



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

In the matter of:

**RIVERSTONE CAPITAL LLC; NEXGEN INSURANCE SERVICES INCORPORATED;
NGI BROKERAGE SERVICES, INC.; JAMES C. KELLY; TRAVIS O. BUGLI;
ROBERT M. CLARKE; ERIK MANQUEROS; 360 RISK PARTNERS INSURANCE
SOLUTIONS, INC.; ACADEMY BENEFITS INSURANCE AGENCY, LLC; ALL GOOD
INSURANCE SERVICES; AMERICAN ALLIANCE INSURANCE BROKERS, LLC;
AMES GRENZ; ASCENT ADVISERS, LLC; ASSURED PARTNERS CONSULTING;
BALDWIN-GEORGETON INS.; BB&H BENEFIT DESIGN; BENEFIT MALL;
BENEFITS ADMINISTRATION & INSURANCE SERVICES; BENEFITS DONE
RIGHT; BENEFITS EXCHANGE ALLIANCE LOS ANGELES (BXA LA); BENEFITS
PLANNING SERVICE; BENEFLEX INSURANCE SERVICES, LLC; BOLTON & CO.;
BRIDGEPORT BENEFITS; CBIZ; CBIZ; CBIZ; CHAMPION RISK & INSURANCE
SERVICES; CLARK AND ASSOCIATES; COLLABORATIVE INSURANCE
SOLUTIONS; COMBINED BENEFITS INC.; CORPSTRAT BENEFITS; ALLIANT -
CRYSTAL & CO.; ALLIANT - CRYSTAL & CO.; ALLIANT - CRYSTAL & CO.;
ALLIANT - CRYSTAL & CO.; ALLIANT - CRYSTAL & CO.; ALLIANT - CRYSTAL &
CO.; DEALER INSURANCE SERVICES; DIBUDUO & DENFENDIS INSURANCE
BROKERS; DOUGLAS MCCARTY INSURANCE; EMPLOYERS SELECT
INSURANCE SERVICES, INC.; EPIC; EPIC; ETG CONSULTING GROUP; FILICE;
FIRM FOUNDATION ADVISERS; FIRM FOUNDATION ADVISERS; GARDNER
FINANCIAL; HEFFERNAN INSURANCE SERVICES; HEFFERNAN INSURANCE
SERVICES; HOUSKA INSURANCE; HUB INTERNATIONAL, LTD.; INNOVATIVE
BROKER SERVICES; IRA FENSTER INSURANCE SERVICES, INC.; JAMES G.
PARKER INSURANCE ASSOCIATES; JAMES M. MORRISON INSURANCE
SERVICES, INC.; JEEWANJEE INSURANCE AGENCY; LEAVITT GROUP; LYNN
COMPANY; MARSH & MCLENNAN; NARVER INSURANCE AGENCY; NAVITAS
GROUP LLC; OLIVEIRA AG INS.; OLSON FINANCIAL SERVICES; PACIFIC AG
INSURANCE AGENCY, INC.; BRUCKER & MORRA, APC C/O PETER C. FOY &
ASSOCIATES; PRINTING INDUSTRIES ASSOCIATION OF SOUTHERN
CALIFORNIA, ATTN: INSURANCE DIVISION; PM INSURANCE SERVICES; POMS
& ASSOCIATES INSURANCE BROKERS, INC.; POMS & ASSOCIATES INSURANCE
BROKERS, INC.; PREFERRED BENEFIT SOLUTIONS; PROGRESSIVE BENEFIT
GROUP; QUOTEBROKER INSURANCE SERVICES, INC.; RBP INSURANCE
SERVICES, INC. D/B/A RBP INSURANCE FINANCIAL; SHAFFER INSURANCE
SERVICES, INC.; SUMMIT HEALTH INSURANCE SERVICES, INC. D/B/A SIMPLY
SUMMIT; TEVIS INSURANCE SOLUTIONS (A HUB COMPANY); THE HENEHAN
COMPANY; UNIQUE HR CALIFORNIA, LLC; INNOVA INSURANCE SOLUTIONS
INC.; UNITED AGENCIES BURBANK INSURANCE SERVICES, LLC D/B/A UNITED**

AGENCIES INC. INSURANCE; USI INSURANCE SERVICES LLC ; USI INSURANCE SERVICES ; VENBROOK INSURANCE SERVICES; WALTER MORTENSEN INSURANCE/INSURICA; W INSURANCE SERVICES, INC. D/B/A W BENEFITS; WHITAKER FINANCIAL SERVICES; WOOD GUTMANN & BOGART INSURANCE BROKERS; ZEIN INSURANCE SERVICES, INC.; WHITAKER FINANCIAL SERVICES; WOOD GUTMANN & BOGART INSURANCE BROKERS.

Case No. 521-02

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

The Secretary of Labor (“Secretary”), United States Department of Labor (“Department”), 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 CFR § 2560.521-1. Respondents are the operators¹ and agent-consultants² of a multiple employer welfare arrangement (MEWA) operated by three corporate entities that share common ownership and officers acting in concert: Riverstone Capital LLC; NexGen Insurance Services Inc.; and NGI Brokerage Services Inc. (the “Riverstone MEWA”).³ The MEWA is comprised of individual employer-sponsored ERISA-covered employee benefit plans (“Participating Plans”).

