



**BEFORE THE SECRETARY OF LABOR
U.S. DEPARTMENT OF LABOR**

In the matter of:

ASSOCIATED GENERAL CONTRACTORS LAS VEGAS CHAPTER; ASSURANCE COLLECTING AND DISTRIBUTING, LLC; CSIPEO, INC. (D/B/A CORPORATE SOLUTIONS); ENTIRE INSURANCE SOLUTIONS, LLC; OEM AMERICA (D/B/A OEM OF CONNECTICUT, INC.); PAYROLL MANAGEMENT INC.; QUALITY BUSINESS SOLUTIONS, INC.; 5S FINANCIAL GROUP, LLC; A.J. CORSO & ASSOCIATES, INC.; AMERICAN BENEFITS ASSOCIATION, INC.; AMERICANS FOR FINANCIAL INDEPENDENCE; AMERICA'S BACK OFFICE; AMERICAS HEALTH CARE ALLIANCE, INC.; ANTHONY J. PAOLO; ASSURANCE AGENCY, LTD.; BLUE WATER INSURANCE GROUP, LLC; BRANDT FINANCIAL CONCEPTS, INC.; BROWN BROWN & GOMBERG, LTD.; CATALAN CABOOR CO., LTD.; COMMERCIAL GROUP INTERMEDIARIES; D&N FINANCIAL, INC.; DCI SOLUTIONS; DINSMOORE STEELE; EMPLOYERS NETWORK ASSOCIATION (D/B/A LOUIS DELUCA AND AFFILIATES); ENDOW INC.; ERISA COMPLIANCE CONSULTING GROUP (D/B/A CBC); FINANCIAL SECURITY CONSULTANTS, INC.; GALLAGHER WILLIAMS-MANNY; GBS INSURANCE AGENCY; GOODWILL FINANCIAL, INC.; HUB INTERNATIONAL MIDWEST LIMITED; INDIEPAY (NOW GREENSLATE, LLC); INSURANCE PLUS; JAMES H. CUNNINGHAM INSURANCE AGENCY, INC. (D/B/A CUNNINGHAM GROUP); K&A INSURANCE SERVICES, INC.; M & M SALES, INC.; M. BROWN & ASSOCIATES, LTD.; MADISON STREET GROUP, LLC; MSR INSURANCE BROKERS, INC.; MY BENEFIT ADVISOR, LLC; OPTIMUM FINANCIAL LLC; PATRIOT BENEFIT SOLUTIONS INSURANCE AGENCY, LLC; PY FINANCIAL; SCOTT NELSON; SERPE INSURANCE AGENCY; TEK CARE NJ, LLC; THE HFA PLAN; THE HORTON GROUP; TOMEI INSURANCE AGENCY; TRENDSETTERS & ASSOCIATES, INC.; VIP RISK SOLUTIONS, INC.; WILLIAM J. BRIGHT; WILLIAM G. SCHOENLEIN.

Case No. 521-01

**ORDER TO CEASE AND DESIST
WITH STATEMENT OF FINDINGS AND
NOTICE OF RIGHT TO A HEARING**

The Secretary of Labor, United States Department of Labor, hereby issues this *Ex Parte Cease and Desist Order*, pursuant to Section 521(a) of the Employee Retirement Income Security Act (ERISA), 29 U.S.C. § 1151, and 29 C.F.R. § 2560.521-1, because the Secretary has reasonable cause to believe Respondents, multiple employer welfare arrangement (MEWA)

aggregators¹ and sub-brokers² that are agents to the **AEU HOLDINGS, LLC EMPLOYEE BENEFIT PLAN** ("AEU Plan"), a MEWA that is comprised of individual employer-sponsored ERISA-covered employee benefit plans ("Participating Plans"), is engaged in conduct that was fraudulent and created an immediate danger to the public safety or welfare, within the meaning of ERISA § 521(a) and 29 CFR § 2560.521-1(b)(2) and (b)(3).³

Respondents

- A. Respondent Associated General Contractors Las Vegas Chapter (or Nevada Chapter of the Associated General Contractors of America, Inc., or Nevada Contractors Association) is a MEWA aggregator. Eddie Burkhart is the company's health plan administrator. They are located at 150 N. Durango Dr., Suite 100, Las Vegas, NV 89145, and have been marketing and collecting enrollment applications for the AEU Plan from March 1, 2015, to the present.
- B. Respondent Assurance Collecting and Distributing, LLC, is a MEWA aggregator. Billie Wray is the company's representative. They are located at 6579 Canal Blvd., New Orleans, LA 70124, and are currently marketing and collecting enrollment applications for the AEU Plan.
- C. Respondent Csipeo, Inc. (d/b/a Corporate Solutions) is a MEWA aggregator. Patricia Nielsen-Hadden is the company's President and CEO. They are located at 2032 Orchid Ave., McAllen, TX 78504, and have been marketing and collecting enrollment applications for the AEU Plan from August 1, 2016, to the present.
- D. Respondent Entire Insurance Solutions, LLC, is a MEWA aggregator. Billie Wray is the company's representative. They are located at 8131 LBJ Freeway, Suite 750, Dallas, TX 75251, and are currently marketing and collecting enrollment applications for the AEU Plan.
- E. Respondent OEM America (d/b/a OEM of Connecticut, Inc.) is a MEWA aggregator. David M. Fernandez is the company's CEO. They are located at 330 Roberts St., East Hartford, CT

¹ For purposes of this Order, MEWA aggregators are defined as entities that: (1) recruit employers (either directly or using brokers), (2) bill and collect contributions from the employers, and (3) all purportedly have financial responsibility to cover shortfalls in funding for claims incurred by the employers they recruit.

² For purposes of this Order, sub-brokers are defined as individuals or entities under contract with R. Maynor & Associates, Inc., or Black Wolf Consulting, Inc., who market the AEU Plan to employers or individuals and receive a brokerage fee for any person participating in the AEU Plan as a result of such marketing.

