

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

R. ALEXANDER ACOSTA, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

AEU BENEFITS, LLC,
AEU HOLDINGS, LLC,
BLACK WOLF CONSULTING, INC.,
SD TRUST ADVISORS, LLC,
and the AEU HOLDINGS, LLC
EMPLOYEE BENEFIT PLAN,

Defendants.

CIVIL ACTION NO.
1:17-cv-07931-JHL-SMF

Hon. Joan H. Lefkow
District Judge

Hon. Sheila Finnegan
Magistrate Judge

AEU HOLDINGS, LLC and AEU BENEFITS, LLC,

Defendants and Cross Plaintiffs,

v.

BLACK WOLF CONSULTING, INC.,

Defendant and Cross Defendant.

AEU HOLDINGS, LLC and AEU BENEFITS, LLC,

Defendants and Third-Party Plaintiffs,

v.

RODNEY MAYNOR, VERITAS PEO, LLC, JAMES
D'IORIO, CHARLES LAMANTIA, RICK WILSON,
WILSON BENEFIT SERVICES, LLC, TALL TREE
ADMINISTRATORS, LLC and DOES 1-20

Third-Party Defendants.

:
:
:

SECRETARY OF LABOR’S MOTION FOR LEAVE TO FILE HIS FIRST AMENDED COMPLAINT

Plaintiff, **R. ALEXANDER ACOSTA**, Secretary of Labor, United States Department of Labor (“the Secretary”), pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure (“FRCP”), respectfully moves for leave to file his first amended Complaint. The primary changes with the First Amended Complaint are the following:

1. Allege fiduciary violations of Title I of the Employee Retirement Income Security Act of 1974 (“ERISA”), as amended, 29 U.S.C. § 1001, et seq., against the following new defendants: (1) Rod Maynor (Counts I, III, IV, and V); (2) Stephen Satler (Counts I, II, and IV); (3) Steven Goldberg (Counts I, II, and IV); (4) Charles LaMantia (Counts I, VI, VII, and VIII); (5) James D’Iorio (Counts I, VI, VII, and VIII); (6) Veritas PEO, LLC (Counts I, VI, VII, and VIII); and (7) Veritas Benefits, LLC (Counts I, VI, VII, and VIII);
2. Allege additional fiduciary violations of Title I of ERISA against Defendant Black Wolf (Counts I and V);
3. Allege co-fiduciary liability under ERISA § 405(a) against: (1) Defendants AEU Benefits, LLC, and AEU Holdings, LLC (Count VII); (2) Stephen Satler (Count IV); (3) Steven Goldberg (Count IV); (4) Rod Maynor (Counts I and IV); and Veritas PEO, LLC, Veritas Benefits, LLC, James D’Iorio, and Charles LaMantia (Count I); and
4. Allege knowing participant violations under ERISA against (1) Wilson Benefit Services, LLC (Counts I, IV, and VIII); (2) WBS, LLC (Counts I, IV, and VIII); and (3) Donald R. Wilson (Counts I, IV, and VIII).

WHEREFORE, consistent with FRCP 15(a)(2), the Secretary respectfully seeks leave to file instant his First Amended Complaint, attached hereto as Exhibit A, and requests an order granting this motion. The legal and factual support for the Secretary's motion is set forth in the accompanying brief.

Respectfully submitted,

KATE S. O'SCANNLAIN

Solicitor of Labor

CHRISTINE Z. HERI

Regional Solicitor

/s/ Bruce C. Canetti

Bruce C. Canetti

Senior Trial Attorney

Martha P. Frydl

Trial Attorney

Brooke E. Worden

Trial Attorney

Attorneys for **R. ALEXANDER ACOSTA**,

Secretary of Labor, United States

Department of Labor, Plaintiff

P.O. ADDRESS:

U.S. Department of Labor

Office of the Solicitor

230 S. Dearborn St.

Room 844

Chicago, IL 60604

T: (312) 353-3271

F: (312) 353-5698

Canetti.bruce@dol.gov

Frydl.martha@dol.gov

Worden.brooke.e@dol.gov

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2018, a copy of the foregoing SECRETARY OF LABOR'S MOTION FOR LEAVE TO FILE HIS FIRST AMENDED COMPLAINT, accompanying brief, Notice of Motion, First Amended Complaint, and Proposed Order were served on the following parties via the Court's ECF system:

For Black Wolf Consulting, Inc.:

Joshua T. Buchman
J. Christian Nemeth
McDermott Will & Emery
444 W. Lake Street, Suite 4000
Chicago, IL 60606-0029

For AEU Holdings, LLC & AEU Benefits, LLC:

Tiffany S. Fordyce
Howard L. Mocerf
Greenberg Traurig, LLP
77 West Wacker Dr., Suite 3100
Chicago, IL 60601

For SD Trust Advisors, LLC:

Terrence P. Canade
Andrea Verney
Locke Lord LLP
111 S. Wacker Drive
Chicago, IL 60606

For the Independent Fiduciary:

J. Graham Matherne
Andrew J. Pulliam
Wyatt, Tarrant & Combs, LLP
333 Commerce Street, Suite 1400
Nashville, TN 37201

/s/ Bruce C. Canetti
BRUCE C. CANETTI
Senior Trial Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

-----:
R. ALEXANDER ACOSTA, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

**AEU BENEFITS, LLC, AEU HOLDINGS, LLC,
BLACK WOLF CONSULTING, INC.,
JAMES D'IORIO, STEVEN GOLDBERG,
CHARLES LAMANTIA, ROD MAYNOR,
SD TRUST ADVISORS, LLC,
STEPHEN SATLER,
VERITAS BENEFITS, LLC, VERITAS PEO, LLC,
WILSON BENEFIT SERVICES, LLC,
WBS, LLC, DONALD R. WILSON,
and the AEU HOLDINGS, LLC
EMPLOYEE BENEFIT PLAN,**

Defendants.

-----:
AEU HOLDINGS, LLC and AEU BENEFITS, LLC,

Defendants and Cross Plaintiffs,

v.

BLACK WOLF CONSULTING, INC.,

Defendant and Cross Defendant.

-----:
AEU HOLDINGS, LLC and AEU BENEFITS, LLC,

Defendants and Third-Party Plaintiffs,

v.

CIVIL ACTION NO.