The Secretary has reasonable cause to believe that Respondents have engaged in conduct that is fraudulent and creates 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). In particular, the Department’s investigation has concluded, among other things, that:

- The Riverstone MEWA does not have the resources necessary to pay promised health

¹ For purposes of this Order, MEWA operators are defined as entities that: (1) recruit employers (either directly or using brokers), (2) bill and collect contributions from such employers, and (3) have discretionary authority to manage the MEWA, including funding claims and managing plan assets.

² For purposes of this Order, agent-consultants are defined as individuals or entities under contract with Riverstone to provide consulting services and market the Riverstone MEWA to employers and receive a commission for such groups that enroll in the Riverstone MEWA. The Order does not assume that these agent-consultants knowingly engaged in misconduct. Their marketing of the MEWA, however, creates an immediate danger to the public safety or welfare. The Respondent agent-consultants are necessarily covered by this Order to ensure effective relief under 29 CFR § 2560.521-1(c). This Order also puts the Respondents on clear notice of the immediate danger their continued marketing of the MEWA would present to the public generally and their customers in particular.

³ The Riverstone MEWA has been referred to in the past and present by many names, including but not limited to the Riverstone Insurance LLC PPO Plan, Riverstone Capital PPO Premium Health Plan, Precis Integrated Health Plan, Precis Plan, and Fortress.

claims. It currently appears to have \$24 million in unpaid claims, no reserves, and few assets. Because of its dangerous financial condition, it has stopped paying claims as they come due, taken on debt, and cherry picked the health claims that it pays.

- By failing to pay claims as they came due, Riverstone caused participants extreme harm in the form of unpaid medical bills, collection actions, having their credit scores negatively affected, and having providers notify them that they no longer accept coverage under Riverstone.
- Riverstone failed to conduct the prudent analysis necessary to ensure that its premium rates were adequate to fund promised benefits. Instead, it merely set premiums at the level necessary to undercut the Kaiser Permanente HMO, which it believed was the lowest cost fully-insured product on the market.
- Although Riverstone represented to employers that its premium rates were supported by an actuarial analysis from a qualified actuarial firm, Milliman (the only independent actuarial firm ever contracted to provide services) advised Riverstone that it did not have the claims data necessary to conduct such an analysis and, accordingly, did not conduct any such analysis.
- While setting its premiums lower than its legitimate competitors, without any proper analysis of its ability to pay promised benefits, Riverstone simultaneously diverted outsized amounts to fees and expenses. Approximately 40 to 45 percent of the premiums collected went to fees, including a 20 percent management fee, which Riverstone paid itself. Although Riverstone told employers that the management fee would act as a “reserve” if benefit claims outstripped premiums, Riverstone retained no reserves.
- Riverstone failed to hold the contributions made by participating employers and employees in trust as required by ERISA, but rather deposited the money in a common bank account, from which it took “fees” and “expenses” and paid all benefit claims. Riverstone also transferred at least \$200,000 of the assets to an account in the Cayman Islands.
- Through the common bank account, premiums from one employer were used to pay benefits for another, and Riverstone pooled employers’ claims risk.
- The Riverstone MEWA is not licensed to sell insurance in any of the thirteen states in which it conducts business, is not registered as a MEWA, and has yet to file a complete M-1 Form with the Department of Labor.
- After failing to file any Form M-1 from 2014 through 2018, as required by law, Riverstone finally filed an M-1 on January 29, 2019, after receiving a demand letter from the Department, but the form was substantially incomplete and, therefore, non-compliant. Riverstone failed to complete the required fields on its service providers, promoters, agents, actuaries, TPAs, persons with control over assets, state registration details, identification of states in which it operates, and all compliance questions.

- The Riverstone MEWA and its agents have engaged in fraudulent conduct by misrepresenting the MEWA's solvency and ability to pay claims, suggesting that it is providing a fully insured product, and misstating its legal status as a MEWA or insurance company.
- For all the reasons set forth above, the ongoing marketing and operation of the MEWA creates an immediate danger to the public safety and welfare and can be reasonably expected to cause significant, imminent, and irreparable public injury.

Respondents

- A. Respondent Riverstone Capital LLC; NexGen Insurance Services Incorporated; NGI Brokerage Services, Inc. (collectively, "Riverstone"); James C. Kelly; Travis O. Bugli; Robert M. Clarke; and Erik Manqueros are MEWA operators.
- B. Respondent 360 Risk Partners Insurance Solutions, Inc., is an agent-consultant. Bret Fair is the company's Founder & Managing Partner. They are located at 1101 Fulton Ave., Suite 204, Sacramento, CA, 95825 and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- C. Respondent Academy Benefits Insurance Agency, LLC, is an agent-consultant. Scott Brandt is the company's President. They are located at 23901 Calabaras Road, Suite 2024, Calabaras, CA, 91302, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- D. Respondent All Good Insurance Services, is an agent-consultant. John A. Swain is the President. They are located at 9159 Serenity Court, Suite 5, Orangevale, CA, 95662, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- E. Respondent American Alliance Insurance Brokers, LLC is an agent-consultant. Gary Whiddon is the company's Principal Owner & Managing Member. They are located at 31194 La Baya Drive, #201, Westlake Village, CA, 91362, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- F. Respondent Ames Grenz is an agent-consultant. Larrie Grenz is the company's CEO. They are located at 3435 American River Drive, Suite #C, Sacramento, CA, 95864, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- G. Respondent Ascent Advisers, LLC is an agent-consultant. Lawrence Hay is on the company's Board of Advisors. They are located at 822 Guilford Avenue, #633, Baltimore, MD, 21202, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