³ The AEU Plan has been referred to in the past and present by many names, including the Veritas Employee Benefits Plan, Employers Network Association Plan, PHCS Multi-Plan Network, CIGNA VEBA Trust Program, VEBA Health Benefit Plan, Black Wolf Plan, and AEU Benefit Plan.

06108, and have been marketing and collecting enrollment applications for the AEU Plan from January 1, 2015, to the present.

- F. Respondent Payroll Management Inc. is a MEWA aggregator. D.C. Mickle is the company's CEO. They are located at 348 Miracle Strip Parkway SW, Suite 39, Fort Walton Beach, FL 32548, and have been marketing and collecting enrollment applications for the AEU Plan from June 2016 to the present.
- G. Respondent Quality Business Solutions, Inc., is a MEWA aggregator. Pamela S. Evette is the company's representative. They are located at 280 Hindman Rd., Travelers Rest, SC 29690, and have been marketing and collecting enrollment applications for the AEU Plan from December 1, 2014 to the present.
- H. Respondent 5S Financial Group, LLC, is a sub-broker. Brent Stubbe is the company's President. They are located at 3013 Red Grape Dr., Raleigh, NC 27607, and are currently marketing and collecting enrollment applications for the AEU Plan.
- I. Respondent A.J. Corso & Associates, Inc., is a sub-broker. Tony J. Corso is the company's President and CEO. They are located at 2041 Trevino Terrace, Vernon Hills, IL 60061-4540, and are currently marketing and collecting enrollment applications for the AEU Plan.
- J. Respondent American Benefits Association, Inc., is a sub-broker. They are located at 199 South Black Horse Pike, Blackwood, NJ 08012, and are currently marketing and collecting enrollment applications for the AEU Plan.
- K. Respondent Americans for Financial Independence is a sub-broker. Dr. David Feinstein is the company's President. They are located at 30 Undercliff Ave., Parkway Plaza II, Elmsford, NY 10523, and are currently marketing and collecting enrollment applications for the AEU Plan.
- L. Respondent America's Back Office is a sub-broker. Molly Lowe is the company's representative. They are located at 13900 Lakeside Circle, Suite 200, Sterling Heights, MI 48313, and are currently marketing and collecting enrollment applications for the AEU Plan.
- M. Respondent Americas Health Care Alliance, Inc., is a sub-broker. Daniel J. Stypula is the company's representative. They are located at 129 Lake Terrace Dr., Munroe Falls, OH 44262, and are currently marketing and collecting enrollment applications for the AEU Plan.
- N. Respondent Anthony J. Paolo is a sub-broker. He is located at 1709 N. North Park Ave., Unit 4, Chicago, IL 60614, and is currently marketing and collecting enrollment applications for the AEU Plan.
- O. Respondent Assurance Agency, Ltd., is a sub-broker. Liz Smith is the company's President. They are located at One Century Centre, 1750 E. Golf Rd., Schaumburg, IL 60173, and are currently marketing and collecting enrollment applications for the AEU Plan.

- P. Respondent Blue Water Insurance Group, LLC, is a sub-broker. Michael Smith is the company's owner. They are located at 3801 Wrightsville Ave., Suite 2, Wilmington, NC 28403-6234, and are currently marketing and collecting enrollment applications for the AEU Plan.
- Q. Respondent Brandt Financial Concepts, Inc. is a sub-broker. Carol S. Brandt is the company's representative. They are located at 134 W. Slade St., Suite 1, Palatine, IL 60067, and are currently marketing and collecting enrollment applications for the AEU Plan.
- R. Respondent Brown Brown & Gomberg, LTD, is a sub-broker. Gerald Gomberg is the company's President. They are located at 5750 Old Orchard Road, Suite 350, Skokie, IL 60077, and are currently marketing and collecting enrollment applications for the AEU Plan.
- S. Respondent Catalan Caboor Co., Ltd. is a sub-broker. Stephen Caboor is the company's VP. They are located at 101 W. 22nd St., Suite 207, Lombard, IL 60148, and are currently marketing and collecting enrollment applications for the AEU Plan.
- T. Respondent Commercial Group Intermediaries is a sub-broker. Thomas Duhr is the company's President and CEO. They are located at 16 Executive Court, Suite 4, South Barrington, IL 60010, and are currently marketing and collecting enrollment applications for the AEU Plan.
- U. Respondent D&N Financial, Inc., is a sub-broker. Patrick Fox is the company's President. They are located at 4647 West 100th Street, Oak Lawn, IL 60453, and are currently marketing and collecting enrollment applications for the AEU Plan.
- V. Respondent DCI Solutions is a sub-broker. Kirk Conole is the company's Partner. They are located at 776 Turtle Point Way, San Diego, CA 92069, and are currently marketing and collecting enrollment applications for the AEU Plan.
- W. Respondent Dinsmoore Steele is a sub-broker. Rodney Steele is the company's CEO. They are located at 28 Scarborough Dr., Smithtown, NY 11787, and are currently marketing and collecting enrollment applications for the AEU Plan.
- X. Respondent Employers Network Association (d/b/a Louis DeLuca and Affiliates) is a sub-broker. Louis DeLuca is the company's owner. They are located at 20 Madison Ave., Valhalla, NY 10595, and are currently marketing and collecting enrollment applications for the AEU Plan.
- Y. Respondent Endow Inc. is a sub-broker. Thomas McLeary is the company's President. They are located at 35 E. Upper Wacker Dr., Suite 1990, Chicago, IL 60601, and are currently marketing and collecting enrollment applications for the AEU Plan.
- Z. Respondent ERISA Compliance Consulting Group (d/b/a CBC) is a sub-broker. Lou Russo is the company's representative. They are located at 1800 Walt Whitman Rd., Suite 110,

Melville, NY 11747, and are currently marketing and collecting enrollment applications for the AEU Plan.

