, PWBA will take immediate action to ascertain whether there are plan contributions that have not been paid to the plan's trust, to advise all affected plans of the bankruptcy filing, and to provide assistance in filing proofs of claim to protect the plans, the participants and the beneficiaries. PWBA will also attempt to identify the assets of the responsible fiduciaries and evaluate whether a lawsuit should be filed against those fiduciaries to ensure that the plans are made whole and the benefits secured.

Multiple Employer Welfare Arrangement (MEWA) Project

A Multiple Employer Welfare Arrangement (MEWA) is a welfare benefit plan or other arrangement that is set up to benefit the employees of two or more employers.

When employers are either unable to find or cannot afford the cost of health care coverage for their employees, they may look to MEWAs for coverage. In 2000, PWBA continued to find instances where MEWAs have been unable to pay claims as a result of insufficient funding and inadequate reserves, or in worse situations, where they were operated by individuals who drained the MEWA's assets through excessive administrative fees or by outright theft. The Agency continued to focus its resources in this area on abusive and fraudulent MEWAs created by unscrupulous promoters that sell the promise of inexpensive health insurance, but default on their obligations.

PWBA maintains an aggressive enforcement program with respect to MEWAs and MEWA-related programs. The Agency's highest priority in its investigation of MEWAs is the immediate shutdown of MEWAs that are operating in a fraudulent and/or dangerous manner. As of Sept. 30, 2000, PWBA had 87 ongoing MEWA and MEWA-related investigations of which 15 were criminal investigations. As of the same date, PWBA had filed 40 civil complaints against fraudulent MEWA operators and indicated 78 individuals and issued 64 convictions.

PWBA also publishes the Form M-1, which is a form required to be filed under section 101(g) of ERISA by MEWAs.

Administrative Services Only Project

This PWBA enforcement project involved investigation of insurance companies that provided only administrative services to self-funded welfare plans. The Agency's objective is to determine whether fee reductions or discounts obtained from medical service providers have been passed on to the plans or to their participants.

In 2000, after the Agency interacted with a major service provider in a voluntary correction process, PWBA decided to investigate whether there were more widespread problems with the practice employed by insurance companies in billing plans and compensating service providers who render services to plans. The problems appeared to be occurring in administrative services only-type arrangements and in managed care network arrangements set up by insurance and health care companies where plans are self-insured or partially self-insured. Under the Administrative Services Only Project, PWBA has recovered $72 million on behalf of plans and participants.

Employee Contribution Project

Since 1995, PWBA has pursued an aggressive enforcement project intended to safeguard employee contributions to 401(k) plans and health care plans by investigating situations in which employers delay forwarding employee contributions into these plans. In some cases, employers do not promptly forward the contributions to the appropriate funding vehicle. In other cases, the employer simply converts the contributions to other uses, such as business expenses. Both scenarios may occur when the employer is having fiscal problems and turns to the plan for unlawful financing.

The Employee Contribution Project has generated considerable attention from Congress, participants and the media. By raising public awareness, the project further increased the volume of participant complaints. An intended impact of the publicity is to put employers on notice that the Department will vigorously pursue recoveries of diverted contributions. The Agency has recovered more than $120 million for participants in 401(k) plans and health plans, and has obtained convictions or guilty pleas in 77 cases.

The project also led to the establishment of the Voluntary Pension Payback Program, which resulted in recovery of another $4.8 million for plan participants.

Orphan Plan Project

PWBA initiated the Orphan Plan Project on October 1, 1999, which is designed to locate pension plans, particularly 401(k) plans, which have been abandoned by fiduciaries through death, bankruptcy or incarceration. Under the project, PWBA will also determine if a fiduciary can be located to perform fiduciary functions, such as terminating the plan, distributing the plan's assets and filing appropriate financial reporting forms, such as the terminal annual report.

Through the project, the Agency takes an active role in the appointment of an independent fiduciary so that the participants and beneficiaries can receive their earned benefits. The orphan plan initiative assists at-risk populations, specifically those participants who are in danger of losing some or all of their retirement savings.

Since the inception of the project through December 31, 2000, PWBA has opened a total of 393 orphan plan civil cases and closed 135. More than $42.1 million has either been protected or returned to plans and $29.3 million has been distributed to plan participants. Thirty-one independent

fiduciaries have been appointed in 28 separate cases.

In 2000, PWBA opened 156 civil cases in connection with the Orphan Plan project. Through these cases, the Agency succeeded in protecting more than $60.4 million in plan assets on behalf of participants and beneficiaries of orphan plans.

Seven criminal cases have been opened under the project and one has been closed, with an individual being indicted and convicted. PWBA also coordinated with the Pension Benefit Guaranty Corporation to ensure that participants of defined benefit plans that are adversely affected by orphan plan situations are protected and that joint efforts are pursued aggressively.

Health Disclosure and Claims Issues Project

PWBA has, in recent years, applied substantial enforcement resources to targeting and investigating fiduciary violations, as well as criminal violations, relating to health benefits plans. PWBA's role in the health care area also has expanded as a result of recent laws that expanded the Agency's responsibilities. The Agency's focus in the health area is to ensure that self-funded plans are financially sound and that plan operators run their health plans prudently and in the participants' sole interest.

In 2000, PWBA's regional offices conducted disclosure reviews as part of all health plan-related investigations, and performed specific disclosure compliance reviews on a limited number of large single and multi-employer plans or third-party entities. Regions also focused on situations where claims were not being paid due to financial difficulties of a trust or plan sponsor. Specific targets were identified through participant complaints and by working through service provider entities that specialize in health care administration to identify clients who appeared to be negligent in meeting their claims paying obligations. In addition, the Project reviewed certain group health plans for compliance with the substantive provisions of the new health care laws.

See Appendix A for a listing of some of the significant civil and criminal cases investigated in 2000.

Outreach, Education and Assistance

Participant Assistance and Outreach

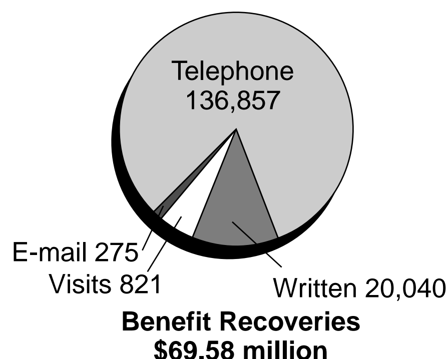
PWBA expanded its participant assistance and outreach programs in 2000 to educate and assist participants, beneficiaries and other consumers about their rights under the law and where to go for assistance in helping them obtain benefits that have been improperly denied. The evolution of employee benefit programs toward arrangements, which place substantial responsibilities on participants to make decisions about managing their retirement savings and often require workers to make significant choices on the enrollment in health plans and access to care, has led to a rapid increase in the need for PWBA to provide effective communication and assistance to the public. Plan participants need assistance in understanding their rights under the law; plan sponsors need assistance in understanding their responsibilities so that they are in compliance with the laws and regulations. Workers who are facing changes in their work situations, such as loss of their job or a reduction in their hours, or significant changes in their life situation, such as marriage, divorce or childbirth, are particularly vulnerable and need proper information to protect their pension and health benefits and make informed decisions.

In 2000, PWBA's Benefits Advisors provided direct assistance to157,993 participants who contacted the Agency for information or help resolving a benefit dispute, and recovered more than $69 million in benefit payments on their behalf. (See Figure 2). Although the Benefits Advisors handle the full range of employee benefit inquiries, the vast majority of the monetary recoveries involve pension benefits, due to the practical difficulty in placing a monetary value on the restoration of health care coverage.

Benefits Advisors recover benefits on behalf of participants and beneficiaries as part of an informal resolution process. Generally they are able to resolve disputes and obtain promised benefits on behalf of a participant or beneficiary by explaining the requirements of ERISA to a plan administrator or other responsible party. When benefits complaints that involve possible fiduciary violations cannot be resolved informally, the Benefits Advisors refer them to PWBA's investigators. In 2000, 1,254 investigations were opened as a result of referrals from Benefits Advisors; 1,048 cases referred were closed with over $150 million in monetary results.

Summary of Inquiries Calendar Year 2000

Total Inquiries = 157,993



Benefit Recoveries $69.58 million

Figure 2.

Other times Benefits Advisors serve as an independent source of reliable information about ERISA by answering questions posed by plan sponsors, plan administrators, and service providers to plans. The public is able to obtain technical assistance on questions and problems at the local level through PWBA's 10 regional offices and through its headquarters in Washington, D.C.

With an increase in the Agency's responsibilities — including jurisdiction over four new major health laws — the demand from workers and their families for help in understanding these requirements significantly increased. Under a more structured nationwide program, PWBA adopted for the first time in 2000, a strategic plan for outreach, education and assistance that requires its regional offices to conduct grassroots outreach designed to provide participant and compliance assistance and to promote the services of the Agency. The Benefits Advisors conduct regional briefings for congressional staff, participant advocates, state and local agencies, community based organizations and targeted participant groups, such as dislocated workers, to inform them about the Agency's services and to answer questions about their benefits rights.

Education Campaigns

Retirement Savings Education Campaign

PWBA completed another successful year of education and outreach to employers and workers about the importance of saving for retirement through its *Savings Matters Campaign*.

The Campaign highlights in 2000 were the celebration of the 5th anniversary of the Retirement Savings Education Campaign; the release of *Savings Fitness: A Guide to Your Money and Your Financial Future*; co-sponsorship of the Everywoman's Money Conferences in six states; and the formation of several key partnerships.

In July of 2000, PWBA marked the 5th anniversary of its Retirement Savings Education Campaign. At the event, a new partnership was announced with the U.S. Chamber of Commerce, the Small Business Administration and Merrill Lynch to encourage small business owners to provide their workers a retirement savings vehicle on the job. The partner organizations co-developed a new Web site for small businesses, www.select-a-retirement-plan.org, which provides an overview of the benefits to businesses and employees of having an employer-sponsored savings plan, and describes various plan options and the advantages of each. The site features an interactive tool to help small businesses select the best plan for their particular business.

In addition, PWBA entered into a partnership with the Consumer Federation of America (CFA) to reach low- to moderate- income workers through CFA's America Saves program. The America Saves program is a national initiative comprised of city-wide campaigns that target low- to moderate- income workers to join America Saves and set savings goals, participate in motivational workshops and receive assistance in achieving their goals. The program also encourages employers to educate their workers on the importance of saving and financial management. The pilot city for the America Saves program is Cleveland, Ohio.