- H. Respondent Assured Partners Consulting is an agent-consultant. Michael Caparso is the company's President. They are located at 5985 Home Gardens Drive, Suite A, Reno, Nevada, 89502, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- I. Respondent Baldwin-Georgenton Ins., is an agent-consultant. Tamara Georgenton is the company's President. They are located at One Century Centre, 4200 Truxtun Ave # 102, Bakersfield, CA, 93309, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- P. Respondent BB&H Benefit Design, is an agent-consultant. Deborah Babineau is the company's Co-Owner & Founder. They are located at 109 East Victoria Street, Santa Barbara, CA, 93101, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- Q. Respondent Benefit Mall is an agent-consultant. Hadley Weiler is the company's Regional Vice President. They are located at 2301 Campus Drive, Suite 175, Irvine, CA, 92612, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- R. Respondent Benefits Administration & Insurance Services, is an agent-consultant. Glen Michael is the company's Principal. They are located at 11 Orchard Road Suite 100, Lake Forest, CA, 92630, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- S. Respondent Benefits Done Right is an agent-consultant. Laurie Rood is the company's Founder & CEO. They are located at 601 University Avenue, Suite 250, Sacramento, CA, 95825, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- T. Respondent Benefits Exchange Alliance Los Angeles (BXA LA) is an agent-consultant. Robert Roof is the company's President. They are located at 23716 Birtcher Drive, Lake Forest CA 92630, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- U. Respondent Benefits Planning Service is an agent-consultant. Ray Brown is the company's Senior Partner. They are located at 1200 Quail Street, Suite 105, Newport Beach, CA, 92660, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- V. Respondent Beneflex Insurance Services, LLC is an agent-consultant. Danile Cattaneo is the company's Managing Partner. They are located at 101 West Anapamu Street, 3rd Floor, Santa Barbara, CA, 93101, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

- W. Respondent Bolton & Co. is an agent-consultant. Steve Brockmeyer is the company's President and CEO. They are located at 3475 E Foothill Blvd, Pasadena, CA, 91107-6024, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- X. Respondent Bridgeport Benefits is an agent-consultant. Wayne Blasman is the company's President. They are located at 5210 Lewis Road, Suite 14, Agoura Hills, CA, 91301, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- Y. Respondent CBIZ, Inc. is an agent-consultant. Jerome Grisko is the company's President. They are located at 6050 Oak Tree Blvd., South, Suite 500, Cleveland, OH 44131, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- Z. Respondent Champion Risk & Insurance Services is an agent-consultant. Mark Raby is the President. They are located at 12250 El Camino Real, Suite 375, San Diego, CA, 92130, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- AA. Respondent Clark and Associates is an agent-consultant. Valerie Clark is the company's President. They are located at 5470 Reno Corporate Dr., Reno, NV, 89511, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- BB. Respondent Collaborative Insurance Solutions is an agent-consultant. Edward Eybsen is the company's Principal & CEO. They are located at 601 East Daily Drive, Camarillo, CA, 93010, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- CC. Respondent Combined Benefits Inc. is an agent-consultant. Donny Woo is the company's CEO. They are located at 3 pointe Dr., Suite 203, Brea, CA, 92821 and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- DD. Respondent CorpStrat Benefits is an agent-consultant. Matthew Taylor is the company's Principal. They are located at 21021 Ventura Boulevard, #200, Los Angeles, CA, 91364, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- EE. Respondent Alliant Insurance Services, Inc. is an agent-consultant. Jennifer Baumann is the company's general counsel. They are located at 701 B. St., 6th Floor, San Diego, CA 92101, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- FF. Respondent Dealer Insurance Services is an agent-consultant. Sally Saade-Spaide is the managing director. They are located at 23151 Verdugo Drive, Ste. 205, Laguna

Hills, CA, 92653, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

GG. Respondent Douglas-McCarty Insurance Services, LLC is an agent-consultant. Douglas Smith is a Principal. They are located at 931 Calle Negocio, Suite J, San Clemente, CA 92673, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

HH. Respondent Dibuduo & Denfendis Insurance Brokers is an agent-consultant. Matt Defendis is a Principal. They are located at 6873 N. West Avenue, Suite 101, Fresno, CA 93711, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

II. Respondent Employers Select Insurance Services, Inc. is an agent-consultant. Shannon Zaject is the managing partner. They are located at 5701 Lonetree Blvd., #305, Rocklin, CA 95765, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

JJ. Respondents EPIC Insurance Brokers & Consultants, and Integro Benefits/Integro Holdings, Inc., have been acquired by and/or are operating as divisions or subsidiaries of EPIC Holdings, Inc., an agent-consultant. John Hahn is the Chief Executive Officer. They are located at 425 California Street, Suite 2400, San Francisco, CA 94104, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

KK. Respondent Heffernan Insurance Services, Inc. is an agent-consultant. F. Michael Heffernan, III is the President and Chief Executive Officer. They are located at 1350 Carlback Avenue, Suite 200, Walnut Creek, CA 94596, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

LL. Respondent Gardner Financial, LLC is an agent-consultant. Kate Gardner is the President. They are located at 4054 Hawthorne Circle, Longmont, CO 80503, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

MM. Firm Foundation Advisers is an agent-consultant. Jason Poling is a partner. They are located at 92 Argonaut, Ste. 275 and 280, Aliso Viejo, CA 92656, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

NN. Respondent ETG Consulting Group is an agent-consultant. Ernesto Gonzalez is the President. They are located at 310 James Way, Suite 180, Pismo Beach, CA, 93449, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

OO. Respondent Filice Insurance Agency is an agent-consultant. Ron Filice is the President & CEO. They are located at 738 North First Street, San Jose, CA, 95112, and are currently marketing and collecting enrollment applications for the Riverstone

MEWA.

