NOTICE OF HEARING FOR COURT APPROVAL OF CLAIMS BAR AND INJUNCTION FOR MUTUAL EMPLOYEES BENEFIT TRUST IN *CHAO v. SLUTSKY ET AL.*

SUMMARY OF NOTICE

The Secretary of Labor, Elaine L. Chao (the "Secretary"), has reached an agreement with Defendants Jack Neiman, Adena Samowitz, Leonard Mandelbaum, and Tom Perez (the "Trustee Defendants") on the terms of a Proposed Partial Consent Order. The Trustee Defendants are the former trustees of the Mutual Employees Benefit Trust ("MEBT" or "the Fund"), an "employee benefit plan" within the meaning of ERISA § 3(1), 29 U.S.C. § 1002(1), and subject to coverage by ERISA pursuant to ERISA § 4(a), 29 U.S.C. § 1003(a). The Proposed Partial Consent Order has been filed in the United States District Court in the Eastern District of New York.

If approved by the United States District Court, this Proposed Partial Consent Order will result in the payment by National Union Fire Insurance Company of Pittsburgh, Pa. ("National Union") in the amount of $375,000 and the payment by the Trustee Defendants in the amount of $14,000 in settlement of the Secretary's claims against them. The total settlement amount is thus $389,000.

The Court-appointed Independent Fiduciary will distribute these funds (less the payment of any court-approved fees and expenses and penalties) to the former MEBT beneficiaries and providers who were owed money from MEBT after the Court's approval of a program of distribution of the assets ("Program").

The Court's entry of the Proposed Partial Consent Order is conditioned upon the Court's simultaneous approval of a Claims Bar and Injunction, which is also pending before this Court. The Order Approving Claims Bar and Injunction will be addressed at a public hearing at the United States District Court, 100 Federal Plaza, Central Islip, NY 11722, on February 11, 2009, at 8:30 a.m. (the "Hearing"). Notice of this Hearing is being provided to persons and entities that may be affected by the terms of the Order Approving Claims Bar and Injunction.

- **IF YOU WISH TO OBJECT TO THE BAR ORDER AND INJUNCTION, YOU MUST DO SO BY FEBRUARY 4, 2009 (SEE SECTION II, BELOW).**
- **IF YOU DO NOT WISH TO OBJECT TO THE BAR ORDER AND INJUNCTION, YOU DO NOT NEED TO TAKE ANY ACTION.**

These rights and options – and the deadlines to exercise them – are explained in this Notice.

I. FACTUAL SUMMARY

In November 2001, Elaine Chao, the Secretary of the Department of Labor (the "Secretary"), initiated litigation against the Trustee Defendants, as well as the following parties: Leonard Slutsky, Sharlene Slutsky, Clark Hower, MAA, MEBT, Financial Consultants Guild of America, Inc., American Employees Industrial Guild, Local 1, American Employees Industrial Guild, Local 2, Netscor, Inc, VCT Financial Services, Inc., Marketing Motivation Associates, Inc., Susan Fisher, and the New York Small Business Network.

The Secretary's Complaint alleges that the Fund suffered economic injury (the "Economic Injury") in the amount of approximately $2.2 million dollars, allegedly as a result of acts of some or all of the defendants, and that the defendants are liable, jointly and severally, for the Fund's Economic Injury.

Pursuant to a prior Partial Consent Order, entered by the Court on May 15, 2002, the Court appointed an independent fiduciary, David W. Silverman, Esq. to take over MEBT and wind up its affairs (the "Independent Fiduciary"). The Independent Fiduciary requested an all writs injunction so as to minimize the damage to the Fund participants and to maintain the status quo, and the Court granted his request. On June 20, 2007, Larry Magarik, Esq. replaced Mr. Silverman as the Independent Fiduciary of the MEBT.

In September of 2003, the Court entered a Partial Consent Order, fully resolving the matter with respect to Susan Fisher and the New York Small Business Network.