PWBA also worked with the Certified Financial Planner Board of Standards to develop a comprehensive guide to help individuals take control of their financial lives in order to save adequately for their retirement. The new booklet, *Savings Fitness: A Guide to Your Money and Your Financial Future*, was promoted nationally in *Parade* magazine and hundreds of small and medium size newspapers. Four hundred thousand copies have been distributed to date. It very quickly became the most popular publication of the *Saving Matters Campaign.*

Another highlight for the *Saving Matters Campaign* in 2000 was the co-sponsorship of the Everywoman's Money Conferences. The conferences were held in Philadelphia, Pennsylvania; Richmond, Virginia; Indianapolis, Indiana; Minneapolis, Minnesota; Newark, Delaware; and Scranton, Pennsylvania. The conferences, designed to motivate women to manage their money and plan for their financial needs in the future, were attended on average by a capacity audience of 1,100 women of all ages with a variety of educational and professional backgrounds. The conferences were featured in a *Business Week* article for the unique and high-spirited approach they employed to reach and teach women about money matters.

Health Benefits Education Campaign

The Health Benefits Education Campaign partnered with 65 health benefits organizations to work with the Agency on its effort to educate consumers about their health benefits rights and issues of quality under their employer-provided health plans, and to inform employers, particularly small employers, of the value of providing quality health benefits to employees.

The year 2000 marked the second year of the campaign, and the partners worked together to create new consumer educational materials through committee participation. The Research Committee began by researching its target population and how its message should be crafted; the Educational Committee determined what topical areas needed to be addressed; and the Materials Development Committee developed a prototype of the look for the Campaign's products.

At the second anniversary event in December, the Department and its partners announced a number of new products. The first product was the

Health Benefits Passport. This is a one-page document containing seven basic points that everyone should know about their health benefits. The passport provides an attached wallet card to serve as an emergency medical card containing basic contact information for their physician, their families and their health benefits provider.

The second product developed by the Campaign partners was the *Employers' Health Benefits Quality Briefcase*. The briefcase is a Web-based product that provides links to various Web sites that offer useful information for employers on quality issues to assist then when choosing health plans.

The Agency also released some additional educational tools. A *Mothers' and Newborns'* card and poster were developed to educate and inform new moms and their doctors about their rights under the Newborns' and Mothers' Health Protection Act of 1996. And a new poster and card were developed describing how to file a claim when a health benefit is denied.

Media Relations

In 2000, 478 media inquiries were handled on a broad range of topics under the Agency's jurisdiction, including cash balance plan conversions, 401(k) plan fees, the patient rights claims procedure rule, the small plan asset rule, educational outreach for pension and health benefits, high-profile cases, such as Capital Consultants, Inc. and Time Warner settlements and promotion of the electronic filing acceptance system (EFAST) project and the electronic filing of annual reports.

There were 165 media interviews conducted in 2000 that resulted in national publicity for Agency initiatives such as the 401(k) fees project. A *USA Today* article published on Oct. 30, 2000, re-enforced PWBA's association with 401(k) fees. More than 30 newspaper and magazine articles have appeared on the patients' rights claims regulation. The rule was highlighted on a recent *Lifetime* channel segment about health care. The Agency also released 124 press releases on a variety of topics to include enforcement actions, regulatory guidance, new filing requirements, program initiatives and other matters.

ERISA marked its 25th anniversary in 2000. To commemorate the anniversary, staff developed a comprehensive plan to provide visibility to the participant assistance units located in PWBA field offices across the country. The objective was to promote the availability of technical assistance help for participants and beneficiaries at the local level. 0News releases on enforcement cases carried standard language contact information for regional offices; four regional town hall meetings were sponsored by PWBA regional offices in Atlanta, Boston, Philadelphia and San Francisco to provide outreach at the local level; radio public service announcements were developed; and numerous articles were published about the initiative.

Regulatory Activities

Following are highlights of PWBA's regulatory program during the 2000 calendar year. As in the past, many of these projects were done with partner federal agencies that have concurrent jurisdiction over the provisions. PWBA continues to actively fulfill its mission of administering federal benefits laws by working to provide guidance, including regulations.

Medical Child Support Working Group

PWBA staff participated in a joint Federal-State Medical Child Support Working Group, which completed a comprehensive report addressing strategies for addressing impediments to the effective enforcement of the medical support obligations of parents named in child support orders. Representatives of the Department of Health and Human Services and various state government agencies, as well as private-sector employers and human resource professionals, also participated in the working group.

Employee Benefit Plan Annual Reports: Revision of the Form 5500 Series and Related Regulations

In conjunction with the Internal Revenue Service and the Pension Benefit Guaranty Corporation, the Department published final revisions to the Form 5500 Series Annual Return/Report for employee benefit plans, together with final amendments of related regulations. The revisions streamlined and simplified the annual reporting process for employee benefit plans.

Plans Established or Maintained Under or Pursuant to Collective Bargaining Agreements Under Section 3(40)(A) of ERISA

The Department published proposed regulations establishing criteria that states could use to determine whether a plan has been established or maintained pursuant to one or more collective bargaining agreements for purposes of Section 3(40) of ERISA. Employee welfare benefit plans meeting the proposed criteria would be excluded from the definition of multiple employer welfare arrangement (MEWA) under Section 3(40), and consequently, not subject to state regulation. The proposed regulations also would create an administrative process within the Department through which an entity could challenge a state's conclusion that the entity was a MEWA and not entitled to the exclusion for collectively bargained plans. The proposals were developed with the participation of state government and private-sector stakeholders utilizing the negotiated rulemaking process.

Health Insurance Portability and Accountability Act Implementation

PWBA finalized the interim final regulations on the HIPAA nondiscrimination provisions and the proposed rules for bona fide wellness programs under HIPAA, published a Request for Information on the portability, renewability, and access provisions of HIPAA, and published the 1999 Form M-1. These regulations were developed through a three-department working group, including the Department of Labor, the Treasury, and Health and Human Services.

State and Federal Liaison Programs

PWBA maintained an extensive federal liaison program with the 50 individual states and the U.S. territories to facilitate successful implementation of the new health care provisions and resolve problems of mutual concern. A federal/state referral network was established and maintained to allow representatives from the 50 states, the U.S. territories and the PWBA field offices to have immediate access to contact personnel in their region.

PWBA staff participated in quarterly meetings of the National Association of Insurance Commissioners (NAIC) to share experiences with current practices and developed and maintained an Internet hyperlink system, allowing plan sponsors, administrators and participants to roam freely between Internet information available at the federal and state levels.

Technical assistance was provided to other federal and state agencies on ERISA's health care provisions and reviews draft regulations, interpretive guidance, and policy statements prepared by other Federal agencies to ascertain their effect on group health plan provisions.

A three-department working group was formed to develop guidance and facilitate compliance with and enforcement of the health care portability, non-discrimination and other health care-related provisions of Title I of ERISA. This required close coordination with the Department of the Treasury and the Department of Health and Human Services.

Policy and Research

Under ERISA, the Secretary of Labor is charged with carrying out research studies on pension and other employee benefit topics. PWBA's research program investigates the economics of private, voluntary employee benefit programs, and thereby serves to educate the public, inform policy debates, and advance the academic literature.

PWBA increased its emphasis on research into how employers, especially small employers, decide whether to offer benefits. Several studies of whether and how health benefits are offset by reductions in other compensation were initiated, and staff continued building a capacity to model how small employers' and individuals' decisions to purchase health insurance respond to price and interact with the composition of risk pools. Progress was also made on modeling how cohorts accumulate pension wealth across careers.

PWBA updated its statistics on employee benefits, publishing its annual summary of pension plans' annual reports, and disseminating on the Agency website new findings on pension and health benefit coverage trends (both have edged up in recent years).

The research program also supports the Agency's regulatory and enforcement activities. Ensuring that regulatory interpretations achieve ERISA's statutory goals while minimizing the attendant burden on employee benefit plans, especially plans sponsored by small businesses, is an Agency goal. In 2000, PWBA devoted increasing research and analytic resources to carrying out cost benefit analyses of regulations, and more fully integrated such analyses into the process of developing or revising regulations.

Measuring and maximizing the performance of its core programs is also a top concern of the Agency. Increasingly, statistical and analytic resources were devoted to establishing baseline measures of ERISA compliance that can be used to measure the results of enforcement efforts.

PWBA's policy staff provided assistance on legislative proposals that would simplify pension rules and improve portability; expand retirement savings opportunities and enhance pension security; provide a tax credit for small businesses that establish pension plans; create a new, simplified defined benefit plan for small businesses; require faster vesting of 401(k) employer matching contributions and strengthen participant protections and penalties for violations of the law and auditing of ERISA plans. PWBA health policy initiatives included patients' rights legislation and health care quality. Assistance was also provided to Congress and the Administration on issues raised in the conversion of the defined benefit pension plans to cash balance plans.

Accounting and Auditing Activities

PWBA implemented a multifaceted strategy to assist the employee benefits community in complying with the reporting and disclosure requirements of ERISA.

Traditionally, PWBA enforces ERISA's reporting and disclosure provisions by imposing civil penalties against plan administrators for their failure to submit a complete and accurate Form 5500 Annual Report to the Department. In 2000, PWBA assumed a more prominent, proactive role in processing the Form 5500 filings by providing the filing public with a better understanding of ERISA's filing requirements and the necessity of requiring certain information. The Agency also established several programs designed to educate plan professionals, to provide quality customer service and to encourage voluntary compliance through reduced fines.

With respect to Form 5500 filings, PWBA performs the quality assurance function for the ERISA Filing Acceptance System (EFAST). EFAST is the new computerized system developed by PWBA, the Internal Revenue Service and the Pension Benefit Guaranty Corporation to streamline the filing and processing of the new Form 5500 or Form 5500-EZ, by relying on computer-scannable forms and technologies. For 1999 plan year filings, the Form 5500 had been substantially revised and, for the first time, the Labor Department began to process more than 1.2 million filings.

In March 2000, the Agency established the EFAST Help Desk to provide technical assistance to the public in filing the Form 5500 and Form 5500-EZ reports.

The Help Desk is staffed five days a week by 10 employees in the Agency's National Office, and also provides assistance to callers, through a voice mail message system, who seek help after business hours, on holidays, week-ends or during peak times when volume is heavy.

