U.S. DEPARTMENT OF LABOR
Pension and Welfare Benefit Programs
Washington, D.C. 20216

MAR 13 1978

OPINION 78-5 A

Mr. Donald A. Dowdell 3(1)
Attorney 3(4)
Legal Division 3(5)
Office of Treasurer
State of Florida
Tallahassee, Florida 32304

Dear Mr. Dowdell:

This is in response to your letters of November 15, 1977, and December 19, 1977, requesting an advisory opinion regarding coverage under the Employee Retirement Income Security Act of 1974 (ERISA). Specifically, you ask whether the National Business Conference—Employee Benefit Association (NBC-EBA) is an employee welfare benefit plan within the meaning of section 3(1) of ERISA.

You advise that the Department of Insurance of the State of Florida does not consider NBC-EBA to be an employee welfare benefit plan or an employee organization within the meaning of ERISA. Therefore, your office believes that NBC-EBA is subject to the regulation of the State of Florida and that such regulation is not preempted by section 514 of ERISA. You included with your request copies of the articles of association and bylaws of NBC-EBA, a copy of the trust agreement, a copy of the EBS—1 filed by NBC-EBA, a specimen representative's agreement, and copies of plan certificates.

Based on our review of the information provided by your office, it is the opinion of the Department of Labor that NBC-EBA is not established or maintained by an employer or by an employee organization and that NBC-EBA is not an employee welfare benefit plan within the meaning of ERISA section 3(1).

Subsequent to your request, as you may be aware, a federal district court held in National Business Conference-Employee Benefit Association, et al. v. Howatt, C.A. No. 77—554, (D. Ore., December 27, 1977) that NBC-EBA is not an employee welfare benefit plan nor an employee organization within the meaning of ERISA.

This letter constitutes an advisory opinion under ERISA Procedure 76-1. Accordingly, this letter is issued subject to the provisions of the procedure, including section 10 thereof relating to the effect of advisory opinions.

Sincerely,

Fred W. Stuckwisch
Director
Office of Regulatory Standards
and Exceptions