1:17-cv-07931-JHL-SMF

Hon. Joan H. Lefkow
District Judge

Hon. Sheila Finnegan
Magistrate Judge

4. When ERISA's strict fiduciary standards are not met, the Secretary has the authority to seek relief under ERISA §§ 409 and 502(a)(2) and (5), 29 U.S.C. §§ 1109 and 1132(a)(2) and (5), to restore plan losses, to recover unjust profits, and to obtain other remedial and equitable relief. The Secretary may also seek to enjoin a breaching fiduciary from acting as a fiduciary or service provider to employee benefit plans in the future.

BACKGROUND

5. Defendants **AEU HOLDINGS, LLC** ("AEU Holdings"), **AEU BENEFITS, LLC** ("AEU Benefits"), and officers **STEPHEN SATLER** and **STEVEN GOLDBERG** (collectively, "AEU Defendants"); **VERITAS PEO, LLC**, **VERITAS BENEFITS, LLC**, and owners **CHARLES LAMANTIA** and **JAMES D'IORIO** (collectively, "Veritas Defendants"); and **BLACK WOLF CONSULTING, INC.**, and owner **ROD MAYNOR** (collectively, "Black Wolf") operated a multiple employer welfare arrangement ("MEWA") to provide health and welfare benefits for employer-sponsored ERISA-covered employee benefit plans. As set forth more fully below, the defendants listed in this paragraph were fiduciaries with control over the plan assets and management of at least 261 ERISA-covered plans participating in the MEWA ("Participating Plans").

6. Contributions received from the Participating Plans were pooled together as part of the MEWA for purposes of paying participant and beneficiary claims. The contributions were pooled in at least two offshore accounts in Bermuda ("Bermuda Accounts") that were controlled by the AEU Defendants.

7. As a result of the defendants' fiduciary breaches, alleged more fully below, the assets of the Participating Plans were used to pay excessive, undisclosed fees and expenses to the

defendants, other service providers, and re-insurance providers retained to provide services to the Participating Plans through the MEWA. Due to the considerable amount of undisclosed fees removed from the contributions paid by the Participating Plans, the remaining contributions are insufficient to cover the claims costs, resulting in over \$51 million in unpaid, processed claims, covering the time period of January 1, 2016 to March 31, 2018.

8. Even though the defendants owed a duty of prudence and loyalty to all of the Participating Plans' participants and beneficiaries, they breached their fiduciary duties and engaged in prohibited transactions causing a loss of ERISA-covered plan assets, resulting in millions in unpaid medical claims. Nevertheless, the defendants continued to pay themselves exorbitant, undisclosed fees and enroll new, unsuspecting employers in the MEWA. Meanwhile, participants and beneficiaries were receiving collections notices and had to forgo life-saving treatments. Based on the ever growing backlog of unpaid claims, the declining number of participating employers, and the continual payment of excessive, undisclosed fees, the MEWA was unable to pay all outstanding and future claims and was on the verge of collapse.

9. On November 2, 2017, the Secretary filed the present lawsuit seeking declaratory and injunctive relief, including a temporary restraining order ("TRO") and preliminary injunction to remove Defendants **AEU BENEFITS**, **AEU HOLDINGS**, and **BLACK WOLF CONSULTING, INC.**, as fiduciaries and service providers of the Participating Plans, and appointing an independent fiduciary to take control of the MEWA, the Participating Plans, and their assets. On November 3, 2017, the Court entered a TRO which, *inter alia*, removed the defendants listed in this paragraph as fiduciaries and service providers and appointed an independent fiduciary to control and marshal all assets of the MEWA and Participating Plans.

(Docket No. 14). On December 13, 2017, the Court granted a preliminary injunction granting the same relief. (Docket No. 59).

10. The Secretary now files this First Amended Complaint seeking a final judgment to reverse the prohibited transactions, to recover all losses to the Participating Plans, to disgorge all profits, to permanently enjoin defendants from acting as an ERISA fiduciary or service provider in the future, and for other remedial and equitable relief.

JURISDICTION AND VENUE

11. This action arises under ERISA and is brought by the Secretary to obtain relief under ERISA §§ 409 and 502(a)(2) and (5), 29 U.S.C. §§ 1109 and 1132(a)(2) and (5), to redress violations and enforce the provisions of Title I of ERISA.

12. This Court has subject matter jurisdiction over this action pursuant to ERISA § 502(e)(1), 29 U.S.C. § 1132(e)(1). The subject of the Secretary's First Amended Complaint is a non-ERISA covered MEWA encompassing employer-sponsored ERISA-covered employee benefit plans (*i.e.*, the Participating Plans) to provide medical and other health and welfare benefits to employees and eligible employee dependents.

13. Venue is appropriate in the Northern District of Illinois, Eastern Division, pursuant to ERISA § 502(e)(2), 29 U.S.C. § 1132(e)(2) because Defendants Black Wolf Consulting, Inc., headquartered in Monee, Will County, Illinois, and owner Rod Maynor reside within this Court's jurisdiction. In addition, several of the alleged breaches took place within, and the MEWA was partially administered by Black Wolf within this Court's jurisdiction. The MEWA was marketed to employers, medical benefits were provided, and claims were paid for participants and beneficiaries in this forum and the state of Illinois generally. As of October 18,

2017, this included at least 1,697 Illinois residents, 229 of them residents of the City of Chicago. Based on information presently available to the Secretary, Illinois residents accounted for approximately 23 percent of participants in the MEWA's Participating Plans, and approximately 28% of the unpaid claims.

PARTIES

14. The Secretary is vested with the authority to enforce the provisions of Title I of ERISA by, among other means, the filing and prosecution of civil claims against fiduciaries and other parties who violate ERISA. ERISA § 502(a)(2) & (5), 29 U.S.C. § 1132(a)(2) & (5).