Through the Help Desk, the Agency received and responded to more than 7,000 technical assistance inquiries during the initial six-month period assisting callers on how to accurately prepare the Form 5500. In addition, the Agency retained a contractor to assist with the high volume of telephone calls, whose staff was trained by PWBA employees. The Agency also provided quality-control assistance on the EFAST project by reviewing edit test correspondence and creating and assessing the adequacy of the edit test logic.

More than 2,400 filers mailed non-processable items, including non-standard correspondence to EFAST, and the Agency responded. Its responses included offering clarifications and explanations that generally assisted plan administrators on how to properly resubmit their Form 5500 filings to EFAST.

PWBA was also at the forefront in providing compliance assistance and education to the employee benefits community. It co-hosted an aggressive outreach program, which presented more than 15 seminars, workshops and panel discussions with various plan benefit industry groups throughout the country.

Partnerships with these industry groups enable the Agency to reach a wide range of plan administrators and service providers on relevant topics regarding ERISA's reporting and disclosure rules. In addition, the American Institute of Certified Public Accountants (AICPA) and PWBA jointly conduct an annual conference that attracts hundreds of auditors interested in honing their skills and learning the latest about audits of employee benefit plans. PWBA also worked with the AICPA to update guidance for auditing employee benefit plans.

The Agency conducted a quality-control program for improving audit work performed by independent qualified public accountants. Under the program that monitors the performance of independent qualified public accountants, the Agency reviewed plan filings to determine if acceptable audit reports were submitted; made on-site visits to certified public accountant firms to review and assess the quality of audit work performed; and referred certified public accountants who performed substandard audit work to the professional ethics division of the AICPA or state boards of public accountancy.

Plan Audit Reviews–2000

Item	Count
Number of Reporting Compliance Cases	2,873
Reviews of Auditors' Work Papers	71
Total Audits Referred	400
State Licensing Boards	81
AICPA	319
Resolutions–AICPA	308
Referred to AICPA Trial Board for Settlement	93
Letters for Corrective Action	170
No Deficiencies	19
Closed for Other Reasons	26

PWBA performed 71 on-site reviews and analysis of audit work papers that supported the accountant's report.

It also conducted fiduciary compliance audits of the Thrift Savings Program as required by the Federal Employees' Retirement System Act of 1986. As of Dec. 31, 2000, the TSP had more than $97 billion held in the 2.5 million accounts of Federal employees. DOL's audits were designed to provide oversight of the Federal Retirement Thrift Investment Board (FRTIB) and its executive director, and to ensure that they meet fiduciary requirements by operating the TSP prudently and solely in the interest of the participants and their beneficiaries. During 2000, the FRTIB continued to re-engineer its TSP recordkeeping system with many enhancements.

These enhancements will ultimately include implementing completely new TSP recordkeeping software, including replacing the current TSP bookkeeping system by converting from monthly to daily account valuations with new individual account unit valuations; establishing two new TSP investment funds and providing for TSP participation by the U.S. armed forces' members, as required by Congress. The FRTIB has successfully complied with OMB's Y2K guidelines.

The Agency continued its strategy of encouraging plan administrators to voluntarily comply with ERISA's reporting and disclosure requirements in order to reduce penalties and fines. Its Delinquent Filer Voluntary Compliance Program (DFVC) encourages plan administrators to file previously unfiled Form 5500 Series annual reports and to resolve late filer penalties. In addition, the program permits plan administrators of top hat plans (a pension plan in which the value of benefits for officers and owners exceeds 60 percent of the value of benefits for ordinary employees) and apprenticeship and training plans who missed their filing deadlines to submit statements and elect an alternative method of compliance in lieu of filing an annual report.

DFVC simplifies the filing process and reduces the financial hardship for voluntary compliance for small business through smaller fines. In 2000, approximately 2,300 plans chose to take advantage of the DFVC program, and the DFVC collected more than $6.5 million in civil penalties.

The reporting compliance program is divided between three groups: 1) deficient filers, 2) late filers and 3) non-filers. Penalties are imposed on plan administrators for their failure to submit timely, complete and accurate Form 5500 Series Annual Reports with the Department. Approximately $13 million civil penalties were assessed against plan administrators under the Agency's reporting program for filing deficient Form 5500 Series Annual Reports. More than $8.6 million was assessed against late filers and non-filers.

Exemptions

In 2000, PWBA received 106 exemption applications, granted 84, and 47 were denied or withdrawn by the applicant. The Agency permitted a wide variety of transactions that were beneficial to employee benefit plans through either the class or individual exemptions it granted. Some of the major ones are summarized below.

Class Exemption Overview

Temporary Amendment to a Class Exemption

The Agency granted a temporary amendment to an existing class exemption. Prohibited Transaction Exemption 80-26, which permits related parties to make interest-free loans, was expanded to cover situations in which a loan could be made to a plan to address liquidity shortfalls caused by Y2K computer problems. If a Y2K problem had materialized, the amendment would enable plans to continue to pay benefits and engage in necessary financial transactions.

EXPRO Exemption Overview

Forty-one applications were received by the Agency in connection with the Class Exemption to Permit Certain Authorized Transactions between Plans and Parties-in-Interest (EXPRO). This class exemption, which was granted in 1996, permits prospective routine prohibited transactions, where such transactions are specifically authorized by the Agency and are determined to be substantially similar to two individual exemptions that were previously granted by the Agency. EXPRO also offers a more expeditious exemption process. In 2000, the Agency granted 33 exemptions.

Several of the exemptions granted under EXPRO permitted plans to invest in asset-backed securities. The creation and marketing of asset-backed securities by entities that are parties in interest and/or fiduciaries to employee benefit plans is customary for structural finance transactions that are commonplace in a number of industries (including the credit card industry, the mortgage industry, the automobile industry, etc.).

These exemptions permit plans to take advantage of investment opportunities to achieve current market returns through investment in pools of receivables that, taken together, have received a rating from a nationally recognized rating agency as high or higher than that of other debt instruments in which the plans are currently permitted to invest. Since asset-backed securities have become a major component of the market in fixed-income securities, these exemptions allow plans to access an important part of that market, while ensuring that plan investors are protected by strict standards and safeguards, which are consistent with the requirements of the rating agencies.

Additionally, significant individual exemptions were granted under EXPRO to permit purchases and sales of securities and extensions of credit (i.e., for settlement of such transactions or the writing of options contracts related thereto). PWBA also granted EXPRO exemptions permitting securities lending arrangements between employee benefit plans and certain affiliates of major financial institutions, which are foreign broker-dealers or banks. Such exemptions increased the number of potential counterparties that plans may use to enter into securities transactions and/or earn additional income by lending securities otherwise held by the plan for investment where entities involved are service providers or fiduciaries to such plans.

Individual Exemptions

There were three individual exemptions granted in 2000 for the provision of asset allocation advice and related services, and for the purchase or sale of interests in affiliated or unaffiliated mutual funds or other collective investment vehicles, by entities acting as service providers and fiduciaries to the affected plans. These exemptions permit the provision of professional investment management and/or asset allocation advice service to participants who direct the investment of their account balances. These exemptions address potential conflicts of interest and also include a number of additional safeguards so that the affected plan participants can oversee the recommended allocations and rebalancing of their plan accounts by receiving extensive disclosures regarding the services performed, and fees received, by the particular service providers and fiduciaries.

In addition, there was an exemption granted for employee benefit plans to purchase and sell publicly traded index-linked debt securities issued by

Merrill Lynch & Co. Inc. or an affiliate (Merrill Lynch). Such securities, which are also issued by other broker-dealers and their affiliates, have their principal amounts guaranteed by the issuer. The issuer typically has a high rating for long-term debt securities. Under the exemption, the securities must be rated in one of the three highest generic rating categories by at least one nationally recognized statistical rating service. These securities are made available by Merrill Lynch and others in the ordinary course of their business to plans as well as to customers that are not plans. This exemption, and other similar exemptions under consideration will enable plans to acquire and hold such securities as part of a diversified portfolio of fixed-income securities. Therefore, the exemption allows plans a wider range of investment opportunities, while requiring safeguards to ensure, among other things, that rates of return on the debt securities are objectively determined, and investment risks are adequately disclosed in advance.

Several significant individual exemptions were also granted to major financial institutions

(e.g. Morgan Guaranty Trust Company of New York, et. al.) to permit purchases of securities by such institutions' asset management affiliates, on behalf of employee benefit plans for which such asset management affiliates are fiduciaries, from underwriting or selling syndicates where the institutions' broker-dealer affiliates participate as managers or syndicate members. These exemptions will enable plans, who hire financial institutions to act as investment managers for their assets, to acquire securities in initial public offerings (IPOs), where such institutions have affiliates participating in the IPOs as managing underwriters or members, and thereby take advantage of the often lower IPO prices than are obtainable later in the secondary market.

The Agency granted several individual exemptions to permit the receipt by plans of common stock, policy credits, cash or other consideration as eligible policyholders of a mutual insurance company, in exchange for their policyholders' membership interest under the terms of a demutualization plan.

A significant individual exemption was granted to the Columbia Energy Group (Columbia) to permit Columbia's subsidiary insurance company to reinsure the risks covered by a long-term disability policy sold to Columbia's Long-Term Disability Plan (the plan) by a third-party insurer. The case differed from prior individual exemptions granted involving reinsurance because the subsidiary earns more than 50 percent of its annual premiums from sales of insurance or reinsurance with the Columbia corporate group. The Department granted this exemption when the applicant offered additional safeguards for protecting the plan. First, an independent fiduciary was retained to determine that the arrangement was appropriate for the plan and in the plan's best interest. In addition, the independent fiduciary confirmed that there would be an immediate benefit to the plan participants resulting from the transactions because, among other things, benefits under the policy would be increased as a result of the arrangement.

The Department continued to grant individual exemptions to enable certain large employee benefit plans (i.e., $50 million or more in total assets) to acquire and hold so-called "synthetic" guaranteed investment contracts (GICs)). These exemptions permit sales and transfers of plan assets pursuant to the terms of both benefit-responsive and non-benefit responsive synthetic GICs. These arrangements are established under contracts that are entered into by an independent plan fiduciary with an entity, usually an insurance company or an affiliate, that guarantees certain benefit and/or contractholder payments to the plan. Plan fiduciaries frequently use synthetic GICs as funding vehicles for their fixed income or stable value investment options, typically, for defined contribution plans. A synthetic GIC allows plan participants to withdraw funds, transfer funds, or borrow funds without the exposure to interest rate risk. Synthetic GICs provide plans with a fixed-income investment product, similar to direct investment in fixed-income securities, plus a guarantee that ensures that benefit payments are made to plan participants at book value. These exemptions require that appropriate safeguards be in place to ensure, among other things, objective valuations of assets underlying the contracts, proper disclosure of essential contract features and fees, and reasonable termination provisions that do not penalize plan investors.

