

October 20, 1975

Dear :

This is in reply to your communication forwarding a letter from concerning the reporting obligations of trade and professional associations under the Employee Retirement Income Security Act of 1974 (ERISA). Please accept my sincere apology for the delay in responding to your letter. The heavy volume of inquiries and regulations which must be promulgated under ERISA has made an earlier reply impossible.

The reporting and disclosure regulations promulgated August 15, 1975, (40 FR 34526 et. seq.) answer concern regarding the reporting requirements of trade or professional associations which are "passive" in the administration of welfare benefit plans.

Generally, an employee benefit plan which cannot be said to be "established or maintained by an employer or by an employee organization, or by both" is not covered by ERISA. The regulations attempt to clarify this by describing certain types of benefit plans which are not considered employee benefit plans under ERISA. Particularly relevant to focus of concern is section 2510.3-1(1) which describes certain group insurance programs which would not be employee benefit plans.

Limited exemptions are also permitted based on the assumption that many of the reporting requirements of Title I of ERISA are inappropriate as applied to small unfunded or totally insured welfare plans. For this reason, those plans with fewer than 100 participants, which could be overwhelmed by the expense and administrative burden of all the reporting and disclosure requirements, have been exempted. Section 2520.104-20 applies to welfare plans in which the employer has a direct relationship with the insurance company or the participants; section 2520.104-21 applies to welfare

P/OPINION 75-05

plans in which a trust or some other entity, such as a trade association, is used as a conduit to pay insurance premiums. Consequently, the reporting problem, as stated by            has been alleviated by the regulations in many cases.

The Department of Labor recognizes the danger of increasing the administrative burden on employee benefit plans, particularly small plans. As the August 15 regulations indicate, the Department is trying to avoid that danger as much as possible, consistent with the purpose of ERISA.

I trust this information will be helpful to you in replying to            .

Sincerely,