15. Defendant AEU Holdings, LLC Employee Benefit Plan ("AEU Plan") is the name of the MEWA that provides benefits and holds assets for at least 261 ERISA-covered Participating Plans. For the remainder of this First Amended Complaint, the MEWA is referred to as the "AEU Plan," while the ERISA-covered plans participating in the MEWA are referred to as the "Participating Plans." Each Participating Plan was established or maintained by an employer for the purpose of providing medical and other health and welfare benefits pursuant to ERISA § 3(2), 29 U.S.C. § 1002(2), and is thus an employee benefit plan pursuant to ERISA § 3(3), 29 U.S.C. § 1002(3). As an entity with authority and control over ERISA-covered plan assets, the AEU Plan is subject to the provisions of Title I of ERISA. Because each Participating Plan is covered by ERISA pursuant to section 4(a), 29 U.S.C. § 1003(a), the Participating Plan's assets controlled by the AEU Plan are also subject to coverage of ERISA pursuant to section 4(a), 29 U.S.C. § 1003(a). The AEU Plan is named as a defendant herein pursuant to Rule 19(a) of the Federal Rules of Civil Procedure to assure that complete relief can be granted.

16. Defendant AEU Benefits is a Texas limited liability company, formed on or about July 1, 2015, and a wholly owned subsidiary of AEU Holdings. Defendant AEU Benefits exercised authority and control respecting management or disposition of the assets of the Participating Plans covered by the AEU Plan, exercised discretionary authority or discretionary control over the management of the Participating Plans covered by the AEU Plan and the AEU Plan itself, and had discretionary authority and discretionary responsibility in the administration of the Participating Plans covered by the AEU Plan and the AEU Plan itself, and thus, is a fiduciary of the Participating Plans pursuant to ERISA § 3(21)(A)(i) and (iii), 29 U.S.C. § 1002(21)(A)(i) and (iii), and a party in interest pursuant to ERISA § 3(14)(A), 29 U.S.C. § 1002(14)(A).

17. Defendant AEU Holdings is a Delaware limited liability company, formed on or about December 12, 2014. Defendant AEU Holdings exercised authority and control respecting management or disposition of the assets of the Participating Plans covered by the AEU Plan, exercised discretionary authority or discretionary control over the management of the Participating Plans covered by the AEU Plan and the AEU Plan itself, and had discretionary authority and discretionary responsibility in the administration of the Participating Plans covered by the AEU Plan and the AEU Plan itself, and thus, is a fiduciary of the Participating Plans pursuant to ERISA § 3(21)(A)(i) and (iii), 29 U.S.C. § 1002(21)(A)(i) and (iii), and a party in interest pursuant to ERISA § 3(14)(A), 29 U.S.C. § 1002(14)(A).

18. Defendant Stephen Satler is an individual who resides in New Jersey. At all times relevant to this First Amended Complaint, Satler was the Chief Executive Officer and 21.62% owner of AEU Holdings, President of AEU Benefits, and on the AEU Holdings' Board of Managers. Satler exercised authority and control respecting management or disposition of the

assets of the Participating Plans covered by the AEU Plan and exercised discretionary authority or discretionary control over the management of the Participating Plans covered by the AEU Plan and the AEU Plan itself, and thus, is a fiduciary of the Participating Plans pursuant ERISA § 3(21)(A)(i), 29 U.S.C. § 1002(21)(A)(i), and a party in interest pursuant to ERISA § 3(14)(A) and (H), 29 U.S.C. § 1002(14)(A) and (H).

19. Defendant Steven Goldberg is an individual who resides in Texas. At all times relevant to this First Amended Complaint, Goldberg was the Chief Operating Officer and 21.62% owner of AEU Holdings, and on its Board of Managers. Goldberg exercised authority and control respecting management or disposition of the assets of the Participating Plans covered by the AEU Plan and exercised discretionary authority or discretionary control over the management of the Participating Plans covered by the AEU Plan and the AEU Plan itself, and thus, is a fiduciary of the Participating Plans pursuant ERISA § 3(21)(A)(i), 29 U.S.C. § 1002(21)(A)(i), and a party in interest pursuant to ERISA § 3(14)(A) and (H), 29 U.S.C. § 1002(14)(A) and (H).

20. The names AEU Benefits and AEU Holdings are used interchangeably on various AEU Plan documents, with the shortened form “AEU” also being used frequently in documents and by the Defendants themselves. As it is difficult to decipher to which entity “AEU” refers, the term “AEU Defendants” is used in this First Amended Complaint to refer to AEU Benefits, AEU Holdings, and officers Satler and Goldberg collectively.

21. Defendant Veritas PEO, LLC is a Florida limited liability company, formed on or about March 7, 2014. Veritas PEO, LLC is wholly owned by Sterling Godfrey Holding, Inc. (“Sterling Godfrey”), a Nevada corporation. From at least January 1, 2016 to December 1, 2016, Defendant Veritas PEO, LLC exercised authority and control respecting management or

disposition of the assets of the Participating Plans covered by the AEU Plan and exercised discretionary authority or discretionary control over the management of the Participating Plans covered by the AEU Plan and the AEU Plan itself, and thus, is a fiduciary of the Participating Plans pursuant ERISA § 3(21)(A)(i), 29 U.S.C. § 1002(21)(A)(i), and a party in interest pursuant to ERISA § 3(14)(A) and (B), 29 U.S.C. § 1002(14)(A) and (B).

22. Defendant Veritas Benefits, LLC is a Nevada limited liability company, formed on or about August 28, 2014. From at least January 1, 2016 to December 1, 2016, Veritas Benefits, LLC was wholly owned by Sterling Godfrey. Defendant Veritas Benefits, LLC exercised authority and control respecting management or disposition of the assets of the Participating Plans covered by the AEU Plan and exercised discretionary authority or discretionary control over the management of the Participating Plans covered by the AEU Plan and the AEU Plan itself, and thus, is a fiduciary of the Participating Plans pursuant ERISA § 3(21)(A)(i), 29 U.S.C. § 1002(21)(A)(i), and a party in interest pursuant to ERISA § 3(14)(A) and (B), 29 U.S.C. § 1002(14)(A) and (B).

23. Defendant Charles LaMantia is an individual who resides in New Jersey. From at least January 1, 2016 to December 1, 2016, LaMantia was a 50% owner and officer of Sterling Godfrey. Veritas PEO, LLC, and Veritas Benefits, LLC, were operated collectively by LaMantia and James D'Iorio. LaMantia exercised authority and control respecting management or disposition of the assets of the Participating Plans covered by the AEU Plan and exercised discretionary authority or discretionary control over the management of the Participating Plans covered by the AEU Plan and the AEU Plan itself, and thus, is a fiduciary of the Participating Plans pursuant ERISA § 3(21)(A)(i), 29 U.S.C. § 1002(21)(A)(i), and a party in interest pursuant to ERISA § 3(14)(A) and (H), 29 U.S.C. § 1002(14)(A) and (H).