Overview of Demutualizations

Demutualization of an insurance company provides a number of benefits to both the insurer and plan policyholders. For the insurer, demutualization provides access to new sources of capital that will help sustain the insurer's financial strength, increase its ability to conduct its business efficiently and improve the insurer's competitive position in the insurance industry. If the insurer achieves a favorable financial performance, affected plan policyholders who become shareholders will have the opportunity to share in the financial performance of the insurer through dividends and appreciation in the value of their shares. In addition, as a stock company, the insurer's stock distributed pursuant to the demutualization generally will be traded on a national securities market. Therefore, a plan's holdings of stock received in the demutualization can be sold, unlike a policyholder's membership interests and rights to surplus of a mutual insurer that are not transferable and have no value independent of the insurance policies to which they are attributable. Further, while demutualization provides an opportunity for plan policyholders to share in the benefits of the insurer's continued economic health, it will not, in any way, change premiums or reduce policy benefits, values, guarantees, or other policy obligations of the insurer to its policyholders.

Each insurer's plan of demutualization is implemented in accordance with stringent procedural and substantive safeguards that are imposed under applicable state law and supervised by the state's insurance commissioner or superintendent. Because of the extensive protections afforded to plans under state laws, no ongoing involvement by the Department is required to safeguard the interest of a plan policyholder. Moreover, after receiving full and complete disclosure from the insurer, an independent plan fiduciary has an opportunity to determine whether to vote to approve the terms for the plan of demutualization and is solely responsible for any decisions that may be permitted thereunder regarding the form of consideration to be received.

See Appendix B for a listing of the Exemptions handled by the Agency in 2000.

ERISA Advisory Council

In 2000, the ERISA Advisory Council had three major working groups that addressed the following topics: The Working Group on Phased Retirement, The Working Group on Long-Term Care and The Working Group on Benefit Continuity After Organizational Restructuring. The following is a synopsis of the Council's final recommendations.

Note: The views of the Advisory Council's working groups are the views of the members and do not necessarily reflect those of the Department.

The Working Group on Phased Retirement made the following recommendations:

- Change or clarify the pension law or regulations to prevent a pension from being reduced if pay decreases due to phased retirement; and, until this recommendation can be implemented, notify employees if a change in their employment status may reduce their pension.

- Support the Phased Retirement Act introduced by Rep. Earl Pomeroy and Sen. Charles Grassley, which will allow pension payments to be made, even while employed, after the earlier of: normal retirement age, age 59-1/2 or 30 years of service. In addition, with respect to this bill:

Allow employers to adopt these new rules on a temporary basis, i.e., with a sunset provision.

Clarify that benefits paid after 30 years of service (but before age 59½) are not subject to the 10 percent additional tax on premature distributions.

Clarify that the bill facilitates early access in the event of phased retirement while restricting the options that might allow voluntary access to funds prior to actual retirement.

- Alleviate the health care access concerns of older workers by:

Allowing individuals to purchase Medicare coverage between age 55 and age 65 at a rate that is competitive with group insurance policies that provide similar benefits, but without consideration of insurability and pre-existing condition requirements

Extending the total COBRA period for employees losing coverage after age 55 to the lesser of the period of time to Medicare eligibility, or to the period of coverage with the employer prior to the COBRA period.

- Permit a facts and circumstances test for phased retirement provisions in a pension plan, as an alternative to passing the mechanical nondiscrimination test.

- Develop safe harbors and/or special rules addressed to phased retirement programs that accommodate their special characteristics.

- The Labor Secretary should collaborate with the Equal Employment Opportunity Commission to review the application of the Age Discrimination in Employment Act in the context of phased retirement, in order to establish acceptable guidance regarding what is required for an acceptable phased retirement program. If necessary, also recommend appropriate statutory amendments.

- The Labor Secretary should organize a task force with other appropriate government agencies and the general public to investigate and study potential ERISA and related rules that may be obstacles to private sector employers in designing deferred retirement options plans or similar arrangements that protect the value of pensions when employees work past their early retirement ages.

The Working Group on Long-Term Care made the following recommendations:

- Convene a White House conference to develop a national policy on long-term care that includes a comprehensive strategy that addresses all dimensions of the problem.

- The President should issue an executive order to establish a Long-Term Care Interagency Coordinating Council that includes representatives from the departments of Labor, Health and Human Services, Treasury, the Office of Personnel Management, the Veterans' Administration and the Social Security Administration. The council should have the responsibility to coordinate the

development and implementation of long-term care policy initiatives consistent with the structuring of a national policy on long-term care.

- Consider the following tax policy initiatives, as deemed appropriate by the Secretary and other policy leader in the Executive Branch:

Improve the deduction of long-term care insurance premiums for qualified plans to an above-the-line deduction so premium dollars are not subject to a percentage of income.

Make the above-the-line deduction only available for policies that meet the rate stabilization and other consumer protection standards.

Permit long-term care premiums for qualified plans to be paid through IRS Sec. 125 plans.

Provide a tax credit for voluntary caregivers who provide long-term care services to individuals which have at least two limitations in activities of daily living or who have severe cognitive impairment.

Encourage state governments, that have not already done so, to provide similar incentives in their tax codes for purchasing long-term care insurance.

- Develop and implement an educational program to help individual Americans understand the potential long-term care problem, how it affects them and the specific steps they can take to ensure their access to needed long-term care services.

- The Labor Department should take the lead for providing information to employers and workers that would help them understand the importance of long-term care financing and the importance of incorporating long-term care financing into their retirement security planning.

- The Office of Personnel Management should complete implementation of the long-term care program for federal workers to purchase long-term care insurance through the newly established program for federal workers in 2002.

- Encourage all states to adopt the model regulations that have been developed by the National Association of Insurance Commissioners to address consumer concerns about premium stability and solvency in the long-term care insurance market.

- The Department of Health and Human Services should take the lead in establishing a forum wherein the process for regulating nursing homes and other long-term providers in the United States can be rationalized to protect nursing home patients, to ensure high quality care; to optimize the use of available regulatory resources and to eliminate duplication in the regulatory process.

- The Labor Department and Health and Human Services should take the lead in developing and implementing initiatives that will improve the availability of needed nurses, gerontologists, geriatricians and nurse assistants to support providing long-term care services into the future.

- Consider modernizing Medicare rules and regulations to eliminate the requirement for a three- day hospital stay before accessing needed skilled nursing facility services.

The Working Group on Benefit Continuity

- The Department of Labor should create, in conjunction with the IRS and the Pension Benefit Guaranty Corporation, guides to employee plan issues related to restructuring, with stakeholders' input in drafting these guides.

- The Department should consider developing a legislative package that re-examines the timing of the disclosure requirements, such as the 90-day requirement for the Summary Plan Description, and 210 days for the Statement of Material Modifications, particularly in the context of sponsor restructuring.

- All agencies that are responsible for enforcing ERISA should review the policies, rules and regulations relating to restructuring to ensure that:

The provisions address the purchase or sale of assets or stock; and The Internal Revenue Code minimum coverage rules include a specific transition provision for retirement plans undergoing a change in sponsors.

- The Secretary of Labor should consult with the Secretary of Treasury and the Executive Director of the Pension Benefit Guaranty Corporation to investigate the policy considerations associated with revising the cafeteria plan regulations to specifically authorize the transfer of flexible spending accounts as part of restructuring; expand the current relief on the same desk rule to include other entities, such as partnerships and limited liability companies; reconsider the anti-cutback regulations under the IRS Code Sec. 411(d)(6) in the context of allowing a defined benefit plan sponsor to eliminate certain redundant options.
- Revise the PBGC premium policies in the event of a spin-off of plan balances.
- Review the procedures for qualifying as a separate line of business, when an existing plan sponsor acquires an entity that is a separate business prior to acquisition.

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Appendix A

Civil Cases

Herman v. Joseph Molnar, et al.
1-5-00
Troy, Mich.

The Carpenters Pension Trust Fund was sued by the U.S. Department of Labor for allegedly making a series of prohibited mortgage loans from plan assets to certain participants of the pension plan.

According to the lawsuit, since September 1995, plan trustees Joseph Molnar, Melvin Stokes, Sr., H. Boyd Harris, Kenneth Stewart, Joseph Gambino, Jr., Anthony Michael, Walter Mabry, Donald Stewart and Donald Salkowski authorized AAA Mortgage Corporation to make first-lien mortgage loans from the plan even though the plan provisions did not allow for such loans. In addition, participants were allowed to pledge their interest in their vested accrued benefits in the plan as collateral for the mortgage loans, even though such pledges are expressly prohibited by the plan. As of July 30, 1999, the outstanding principal balances of the alleged prohibited mortgage loans exceeded $14.7 million.

The plan is a multi-employer, Taft-Hartley pension plan established as a result of collective bargaining by the Michigan Regional Council of Carpenters and five employer associations. As of April 1998, the plan had 16,762 participants and assets totaling $1,043,125,738.

The Department is seeking a court order to require the plan and its trustees to correct the prohibited loans and to restore to the plan any losses, including interest, that may result from the correction.

Herman v. Donovan Benefit Systems
1-14-00
Houston, Tex.

The U.S. Department of Labor filed a lawsuit against Donovan Benefit Systems, Inc. and its president and former executive vice president for allegedly firing two employees when one of them questioned the administration of the company's health plan.

Donovan Benefits Systems, Inc. provides its clients with administrative services for the clients' self-funded group health plans, and also serves as the plan administrator of its own health plan.

The Department's lawsuit alleges that the company and two corporate executives, James D. Baker and Kathleen Ross, violated the rights of two employees. ERISA explicitly prohibits the discharge, fine, suspension, expulsion, discipline or discrimination against any participants or beneficiary for, among other things, exercising their rights under a plan.

According to the lawsuit, the Labor Department alleges that Mara Wisniewski and her husband Joe Wisniewski were fired from the company when Ms. Wisniewski questioned company officials about checks for medical claims issued by the company to her health care providers that were returned by the bank for insufficient funds.