PP. Respondent ETG Consulting Group is an agent-consultant. Ernesto Gonzalez is the President. They are located at 310 James Way, Suite 180, Pismo Beach, CA, 93449, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

QQ. Respondent Houska Insurance is an agent-consultant. Kim J. Houska is the President. They are located at 1230 Rosecrans Ave., Suite 260, Manhattan Beach, CA, 90266, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

RR. Respondent Hub International, Ltd. is an agent-consultant. Marc I. Cohen is the President & CEO. They are located at 300 N. LaSalle, 17th Floor, Chicago, IL, 60654, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

SS. Respondent Innovative Broker Services is an agent-consultant. Thomas Avery is the President & Founder. They are located at 1847 Iron Point Rd., Suite 120, Folsom, CA, 95630, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

TT. Respondent Ira Fenster Insurance Services, Inc. is an agent-consultant. Ira Fenster is the CEO. They are located at 2736 Claray Drive, Los Angeles, CA, 90077, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

UU. Respondent James G. Parker Insurance Associates is an agent-consultant. James G. Parker III is the President (Owner & CEO). They are located at 1753 E. Fir Ave., Fresno, CA, 93720, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

VV. Respondent James M. Morrison Insurance Services, Inc. is an agent-consultant. James Morrison is the President. They are located at 6096 Innovation Way, Carlsbad, CA, 92009, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

WW. Respondent Jeewanjee Insurance Agency is an agent-consultant. Zain Jeewanjee is the CEO. They are located at 1494 Hamilton Avenue, #101, San Jose, CA, 95125, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

XX. Respondent Leavitt Group is an agent-consultant. Ross Pendergraft is the Vice President of Employee Benefits. They are located at 21820 Burbank Boulevard., North Building Suite 300, Woodland Hills, CA, 91367, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

YY. Respondent Lynn Company is an agent-consultant. Bruce Lynn is the CEO. They are located at 3761 Bernard St., Bakersfield, CA, 93306, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

ZZ. Respondent Marsh & McLennan is an agent-consultant. Sam Quigley is the Managing Director. They are located at 1 Polaris Way, Suite 300, Aliso Viejo, CA, 92656, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

AAA. Respondent Narver Insurance Agency is an agent-consultant. Wesley Hampton is the President. They are located at 641 W. Las Tunas Dr., San Gabriel, CA, 91776, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

BBB. Respondent Navitas Group LLC is an agent-consultant. Jamie Wagenbach is the President. They are located at 2716 Ocean Park Boulevard, Suite 1045, Santa Monica, CA, 90405, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

CCC. Respondent Oliveira Ag Ins. is an agent-consultant. Randy Oliveira is the Broker. They are located at 12446 Fargo Ave., Hanford, Ca, 93230, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

DDD. Respondent Olson Financial Services is an agent-consultant. Kim Olson is the Owner. They are located at 24307 Magic Mountain Parkway, Santa Clarita, CA, 91355, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

EEE. Respondent Pacific Ag Insurance Agency, Inc. is an agent-consultant. Jimmy Heskett is the President. They are located at 1171 North 11th Avenue, Hanford, CA, 93230, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

FFF. Respondent Peter C. Foy & Associates is an agent-consultant. Peter C. Foy is the Chairman & Chief Executive Officer. They are located at 10866 Wilshire Blvd., 10th Floor, Los Angeles, CA, 90024, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

GGG. Respondent Printing Industries Association of Southern California, Insurance Division is an agent-consultant. Lou Caron is the President & CEO. They are located at 5800 S Eastern Ave., Ste. 400, Commerce, CA, 90040, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

HHH. Respondent PM Insurance Services is an agent-consultant. Pedro Montelongo is the President. They are located at 1120 Pico Street, San Fernando, CA, 91340, and are currently marketing and collecting enrollment applications for the Riverstone

MEWA.

- III. Respondent Poms & Associates Insurance Brokers, Inc. is an agent-consultant. David Poms is the President. They are located at 5700 Canoga Avenue, Suite 400, Woodland Hills, CA, 91367, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- JJJ. Respondent Poms & Associates Insurance Brokers, Inc. is an agent-consultant. Cara Rhyner the Senior Vice President. They are located at 2408 Professional Drive, Suite 100, Roseville, CA, 95661, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- KKK. Respondent Preferred Benefit Solutions is an agent-consultant. Rick Boscarino is the President. They are located at 940 Enchanted Way, #102, Simi Valley, CA, 93065, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- LLL. Respondent Progressive Benefit Group is an agent-consultant. Cori Charters is the Chief Executive Officer. They are located at 9035 Soquel Avenue, Suite 200, Santa Cruz, CA, 95062, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- MMM. Respondent QuoteBroker Insurance Services, Inc. is an agent-consultant. Vincent Pappadato is the President & Chief Executive Officer. They are located at 25050 Avenue Kearny, #102, Valencia, CA, 91355, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- NNN. Respondent RBP Insurance Services, Inc. d/b/a RBP Insurance Financial is an agent-consultant. Rob Piscitello is the President. They are located at 25115 Avenue Stanford #B124, Valencia, CA, 91355, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- OOO. Respondent Shaffer Insurance Services, Inc. is an agent-consultant. Linda Shaffer is the Chief Financial Officer. They are located at 902 East Avenue Q-9, Palmdale, CA, 93550, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- PPP. Respondent Summit Health Insurance Services, Inc. d/b/a Simply Summit is an agent-consultant. Ronda Herman is the President & Chief Executive Officer. They are located at 4196 Douglas Blvd. Ste. #200, Granite Bay, CA, 95746, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.
- QQQ. Respondent Tevis Insurance Solutions (a HUB Company) is an agent-consultant. Ryan Lloyd is the Chief Operations Officer. They are located at 970 Reserve Drive #200, Roseville, CA, 95678, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