24. Defendant James D'Iorio is an individual who resides in New York. From at least January 1, 2016 to December 1, 2016, D'Iorio was a 50% owner and officer of Sterling Godfrey. Veritas PEO, LLC, and Veritas Benefits, LLC, were operated collectively by LaMantia and D'Iorio. D'Iorio exercised authority and control respecting management or disposition of the assets of the Participating Plans covered by the AEU Plan and exercised discretionary authority or discretionary control over the management of the Participating Plans covered by the AEU Plan and the AEU Plan itself, and thus, is a fiduciary of the Participating Plans pursuant ERISA § 3(21)(A)(i), 29 U.S.C. § 1002(21)(A)(i), and a party in interest pursuant to ERISA § 3(14)(A) and (H), 29 U.S.C. § 1002(14)(A) and (H).

25. Defendant Black Wolf Consulting, Inc. is an Illinois corporation, formed on or about November 24, 2013. At all times relevant to this First Amended Complaint, Defendant Black Wolf Consulting, Inc.'s sole client was the AEU Plan. Defendant Black Wolf Consulting, Inc. exercised authority and control respecting management or disposition of the assets of the Participating Plans covered by the AEU Plan and exercised discretionary authority or discretionary control over the management of the Participating Plans covered by the AEU Plan and the AEU Plan itself, and thus, is a fiduciary of the Participating Plans pursuant to ERISA § 3(21)(A)(i), 29 U.S.C. § 1002(21)(A)(i), and a party in interest pursuant to ERISA § 3(14)(A) and (B), 29 U.S.C. § 1002(14)(A) and (B).

26. Defendant Rod Maynor is an individual who resides in Illinois. Maynor is the sole owner, President, and Chief Executive Officer of Black Wolf Consulting, Inc. Maynor exercised authority and control respecting management or disposition of the assets of the Participating Plans covered by the AEU Plan and exercised discretionary authority or discretionary control over the management of the Participating Plans covered by the AEU Plan

and the AEU Plan itself, and thus, is a fiduciary of the Participating Plans pursuant ERISA § 3(21)(A)(i), 29 U.S.C. § 1002(21)(A)(i), and a party in interest pursuant to ERISA § 3(14)(A) and (H), 29 U.S.C. § 1002(14)(A) and (H).

27. Defendant SD Trust Advisors, LLC (“SD Trust”) is a District of Columbia limited liability company, formed on or about December 12, 2016. From approximately December 12, 2016 to November 3, 2017, SD Trust’s sole client was the AEU Plan. During this time, SD Trust provided services to the Participating Plans covered by the AEU Plan, and to the AEU Plan itself, by holding the assets of the Participating Plans in SD Trust’s name at Iberia Bank, and paying money out of these accounts to other service providers at the AEU Defendants’ direction, and thus, is a party in interest pursuant to ERISA § 3(14)(B), 29 U.S.C. § 1002(14)(B). SD Trust is named as a defendant herein pursuant to Rule 19(a) of the Federal Rules of Civil Procedure to assure that complete relief can be granted.

28. Defendant Wilson Benefit Services, LLC is a Maryland Limited Liability Company formed on or about June 29, 2011. From at least January 1, 2016 to March 24, 2017, Wilson Benefit Services, LLC provided services to the Participating Plans covered by the AEU Plan, and to the AEU Plan itself, by holding the assets of the Participating Plans in its own accounts, and paying money out of these accounts to other service providers at the AEU Defendants’ direction, and thus, is a party in interest pursuant to ERISA § 3(14)(B), 29 U.S.C. § 1002(14)(B).

29. Defendant WBS, LLC is a District of Columbia limited liability company formed on or about September 25, 2015. From at least January 1, 2016 to March 24, 2017, WBS, LLC provided services to the Participating Plans covered by the AEU Plan, and to the AEU Plan itself, by holding assets of the Participating Plans in its own accounts, and paying money out of

these accounts to other service providers at the AEU Defendants' direction, and thus, is a party in interest pursuant to ERISA § 3(14)(B), 29 U.S.C. § 1002(14)(B).

30. Defendant Donald R. Wilson is an individual who resides in Maryland. From at least January 1, 2016 to March 24, 2017, Wilson was the owner and manager of Wilson Benefit Services, LLC, and WBS, LLC and thus, is a party in interest pursuant to ERISA § 3(14)(H), 29 U.S.C. § 1002(14)(H).

31. The names Wilson Benefit Services, LLC, and WBS, LLC, are used interchangeably on various AEU Plan documents, with the shortened form "WBS" also being frequently used in documents and by the Defendants themselves. As it is difficult to decipher to which entity "WBS" refers, the term "Wilson Benefit" is used in this First Amended Complaint to refer to Wilson Benefit Services, LLC, WBS, LLC, and owner Donald R. Wilson collectively.

GENERAL ALLEGATIONS

A. The AEU Plan was a Multiple Employer Welfare Arrangement

32. On April 26, 2016, AEU Holdings purchased all of the operations and assets of ALLInsurance Solutions Management, LLC ("ALLInsurance"). The effective date of the sale was backdated to March 31, 2016. ALLInsurance operated a health benefits program in which employers from multiple industries across the United States would enroll and pay monthly contributions to receive health care benefits for their employees. The AEU Defendants took over this program when it purchased ALLInsurance, although the AEU Defendants had been working with ALLInsurance on the program since at least June 2015.

33. This program has been referred to in the past and present by many names, including the Veritas Employee Benefits Plan, Employers Network Association Plan, PHCS

Multi-Plan Network, CIGNA VEBA Trust Program, VEBA Health Benefit Plan, Black Wolf Plan, Veritas Plan, and AEU Benefit Plan. For purposes of this First Amended Complaint, the program is referred to as the AEU Holdings, LLC Employee Benefit Plan (“AEU Plan”), as reflected in the AEU Holdings, LLC Plan Document and Summary Plan Description effective January 1, 2016.

34. The AEU Plan operated as a non-ERISA covered MEWA. Participating employers were headquartered in multiple States across the Country and came from a wide range of industries. There is no evidence of common control among the participating employers, nor any cohesive bond. Participating employers were heterogeneous and unrelated, with the only common purpose being a shared desire for employee medical coverage under a self-funded benefit plan.