The Department sought to have defendants Baker and Ross pay the Wisniewskis back wages, with interest; restore the lost benefits; and to reinstate Mara Wisniewski or, alternatively, to pay her additional restitution in the form of advance pay.

Herman v. Riemer
1-27-00
Tauton, Mass.

David I. Riemer, president of the now defunct Arley Corporation and trustee of the company's pension plan, has restored $330,000 to the plan under a consent judgment obtained by the U. S. Department of Labor.

The judgment resolves a lawsuit filed by the Labor Department against Riemer alleging that in his position as president of the company and sole trustee of the pension plan, he engaged the plan in financial transactions that resulted in substantial losses.

The lawsuit alleged that Riemer ultimately allowed the plan to purchase hundreds of thousands of dollars worth of Arley corporation securities even after he was fully aware that the company was having financial difficulties. At the time of these purchases, there was also no known market for the company securities and no independent means for determining their fair market value.

Arley filed for bankruptcy in 1997 and all of the company's assets were sold, along with the name. The pension plan was frozen on June 13, 1997, and the Pension Benefit

Guaranty Corporation became the plan's trustee.

The pension fund covers 600 former employees of Arley Corporation, which manufactured bedding and drapes at its Tauton, Mass., facility and in other parts of the country.

The consent judgment permanently prohibits Riemer from serving as a fiduciary to any ERISA-covered plan, and from claiming for himself or his beneficiaries any benefits from the Arley Corporation pension fund.

Herman v. Wiretex Manufacturing Company, Inc.
3-14-00
Fairfield, Conn.

The U.S. Department of Labor filed a lawsuit against Wiretex Manufacturing Company, Inc. and the company's top two officers alleging that they misused the assets of the company's pension plan.

The lawsuit alleged that the company, its president Robert Garofalo and its vice president Emil Garofalo misused a total of $642,850 in assets that belonged to the Wiretex Manufacturing Company, Inc. pension plan. The plan was established in 1964 to provide retirement and death benefits for employees of the company.

Wiretex operated a metal fabrication business. The company's pension plan had 10 active participants, including the two individual defendants, who are both trustees of the plan. As of Aug. 30, 1999, the total remaining assets in the plan were $3,645.

The lawsuit alleged that from Aug.1, 1991, to the present time, the company acted as the sponsor and administrator of the pension plan, while both Robert and Emil Garofalo served as the plan's trustees. The defendants allowed the pension plan to loan to Wiretex at least $484,800. The loan was never repaid. The defendants also allowed the plan to distribute at least $158,050 in plan assets to Robert Garofalo, in violation of the plan's rules.

The defendants were charged with using the plan's assets for their own benefit and for failing to provide plan participants with summary plan descriptions, annual reports and other information required by law.

The lawsuit seeks to have the court permanently bar Robert and Emil Garofalo from serving as fiduciaries to any ERISA-covered plan; permanently bar Wiretex from acting as a plan administrator; require that the defendants to restore all losses they caused the plan, with interest; and require that the defendants undo the prohibited transactions in which they engaged, and to return all profits, with interest, to the plan.

Herman v. Stetler
3-23-00
Greendale, Wis.

The U.S. Department of Labor has settled a lawsuit with Daniel E. Stetler, the former president of the bankrupt Louis Allis Company to recoup $70,867.43 for participants of the company-sponsored, non-union 401(k) plans. Stetler filed his own petition for personal bankruptcy in January.

The Department's settlement permanently barred Stetler from holding a fiduciary position with any employee benefit plan covered under ERISA and required him to restore the salary deferrals to the plans by a transfer of money from his own 401(k) account into the plans.

The Louis Allis Company established its union and non-union employee 401(k) plans in 1994, and for approximately a two-month period in 1998, the company allegedly failed to remit voluntary employee contributions withheld through salary deferral to the plans' investment accounts.

On Dec. 21, 1999, Larry Lefoldt of Ridgeland, Miss., was named as the independent fiduciary to the plans. He is arranging for the orderly distribution of plan assets to participants and for the total liquidation and termination of the plans. Lefoldt has ascertained that the combined assets of the plans as of Dec. 31, 1999, total approximately $9.7 million.

Herman v. McQuatters
3-31-00
Liverpool, N.Y.

The U.S. Department of Labor sued the New York Equipment Dealers Association and the trustees of its health plan for allegedly causing the plan to overpay $906,621 for administrative services.

Named as defendants were plan administrator Richard McQuatters; trustees William Bebout, Michael Celentano, Rockyn Giroux and Stewart Hansen; and the New York Equipment Dealers Association, Inc.

The Association is a non-profit organization covering some 325 retail, wholesale and distribution businesses that sell and services farm, industrial, construction and outdoor power equipment. The trust was created in 1990 to provide medical, dental, life insurance and disability benefits to approximately 1,400 participants. The trust was funded through either a self-funded program or insurance contracts.

According to the lawsuit, the defendants violated ERISA by:

- Entering into a contract with the association to provide administrative services to the trust based solely on the recommendation of defendant McQuatters without soliciting competitive bids;
- Renewing the administrative services contract with the association from the period 1991-97 without soliciting bids from other service providers or reviewing the appropriateness of the fees charged to the trust;
- Overcharging the trust $906,621 for services, according to a review of the trust that was conducted by the accounting firm Ghezzi and Mitchell; and
- Failing to obtain reimbursement of the overcharges after receiving the accountant's report.

McQuatters is individually charged with self-dealing due to an arrangement under which he would receive five percent of any profits of the association, which included payments from the trust for services rendered.

The lawsuit seeks a court order to require that the trustees and administrator restore any losses to the trust, with interest or opportunity costs, and to require the association to undo any transactions prohibited by ERISA. The Department also asks the court to permanently bar McQuatters from serving as a fiduciary or service provider to any plan governed by ERISA.

Herman v. Administrative Services of North American, Inc.
4-2-00
Houston, Tex.

The U.S. Department of Labor obtained a consent order and judgment permanently barring Houston-based Administrative Services of Texas (ASO) and its parent company Administrative Services of North American (ASONA) from serving in a fiduciary capacity to any employee benefit plan governed by ERISA.

Previously, the Department restored $737,636.19 in plan assets held by ASONA to employers sponsoring welfare benefit plans using ASONA's services. The Labor Department sued ASO, ASONA and Mark A. Strange, a former corporate executive, for allegedly using plan assets to pay the operating expenses of the two corporations. Strange also allegedly authorized the transfer of funds from plan trust accounts to corporate accounts between October 1998 and March 1999. This consent order does not resolve the Department's allegations against Strange. A preliminary injunction obtained by the Department on June 11, 1999, froze the assets of the corporation to prevent further depletion of plan assets owed to client plans managed by them.

ASONA and ASO served as third-party administrators to self-funded employee welfare benefit plans sponsored by a variety of employers.

U.S. Department of Labor v. Current Development Corp.
4-25-00
Elmhurst, Oh.

Current Development Corporation has been ordered by a Cincinnati administrative law judge to pay the Labor Department $53,062 in penalties for disregarding a settlement agreement correcting reporting and disclosure violations under the Federal pension law.

The decision and order stems from a motion filed by the Department on Feb. 16, 1999, alleging that the corporation failed to timely file its 1995-1996 participant account statements and Form 5500 Annual Reports, its 1992-1996 Form 5500 C/Rs, and to timely pay $15,000 in civil penalties that stemmed from a settlement of these charges.

In rendering the decision, the administrative law judge originally fined the corporation $2,311,300 in penalties to cover the corporation's initial failure to file timely reports, subsequent breaches stemming from disregarding the settlement agreement and failing to pay the civil penalties. The judge reduced the penalty to $53,062,

provided the penalty was paid within 30 days following the Feb. 22 decision and order.

Herman v. Wachovia National Bank
6-6-00
Birmingham, Ala.

Wachovia National Bank, N.A., and the former president and chief executive officer of Charter Medical Corp. agreed to restore $42 million to the corporation's employee stock ownership plan (ESOP) under a settlement agreement with the U.S. Department of Labor. Wachovia entered into the agreement as the successor to South Carolina National Bank (SCNB).

Under the settlement, Wachovia will pay $30 million to the ESOP, now known as the Magellan Health Services, Inc. ESOP. William A. Fickling, Jr., the former president and C.E.O. of Charter Medical, also will pay another $12 million to the plan. Money restored to the plan will be allocated to past and present participants and beneficiaries on a pro-rata basis.

Under a previous Nov. 13, 1996, consent order, SCNB was permanently removed from its position with the ESOP and replaced with an independent trustee. Charter Corporation emerged from reorganization bankruptcy in July 1992.

The ESOP was created in January 1988 and covered approximately 13,000 participants as of 1990.

The Labor Department lawsuit alleged that SCNB caused the ESOP to overpay for 11,853,569 shares of stock in Charter Medical Corporation from William A. Fickling, Jr., and related parties, including Neva L. Fickling, William A. Fickling III, Jane F. Skinner, Julia C. Fickling, Roy H. Fickling, Claudia F. Fickling, Katherine M. Wright, Virginia M. Rabun, W&J Capital Co. Ltd., J&R Capital Co. Ltd. and various trusts.

SCNB, the ESOP trustee, allegedly breached its fiduciary obligation by relying on an unreliable valuation prepared by Interstate/Johnson Lane Corporation.

Herman v. Fred Bovee and State Wide Metal Recycling, Inc.
6-7-00
Des Moines, Iowa

The U.S. Department of Labor filed a lawsuit against Iowa businessman Fred Bovee for failing to forward employees' salary deductions to the Savings Incentive Match (SIMPLE) plan of State Wide Metal Recycling, Inc. Consequently, the plan allegedly suffered losses of $2,155.76, plus interest.

State Wide established SIMPLE in March 1996. There were five participants, including Bovee, and assets of $1,804.86 as of Dec. 31, 1998. The company, in the process of being sold, engaged in the reclamation and sale of scrap metal with Bovee as its president, director and corporate agent. The Department seeks to have Bovee repay to the plan all losses, including lost earnings and post-judgment interest, attributed to his fiduciary breaches under ERISA; have him removed from his position with the plan and permanently barred from serving as a fiduciary to any ERISA plan; and to have an independent fiduciary appointed to administer and terminate the plan.

Herman v. Capital Consultants, LLC
9-21-00
Portland, Ore.