RRR. Respondent The Henehan Company is an agent-consultant. Joseph E. Henehan is the President & Chief Executive Officer. They are located at 685 East Carnegie Drive Suite 205, San Bernardino, CA, 92408, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

SSS. Respondent Unique HR California, LLC is an agent-consultant. Gary Bradford is the President & Chief Executive Officer. They are located at 696 San Ramon Valley Boulevard, #153, Danville, CA, 94526 and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

TTT. Respondent Innova Insurance Solutions Inc. is an agent-consultant. Terrence Lin is the President. They are located at 1930 S. Brea Canyon Rd., Ste. 200, Diamond Bar, CA, 91765, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

UUU. Respondent United Agencies Burbank Insurance Services, LLC d/b/a United Agencies Inc. Insurance is an agent-consultant. Jeff Ramirez is the Partner & President. They are located at 100 North 1st Street Ste. 301, Burbank, CA, 91502, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

VVV. Respondent USI Insurance Services LLC is an agent-consultant. Andrew Skillen is the Chief Executive Officer. They are located at 21250 Hawthorne Blvd., Ste. 600, Torrance, CA, 90503, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

WWW. Respondent USI Insurance Services is an agent-consultant. Mike Sicard is the Chief Executive Officer. They are located at 100 Summit Lake Drive, Ste. 400, Valhalla, NY, 10595, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

XXX. Respondent Venbrook Insurance Services is an agent-consultant. Jason D. Turner is the President & Chief Executive Officer. They are located at 6320 Canoga Avenue, 12th FL, Los Angeles, CA, 91367, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

YYY. Respondent Walter Mortensen Insurance/INSURICA is an agent-consultant. Ron Burcham is the President. They are located at 8500 Stockdale Highway Suite 200, Bakersfield, CA, 93311, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

ZZZ. Respondent W Insurance Services, Inc. d/b/a W Benefits is an agent-consultant. Jeff Watt is the Principal. They are located at 3035 Calle Frontera, San Clemente, CA, 92673, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

AAAA. Respondent Whitaker Financial Services is an agent-consultant. Patrick Whitaker is the President. They are located at 1276 Lincoln Avenue, #202, San Jose, CA, 95125, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

BBBB. Respondent Wood Gutmann & Bogart Insurance Brokers is an agent-consultant. Kevin Bogart is the CEO. They are located at 15901 Red Hill Avenue, Tustin, CA, 92780, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

CCCC. Respondent Zein Insurance Services, Inc. is an agent-consultant. Hisham Elzein is the President. They are located at 21800 Oxnard St., Suite 170, Woodland Hills, CA, 91367, and are currently marketing and collecting enrollment applications for the Riverstone MEWA.

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 CFR § 2560.521-1. This authority applies to a 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 CFR § 2560.521-1(b)(1).

The Riverstone MEWA 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. Although the MEWA operators claim that they merely provided aggregated services to separate, self-insured employer plans, in operation the plan assets of each participating employer were commingled and administered collectively. Accordingly, the Riverstone MEWA is a MEWA as defined by ERISA. 29 U.S.C. § 1002(40). As a MEWA, the arrangement is fully subject to state laws and regulations, as long as those laws and regulations are "not inconsistent" with ERISA. 29 U.S.C. § 1144(b)(6)(A)(ii).

The Riverstone MEWA offers medical benefits to employees of approximately 112 participating employers through 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).⁴

Therefore, the Riverstone MEWA meets the definition of a MEWA under 29 CFR § 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.

⁴ Several non-ERISA-covered employers also participated in the MEWA. This Order is only intended to restrain conduct related to the marketing and administration of the MEWA to ERISA Covered plans.

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 29 CFR § 2560.521-1(b)(2), (3), and (4). 29 CFR § 2560.521-1(c)(1)(i)(A)-(C). Even a "single act or omission" may serve as the basis for such an order. 29 CFR § 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, finds, pursuant to an investigation of the Riverstone MEWA, that there is reasonable cause to believe that Respondents' conduct was fraudulent and creates an immediate danger to the public safety or welfare.

1. Background.

Riverstone is owned by Respondents James Kelly ("Kelly"), Travis Bugli ("Bugli"), and Robert Clarke ("Clarke"), who are also the main individuals in charge of operating the Riverstone MEWA ("Riverstone principals"). Riverstone's business concept was to offer low-cost medical benefits by setting premiums lower than the Kaiser Permanente HMO, which it believed was the lowest cost fully-insured product on the market.

Riverstone oversaw this arrangement by, among other things, hiring brokers to market coverage to prospective employer clients and hiring third party claims administrators ("TPAs") Hawaii Mainland Administrators ("HMA") and S&S Healthcare Strategies, Ltd. ("S&S") to process claims. Each of these entities had contracts directly with Riverstone, and Riverstone paid them for their services. Once an employer agreed to participate in the Riverstone MEWA, a broker worked with the TPA to help the employer apply for coverage. After approving the application, Riverstone required employers to sign administrative service agreements with the TPAs (either HMA or S&S), which were generally similar for all employer clients. The TPAs then sent employers largely identical plan documents, which often went unsigned by the participating employers. Until around early 2018, Riverstone did not directly contract with its employer clients on a widespread basis.