The Defendant Trustees and their insurer, National Union, have been engaged in ongoing negotiations with the Secretary, as a result of which they reached a settlement, subject to the Court's final approval, pursuant to which National Union will make payment in the amount of $375,000 and the Trustee Defendants will make payment in the amount of $14,000, in settlement of the Secretary's claims against them. The total settlement amount is thus $389,000.

II. COURT APPROVAL OF THE PROPOSED PARTIAL CONSENT ORDER AND CLAIMS BAR AND INJUNCTION

The Secretary and the Independent Fiduciary believe the Partial Consent Order and Claims Bar and Injunction are in the best interests of plan participants, plan beneficiaries and third-party service providers for the following reasons:

- It avoids the risk, delay and expense of what would be certain to be legally and factually complex litigation.
- It avoids the further expenditure of limited insurance funds in defense of the litigation.
- It streamlines the case against the remaining non-settling parties.
- It avoids the risk, cost and delay of appeals, if the Secretary is successful at the trial level.

The Partial Consent Order is conditioned on the Court's approval of a Claims Bar and Injunction, which is meant to prohibit the non-settling parties and others from bringing claims for contribution, indemnity or other similar claims against the Trustee Defendants or MAA. The Claims Bar and Injunction will prevent an ERISA plan participant or a third-party service

provider from bringing claims against the Trustee Defendants or MAA. The Claims Bar and Injunction also continues and makes permanent an existing All Writs Injunction barring any lawsuits by providers or others. The Claims Bar and Injunction is not valid or binding unless and until approved by the Court following a public hearing.

Persons who wish to express a view on whether Claims Bar and Injunction, and the terms of the Partial Consent Order in general, should be approved may appear at that Hearing or submit their views in writing to the Court and send a copy to the Independent Fiduciary. Those persons who wish to appear at the Hearing, without having submitted their views in writing, may do so, but are required to file an advance notification with the Court that such person(s) wishes to appear at the Hearing.

ALL WRITTEN MATERIALS AND NOTIFICATIONS OF AN INTENT TO APPEAR AT THE HEARING MUST BE FILED WITH THE COURT AT THE FOLLOWING ADDRESS NO LATER THAN FEBRUARY 4, 2009:

CLERK OF COURT, UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
REF: CHAO v. SLUTSKY ET AL., CV 01-7593 (SLT) (ETB)
225 CADMAN PLAZA EAST
BROOKLYN, NY 11201

III. PAYMENTS FROM THE SETTLEMENT ACCOUNT

If the Partial Consent Order and Claims Bar and Injunction are approved by the Court, the Independent Fiduciary will create a Settlement Account for the benefit of MEBT Beneficiaries and Providers (the "Settlement Account").

The Independent Fiduciary will, with the assistance of a new Court-approved Third Party Administrator, analyze and process claims and recommend to the Court a Program of distribution of remaining assets of the Settlement Account (the "Program"), after payment of all Court-approved fees and expenses, to beneficiaries. The Program will include a formula for the proportional, pro rata or other distribution of remaining assets to former MEBT beneficiaries who are owed money by the MEBT. It will be submitted to the Court upon notice to the parties to the action but without further notice to beneficiaries or providers. It will not provide for full reimbursement of all claims, because assets for a full reimbursement will not be available. Upon Court approval, the claims will be processed and paid in accordance with the Program by the Settlement Account in accordance with and under the supervision of the Independent Fiduciary and direction of the Court.

Once the Partial Consent Order is approved by the Court, any and all claims or actions against MEBT, its former fiduciaries, its former accountants, and the Independent Fiduciaries, will be barred and enjoined. The existing All-Writ Act Order dated July 8, 2002, barring any lawsuits by providers or others will be continued and made permanent.

Date: November 14, 2008.
Brooklyn, New York

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HONORABLE SANDRA TOWNES
UNITED STATES DISTRICT JUDGE

CHAO V. SLUTSKY
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CHAO v. SLUTSKY ET AL.

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