The U. S. Department of Labor secured a stipulated order to appoint a permanent receiver to take account of the company's assets and to take steps to protect the interests of the ERISA plan investors and other investors; to freeze the assets of Capital Consultants, LLC, of Portland, Ore.; and to preliminarily bar the firm and its principals from doing business with any plan governed by ERISA.

The order partially resolves a lawsuit filed by the Department against Capital Consultants and its principals Jeffery L. Grayson and his son, Barclay Grayson. The lawsuit alleged that the defendants imprudently invested $150 million of the assets of its employee benefit plan clients in a series of imprudent loans with consumer and automobile loan servicing corporations, causing the plans to lose more than $100 million.

Capital Consultants, a registered investment advisor with the Securities and Exchange Commission provided investment services to more than 60 primarily union-sponsored pension, health and welfare plan clients governed by ERISA.

According to the lawsuit, Jeffrey Grayson, the principal owner and chief executive officer of Capital Consultants, and his son Barclay Grayson, the firm's president:

- Used plan assets to take a series of imprudent loans from 1995 through 1998 to Wilshire Credit Corporation, an Oregon S-Corporation that acquired and serviced performing and non-performing consumer loans;
- Continued to make loans to Wilshire Credit despite evidence that the plans' investment with the firm had declined substantially in value, thereby placing additional plan assets at risk;
- Imprudently loaned plan and other client assets to Sterling Capital, LLC; Oxbow Capital Partners; LLC, Brooks Financial, LLC; and Beacon Financial Group, LLC to facilitate paper sales of all or a portion of the Wilshire loan at an inflated price, thereby concealing losses suffered by the plans on the original investment; and
- Charged the plans excessive fees for investment management services by basing the fees on a percentage of the full amount of the Wilhsire credit loans even though the plans' investment had declined in value.

Herman v. Time Warner
11-17-00
New York, N.Y.

Time Warner has agreed to pay up to $5.5 million to hundreds of employees wrongly denied coverage by Time Inc.'s retirement and health benefits plans. The settlement resolves a lawsuit filed by the Labor Department on Oct. 26, 1998, against the plans' fiduciaries — Time Warner and the administrative committee that manages Time Inc.'s plans — for misclassifying workers as independent contractors or temporary employees and, therefore, denying them coverage by the companies' pension and health plans.

According to the lawsuit, Time Inc. and its subsidiaries regularly failed to identify and include all employees who were eligible to participate in the plans. Workers were not identified or informed of their rights to participate in the plans, and therefore these employees were prevented from obtaining retirement and health-related benefits to which they were otherwise entitled.

Under the settlement, Time Warner will establish three funds to which the money will be deposited, which include: 1) Settlement Fund A for $2.5 million, for workers who were classified as temporary employees; 2) Settlement Fund B for $2.5 million, for workers who were classified as independent contractors, and 3) Settlement Fund C for $500,000, for misclassified temporary employees or independent contractors with uninsured and unreimbursed medical expenses exceeding $10,000 per year that would have been covered by Time Inc.'s medical plan.

Herman v. Stricker C. Mays
Herman v. Emilio A. Antonetti
3-27-00
Pensacola, Fla.

Two Pensacola, Fla., doctors agreed to pay $190,000 to the profit sharing plan of the medical practice they owned and were permanently barred from serving as trustees to any ERISA-covered employee benefits plan, under separate settlement agreements reached with the U.S. Department of Labor. The money represents losses resulting from prohibited loans made by the pair to a local sports partnership and represents losses to the plan's participants.

Drs. Stricker C. Mays and Emilio A. Antonetti, who were equal partners in the practice and also trustees of the plan, agreed to restore the losses by making cash payments or waiving their right to benefits under the plan and to re-distribute the money to the accounts of the plan participants, excluding themselves. The plan had 13 participants and $668,548 in assets as of Dec. 31, 1997.

The Department also simultaneously sued the defendants, their practice and the plan for allegedly loaning $117,761 from their participants' individual plan accounts and $2,239 from the plan's general assets to Pensacola Soccer Complex, Ltd., a limited partnership formed by Hartwig, Matteson & Mays, Inc. in which Mays was a limited partner and officer.

The lawsuit alleged that Mays met with plan participants in April 1995, advising them that their investments were not doing well and that the plan

had been changed to allow them to direct their investments. He then allegedly met with them one-on-one, eventually persuading 12 of the participants to sign a form indicating the amount they wanted to invest in the soccer partnership.

The soccer complex, now defunct, was under construction in the fall of 1995 when two hurricanes swept the area, causing damages between $500,000 and $600,000. The soccer partnership did not have adequate insurance to cover the losses.

Herman v. Exterior Systems Unlimited, et al
3-27-00
Nashville, Tenn.

The U.S. Department of Labor recovered $156,919 in unpaid employee contributions and approximately $100,000 in lost earnings in a settlement with Exterior Systems Unlimited, Inc. (ESU), a bankrupt Nashville, Tenn. firm. Named as defendants in the settlement agreement were ESU, its wholly-owned subsidiary P&E Electric Co., Inc. and Michael F. Perkerson, who was chief executive officer and chairman of the board of both companies, as well as the plan's trustee and an officer of another wholly-owned subsidiary. Perkerson — who was permanently barred from serving as a fiduciary to an ERISA-covered employee benefit plan — agreed to permit $20,000 of his individual plan accounts to be offset for part of the losses and reallocated to remaining participants in the plan. The sum of $100,000 has already been repaid to the plan by the defendants' fiduciary liability insurance company, Federal Insurance Company.

The lawsuit alleged that employee contributions withheld from P&E and ESU payrolls from October 1996 to July 1997 were not forwarded to the plan, but were used to finance corporate operations of ESU and the subsidiaries.

Under the settlement, the plan will also recoup $69,000 from its priority claim against defendants ESU and P&E in U.S. Bankruptcy Court in Nashville, as well as a percentage of $136,900 from two other unsecured claims, also filed in bankruptcy court. The total recovery for the plan's participants is expected to be approximately $260,000.

Herman v. The Center for Mental Health, Inc.
6-13-00
Washington, D.C.

The Center for Mental Health, Inc. agreed to restore $226,932 in mandatory contributions, plus interest, owed to two pension plans sponsored by the Center, as part of a consent order obtained by the U.S. Department of Labor.

The Department's lawsuit alleged that the Center violated ERISA by failing to collect
the amount that was owed to the plans and did not take steps to collect the outstanding contributions.

The Center is a non-profit organization that provides mental health services to District of Columbia residents. The two pension plans, The D.C. Institute of Mental Hygiene Annuity Plan and the Money Purchase Plan, covered as many as 48 employees and had assets of $159,000 as of December 1998. The Center was required to contribute three percent of each employee's salary to the plans.

Herman v. Hyde
6-21-00
San Francisco, Calif.

The U.S. Department of Labor obtained consent judgments requiring John B. Hayes and other officials of Interstate Services, Inc. and Thordyke International Inc. in Novato, Calif., to pay, collectively, $1.4 million in restitution for diverting health benefit assets of the ERISA Advantage program to themselves and others who were affiliated with the health care scheme.

The ERISA Advantage Self-Insured Retention/Single Employer Trust Program was a nationwide multiple employer welfare arrangement (MEWA) created by Hyde in 1994. Hyde set up ERISA Advantage despite a 1997 court order that barred him from serving a health plan for the International Brotherhood of Trade Union Local 122 Trust. ERISA Advantage was marketed through a network of consultants, insurance agents and related professionals, employer leasing companies, health provider associations and other organizations.

The judgments resolved a lawsuit filed in August 1998 that, among other things, alleged that the defen-

dants commingled the assets of individual health trusts in direct contradiction of a commitment to maintain a separate trust to fund promised benefits of enrolled employers; diverted an excessive amount of plan funds to cover administrative and marketing fees and commissions; and failed to timely pay or denied claims for benefits under the program.

The judgments required that an independent fiduciary be appointed to recover assets, pay claims and to terminate the program and liquidate the corporations. Under the judgments, Hyde, his daughter Mary King and Kenneth Ruff also were ordered to make restitution, and all individual bank accounts that were frozen under the preliminary injunction must be transferred to the independent fiduciary. Hyde also was permanently barred from doing business with any plan governed under ERISA.

Herman v. Buckeye
7-14-00
Columbus, Ohio

The U.S. Department of Labor filed a petition for civil contempt and secured a court order requiring Myron G. Place, of Buckeye Technical Services, Inc. of Columbus, Ohio, to pay more than $19,000 to the company's 401(k) plan. He had failed to comply with provisions of an August 1999 consent order and judgment with the Department that required him to restore the plan money.

The 1999 consent order and judgment required Place, a trustee, to repay $19,675 to the Buckeye Technical Services, Inc. Retirement Plan. It resulted from a departmental lawsuit that alleged Place and former trustee William R. Kugel, Jr., withheld voluntary plan contributions from employees' paychecks from October 1992 to June 1995, but failed to deposit them into the employees' plan accounts.

Buckeye Technical Services had filed for Chapter 11 Bankruptcy at the time of the consent order and judgment, which stipulated that Place be held liable for the amount of $19,675 if reorganization of the company did not occur. When the bankruptcy case was dismissed, the Department's repeated attempts to work out a payment schedule with Place for the outstanding debt were unsuccessful.

The Department then proceeded to enforce the judgment by filing a petition for civil contempt against Place, which led to the July 14 court order. The court stipulates that Place is liable for $19,675, plus interest, from Sept. 21, 1999, forward until the debt is paid in full.

Herman v. Sita et al
8-15-00
Jersey City, N. J.

The U.S. Department of Labor filed a lawsuit against the administrator of the four plans that provided retirement, health and vacation benefits to employees of the Hudson County District Council; and trustees Stephen Crevani, Salvatore DiBlassi, Frank DiTomasso, Ralph LaRocca, Salvatore Reo, Cosmo Sancia and Nick Sita; and Local Union 325 of the Laborers' International Union of North America. The lawsuit alleged that from 1994 until his resignation as the funds' administrator in 1999, Sita engaged in various actions that violated ERISA. These actions included, among other things, using plan funds to partially pay salaries of business agents to the Council and the Local 325, while failing to determine the value of the services provided to the plan; and using the pension and annuity funds to pay a disproportionate amount of common expenses, such as office rent and supplies.