Each month, Riverstone sends each of the Participating Plans an invoice detailing the level-set premium amount owed to the Riverstone MEWA. The employers then pay premiums to Riverstone. The premiums include both employer and employee contributions, and commonly did not vary between employers, regardless of size. Riverstone established employer premium rates and guaranteed the rates for up to two years for some clients. Premiums were sent, usually electronically by ACH, from employer clients to Riverstone's corporate bank account. Riverstone principals then transferred funds into other accounts, all held in Riverstone's name. Riverstone collected premiums from over 100 participating employers, commingled the assets, and never held the funds in trust.

Around July 2018, Riverstone directed the TPAs to create some separate bank accounts in the name of individual employers. However, these do not qualify as trusts because premiums were still sent to Riverstone's general bank account (ending in 5003) and Riverstone generally only sent amounts for approved claims directly to these separate accounts as pass-through accounts. That is, these pass-through accounts did not hold all the premium amounts remitted by a Participating Plan and only kept enough to pay the approved claims that Riverstone had decided to fund. Thus, premium payments that were plan assets remained commingled in Riverstone's general account and were not held for the exclusive benefit of each individual plan's participants.

Riverstone also collected a 20% management fee from all premiums. Coupled with TPA, broker, and other services, fees totaled approximately 40-45% of premiums collected, leaving only 55-60% of premiums to pay employee medical claims. Riverstone retained its 20% management fee as a "reserve" which it claimed would be put at risk in the event an employer's claims exceeded its premiums paid after expenses. Riverstone's fee was not clearly disclosed to employer clients until Riverstone began entering into client service agreements.

Riverstone grossly underestimated the funds needed to pay medical claims. Starting in at least January 2018, one TPA noticed that Riverstone was delaying payment of approved medical claims, which were processed by TPAs but could only be paid after being authorized and released by Riverstone officials. Riverstone began "cherry picking" which claims to pay and those payments, when made, were delayed an average of six to eight weeks. Riverstone used one employer's premiums to pay the claims of another, as the assets of all Participating Plans were commingled together. Several participants have had unpaid medical claims sent to collections and several others have been threatened with loss of coverage due to nonpayment.

Between December 2017 and August 2018, Riverstone took out eight cash advances and high interest loans to pay unpaid medical claims and Riverstone's operating expenses. Interest rates on some of these loans ranged from 30-50% and many were taken using accounts receivable, in the form of future premiums to be collected from employers, as collateral. The total amount due on these loans as of December 2018 was approximately \$2.3 million.

Riverstone has recently attempted to correct its underfunding by dramatically increasing premiums for employer clients regardless of whether they are up for renewal. In addition, a broker for approximately one-third of Riverstone's clients and approximately one half of the people covered by Riverstone has recommended that its clients leave the MEWA. This highlights the urgency of this order because the arrangement is on the verge of collapse.

2. The evidence establishes that the agents of the Riverstone MEWA 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). 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 Riverstone MEWA and its agents engaged in deceptive acts with respect to the design and the financial condition of the MEWA.

**a. Misrepresentations about the Financial Condition of the MEWA
(including the MEWA's solvency and the management of plan assets)-- 29
CFR § 2560.521-1 (b)(2)(i)(A).**

Riverstone engaged in a pattern and practice of misrepresenting the financial condition and financial management of the MEWA.

For example, Riverstone represented to brokers who marketed the coverage that Milliman, an actuarial firm, had conducted a study that supported the premium rates set by Riverstone. A June 21, 2018 PowerPoint presentation by Riverstone stated: "We recently contracted with Milliman & Robertson, a leader in actuarial consulting since 1947, to perform an Actuarial Study. The results of the Study supported our offered rates and the viability of our product." Similarly, in an interview with the Department on October 4, 2018, Kelly indicated that Milliman conducted an actuarial analysis in June 2017. These statements were not accurate. Milliman never completed a final actuarial study, and certainly not one that supported any rates set by Riverstone.

Riverstone also provided false assurances that it maintained adequate reserves to protect participants. In a presentation given by Clarke to a broker firm on May 1, 2017, Riverstone stated that, with respect to exposures and risks to the client employer, Riverstone kept its own reserves to indemnify employer groups if they took losses during a calendar year. Additionally, in a January 25, 2018 presentation by Clarke to brokers, Riverstone stated that 20% of the premium was allocated to reserves. However, Riverstone did not keep any specific reserves to indemnify employer groups. In an interview with the Department, Riverstone's Controller, Louise Gold ("Gold"), stated that Riverstone did not maintain any reserves, either cash or otherwise budgeted, to pay claims.

Riverstone also made misrepresentations as to the reasons claim payments were delayed. In communications with client employer groups, Riverstone representatives would say that claim delays were the result of Riverstone's detailed review of all claims or were the fault of the MEWA's TPAs. Riverstone failed to disclose that these delays were, in fact, caused by Riverstone's purposeful delay in payments resulting from its cash-flow problems.

Finally, Riverstone failed to disclose its deteriorating financial position to employer clients, even as unpaid claims continued to mount, increasing to approximately \$24 million by the end of December 2018. Riverstone has not disclosed to the employer clients the problems with paying claims, the lack of reserves, the delays in funding claims, or the cash advances. As recently as February 1, 2019, Bugli has continued to represent to at least one employer that the MEWA is not in financial trouble.

b. Misrepresentations about the Management, Control, or Administration of the MEWA -- 29 CFR § 2560.521-1 (b)(2)(i)(C).