- AA. Respondent Financial Security Consultants, Inc., is a sub-broker. Patrick D. Keenan is the company's President. They are located at 1202 N. 75th St., Unit 321, Downers Grove, IL 60516, and are currently marketing and collecting enrollment applications for the AEU Plan.
- BB. Gallagher Williams-Manny is a sub-broker. They are located at 555 S. Perryville Road, Rockford, IL 61108, and are currently marketing and collecting enrollment applications for the AEU Plan.
- CC. Respondent GBS Insurance Agency is a sub-broker. Mario Apruzzese is the company's representative. They are located at 805 Oakwood, Suite 150, Rochester, MI 48307, and are currently marketing and collecting enrollment applications for the AEU Plan.
- DD. Respondent Goodwill Financial, Inc., is a sub-broker. Vytautas Skapcevicus is the company's President. They are located at 579 W. North Ave, Suite 300, Elmhurst, IL 60126, and are currently marketing and collecting enrollment applications for the AEU Plan.
- EE. Respondent HUB International Midwest Limited is a sub-broker. Clint Anderson is the company's President – Specialty Practice. They are located at 300 N. LaSalle St. 17th Floor, Chicago, IL 60654, and are currently marketing and collecting enrollment applications for the AEU Plan.
- FF. Respondent Indiepay (now GreenSlate, LLC) is a sub-broker. John Finn is the company's CEO. They are located at 150 West 30th Street, Suite 405, New York, NY 10001, and are currently marketing and collecting enrollment applications for the AEU Plan.
- GG. Respondent Insurance Plus is a sub-broker. Rose Gagliardi is the company's President. They are located at 15 W. Main St., Oyster Bay, NY 11771, and are currently marketing and collecting enrollment applications for the AEU Plan.
- HH. Respondent James H. Cunningham Insurance Agency, Inc. (d/b/a Cunningham Group), is a sub-broker. John Turcza is the company's VP. They are located at 7234 W. North Ave., Suite 101, Elmwood Park, IL 60707, and are currently marketing and collecting enrollment applications for the AEU Plan.
- II. Respondent K&A Insurance Services, Inc., is a sub-broker. Thomas P. Kenney is the company's VP. They are located at 1754 N. Washington St., Suite 112, Naperville, IL 60563, and are currently marketing and collecting enrollment applications for the AEU Plan.
- JJ. Respondent M&M Sales, Inc., is a sub-broker. Mike Ward is the company's owner. They are located at 10700 S. Lynn Lane, Broken Arrow, OK 74011, and are currently marketing and collecting enrollment applications for the AEU Plan.

- KK. Respondent M. Brown & Associates, Ltd., is a sub-broker. Mark Brown is the company's President. They are located at 2728 Forgue Drive, Suite 100, Naperville, IL 60564, and are currently marketing and collecting enrollment applications for the AEU Plan.
- LL. Respondent Madison Street Group, LLC, is a sub-broker. Sam Fink is the company's VP – Director. They are located at 122 N. Madison St., Thomasville, GA 31792, and are currently marketing and collecting enrollment applications for the AEU Plan.
- MM. Respondent MSR Insurance Brokers, Inc., is a sub-broker. Michael S. Rudy is the company's President. They are located at 301 Red Bud Place, Buffalo Grove, IL 60089, and are currently marketing and collecting enrollment applications for the AEU Plan.
- NN. Respondent My Benefit Advisor, LLC, is a sub-broker. Michael Hanney is the company's Executive VP. They are located at 1305 Walt Whitman Road, Suite 310, Melville, NY 11747, and are currently marketing and collecting enrollment applications for the AEU Plan.
- OO. Respondent Optimum Financial LLC is a sub-broker. Duane Goodell is the company's Manager. They are located at 160 Emerald Street, Suite 10, Keene, NH 03431, and are currently marketing and collecting enrollment applications for the AEU Plan.
- PP. Respondent Patriot Benefit Solutions Insurance Agency, LLC, is a sub-broker. John Kelley is the company's Managing Director. They are located at 17 Cobblestone Rd., North Andover, MA 01845, and are currently marketing and collecting enrollment applications for the AEU Plan.
- QQ. Respondent PY Financial is a sub-broker. Dennis A. Pyzyna is the company's President. They are located at 1806 E. Northwest Hwy., Suite 7, Arlington Heights, IL 60004, and are currently marketing and collecting enrollment applications for the AEU Plan.
- RR. Respondent Scott Nelson is a sub-broker. He is located at 711 Phillippa St., Hinsdale, IL 60521, and is currently marketing and collecting enrollment applications for the AEU Plan.
- SS. Respondent Serpe Insurance Agency is a sub-broker. Thomas Herr is the company's VP. They are located at 2539 North Lincoln Ave., Chicago, IL 60614, and are currently marketing and collecting enrollment applications for the AEU Plan.
- TT. Respondent TEKcare NJ, LLC, is a sub-broker. David A. Koch is the company's CEO. They are located at 818 Shrewsbury Ave., Tinton Falls, NJ 07724, and are currently marketing and collecting enrollment applications for the AEU Plan.
- UU. Respondent The HFA Plan is a sub-broker. Mark Krogulski is the company's President. They are located at 5328 Catclaw Ct., Naperville, IL 60564, and are currently marketing and collecting enrollment applications for the AEU Plan.