35. Although the AEU Plan itself is not an ERISA-covered plan, employers sponsor Participating Plans that comprise the AEU Plan, each of which is covered by ERISA and which imposes fiduciary responsibilities on the Defendants.

36. The Participating Plans obtained medical and other health and welfare benefits, including dental, vision, and prescription drug benefits, for their employees through their participation in the AEU Plan. The AEU Plan offered 36 different coverage and deductible options.

37. The Participating Plans were created with the intent to provide benefits, and have an identifiable class of beneficiaries, a source of financing, and procedures for obtaining the benefits. When participating employers transferred employee and employer contributions to the AEU Plan on behalf of the Participating Plans, it was the employers’ intent that these contributions be used to pay for claims and necessary administrative expenses.

38. Black Wolf provided the Secretary with 135 agreements labeled “VEBA Trust Agreement and Declaration of Trust” (“VEBA Trust Agreement”), which demonstrate the existence of individual plans, signed by employers between January 1, 2016 to October 31, 2016. Each Agreement designates the participating employer as the “Employer Sponsor.”

39. VEBA stands for “Voluntary Employees’ Beneficiary Association,” a type of trust fund established for tax purposes by the Internal Revenue Service (“IRS”). Upon information and belief, the Participating Plans do not meet the requirements to be classified as VEBAs under Internal Revenue Code § 501(c)(9), nor to the Secretary’s knowledge have defendants ever filed the necessary paperwork for the AEU Plan or its Participating Plans to receive VEBA classification with the IRS.

40. The majority of participating employers did not complete a “VEBA Trust Agreement.”

41. Each VEBA Trust Agreement was signed by an official on behalf of the “Employer Sponsor,” and also by a “Trustee” (typically a manager of the participating employer). Each Agreement provides, “[t]his Agreement and the Fund are intended to meet all of the requirements of ERISA and no part of the net earnings of the Fund shall inure (other than payment of such benefits) to any private shareholder or individual.” The “Fund” is defined as “the trust estate created and maintained hereunder, which shall consist of contributions or otherwise, and any other property received and held by the Trustee for uses and purposes set forth in this Agreement.”

42. The AEU Plan Document and summary plan descriptions state that the AEU Plan provides medical benefits paid from employer and employee contributions.

B. AEU Defendants' Use of "Aggregators" to Enroll Participating Plans

43. The AEU Defendants utilized various brokers and marketers, termed "Aggregators," to recruit and enroll Participating Plans in the AEU Plan.

44. In April 2014, Veritas established an "Aggregator" relationship with ALLInsurance to begin enrolling Participating Plans in the AEU Plan. This relationship continued after the AEU Defendants purchased ALLInsurance.

45. Veritas acted as an "Aggregator" for the AEU Plan until it was terminated by AEU Holding's Chief Executive Officer, Stephen Satler, effective November 30, 2016.

46. Prior to recruiting for the AEU Plan, Veritas owners D'Iorio and LaMantia reviewed documents from ALLInsurance and law firm Locke Lord LLP regarding the structure of the AEU Plan, including the fact that Participating Plans' contributions would be held in Bermuda.

47. Veritas' role as an "Aggregator" for the AEU Plan was to bill the Participating Plans, collect employee and employer contributions, and remit these funds to the AEU Plan's trustee.

48. Veritas received a monthly "PEO Referral Fee" from the AEU Plan, at AEU's direction, equal to 5% of the expected claims cost.

49. As of November 2016, Veritas had enrolled approximately 112 Participating Plans in the AEU Plan for which it served directly as an "Aggregator." Approximately 6 to 10 of these employers with Participating Plans in the AEU Plan also received other services from Veritas such as payroll, life insurance, and workers' compensation insurance.

50. In late 2014, Veritas hired Black Wolf as a sub-broker to market the AEU Plan to employers and enroll new Participating Plans in the AEU Plan.

51. Sometime in 2016, Black Wolf became one of the AEU Plan's primary "Aggregators."

C. Marketing and Enrollment in the AEU Plan

52. Part of Black Wolf's role was to market the AEU Plan to employers, along with numerous sub-brokers working on behalf of Black Wolf.

53. The marketing materials describe the AEU Plan as a "VEBA health plan" with multiple benefit options, available to employers of all sizes in all 50 states with identical contribution rates each year for all participating employers, regardless of location or industry. The importance of volume purchasing, *i.e.*, pooling employers to obtain benefits at lower prices, is emphasized.

54. The marketing materials further state that each participating employer is its own self-funded trust, and the "premium equivalents represent the maximum cost to a participating employer and their employees for the coverage period paid for." Any surplus is supposed to "remain as client funds for [the Participating Plan's] future use."

55. The AEU Plan is described as "a group self-insured health benefits program that feels like a fully-insured plan."

56. With respect to fees, the marketing materials outline as follows: "Other than the cost for plan and coverage elected[,] 2 other fees apply[:] (1) A one[-]time case set up fee of \$100.00 applies. That is 1 fee for all members under a group plan. (2) A \$20.00 per month billing fee applies on an ongoing basis."

57. An employer desiring to participate in the AEU Plan completed Black Wolf's enrollment forms. Black Wolf then processed these enrollment forms and transferred this

information to the claims administrator. Black Wolf was also responsible for processing any changes to enrollment each month.

D. Veritas Undisclosed Fees and Contributions

58. From at least March 31, 2016, to November 2, 2017, the AEU Defendants determined the “base” contribution amounts to be charged to the Participating Plans. From at least March 31, 2016, to Veritas’ termination on November 30, 2016, the AEU Defendants provided these rates directly to Veritas.

59. After Veritas’ termination around November 30, 2016, the AEU Defendants provided the “base” contribution rates to be charged to the Participating Plans directly to Black Wolf.

60. Once the AEU Defendants provided the “base” contribution rates to be charged to the Participating Plans, Veritas marked up these rates before sending them to Black Wolf and Veritas’ own clients. The mark-up for Black Wolf’s clients varied widely, with most rate increases between 10 to 30 percent.

61. Veritas also charged the Black Wolf Participating Plans a \$15 or \$20 per participant per month and one-time \$100 set-up fee.