Riverstone provided inconsistent and misleading information that caused employers to believe that the product provided the same benefits and protections as a fully insured product. For example, Riverstone's old website referenced offering "comprehensive health insurance coverage" with "guaranteed issue and composite premium rates that are very affordable." Further, in materials that Riverstone provided to at least one client employer, Riverstone repeatedly represented that it offered "health insurance coverage" to groups and had created a "private exchange providing affordable health insurance coverage." Riverstone identified itself as a "private insurance company."

In fact, Riverstone was not licensed as an insurance issuer in any of the 13 states in which it did business. Riverstone also represented that it had procured contracts with "several large unions" and groups. The Department found no evidence that large unions had ever signed onto the Riverstone MEWA.

c. Misrepresentations about the Existing or Lawful Regulatory Status of the MEWA under Federal or State Law. 29 CFR § 2560.521-1 (b)(2)(i)(D).

Riverstone also made a number of false or misleading statements that were intended to disguise the fact that it operated as an unlicensed California MEWA, fully subject to state law. For example, Riverstone told the Department that it was merely a service provider to its employer customers, each of which separately maintained individual employer plans. Thus, in a December 18, 2018 letter to the Department, Riverstone represented that it was not a MEWA for the following reasons:

Riverstone offers advice and services to employers to allow them to establish and sponsor their own individually self-funded single employer plans to provide health care benefits for their respective employees. Those benefits are paid from the general assets of each individual employer and, if applicable, their employees' contributions. The contributions and assets of employers who utilize Riverstone's services are not pooled or commingled.

(Emphasis added). These statements are misleading and inaccurate. While a participating employer's premium payments may originate from the employer's general accounts, once the premiums were sent to Riverstone, the plan assets were in fact pooled and commingled and were held and maintained in a common bank account. Furthermore, Riverstone's Controller admitted that surplus funds of one employer have been used to pay the shortfall of another employer when claims and other expenses have exceeded contributions.

Riverstone also maintained on its website for years information indicating that it intended to register as a California MEWA. However, Riverstone did not attempt to register as a California MEWA. Nor did it come into compliance with California state rules that would be a necessary pre-requisite to be certified as a MEWA, such as obtaining certified financial statements and conducting actuarial studies.

2. The evidence establishes that the conduct of the MEWA creates an immediate danger to the public safety and welfare and is causing or can be reasonably expected to cause significant, imminent, and irreparable public injury

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 the Riverstone MEWA's management has already impaired, and threatens to further impair, its ability to pay the claims of its participants and beneficiaries, posing a serious, ongoing threat to public safety and welfare. Thus, § 521(a) of ERISA and 29 CFR § 2560.521-1(b)(3) provide an independent basis for a cease and desist order against the Respondents. Respondents' continued conduct as agents of the Riverstone MEWA soliciting new employers to participate in the MEWA poses a serious threat to the welfare of employers and their employees.

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 CFR § 2560.521-1 (b)(3). The regulation specifically states that the following examples meet the standard for creating an immediate danger to public safety or welfare:

- "a systematic failure to properly process or pay benefit claims";
- "a substantial failure to meet applicable disclosure, reporting, and other filing requirements, including the annual reporting and registration requirements under sections 101(g) and 104 of ERISA";
- "failure to establish and implement a policy or method to determine that the MEWA is actuarially sound with appropriate reserves and adequate underwriting,"; and
- "failure to hold plan assets in trust."

29 CFR § 2560.521-1 (b)(3). While any one of these examples provide a basis for a cease and desist order on their own, the evidence establishes that all of these examples are present here.

a. Systematic Failure to Properly Process or Pay Benefit Claims

The evidence supports that the Riverstone MEWA has systematically failed to properly process thousands of claims by participants and beneficiaries, leading to widespread nonpayment of benefits as well as considerable financial and personal hardships for the Riverstone MEWA's participants and beneficiaries. E-mails and other communications between the Respondents, brokers, and TPAs, show that client employers and their employees have made many complaints over the course of the last year regarding the Riverstone MEWA's operations. These complaints reveal systematic lapses in the Riverstone MEWA's handling of claims since at least late 2017. Riverstone delayed payment an average of six to eight weeks after claims were processed, with some claim payments delayed up to six months or more.

The amount of the Riverstone MEWA's unpaid claims has grown rapidly. As of December 27,

2018, the Riverstone MEWA had accumulated approximately \$24 million in processed but unpaid claims, despite the fact that the Riverstone MEWA has no reserves and only collects approximately \$4-6 million in premiums per month. Of this \$24 million in unpaid claims, \$7.3 million was attributable to claims processed by HMA and \$16.9 million was attributable to claims processed by S&S. Based on claims detail from HMA, it appears that the amount of unpaid claims was steadily increasing, as the balance of unpaid claims processed by HMA increased from \$5.4 million on October 8, 2018 to \$7.3 million on December 27, 2018.

The evidence supports that the failure to pay claims is due in part to Riverstone's failure to prudently set premium contribution rates and Riverstone's collection of excessive and undisclosed fees from plan assets. During the period between January 1, 2018 and November 30, 2018, Riverstone incurred approximately \$72 million in total fees and expenses, including medical claims, but only billed premiums totaling approximately \$57.9 million, resulting in a shortfall of approximately \$14 million. Additionally, Riverstone used approximately 45% of the \$57.9 million in premiums to pay administrative expenses, including Riverstone's 20% management fee, TPA fees, broker commissions, and network fees. All together, the fees totaled approximately \$26.5 million, leaving only 55% of premiums available to pay claims. With Riverstone paying significantly more in expenses than it receives in premiums, the Riverstone MEWA is unable to function properly and is causing immense and irreparable harm to the Participating Plans' participants.