- VV. Respondent The Horton Group is a sub-broker. Sean Dauber is the company's Senior VP. They are located at 10320 Orland Parkway, Orland Park, IL 60467, and are currently marketing and collecting enrollment applications for the AEU Plan.
- WW. Respondent Tomei Insurance Agency is a sub-broker. Joseph L. Tomei is the company's Principal. They are located at 223 N. Rt. 21, Suite 10, Gurnee, IL 60031, and are currently marketing and collecting enrollment applications for the AEU Plan.
- XX. Respondent Trendsetters & Associates, Inc. (c/o People Etc.) is a sub-broker. Joseph Feth is the company's representative. They are located at 187 S. Schuyler Ave., Ste. 450, Kankakee, IL 60901, and are currently marketing and collecting enrollment applications for the AEU Plan.
- YY. Respondent VIP Risk Solutions, Inc. is a sub-broker. William Brian Hollamon is the company's representative. They are located at 1821 Walden Office Square, Suite 400, Schaumburg, IL 60173, and are currently marketing and collecting enrollment applications for the AEU Plan.
- ZZ. Respondent William J. Bright is a sub-broker. He is located at PO Box 360533, Melbourne, FL 32936, and is currently marketing and collecting enrollment applications for the AEU Plan.
- AAA. Respondent William G. Schoenlein is a sub-broker. He is located at 9 Colergo Dr., Douglassville, PA 19518, and is currently marketing and collecting enrollment applications for the AEU Plan.

Jurisdiction

The Secretary has authority to issue an Ex Parte Cease and Desist order pursuant to ERISA § 521(a), 29 U.S.C. § 1151(a), and its implementing regulation, 29 C.F.R. § 2560.521-1. This authority applies to a Multiple Employer Welfare Arrangement ("MEWA"), defined in the regulation as "an arrangement as defined in section 3(40) of ERISA that either is an employee welfare benefit plan subject to Title I of ERISA or offers benefits in connection with one or more employee welfare benefit plans subject to Title I of ERISA." 29 C.F.R. § 2560.521-1(b)(1).

The AEU Plan is an arrangement established or maintained for the purpose of offering or providing medical benefits described in ERISA § 3(1), 29 U.S.C. § 1002(1), to the employees of two or more employers (including one or more self-employed individuals) and their beneficiaries. Accordingly, the AEU Plan is a MEWA as defined by ERISA. 29 U.S.C. § 1002(40).

The AEU Plan offers medical benefits to employees of 261 participating employers through employee welfare benefit plans ("Participating Plans") established or maintained by each participating employer that are subject to Title I of ERISA pursuant to 29 U.S.C. § 1002(4)(a).

Therefore, the AEU Plan meets the definition of a MEWA under 29 C.F.R. § 2560.521-1(b)(1), and pursuant to his authority under ERISA § 521, the Secretary has jurisdiction over Respondents and the subject matter of this Order.

Findings

The Secretary may issue a Cease and Desist Order against a covered MEWA and its agents and employees whenever the Secretary finds reasonable cause to believe that the respondent(s) engaged in conduct that (1) was fraudulent; (2) creates an immediate danger to public safety or welfare; or (3) causes or can be reasonably expected to cause significant, immediate, and irreparable public injury, within the meaning of § 2560.521-1(b)(2), (3), and (4). 29 C.F.R. § 2560.521-1(c)(1)(i)(A)-(C). Even a "single act or omission" may serve as the basis for such an order. 29 C.F.R. § 2560.521-1(c)(1)(ii).

The Secretary, acting by and through the Deputy Assistant Secretary for Program Operations of the Employee Benefits Security Administration, hereby finds, pursuant to an investigation of Black Wolf Consulting, Inc., that there is reasonable cause to believe that Respondents' conduct was fraudulent and creates an immediate danger to the public safety or welfare.

1. The evidence establishes that the agents of the AEU Plan engaged in fraudulent conduct

Under 29 CFR § 2560.521-1(b)(2), the conduct of a MEWA is fraudulent when, among other things, the MEWA or any person acting as its agent commits an act or omission knowingly and with an intent to deceive or defraud plan participants, beneficiaries, employers, and the Secretary, with respect to the financial condition of the MEWA. 29 CFR § 2560.521-1(b)(2)(i)(A). Examples of fraudulent conduct include "misrepresenting the terms of the benefits offered by or in connection with the MEWA or the financial condition of the MEWA or engaging in deceptive acts or omissions in connection with marketing or sales or fees charged to employers...." 29 CFR § 2560.521-1(b)(2)(ii).

The evidence supports a finding that the AEU Plan and its agents engaged in deceptive acts with respect to the fees it charged the Participating employers in the AEU Plan. In fact, the AEU Plan's failure to pay claims is due, at least in part to the AEU Plan's payment of excessive and undisclosed fees to its agents, including Black Wolf and AEU.

Each month, Black Wolf sends each of the Participating Plans an invoice detailing the amount owed to the AEU Plan. The employers then pay contributions to Black Wolf, which is made up of employer and employee contributions. AEU determines the "base" contribution amounts to be charged to the Participating Plans, and provides these rates to Black Wolf on a yearly basis. The invoices Black Wolf provided to the Participating Plans disclosed a list of participants, description of the plan for each participant, "price each" for each participant, and a \$20.00 monthly billing fee paid to Black Wolf. Black Wolf imposes its own fees on top of the

contribution amounts set by AEU. Participating Plans are unaware that Black Wolf assesses these additional fees, ranging anywhere from 17 to 50 percent of the assessed contributions, to the invoiced "price each" amounts. Black Wolf's undisclosed additional fees are simply lumped together with the contribution on the invoices received by the Participating Plans.

In addition to the fees paid to Black Wolf, AEU caused the AEU Plan to: (1) maintain at least two accounts in Bermuda, incurring unnecessary management fees, trustee fees, and attorney fees; (2) pay substantial fees for compliance with certain federal reporting requirements, even though the arrangement is not complying with these reporting requirements (3) pay for excessive reinsurance, amounting to \$10.5 million in reinsurance costs in 2016, when this insurance only covered \$3.5 million in claims; and (4) to pay themselves a program management fee of approximately 12 to 15 percent of the expected claims cost, as well as a separate management fee of approximately 2.5 percent to a subsidiary called CoreCare. The AEU Plan, through its agents, paid aggregate administrative fees and expenses that represent 41 percent of the contribution amounts Black Wolf charged to the participating employers in the AEU Plan without disclosing that these payments would be made. The evidence supports that Black Wolf and AEU continue to collect unreasonable and undisclosed fees from the contributions that Participating Plans send to Black Wolf for coverage under the AEU Plan. This is exactly the type of fraudulent conduct that the regulations contemplate as grounds for the issuance of this Order under 29 CFR § 2560.521-1(b)(2)(ii).