62. For its own clients, Veritas also marked up the rates, charging an average of a 54 percent mark-up.

63. Veritas assessed a combined administrative fee for its PEO clients that included PEO administration and AEU Plan administration fees.

64. Apart from the combined administrative fees, Veritas failed to disclose to its clients or Black Wolf's clients that it marked-up the contribution rates to include a "fee" for Veritas.

65. After receiving contributions from the Participating Plans each month (either directly from its own clients or from Black Wolf), Veritas deposited these funds in a benefits account in Veritas' name.

66. Veritas' PEO clients transmitted payroll and health plan contributions in one lump sum to Veritas' operating account. A Veritas employee was then responsible for transferring contributions to the AEU Plan from the operating account to the benefits account.

67. The Participating Plans' contributions were plan assets at all times they were in Veritas' possession.

68. In addition to its administrative fees, Veritas took the additional, undisclosed fees from the marked-up payment amounts received from the employers and only forwarded the remaining "base" contribution amount, set by AEU, directly from Veritas' benefits account to the asset custodian, Wilson Benefit.

69. D'Iorio and LaMantia had signatory authority over the Veritas benefits account and directed the movement of contributions into and out of that account.

70. D'Iorio authorized and directed the amounts of the wire transfers to Wilson Benefit each month.

E. Black Wolf Undisclosed Fees, Contributions, and Invoices

71. Like Veritas, Black Wolf was also responsible for billing employers and collecting Participating Plans' contributions to remit to the AEU Plan.

72. Each month, Black Wolf sent each of the Participating Plans an invoice detailing the amount owed to the AEU Plan. The employers then paid contributions to Black Wolf, which was made up of employer and employee contributions. The percentage of the contribution made up of employer and employee contributions varied by each employer and was set by the employer.

73. Black Wolf's invoices provided to the Participating Plans disclosed a list of participants, description of the plan for each participant, "price each" for each participant, and a \$20.00 monthly billing fee paid to Black Wolf.

74. Black Wolf imposed its own undisclosed fees on top of the contribution amounts set by the AEU Defendants. Black Wolf also did not disclose its fees to the Participating Plans, with the undisclosed fees ranging anywhere from 17 to 50 percent of the assessed contributions, to the invoiced "price each" amounts. Black Wolf's undisclosed additional fees were simply lumped together with the contribution on the invoices received by the Participating Plans.

75. After receiving contributions from the Participating Plans each month, Black Wolf took its undisclosed fees from the payment received and forwarded the remaining "base" contributions to Veritas until Veritas' termination effective November 30, 2016. After November 30, 2016, Black Wolf forwarded the remaining "base" contributions directly to the asset custodian, SD Trust. Black Wolf also paid its sub-brokers from these undisclosed additional fees.

76. An Administration Agreement provided to some of the Participating Plans states that the amounts paid by Participating Plans will be used to pay benefits or contributions on behalf of the AEU Plan and for no other purposes.

77. A trust agreement provided to some of the Participating Plans states that the employers are creating a trust to segregate employer and employee contributions from other company assets “to fund the welfare benefit claims, stop loss insurance, and necessary administrative expenses.”

78. A Small Employer Benefits Trust Agreement provided to a limited number of the Participating Plans states that each Participating Plan’s contributions shall be deposited in the bank accounts for the AEU Plan and no part of the AEU Plan’s funds shall inure to any private person.

79. Marketing materials provided to some Participating Plans discuss a \$20 monthly billing fee and \$100 “set up fee.” No other fees were disclosed.

80. These documents combined with Black Wolf’s failure to separate the “base” contribution from its own additional fees, have led Participating Plans to believe the entire amounts paid to Black Wolf were plan assets.

81. The Participating Plans’ contributions became plan assets once remitted to Black Wolf.

F. Administration and Governing Documents

82. Wilson Benefit, owned and operated by Donald R. Wilson, served as a directed trustee and asset custodian for the AEU Plan and Participating Plans from January 1, 2015, to March 24, 2017, although Wilson Benefit’s role was significantly reduced on or around November 30, 2016.

83. From January 1, 2015, to November 30, 2016, “Aggregators” for the AEU Plan would transfer contributions to Wilson Benefit, who was then responsible for holding these plan

assets and forwarding amounts as directed by ALLInsurance or the AEU Defendants to the Bermuda Accounts (discussed in more detail below). Wilson Benefit also paid service providers and remitted payments to the claims administrator at the direction of ALLInsurance or the AEU Defendants.

84. Some employers executed trust and service agreements naming Wilson Benefit as Plan Administrator and a named fiduciary. Most employers, however, did not execute these agreements.

85. On or around December 1, 2016, SD Trust took over Wilson Benefit's role as directed trustee and asset custodian, although Wilson Benefit continued to perform some acts on behalf of the AEU Plan and Participating Plans, such as filing the AEU Plan's Form 5500 for 2016 and transferring assets to the Bermuda Accounts in March 2017.

86. SD Trust is owned and operated, in part, by Thomas Stoughton, one of ALLInsurance's former managers. SD Trust was responsible for holding Participating Plans' assets, receiving the "base" contributions from Black Wolf, forwarding these amounts to the Bermuda Accounts, paying service providers, and remitting payments to the claims administrator. SD Trust served in this role until November 3, 2017, when the Court entered a TRO enjoining SD Trust from moving assets of the AEU Plan or Participating Plans.

87. Pursuant to several plan documents, SD Trust was the named Plan Administrator and Trustee. However, these documents are unsigned, and SD Trust states that it performed its duties solely at the AEU Defendants' direction.

88. At the AEU Defendants' direction, SD Trust transferred funds to and from the Bermuda Accounts, paid service providers and administration fees, paid the AEU Defendants and its subsidiary CoreCare, and paid itself. SD Trust maintained the Participating Plans' assets

in various accounts with Iberia Bank, but it did not have individual accounts for each Participating Plan.

89. In addition to setting the “base” contribution rates as discussed *supra*, the AEU Defendants were responsible for hiring and firing service providers, serving as the final decision-maker regarding enrollment of new employers, and overseeing the operation of the AEU Plan and the Participating Plans.

