News Release

U.S. Department of Labor | Nov. 8, 2017

U.S. Department of Labor Obtains a Temporary Restraining Order to Protect Participants and Beneficiaries of Failing MEWA

Cease and Desist Order Issued to Prevent Continued Marketing of Plan

CHICAGO, IL – The U.S. Department of Labor obtained a temporary restraining order in the U.S. District Court for the Northern District of Illinois against AEU Holdings LLC and AEU Benefits LLC (collectively "AEU"), and Black Wolf Consulting Inc. The defendants failed to pay more than $26 million for participants' health benefit claims in the AEU Holdings LLC Employee Benefit Plan. For the first time, the Department has exercised its authority under Section 521 of the Employee Retirement Income Security Act (ERISA) to issue cease and desist orders to prevent further marketing of the plan.

The court ordered AEU and Black Wolf removed and barred from serving as fiduciaries or service providers to the individual employer plans that participate in the AEU Holdings LLC Employee Benefit Plan, a Multiple Employer Welfare Arrangement (MEWA) established by the defendants. The court also ordered two banks to freeze 14 bank accounts that were alleged to have plan assets in them.

The court's order immediately appointed an independent fiduciary to oversee the MEWA's operations, marshal and control the assets of the MEWA as it relates to the underlying participant plans, perform an accounting of the MEWA's financial position, and determine the MEWA's ability to pay outstanding participant health claims.

At its height, the MEWA covered approximately 14,000 participants and beneficiaries. These participants worked for more than 560 employers in 36 different states. Numerous participant complaints alerted EBSA to the existence of a systemic failure by the MEWA to pay medical claims.

Undertaken jointly by EBSA investigators in Chicago, Atlanta, and San Francisco, the investigation found that contributions from employers and employees – intended to pay for health coverage – were pooled and ultimately transmitted to offshore Bermuda accounts, established in connection with a purported insurance arrangement. The investigation also revealed that as of October 2017, the MEWA had more than $26 million in processed, but unpaid claims for medical services rendered to participants as far back as January 2016.

The complaint alleges that AEU and Black Wolf, which were acting as fiduciaries for the underlying ERISA-covered plans, violated several provisions of ERISA. Specifically, Black Wolf received unreasonable compensation and failed to disclose it to participating employers. The complaint also alleges that AEU paid itself and others unreasonable administrative fees and expenses from participating plans' assets, and failed to keep those assets in trust within the U.S.

Further, AEU and Black Wolf are alleged to have made material omissions to current and prospective participating employers regarding the MEWA's failure and its ability to pay claims, as well as the overall financially hazardous condition of the MEWA.

The independent fiduciary will work to negotiate and pay outstanding health claims and provide sufficient notice of the MEWA's termination, if such termination is deemed appropriate. This will allow participating employers and employees an opportunity to obtain new health coverage.

For persons seeking more information about this case, the independent fiduciary has set up the following website, http://www.receivermgmt.com/AEUBenefitPlan.htm. Participants should go to this webpage for current information. The Department urges members of the public to immediately contact EBSA at https://www.askebsa.dol.gov or 866-444-3272 if they are the targets of any sales pitches or marketing activities related to the AEU Plan.

Additionally, the Department has issued a cease and desist order that prevents sub-brokers and aggregators working on behalf of the MEWA from marketing it to prospective employers or from enrolling new employers. The Secretary has the 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 only to a MEWA, and the cease and desist order may be issued whenever the Secretary finds reasonable cause to believe, among other things, that the respondent(s) engaged in conduct that creates an immediate danger to public safety or welfare within the meaning of § 2560.521-1(b)(3). 29 C.F.R. § 2560.521-1(c)(1)(i)(B).

# # #

Media Contacts:

Scott Allen, allen.scott@dol.gov, 312-353-4727
Rhonda Burke, burke.rhonda@dol.gov, 312-353-6976

Case No. 1-17-cv-07931
Release 17-1478-CHI