While plan insiders have effectively diverted millions of dollars in contributions to their own use at the Plan's expense, tens of millions of dollars in processed and adjudicated claims have gone unpaid as detailed below. Although the plan is marketed as a cost-effective way for employers to provide their employees valuable health benefits, employers and plan participants face the near certainty that they will never receive all the benefits they have been promised. Because of the Plan's dire financial status and the impact of the undisclosed mismanagement and diversion of plan assets, any ongoing marketing of the Plan as a viable benefit provider is fraudulent within the meaning of 29 CFR § 2560.521-1(b)(2)(ii). At a minimum, the Respondents cannot continue to market the Plan as a means of obtaining promised health benefits without reckless (if not willful) indifference to the truth of their assertions that the Plan can pay the promise benefits. Under the governing regulation, such reckless indifference is all that is required to sustain a Cease and Desist Order. *Id.* The Respondents may not continue to market this arrangement by turning a blind eye to the obvious dangers it poses to plan participants who depend upon the plan for medical coverage. Without immediate action, the continued and fraudulent marketing of the AEU Plan as if it will properly pay claims will cause serious harm to participants and beneficiaries, as they continue to incur claims for medical services in reliance on the false promise of benefits and as they forego the opportunity to obtain health insurance coverage from a legitimate source that, in contrast to the AEU Plan, would pay benefits as promised.

The need for immediate relief to prevent the fraudulent marketing of the AEU Plan is additionally supported by recent court proceedings in the U.S. District Court for the Northern District of Illinois. The Secretary of Labor filed a complaint and obtained an *Ex Parte* Temporary Restraining Order against Black Wolf, and AEU in the Northern District of Illinois, Case No. 1:17-cv-07931 on November 2, 2017. The Secretary's complaint alleges that Black

Wolf and, AEU committed multiple ERISA violations with respect to the AEU Plan and the Participating Plans. First, AEU violated ERISA §§ 403(a) and 404(b) by failing to keep the Participating Plans' assets in a trust account in the Participating Plans' name or in the name of a named trustee within the jurisdiction of the district courts of the United States. Second, AEU violated ERISA's prudence and loyalty requirements under ERISA § 404(a) and engaged in prohibited transactions under ERISA § 406(a) and (b) by using the Participating Plans' assets to pay excessive aggregate administrative fees and expenses, including fees to itself. Third, Black Wolf violated ERISA's prudence and loyalty requirements under ERISA § 404(a) and engaged in prohibited transactions under ERISA § 406(a) and (b) by paying itself excessive fees from the Participating Plans' assets. Fourth, AEU and Black Wolf violated ERISA's prudence and loyalty requirements under ERISA § 404(a) by failing to pay claims and failing to disclose the AEU Plan's failure to pay claims and inadequate funding to existing and new employers. The Temporary Restraining Order was granted on November 3, 2017. Pursuant to the Court's Order an Independent Fiduciary was appointed to take control over the management and assets of the AEU Plan.

2. The evidence establishes an immediate danger to the public safety and welfare

Under 29 CFR § 2560.521-1(b)(3), conduct creates an immediate danger to the public safety or welfare if it impairs, or threatens to impair, a MEWA's ability to pay claims or otherwise unreasonably increases the risk of nonpayment of benefits. At this time, there is considerable evidence that irregularities in the AEU Plan's management have already impaired, and threaten to further impair, its ability to pay its beneficiaries' claims, posing a serious, ongoing threat to public safety and welfare. Thus, § 521(a) of ERISA and 29 CFR § 2560.521-1(b)(3) offer a clear ground for a cease and desist order against the Respondents, as their continued conduct as agents of the AEU Plan pose a serious threat the welfare of the employers, and their employees, they continue to solicit to participate in the AEU Plan.

A MEWA creates an immediate danger to the public safety or welfare within the meaning of ERISA § 521(a) when its conduct, or the conduct of any of its agents or employees, "impairs, or threatens to impair, [its] ability to pay claims or otherwise unreasonably increases the risk of nonpayment of benefit." 29 C.F.R. § 2560.521-1(b)(3). That conduct includes, among other things, the "systematic failure to properly process or pay benefit claims" and the "failure to hold plan assets in trust." *Id.* There is no need to show the intent to create such an immediate danger. *Id.* Here, there is ample cause to believe the AEU Plan has created just such a danger, as outlined below, the facts support the issuance of a cease and desist order under § 2560.521-1(b)(3).

The evidence supports that the AEU Plan has systematically failed to properly process tens of thousands of claims by employee beneficiaries, leading to widespread nonpayment of benefits as well as considerable financial and personal hardships for the AEU Plan's beneficiaries. Numerous complaints received by the Department over the course of the last year, as well as multiple internal documents related to the AEU Plan's operations, reveal systematic lapses in the AEU Plan's handling of claims since at least late 2016, amounting, according to the AEU Plan's two claims administrators, to over \$26 million in unpaid, processed claims.

The evidence supports that the failure to pay claims is due, at least in part, to Black Wolf and other entities, AEU Holdings, LLC and AEU Benefits, LLC (collectively "AEU") taking excessive and undisclosed fees from assets of the AEU Plan and Participating Plans, while not disclosing those fees to employers from the Participating Plans. AEU in particular caused the AEU Plan and Participating Plans to incur aggregate administrative fees and expenses that represent 41 percent of the contribution amounts charged to Participating Plans. In addition, when Black Wolf invoices Participating Plans in the AEU Plan, Black Wolf adds undisclosed fees ranging from 17 to 44 percent of the contribution assessed per participant.