90. Satler was the signatory for the AEU Defendants on various service provider contracts.

91. In a letter to Participating Plans, Black Wolf referred to the AEU Defendants as the “plan managers.”

92. Additionally, AEU Holdings is named as the Plan Sponsor and Plan Administrator in the “AEU Holdings, LLC Plan Document and Summary Plan Description,” effective January 1, 2016 (“Plan Document”). This plan document was a template created by Tall Tree and signed by Stephen Satler. Claims administrator Benefit Plan Administrators, Inc. (“BPA”) received this same plan document when it began providing services in December 1, 2016, and relied on this document to process claims throughout 2017.

G. Bermuda Accounts

93. The Participating Plans’ contributions received from Veritas and Black Wolf, less Veritas’ and Black Wolf’s undisclosed “fees,” were forwarded by either Wilson Benefit or SD Trust to two off-shore accounts in Bermuda, called First Bermuda Purchasing Trust (“BPT1”) and Second Bermuda Purchasing Trust (“BPT2”). The contributions sent by Wilson Benefit or SD Trust to BPT1 and BPT2 were not segregated by Participating Plan.

94. BPT2 is in the name of Omnium Trust company Limited (“Omnium”), a Bermuda company, at The Bank of N.T. Butterfield & Son Limited in Bermuda (“Bank of Butterfield”).

95. BPT1 is in the name of State House Trust Co. Lmt., a Bermuda company, also at Bank of Butterfield.

96. Both BPT1 and BPT2 held and continue to hold plan assets of the Participating Plans to pay the AEU Plan’s claims.

97. The operations of BPT1 and BPT2 appear to be the same, but different entities performed the administrative functions for the two accounts.

98. Pursuant to a trust agreement, State Street is the Trustee of BPT1 with ALLInsurance as the “Protector” who controlled the trust and its assets. The AEU Defendants purchased ALLInsurance and thereafter had the rights and powers of ALLInsurance as the “Protector.”

99. Pursuant to a trust agreement, Omnium is the Trustee of BPT2 and certain powers are given to a defined “Protector” under the contract. Beginning January 18, 2017, the “Protector” was Halo Insurance Group (“Halo”), another Bermuda company. Halo’s directors are Satler, Goldberg, and James Kilduff. As stated *supra*, Satler and Goldberg are also officers of the AEU Defendants. The “Protector” under BPT2 is responsible for determining if participating employers have rights to the assets in the account, to terminate employers’ rights to the trust, for the accounting of contributions paid into the account, to direct the payment of all AEU Plan assets to pay claims to either the “Plan Administrator” or the “Third Party Administrator,” and the power to remove the trustee.

100. From at least March 31, 2016, to November 2, 2017, the AEU Defendants authorized certain funds to be paid to one of the AEU Plan’s current claims administrators and

the funds were either paid from Wilson Benefit's accounts, SD Trust's account with Iberia Bank, or one of the Bermuda Accounts. The AEU Defendants directed Wilson Benefit and SD Trust how much to transfer to and from the Bermuda Accounts via monthly reports. From at least March 2017 to July 2017, Goldberg was responsible for finalizing and distributing these monthly reports.

101. In addition to sending the money to the Bermuda Accounts, Wilson Benefit and SD Trust also received the Participating Plans' assets back from BPT1 and BPT2, and then sent money to pay claims to the third-party claims administrators.

102. Some of the Participating Plans' assets in the Bermuda Accounts were used to pay for stop-loss insurance policies with Hannover Life Reassurance Company of America and Lloyds of London.

103. The majority of Participating Plans' assets in BPT1 were transferred to a "segregated account" managed by Uberrimae Fidei Insurance Company, Ltd. ("Uberrimae"), another Bermuda company. On April 1, 2014, D'Iorio, on behalf of Veritas Benefits, LLC, and David Dennett-Smith, on behalf of ALLInsurance, signed a Segregated Account Participation Agreement with Uberrimae, authorizing Uberrimae to establish this segregated account to hold the AEU Plan and Participating Plans' contributions in Bermuda.

104. The bulk of Participating Plans' assets in BPT2 were transferred to another "segregated account" called "AEUB #1 Segregated Account," managed by a Bermuda entity called R&Q Quest Insurance ("R&Q"). Effective November 1, 2016, Maynor, on behalf of Black Wolf Consulting, Inc., entered into a Cooperation and Indemnification Agreement with R&Q to create and have certain rights and responsibilities over this segregated account.

105. For both BPT1 and BPT2, the AEU Plan paid for reinsurance to cover high-dollar claims. For BPT1, claims over \$125,000 were to be covered by reinsurance, and for BPT2, the reinsurance paid claims over \$175,000.

106. The AEU Defendants continued to route all AEU Plan and Participating Plans' assets to Bermuda and continued to have full control these assets prior to the Court entering the TRO on November 3, 2017.

107. Upon information and belief, Goldberg or Satler's approval was required before funds were sent to the Bermuda Accounts.

H. Service Providers

108. On January 1, 2016, Tall Tree Administrators, Inc. ("Tall Tree") entered into a contract with AEU Holdings to serve as the AEU Plan's claims administrator, to administer all claims received from participants in the Participating Plans. Tall Tree served as claims administrator for the AEU Plan and Participating Plans until December 1, 2016.

109. Tall Tree ceased providing services on December 1, 2016, after receiving notice of a letter sent to Participating Plans by Black Wolf that the AEU Defendants had terminated Tall Tree as claims administrator.

110. The AEU Plan's next primary claims administrator was BPA, which took over administrative duties from Tall Tree on December 1, 2016.

111. On or about December 1, 2016, BPA entered into an administrative services agreement with AEU Benefits to provide claims administration services for the AEU Plan and thus the Participating Plans.

112. Before paying claims, BPA confirmed with Black Wolf whether participants or beneficiaries were enrolled. Black Wolf was responsible for enrolling participants and beneficiaries in BPA's system.

113. Claims were administered based on the Plan Document and a Summary of Benefits and Coverage ("SBC") for each health plan. Black Wolf provided the SBCs to BPA.

114. After approving claims, Tall Tree or BPA contacted the AEU Defendants and Wilson Benefit or SD Trust to request payment.

115. Typically, at the AEU Defendants' direction, Wilson Benefit or SD Trust sent a lump sum amount of money to the claims administrator via wire transfer to pay claims, without any itemized breakdown of where the funds should go. The claims administrator then distributed the sums based on the order in which claims were incurred or pursuant to the AEU Defendants' directions.