The lawsuit also alleged that during the period 1994-1999, the plan trustees failed to undertake reasonable efforts to oversee the expenditures of the funds' assets being administered by Sita; failed to ensure that Sita complied with the guidance for expenditures adopted by all the funds; and failed to oversee the administration of the annuity funds' loan program.

Herman v. Asahi Service, Inc.
8-15-00
Chicago, Ill.

The U.S. Department of Labor obtained a judgment that required M. Larry Lefoldt, a successor trustee, to oversee the termination of the profit-sharing plan of Asahi, Inc., of Des Plaines, Ill., and to distribute the plan's assets to participants.

The company's profit-sharing plan was created in 1992 by Asahi Services, Inc., but became an orphan plan in July 1998 upon the death of

its sole trustee Noboru Tanaka. The Labor Department sued Asahi in May 2000 for violating ERISA by leaving the plan without a trustee, failing to appoint a successor trustee to administer the plan and failing to terminate the plan and distribute individual account balances to participants.

Asahi, Inc. was a company that developed film and serviced cameras, and was involuntarily dissolved by the state of Illinois in May 1999. As of September 1997, the plan covered 17 participants and had assets of $117,401.57.

Criminal Cases

U. S. v. Matthews, Jr.
11-22-00
Laude, Mo.

R. Taylor Matthews, Jr., pled guilty to the theft of more than one million dollars of 401(k) pension rollover funds after his 1988 purchase of Woodson Products Company, Inc. Matthews formed Woodson Acquisition Company, LLC, a local machine metal parts company, in 1998 to purchase Woodson Products Company Inc. The purchase was completed on Sept. 1, 1998 and the company became known as Woodson Products Company, LLC. Matthews then established a new 401(k) pension plan.

Approximately 40 employees elected to roll over their 401(k) pension plans from the old Woodson 401(k) pension plan to the new one. At the end of June 1999, the old 401(k) plan sent Woodson Products Company, LLC, a check for $1,043,513.36. A second check for $4,402.67 was also sent to the new 401(k) plan, representing interest previously earned on the rollover 401(k) pension plan funds.

Matthews failed to deposit either check into the new plan's account, diverting the funds to pay the debts of other companies he owned, the operating expenses of Woodson Products and his own personal expenses.

Matthews returned the money to the Woodson Products Company LLC 401(k) plan on July 12, 2000. In doing so, he repaid approximately $1.2 million, which included the principal amount stolen, plus the greater of 9 percent or what each employee would have earned in his chosen investments for the year during which the funds were misappropriated.

U.S. v. Kugel
2-4-00
Columbus, Ohio

William Robert Kugel, an executive of Buckeye Technical Services, Inc., in Columbus, Ohio, was sentenced to two years of probation and 80 hours of community service after pleading guilty on Nov. 18, 1999, to one count of embezzling $3,241 from the company's 401(k) pension plan. Kugel converted the pension funds to his own use in May and June of 1994, in violation of ERISA. PWBA conducted the investigation of the case, which was prosecuted by the U. S. Attorney's Office.

U.S. v. Gibson
1-31-00
Webster, Tex.

David Gibson, the owner of Reliance Healthcare Services, Inc., in Webster, Tex., was indicted for misappropriating $2,700 in employee contributions owed to the company's health plan.

Reliance Healthcare Services is a defunct home health care agency that provided home health care services to local clients, through a health plan governed by ERISA. David Gibson was charged with misappropriating the employees' contributions to the health plan from July through September 1998 by retaining the funds in the corporate checking account and using the money to operate the business. At the time of the improper act, Gibson was responsible for withholding employee contributions and forwarding those contributions to the insurance provider in the form of premium payments. The case was investigated by PWBA and the Harris County District Attorney's Office in Webster, Tex.

U.S. v. Huppe
1-27-00
Massena, N.Y.

Canadian businessman Allan Huppe was sentenced to serve three years in jail, followed by an additional three years of supervised release for fraud and embezzlement from the pension fund of the Highland Nursing Home in Massena, N.Y.

Huppe was found guilty of two counts of wire fraud and one count of embezzlement from the nursing home

retirement plan, following an eight-day jury trial. He was ordered to pay $750,000 in restitution.

The original indictment charged that Huppe used money deposited from the retirement plan for his personal use. Huppe assured a retirement plan trustee that he would purchase and sell financial instruments at no risk to the plan, and repay the plan out of trading profits. He then fraudulently transferred plan assets to banks in Canada, Nigeria, Japan and Bermuda. The indictment further charged that on repeated occasions Huppe provided written confirmation to the retirement plan indicating that deposit balances at Navy Street Bancorp, which he owned, were in excess of $750,000, when in fact the funds had been disbursed. The case was jointly investigated by the FBI and PWBA.

U.S. v. Fresenius Medical Care North America
1-19-00
Boston, Mass.

Fresenius Medical Care North America, the world's largest provider of kidney dialysis products and services, has agreed to pay the United States $486 million to resolve an extensive investigation of health care fraud at National Medical Care, Inc. (NMC), Fresenius's kidney dialysis subsidiary.

Three NMC subsidiaries have pled guilty to three separate conspiracies and agreed to pay $101 million in criminal fines. Fresenius has also agreed to pay $385 million to resolve related civil claims, which were brought to the Federal government's attention under the whistle blower provisions of the False Claims Act.

The three NMC subsidiaries were charged with three separate conspiracies in a criminal information filed by the U.S. District Court in Boston, Mass. Homecare, Inc. was charged with conspiring from May 1988 to June 1996 to defraud the U.S. in connection with claims submitted to Medicare for intradialytic parenteral nutrition, a nutritional therapy provided to patients during their dialysis treatments. LifeChem, Inc., NMC's blood testing laboratory, was charged with conspiring from January 1991 to June 1997 to defraud the U.S. by obtaining payments for hundreds of thousands of false, fictitious and fraudulent blood testing claims.

NMC Medical Products, Inc, NMC's dialysis products distribution subsidiary, was charged with conspiring from May 1987 to July 1996 to violate the Medicare Anti-Kickback Act, by means of payments, discounts and other inducements provided to dialysis facilities to obtain their clinical blood testing for business for LifeChem.

The civil settlements compensate the United States for damages for five Federal government health insurance programs — Medicare; Railroad Medicare; Tricare, which is a Department of Defense program for retired military, their dependants and the dependants of active duty miliary personnel; the Veterans Administration health care system and the Federal Employees Health Benefits Program, and for damages to state Medicaid programs.

The investigation was conducted by special agents and investigators of the Office of the Inspector General (OIG) for the U.S. Department of Health and Human Services (HHS); the FBI; the Defense Criminal Investigative Service and PWBA, with support of auditors from the Office of Audit at OIG; HHS; and with assistance from the Office of the Inspector General in the Office of Personnel Management.

U. S. v. Weinlein
2-18-00
Albany, N.Y.

Laurie Weinlein, the former president of American Payroll Network, Inc. (APN), a now defunct employee leasing firm, was sentenced to 63 months imprisonment and five years probation after being convicted of bank fraud and criminal violations under ERISA. Weinlein was convicted of embezzling approximately $300,000 from the American Payroll Network, Inc. Point of Service Health Plan, and of defrauding Marine Midland Bank of approximately $1 million.

Weinlein was ordered by the court to make restitution of approximately $2 million, including nearly $250,000 to cover unpaid medical claims and payments to a third-party administrator and $1,019,019 in wages lost to employees whose paychecks bounced due to the defendant's bank fraud scheme.

APN was once one of the largest employee leasing firms in the New York region, handling the payrolls of 4,000 workers who were employed

by 200 companies. In May 1994, APN failed to provide the necessary funding to pay medical and hospitalization claims. Weinlein converted more than $300,000 in insurance premiums collected from the participants for her own use.

The case was jointly investigated by the Albany Office of the FBI and the U.S. Attorney's Office in New York and PWBA.

U.S. v. Selman
4-3-00
Roanoke, Va.

Joe Bob Selman and Eleanor J. Selman were sentenced, respectively, to 41 months and 40 months in prison after pleading guilty to various charges that stemmed from embezzling funds from the health benefit plans of Duke Benefit Services (DBSI). DBSI was a company that administered health care benefit plans for several client companies covering 2,400 participants. Elenor Selman also pled guilty to a scheme to defraud several banks involved in a check-kiting scheme, which she executed while on bond pending trial on the fraud charges.

Joe Selman was ordered to restore approximately $2 million to the plan participants impacted by the fraud and embezzlement. Eleanor Selman's sentence included time for additional crimes she committed of bank fraud, stemming from the check kiting scheme. The court also ordered Eleanor Selman to pay restitution of approximately $1,479,550 to the participants and beneficiaries of the fraud scheme. The case was investigated by PWBA, the U.S. Postal Service and the Virginia State Police.

U.S. v. Roach et al
4-14-00
Boston, Mass.

Three men were indicted on charges of engaging in Federal racketeering, conspiracy, pension fund kickback schemes and money laundering that stemmed from almost $1 million dollars in commission kickbacks paid to two trustees of Chicago-based labor union pension funds. Named as defendants were Christopher P. Roach and Richard S. Tringale, who were charged with conspiracy to violate the Racketeer Influenced and Corrupt Organizations Act and with paying kickbacks to trustees of employee benefits plans. William V. Close, a former trustee of the International Brotherhood of Teamsters' Local 710 plan and the Automobile Mechanics Union Local 701, was charged with receiving kickbacks and with money laundering.

According to the indictments, Roach and Triangle made promises and threats to investment advisers that the success of the pension fund business for two local unions would be dependent on whether the investment advisors agreed to funnel the commissions through a Detroit-based brokerage firm that Roach and Triangle controlled called East/West Institutional Services, Inc. The two defendants contracted with clearing brokers to pay East/West commissions generated by investment trades of labor union pension plan assets.

The indictments also alleged that Roach and Triangle paid almost $1 million dollars in kickbacks to two union pension fund trustees, one of whom was Close. The second trustee, Robert J. Baker, died in 1997.

The indictment alleged that Close and Baker influenced and voted on the selection of investment advisors to the Local 710 and 701 pension funds. Consequently, more than $3 million in commissions were transferred from bank accounts in the United States to the Cayman National Bank in the Cayman Islands, and then distributed to accounts in various names for the benefit of Baker, Close, Roach and Triangle. Close then transferred the funds to accounts in England and the Isle of Man.