In just the first five months of 2017, participating employers paid over \$22 million in contributions to the AEU Plan for medical coverage. Thus, in just the first five months of 2017, the AEU Plan had \$22 million at its disposal. However, in the first nine months of 2017, from January 1, 2017 to October 2, 2017, the AEU Plan only used approximately \$10 million of these funds to pay claims—leaving the administrators of the AEU Plan with at least \$12 million. The funds under the control of the administrators and service providers of the AEU Plan are actually significantly higher because the \$22 million figure does not account for contributions paid from June 1, 2017 to October 2, 2017. With Black Wolf and AEU taking significantly more in fees than the AEU Plan is paying out for claims, the AEU Plan is unable to function properly and is causing immense and irreparable harm to the Participating Plans' participants.

The amount of the AEU Plan's unpaid claims has grown rapidly and requests for funds to pay these claims have gone largely unanswered. Tall Tree Administrators, Inc. ("Tall Tree") was the claims administrator for the AEU Plan in 2016. Tall Tree received around \$6 million from the AEU Plan in 2017 to pay for outstanding 2016 claims. Despite these payments, \$15 to \$16 million in unpaid, processed and adjudicated claims are still pending with Tall Tree.

Benefit Plan Administrators, Inc. ("BPA") is one of the AEU Plan's current claims administrators. BPA processed \$3,499,366.17 in unpaid claims between April 3 and July 5, 2017. By July 13, this number had increased to \$4,046,889.59. By July 31, unpaid, processed claims totaled \$5,798,011.92. During June and July, BPA received less than \$1,500,000 from the AEU Plan to pay for claims. As of October 2, the AEU Plan's unpaid, processed and adjudicated claims for 2017 had ballooned to \$11,761,545.41, on top of the \$15 to \$16 million still pending with Tall Tree.

As a result of unpaid claims, Black Wolf is currently facing private litigation relating to the AEU Plan in two separate jurisdictions. See *Employers' Innovative Network, LLC v. Black Wolf Consulting, Inc.*, No. 17C-1-H (Cir. Ct. Raleigh County, W. Va.); *PFS HR Solutions, LLC v. Black Wolf Consulting, Inc.*, No. 1:17-cv-00277-JRG-SKL (E.D. Tenn.). These lawsuits allege, in part, that Black Wolf engaged in fraud and negligence, breached their contracts and fiduciary duties (under state law), and were unjustly enriched, while employees' medical claims have remain unpaid.

By amassing a significant number of unpaid and unprocessed claims, the AEU Plan has unreasonably increased the risk of further nonpayment of those benefits. As a result of the systematic failure to properly process and pay benefits, the AEU Plan has accumulated a

substantial backlog of claims requiring payment and even processing in some cases. Internal documents obtained by the Department reveal that the AEU Plan has been experiencing difficulty paying claims for at least a year, with no resolution in sight. Black Wolf is billing participating employers, and contributions are flowing from those individual employer-level plans, yet, as of early October, the AEU Plan's current claims administrators were still unable to obtain funding to cover claims reaching as far back as early 2016.

In addition to creating an immediate danger to the public safety or welfare through the impairment of the AEU Plan's ability to pay claims, the AEU Plan also created an immediate danger to the public safety or welfare, by failing to hold plan assets of the AEU Plan and Participating Plans in trust accounts within the United States. 29 C.F.R. § 2560.521-1(b)(3). The AEU Plan's and Participating Plans' assets were not deposited in trust accounts in the name of the AEU Plan or the name of any Participating Plans. Employers from Participating Plans sent contributions to Black Wolf, at which time the monies became plan assets. However, the evidence obtained by the Department shows that Black Wolf would remove fees and then forward the assets to SD Trust, where plan assets were held in SD Trust's name before being transmitted to Bermuda bank accounts outside the United States.

Despite these unpaid claims, Black Wolf continues to attempt to enroll new employers in the AEU Plan without advising them of the AEU Plan's inability to pay claims to these Participating Plans. Neither Black Wolf nor AEU have disclosed the fact that the AEU Plan is unable to pay claims to either the current or newly enrolled Participating Plans, while unwitting participants and beneficiaries continue to incur claims for medical services and face collections notices and possible litigation for existing unpaid medical claims.

Finally, as described above, the Secretary of Labor filed a complaint and obtained an *Ex Parte* Temporary Restraining Order against Black Wolf, and AEU in the Northern District of Illinois, Case No. 1:17-cv-07931 on November 2, 2017. The Secretary's complaint alleges that Black Wolf and, AEU committed multiple ERISA violations with respect to the AEU Plan and the Participating Plans, which includes among other things: (1) violated ERISA §§ 403(a) and 404(b) by failing to keep the Participating Plans' assets in a trust account in the Participating Plans' name or in the name of a named trustee within the jurisdiction of the district courts of the United States; and (2) violated ERISA's prudence and loyalty requirements under ERISA § 404(a) by failing to pay claims and failing to disclose the AEU Plan's failure to pay claims and inadequate funding to existing and new employers. The Temporary Restraining Order was granted on November 3, 2017. Pursuant to the Court's Order an Independent Fiduciary was appointed to take control over the management and assets of the AEU Plan.

3. Respondents

With respect to Respondents, Black Wolf contracts with multiple sub-brokers through R. Maynor and Associates to market the AEU Plan, providing them with plan and marketing materials and paying them an agreed-upon fee per participant they enroll. As of August 25, 2017, Black Wolf claimed it was not actively pursuing new employer groups for the AEU Plan and was not taking referrals. However, sub-brokers working on behalf of Black Wolf and other aggregators are still marketing the AEU Plan to prospective clients, and/or enrolling new clients

in the AEU Plan. To the Department's knowledge, Black Wolf has not requested that the sub-brokers disclose the AEU Plan's problems with unpaid claims to these prospective employers or disclose the aggregate fees charged to participating employers in the AEU Plan.