Despite these unpaid claims, Riverstone continued to enroll new employers in the Riverstone MEWA without advising them of the Riverstone MEWA's delay in or inability to pay claims to these Participating Plans.

b. Substantial Failure to File Form M-1

Riverstone failed to meet applicable reporting requirements under ERISA § 101(g). Specifically, Riverstone failed to file any Form M-1 (Report for Multiple Employer Welfare Arrangements) from 2014 through 2017. After receiving a written request for information from the Department in December 2018, Riverstone initially represented that it was not a MEWA and was not subject to Form M-1 reporting requirements. On January 18, 2019, the Department issued a second letter to Riverstone identifying Riverstone as a MEWA and demanding that Riverstone file a Form M-1 within 10 days. On January 29, 2019, Riverstone filed an incomplete 2018 Form M-1. It contained only minimal information - Riverstone's name, phone number, and address; the dates of the plan year; Riverstone's EIN; identification as a non-plan MEWA; and Bugli's identification as administrator, signature, and email address. All other information was missing - including service providers, promoters, agents, actuary, TPA, persons with control over assets, state registration details, identification of states in which the MEWA operates, and all compliance questions.

c. Lack of Actuarial Support for Rates

Riverstone set its initial 2014 premium rates for employers without any supporting actuarial analysis. Controller Gold indicated that Bugli set the premium rates, even though he was not an actuary and had never worked as an actuary. Riverstone hired Milliman in November 2017 to

perform an actuarial analysis, but Milliman concluded in its preliminary analysis in January 2018 that it did not have sufficient data to understand the claims experience. Milliman never completed a final analysis and did not confirm whether the rates Riverstone charged to clients were actuarially sound. In a written response to the Department, Riverstone confirmed that it had not engaged any other actuarial firms other than Milliman. Despite this lack of actuarial support for the initial rates or re-rating of any group, Riverstone guaranteed its rates to clients for multiple years. In September 2018, Riverstone hired an in-house actuary, who by October 2018 had reviewed only 24 employer groups out of over 100. The in-house actuary rated groups by aggregating them into three groups based on size, and he recommended that Riverstone increase its premium rates, and represented that Riverstone had done so by 15%, on average. However, in January, 2019, employers began receiving notice of rate increases, some in excess of 50%, and they let the Department know they were seeking other coverage.

In addition, Riverstone did not maintain appropriate reserves. Controller Gold indicated in an interview that Riverstone did not maintain any reserves, either cash or otherwise budgeted, to pay claims. As of October 31, 2018, Riverstone had a total of approximately \$410,000 in all its accounts.

d. Failure to Hold Plan Assets in Trust and Transfer of Plan Assets to the Cayman Islands

In addition to creating an immediate danger to the public safety or welfare through the impairment of the Riverstone MEWA's ability to pay claims, the Riverstone MEWA also created an immediate danger to the public safety or welfare, by failing to hold plan assets of the Riverstone MEWA and Participating Plans in trust accounts within the United States. 29 CFR § 2560.521-1 (b)(3). The Riverstone MEWA's and Participating Plans' assets were not deposited in trust accounts in the name of the Riverstone MEWA or the name of any Participating Plans. Employers from Participating Plans sent contributions to Riverstone who deposited them into accounts it controlled at Bank of America, at which time the monies became plan assets. Riverstone transferred at least \$200,000 of plan assets to an account in the Cayman Islands.

3. Respondents

Riverstone contracts with multiple agent-consultants to market the Riverstone MEWA, providing them with plan and marketing materials and paying them agreed upon commissions ranging from 7% to 10% of employer contributions. Some agent-consultants working on behalf of Riverstone are still marketing the Riverstone MEWA to prospective clients, and/or enrolling new clients in the Riverstone MEWA. To the Department's knowledge, Riverstone has not requested that the agent-consultants disclose the Riverstone MEWA's problems with unpaid claims to these prospective employers or disclose the aggregate fees charged to participating employers in the Riverstone MEWA.

The agent-consultants and MEWA operators listed as Respondents have been marketing or operating the Riverstone MEWA, and/or collecting enrollment applications. Because the Riverstone MEWA currently has approximately \$24 million in unpaid medical claims, continued marketing and operation of the MEWA 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 13 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. Operating, promoting, marketing, or making any recommendation for enrollment in the Riverstone MEWA 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. Collecting enrollment applications for the Riverstone MEWA 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. Within 5 days of receipt of this Order, the Respondents must provide the Secretary with a sworn declaration, in writing, that they have complied and will continue to comply with this Order, as instructed in the enclosed affidavit.
- 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 Riverstone MEWA, neither Respondents nor their 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 Riverstone MEWA and any ERISA-covered employee benefit plans to which the Riverstone MEWA 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 CFR § 2560.521-l(e) and 29 CFR § 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 CFR § 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 designee and shall continue in full force and effect until further order by the Secretary or his 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 Riverstone MEWA or approves or endorses the continued operation of the Riverstone MEWA.
- 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 11th day of February, 2019.



Timothy D. Hauser
Deputy Assistant Secretary for Program Operations
Employee Benefits Security Administration