The racketeering conspiracy charges against Roach and Triangle also include allegations of international money laundering, witness tampering, interstate and foreign travel in aid of racketeering and violations of the Massachusetts extortion statute.

The indictment seeks forfeiture from Roach and Triangle of more than $7 million in commissions paid to the racketeering enterprise, and forfeiture from Close of more than $443,000 in kickbacks paid to him. The case was investigated by PWBA, the Department of Labor's Division of Labor Racketeering and the FBI.

U.S. v. Mett and Wiseman
6-27-00
Honolulu, Hawaii

William D. Mett and Marvin L. Wiseman were sentenced to 63 months in jail for embezzling more

than $1 million from pension funds that they controlled. Mett was owner and president of Center Art Galleries-Hawaii, a company that sold art to the public. Wiseman was vice president of Center Art. Both men served as trustees of two pension plans created to provide retirement benefits for Center Art employees.

The indictment alleged that between 1990 and 1991, Mett, Wiseman and Center Art had fraudulently sold poster-quality reproductions of art work at inflated prices by claiming they were original prints.

The defendants were found guilty of art fraud charges in 1990, and were sentenced to jail terms and fines of more than $2 million. While on bail in that case, they embezzled more than $1.6 million from the Center Art pension plans.

Center Art became defunct in 1995, and the company's pension plans obligations were assumed by the Pension Benefit Guaranty Corporation. Mett and Wiseman were previously found guilty of the same embezzlement charges at a jury trial in June 1997. The convictions were reversed, and the defendants were retired in March 2000 and found guilty. The case was investigated by PWBA, the U.S. Postal Inspection Service and the Department of Labor's Office of Labor Management Standards.

U. S. v. John Herring and Martha Sewell Herring
6-15-00
New Orleans, La.

John Herring and Marthan Sewell Herring were indicted on 20 felony counts. The charges included conspiracy, theft from pension plans, health care fraud and bankruptcy fraud. John Herring faces up to 95 years imprisonment and Martha Sewell Herring faces up to 105 years imprisonment.

John and Martha Herring were the owners and operators of Golden Age of Monroe, Golden Age of Baton Rouge, Golden Age of Hammond, Golden Age of South Louisiana and Golden Age of Shreveport, home health care agencies that each had a pension plan. The defendants were charged with taking assets from the pension plans to purchase property under the corporate name of Southern Style Success, Inc.

The indictment also charged that money paid by Medicare to operate the home health agencies was taken by John and Martha Herring to purchase and renovate property and businesses that they created, owned and operated. The indictment alleged that $500,000 was taken from the operation of the agencies to purchase Golden Goose Enterprises, a day care center in Baton Rouge.

Further, the indictment also charged that John Herring used $1,126,315 of funds that had been provided by Medicare to operate the home health agencies to fund the pension plans for 1994. Both defendants were responsible for the bankruptcy of the Golden Age Agencies after they were forced to pay Medicare back for years of overpayments and disallowed costs. The case resulted from a two-year investigation by PWBA, the FBI and the United States Department of Health and Human Services.

U.S. v. Frank
7-14-00
Medford, Ore.

Jeffery J. Frank was charged in an eight-count indictment that included one count of embezzling from an employee stock ownership plan, three counts of mail fraud, two counts of interstate transportation of stolen property, one count of bankruptcy fraud and one count of money laundering.

The investigation focused on Frank's involvement with the establishment of an employee stock ownership plan (ESOP) and the purchase of the L.C. Bliss Cattle Corporation, Inc.
L.C. Bliss owned and operated Square Deal stores in Crescent City, Calif., and Brookings, Ore.
The ESOP was the retirement plan for L. C. Bliss's employees.

After Frank established the ESOP and became chief executive officer of the corporation, the corporation filed for Chapter 11 bankruptcy proceedings, Square Deal employees lost their jobs and the participants' accounts in the ESOP became worthless. The case resulted from an investigation by PWBA and the Internal Revenue Service.

U. S. v. Wolfe
7-13-00
Chicago. Ill.

John J. A. "Jack" Wolfe, the former fund administrator and chairman of the board of trustees of the International Professional Craft and Maintenance Employees Association Trust (IPCMEAT), was charged with nine counts of embezzlement from an employee benefit plan and one count of mail fraud.

The IPCMEAT was a Chicago-based ERISA health and welfare fund that suffered a financial collapse in 1996. The indictment alleged that between approximately July 1994 through July 15, 1996, Wolfe embezzled more than $65,000 from the plan and used the funds for himself and another employee. The embezzled funds were allegedly used for such personal expenses as medical and dental services for Wolf and his wife, bogus overtime payments, car payments for Wolf and another employee, a treadmill and airfare for an employee's child.

In addition, the indictment alleged that Wolfe used more than $15,000 of the stolen money to fund his unsuccessful 1995 campaign for business manager/financial secretary of Local 134 of the International Brotherhood of Electrical Workers. The investigation was conducted by PWBA and the Department of Labor's Office of the Inspector General.

U.S. v. Dona, Jr.
9-28-00
Syracuse, N.Y.

Former Insurance agent Frederick V. Dona, Jr., was indicted on charges of defrauding an elderly client and improperly serving as a paid consultant to a pension plan after being disqualified for a criminal conviction. Dona was also accused of mail fraud, serving a pension plan in a prohibited capacity and of making false statements to the Labor Department.

According to the indictment, Dona used the mails to carry out a scheme to defraud an elderly New York widow Lois Thomas. He persuaded her to loan him $60,000 from two annuities in 1998 and induced her to authorize additional advances to his company, Northeastern Professional Consultants, Ltd. through false and fraudulent representations.

After being convicted of making false statements in documents relating to a pension plan in 1995 in New York, Dona, Jr. was prohibited from acting as an adviser or consultant to any pension plan for 13 years. The indictment alleged that Dona served in a prohibited capacity as a paid consultant to a profit sharing plan operated by Hornestead Dairies of Massena, N.Y., after he was disqualified from doing so. He is also charged with making false statements in March 2000 to an auditor from PWBA about his work for the Hornestead Dairies profit sharing plan. The case resulted from an investigation by PWBA and the FBI, in cooperation with the New York State Insurance Department.

U. S. v. McCarthy
9-14-00
White Plains, N. Y.

Robert J. McCarthy, former chief operating officer of Lloyd's Shopping Center, Inc. in Middletown, N.Y., was sentenced to six-and-one-half years in prison for the theft of approximately $2.1 million from the Lloyd's Employees' Pension Plan and the Lloyd's Employees' 401(k) Savings Plans.

McCarthy was also ordered to make $1.6 million in restitution to the Pension Benefit Guaranty Corporation. McCarthy was found guilty in October 1999 following a 10-day trial of three counts of theft of retirement funds, 18 counts of money laundering and for the subsequent financial transactions involving the proceeds of the thefts. In addition, McCarthy was convicted for his role in the distribution and maintenance of false earnings statements to the participants of the 401(k) plans.

According to court documents, McCarthy allegedly embezzled a total of $2.1 million from Lloyd's Pension and 401(k) Plans. He used the stolen retirement money to pay down a mortgage held by Fleet Bank on Lloyd's property in Newburgh, to pay Lloyd's other corporate debts and to purchase medical equipment in order to start a new company he was forming with others. McCarthy's thefts of pension and 401(k) funds left both funds with almost no assets. The case was investigated by PWBA, the Office of the Inspector General and the Internal Revenue Service.

Appendix B

Exemptions for Asset Allocation:

2000-39 Standard & Poor's Advisory Services	August 10, 2000
2000-45 (amends & replaces 99-15) Salomon Smith Barney, Inc.	September 7, 2000
2000-46 Bank of Oklahoma	September 18, 2000

Exemptions for Asset-Backed Securities:

2000-19 BOSC, Inc.	May 4, 2000
2000-33 McDonald Investments Inc.	June 13, 2000
2000-41 First Tennessee Natl. Corp.	August 22, 2000
2000-55 Countrywide Securities Corp.	November 13, 2000
2000-58 Bear, Stearns & Co., et al.	November 13, 2000

EXPRO Grants for Asset-Backed Securities:

2000-05E Greenwood Trust Co.	February 12, 2000
2000-19E American Express Centurion Bank	July 16, 2000

Exemptions for Credit Facilities:

2000-10 Bankers Trust Company	February 29, 2000
2000-22 Bankers Trust Company	May 23, 2000

Exemptions for Demutualizations:

2000-06 John Hancock Mutual Life Ins. Co.	February 8, 2000

2000-11 Metropolitan Life Ins. Co.	March 13, 2000
2000-34 Fidelity Mutual Life Ins. Co.	July 6, 2000
2000-36 Canada Life Assurance Co.	July 6, 2000
2000-38 Standard Insurance Co.	August 10, 2000
2000-53 American Mutual Holding Co.	November 1, 2000
2000-57 Sun Life Assurance Co. of Canada	November 13, 2000

Exemption for Employer Securities:

2000-68 Masters, Mates & Pilots Pension Plan	December 21, 2000

Exemption for Index-Linked Debt Securities:

2000-63 Merrill Lynch & Co.	December 6, 2000

Exemptions for Initial Public Offerings:

2000-25 Morgan Guaranty Trust Co.	June 1, 2000
2000-26 Goldman, Sachs & Co.	June 1, 2000
2000-27 Chase Manhattan Bank	June 1, 2000
2000-28 Citigroup, Inc.	June 1, 2000
2000-29 Morgan Stanley Dean Witter & Co.	June 1, 2000

Exemption for Performance Fees:

2000-37 The Banc Funds Co. LLC	August 10, 2000

Exemption for QPAM-Related Relief:

2000-49 October 11, 2000
Actuarial Sciences Assoc.

2000-70 December 21, 2000
HSBC Holdings plc

EXPRO Grant for QPAM-Related Relief:

2000-30E December 4, 2000
Normura Corp.

Exemption for Reinsurance:

2000-48 October 11, 2000
Columbia Energy Group

Exemptions for Securities Lending:

2000-47 September 18, 2000
Goldman, Sachs & Co.

2000-61 November 24, 2000
Maple Partners Financial Group

EXPRO Grants for Securities Lending:

2000-18E June 29, 2000
Credit Suisse First Boston

2000-20E August 19, 2000
J. P. Morgan & Co., Inc.

2000-28E November 25, 2000
Deutsche Bank AG

Exemptions for "Synthetic" GICs:

2000-05 February 8, 2000
Business Men's Assurance Co.

2000-13 March 13, 2000