



July 24, 2007

Department of Labor/EBSA
c/o Katherine Lewis
Via: e-ORI@dol.gov

Re: Protecting Future Benefits of American Workers

Dear EBSA:

In recent days, reports have been made by various law firms that full and clear disclosure of certain types or categories of relevant retirement plan fees, expenses, including revenue sharing, record keeping, administration, etc., has not been legally required. Refusal to disclose costs of individual services, bundled or not, may in fact force participants to unknowingly pay for services that may be unnecessary or even inappropriate given the objective of the plan. Because the Department of Labor and Congress are considering regulations that require specific disclosures which some believe may limit the ability of financial services firms to charge such fees, those law firms, on behalf of their clients' interests, assert that no such requirements existed previously, and they assert that the only necessary disclosure is the bundled expense ratio and not the specific expenses associated with specific services – including services that are optional.

For over fifteen years I have understood that full disclosure of relevant information to decision makers, whoever they may be, is a fundamental pre-requisite to prudent plan management. Now, many years later, the participants and beneficiaries I seek to protect are hearing rhetoric that regulators have never actually required such protections on their behalf. Yesterday, one participant legitimately asked; "If it is true that regulations have not required these protections in the past, how can we be sure regulators will protect our benefits in the future?" I do not believe that regulations, when taken together, have ever permitted obfuscation or withholding of relevant information. I believe this should also be the Department's stance on this matter.

In working to protect the future benefits of thousands of participants and beneficiaries, I would like to be able to reassure them that those efforts have not been in vain. Also, as a matter of public perception, it would be advisable for the Department of Labor to reassert its position in any regulation that it has always required full disclosure of all relevant information, including the disclosure of costs on a service-by-service basis as opposed to merely requiring a disclosure that lumps all costs together, to decision makers, whoever they may be. The costs (fees, revenue sharing, expenses, etc.) pay for specific services – and it is those services that must be measurable as appropriate and valuable, or not. If the recent rhetoric had any merit, one could interpret it as meaning that the retirement

industry gets to dictate to the market which services it will or will not purchase. Such an assertion is nonsense, and of course unacceptable. It is good that the Department is considering prospective clarifications, but those clarifications should not be made at the expense of legitimate pre-existing requirements.

Therefore, speaking on behalf of the participants within the plans for which I serve as fiduciary, and also on behalf of all American workers to the extent they do not have a voice, I urge the Department to reassure American workers that they have always sought to protect them in the past by stating that new regulations do not change the fact that all expenses associated with specific investment, administration, or record keeping services or functions, bundled or not, have always been required to be disclosed, irrespective of how they are ultimately reported on statements and reports (e.g. a simplified disclosure on participant statements), and will seek to protect them in the future; and that future clarifications of existing policy should not be taken to mean that participants' interests have previously been overlooked.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew D. Hutcheson", with a long horizontal flourish extending to the right.

Matthew D. Hutcheson
Independent Pension Fiduciary