The sub-brokers and MEWA aggregators listed as Respondents are currently marketing the AEU Plan and/or collecting enrollment applications. Because the AEU Plan currently has over \$26 million in unpaid medical claims, continued marketing of the plan and enrollment of new applicants creates an immediate danger to the public safety and welfare. If Respondents, their agents, employees, or other representatives are not immediately ordered to cease and desist from the commission of the acts herein alleged, they will continue to commit the same and similar acts resulting in significant harm to current and new plan participants, plan beneficiaries, employees, employers, and the general public in as many as 36 states.

Based on these findings, the Secretary has determined that this Order, as specified below, is necessary and appropriate to stop the conduct on which the Order is based.

Order

A. Respondents are hereby ordered to immediately cease and desist from:

1. From promoting, marketing, or making any recommendation for enrollment in the AEU Plan to employers or to participants or beneficiaries of any ERISA-covered employee benefit plan or to any person acting on behalf of such plan, or to any person in any way facilitating or encouraging any promoting or marketing of any product or service to any ERISA-covered employee benefit plan; and
2. From collecting enrollment applications for the AEU Plan from employers, or participants or beneficiaries of any ERISA-covered employee benefit plan or from any person acting on behalf of such plan.

B. Respondents are also hereby ordered to verify immediate compliance. Respondents must provide the Secretary in writing, within 5 days of the receipt of the Order, with a sworn declaration they have complied with this Order.

C. Respondents shall not permit, explicitly or implicitly, any third party to take any action prohibited under this Order.

D. For the protection of the public, and to preserve books, records, and assets of the Respondents related to the AEU Plan, neither Respondents nor its officers, directors, managers, stockholders, trustees, agents, representatives, employees, accountants, attorneys, banks, affiliates, or any parties acting in concert with or at the direction of any of the foregoing, shall take or permit to be taken any action that might transfer, conceal, waste, hypothecate (pledge as security), or otherwise dispose of the assets, property, books, records, and accounts of Respondents as they relate to the AEU Plan and any ERISA-covered employee benefit plans to which the AEU Plan provides any benefits or services.

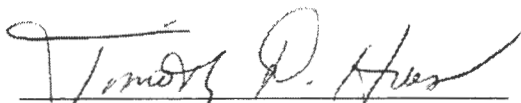
Notice of Right to Hearing

- A. Pursuant to ERISA § 521(b), Respondents may, within thirty (30) days of the date of receipt of this Order, request a hearing and file an answer showing cause why the Order should be modified or set aside, in accordance with 29 C.F.R. § 2560.521-1(e) and 29 C.F.R. § 2571. An Administrative Law Judge from the U.S. Department of Labor will preside over any such hearing.
- B. If Respondents fail to request a hearing and file an answer within such thirty (30) day period, this Order is final agency action within the meaning of 5 U.S.C. § 704.
- C. Pursuant to 29 C.F.R. § 2571, any temporary cease and desist order issued under ERISA § 521, for which a hearing has been requested, shall remain in effect and enforceable, pending completion of the administrative proceedings, unless stayed by the Secretary, an administrative law judge, or by a court.

Other Matters

- A. This Order is effective immediately upon execution by the Secretary or his/her designee and shall continue in full force and effect until further order by the Secretary or his/her designee, an Administrative Law Judge, or a Federal court.
- B. This Order is binding on Respondents and any persons acting as their agents, representatives, or employees.
- C. If this Order is violated, the Secretary may seek an order of enforcement from a district court of the United States pursuant to the Secretary's authority under ERISA § 502(a)(5), 29 U.S.C. § 1132(a)(5).
- D. Nothing in this Order implies that the Secretary recognizes the legitimacy of the AEU Plan or approves or endorses the continued operation of the AEU Plan.
- E. Nothing in this Order shall be construed to limit the Secretary's ability to exercise his enforcement or investigatory authority under any other provision of Title I of ERISA, 29 U.S.C. 1001, *et seq.* The Secretary retains jurisdiction over the matters contained herein and the authority to pursue any additional remedies under ERISA, including, imposing applicable penalties and/or initiating judicial action. This Order may not constitute an all-inclusive list of all of the conduct or violations that may serve as grounds for additional Orders or other enforcement actions by the Secretary.

Dated this 6th day of November, 2017.



Timothy D. Hauser
Deputy Assistant Secretary for Program Operations

Employee Benefits Security Administration

CERTIFICATE OF SERVICE

This is to certify I have duly served the within *ex parte cease and desist order*, including exhibits, if any, upon all parties herein by mailing copies of the same this ____ of _____, 2017, addressed to the last known addresses of the Respondents, as follows:

Assurance Collecting and Distributing, LLC
Attn: Billie Wray
6579 Canal Blvd.
New Orleans, LA 70124

Entire Insurance Solutions, LLC
Attn: Billie Wray
8131 LBJ Freeway, Suite 750
Dallas, TX 75251 Walhalla

OEM America (d/b/a OEM of Connecticut, Inc.)
Attn: David M. Fernandez, CEO
330 Roberts St.
East Hartford, CT 06108

Quality Business Solutions, Inc.
Attn: Pamela S. Evette
280 Hindman Rd.
Travelers Rest, SC 29690

Csipeo, Inc. (d/b/a Corporate Solutions)
Attn: Patricia Nielsen-Hadden
2032 Orchid Ave.
McAllen, TX 78504

Associated General Contractors Las Vegas Chapter (d/b/a Nevada Chapter of the Associated General Contractors of America, Inc., or Nevada Contractors Association)
Attn: Eddie Burkhart
150 N. Durango Dr., Suite 100
Las Vegas, NV 89145

Payroll Management Inc.
Attn: D.C. Mickle, CEO
348 Miracle Strip Parkway SW, Suite 39
Fort Walton Beach, FL 32548

A.J. Corso & Associates, Inc.
Attn: Tony J. Corso
2041 Trevino Terrace
Vernon Hills, IL 60061-4540
Americas Health Care Alliance, Inc.

Attn: Daniel J. Stypula
129 Lake Terrace, Dr.
Munroe Falls, OH 44262

William J. Bright
PO Box 360533
Melbourne, FL 32936

Trendsetters & Associates, Inc.
c/o People Etc.
Attn: Joseph Feth
187 S. Schuyler Ave, Ste. 450
Kankakee, IL 60901

William G. Schoenlein
9 Colergo Dr.
Douglassville, PA 19518

TEKcare NJ, LLC
Attn: David A. Koch
818 Shrewsbury Ave.
Tinton Falls, NJ 07724

VIP Risk Solutions, Inc.
Attn: William Brian Hollamon
1821 Walden Office Square, Suite 400
Schaumburg, IL 60173

Brandt Financial Concepts, Inc.
Attn: Carol S. Brandt
134 W. Slade St., Suite 1
Palatine, IL 60067

Catalan Caboor Co., Ltd.
Attn: Stephen Caboor
101 W. 22nd St., Suite 207
Lombard, IL 60148

My Benefit Advisor, LLC
Attn: Michael Hanney
1305 Walt Whitman Road, Suite 310
Melville, NY 11747

America's Back Office

Attn: Molly Lowe
13900 Lakeside Circle, Suite 200
Sterling Heights, MI 48313

Brown Brown & Gomberg, LTD
Attn: Gerald Gomberg
5750 Old Orchard Road, Suite 350
Skokie, IL 60077

Madison Street Group, LLC
Attn: Sam Fink
122 N. Madison St.
Thomasville, GA 31792

Commercial Group Intermediaries
Attn: Thomas Duhr
16 Executive Court, Suite 4
South Barrington, IL 60010

Patriot Benefit Solutions Insurance Agency, LLC
Attn: John Kelley
17 Cobblestone Rd.
North Andover, MA 01845

James H. Cunningham Insurance Agency, Inc.
d/b/a Cunningham Group
Attn: John Turcza
7234 W. North Ave., Suite 101
Elmwood Park, IL 60707

PY Financial
Attn: Dennis A Pyzyna
1806 E. Northwest Hwy., Suite 7
Arlington Heights, IL 60004

Optimum Financial LLC
Attn: Duane Goodell
160 Emerald Street, Suite 10
Keene, NH 03431

Tomei Insurance Agency
Attn: Joseph L. Tomei
223 N. Rt. 21, Suite 10
Gurnee, IL 60031

DCI Solutions

Attn: Kirk Conole
776 Turtle Point Way
San Diego, CA 92069

ERISA Compliance Consulting Group
d/b/a CBC
Attn: Lou Russo
1800 Walt Whitman Rd., Suite 110
Melville, NY 11747

GBS Insurance Agency
Attn: Mario Apruzzese
805 Oakwood, Suite 150
Rochester, MI 48307

M. Brown & Associates, Ltd.
Attn: Mark Brown
2728 Fergie Drive, Suite 100
Naperville, IL 60564

The HFA Plan
Attn: Mark Krogulski
5328 Catclaw Ct.
Naperville, IL 60564

Employers Network Association (d/b/a Louis DeLuca and Affiliates)
Attn: Louis DeLuca
20 Madison Ave.
Valhalla, NY 10595

Insurance Plus
Attn: Rose Gagliardi
15 W. Main St.
Oyster Bay, NY 11771

MSR Insurance Brokers, Inc.
Attn: Michael S. Rudy
301 Red Bud Place
Buffalo Grove, IL 60089

M & M Sales, Inc.
Attn: Mike Ward
10700 S. Lynn Lane
Broken Arrow, OK 74011

D&N Financial, Inc.

Attn: Patrick Fox
4647 West 100th Street
Oak Lawn, IL 60453

Financial Security Consultants, Inc.
Attn: Patrick D. Keenan
1202 N. 75th St., Unit 321
Downers Grove, IL 60516

Dinsmoore Steele
Attn: Rodney Steele
28 Scarborough Dr.
Smithtown, NY 11787

Scott Nelson
711 Phillippa St.
Hinsdale, IL 60521

Serpe Insurance Agency
Attn: Thomas Herr
2539 North Lincoln Ave.
Chicago, IL 60614

Endow Inc.
Attn: Thomas McLeary
35 E. Upper Wacker Dr., Suite 1990
Chicago, IL 60601

K&A Insurance Services, Inc.
Attn: Thomas P. Kenney
1754 N. Washington St., Suite 112
Naperville, IL 60563

Anthony J. Paolo
1709 N. North Park Ave., Unit 4
Chicago, IL 60614

Goodwill Financial, Inc.
Attn: Vytautas Skapcevicus
579 W. North Ave., Suite 300
Elmhurst, IL 60126

American Benefits Association, Inc.
199 South Black Horse Pike
Blackwood, NJ 08012
Indiepay (now GreenSlate, LLC)

Attn: John Finn
150 West 30th Street, Suite 405
New York, NY 10001

Blue Water Insurance Group, LLC
Attn: Michael Smith
3801 Wrightsville Ave., Suite 2
Wilmington, NC 28403-6234

5S Financial Group, LLC
Attn: Brent Stubbe
3013 Red Grape Dr.
Raleigh, NC 27607

The Horton Group
Attn: Sean Dauber
10320 Orland Parkway
Orland Park, IL 60467

Assurance Agency, Ltd.
Attn: Liz Smith
One Century Centre
1750 E. Golf Rd.
Schaumburg, IL 60173

HUB International Midwest Limited
Attn: Clint Anderson
300 N. LaSalle St., 17th Floor
Chicago, IL 60654

Americans for Financial Independence
Attn: Dr. David Feinstein
30 Undercliff Ave.
Parkway Plaza II
Elmsford, NY 10523

Gallagher Williams-Manny
555 S. Perryville Road
Rockford, IL 61108

Name
Title
EBSA Office