116. Additional claims administrators also administered claims for the AEU Plan, including Capital Administrators, Taylor Benefit Resources, Inc., Pequot Health Care, and Benefit Administrative Systems, LLC.

I. Unpaid Claims

117. On or about June 2016, the AEU Plan stopped transferring plan assets to Tall Tree to pay processed claims. In August or early September 2016, the AEU Plan began transferring plan assets to Tall Tree so it could pay claims again, but only paid a fraction of the amounts owed.

118. As of October 6, 2017, of the claims Tall Tree processed, there were approximately \$15 to \$16 million that remain unpaid.

119. Unpaid claims continued after BPA took over as claims administrator. In 2017, SD Trust did not forward the full amount of funds requested by BPA to pay claims. Beginning February 13, 2017, BPA began sending weekly “unfunded claims registers” to the AEU Defendants and SD Trust.

120. BPA began complaining to the AEU Defendants about the unpaid claims beginning in early March 2017.

121. As of July 31, 2017, the unpaid claims processed by BPA totaled \$5,798,011.92.

122. In July 2017, BPA was receiving over 2,000 calls per week from participants and beneficiaries covered by Participating Plans in the AEU Plan, and informed the AEU Defendants of this call volume in an email dated August 1, 2017.

123. On August 7 and 14, 2017, SD Trust wired approximately \$946,000.00 to BPA for payment of claims. Still, as of September 1, 2017, there remained \$5,135,723.75 in unpaid claims.

124. As of October 2, 2017, there were \$11,761,545.41 in unpaid claims administered by BPA, in addition to the approximately \$15 to \$16 million in unpaid claims administered by Tall Tree.

125. For the entire period of January 1, 2016, to March 31, 2018, there were over \$51 million in unpaid, adjudicated claims.

126. As a result of these unpaid claims, Participating Plan participants and beneficiaries are receiving collections notices from medical providers and had to forgo treatment.

127. Numerous Participating Plan participants have contacted Black Wolf, BPA, Tall Tree, the Department of Labor’s Employee Benefits Security Administration, other

administrative agencies, and the Court-appointed independent fiduciary seeking payment of claims.

128. Throughout 2017, the number of Participating Plans in the AEU Plan was declining as a result of unpaid claims, with employers seeking out alternative health care options for their employees.

COUNT ONE

The AEU Defendants, Black Wolf, and Veritas Failed to Appoint a Named Trustee and Keep Plan Assets in Trust within the United States

129. Paragraphs 1-128 above are incorporated by reference.

130. The AEU Plan documents do not identify a trustee for the AEU Plan or the Participating Plans.

131. The AEU Defendants did not specifically appoint a trustee for the AEU Plan or the Participating Plans.

132. From at least January 1, 2016, to November 30, 2016, the AEU Plan and Participating Plans' assets were held in accounts first in Black Wolf's or Veritas' name, then Wilson Benefit's name, and finally in various accounts in Bermuda. Neither Black Wolf, Veritas, Wilson Benefit, nor any Bermuda entity was named trustee of the AEU Plan or Participating Plans.

133. Veritas, directed by either LaMantia or D'Iorio, transmitted contributions to Wilson Trust, knowing these contributions would be transferred to Bermuda.

134. Effective November 1, 2016, to November 3, 2017, the AEU Plan and Participating Plans' assets were held in accounts first in Black Wolf's name, then SD Trust's

name, and finally in various accounts in Bermuda. Neither Black Wolf, SD Trust, nor any Bermuda entity was a named trustee of the AEU Plan or Participating Plans.

135. Some of the VEBA Trust Agreements completed by employers to enroll in the AEU Plan designated a representative of the employer as a trustee. In practice, these representatives played no role in the management or administration of the Participating Plans or the AEU Plan, and no assets were held in their name. Furthermore, most employers did not sign one of these VEBA Trust Agreements.

136. The AEU Plan and Participating Plans' assets were held in at least two off-shore bank accounts in Bermuda, outside of the jurisdiction of the United States.

137. On April 1, 2014, D'Iorio, on behalf of Veritas Benefits, LLC, signed a Segregated Account Participation Agreement to establish a segregated account to hold the AEU Plan and Participating Plans' contributions in Bermuda.

138. Effective November 1, 2016, Maynor, on behalf of Black Wolf Consulting, Inc., entered into a Cooperation and Indemnification Agreement to create and have certain rights and responsibilities over a segregated account in Bermuda.

139. Goldberg or Satler was responsible for approving the transfer of funds to the Bermuda Accounts. Satler and Goldberg designed, implemented, and (effective January 18, 2017) served as "Protector" of BPT2. Goldberg was responsible, from at least March 2017 to July 2017, for sending out reports directing the movement of funds to Bermuda.

140. From at least January 1, 2016, to December 1, 2016, Wilson Benefit acted as asset custodian and transferred the AEU Plan and Participating Plans' assets to Bermuda, and received fees for these services.

141. By the actions and failures to act as described above, from approximately January 1, 2016 to December 1, 2016, Defendants **AEU HOLDINGS, AEU BENEFITS, STEPHEN SATLER, STEVEN GOLDBERG, VERITAS PEO, LLC, VERITAS BENEFITS, LLC, JAMES D'IORIO, CHARLES LAMANTIA, BLACK WOLF CONSULTING, INC.,** and **ROD MAYNOR:**

A. failed to hold all assets of an employee benefit plan in trust by one or more trustees named in the trust instrument or plan instrument or appointed by a person who is a named fiduciary, in violation of ERISA § 403(a), 29 U.S.C. § 1103(a); and

B. maintained the indicia of ownership of plan assets outside the jurisdiction of the district courts of the United States, in violation of ERISA § 404(b), 29 U.S.C. § 1104(b).

142. As a result of the foregoing breaches of duty, Defendants **AEU BENEFITS, AEU HOLDINGS, STEPHEN SATLER, STEVEN GOLDBERG, VERITAS PEO, LLC, VERITAS BENEFITS, LLC, JAMES D'IORIO, CHARLES LAMANTIA, BLACK WOLF CONSULTING, INC.,** and **ROD MAYNOR** caused losses to the ERISA-covered employee benefit plans participating in the AEU Plan, for which the Participating Plans are entitled to equitable relief. ERISA § 409, 29 U.S.C. § 1109.

143. Pursuant to ERISA § 405(a)(1) through (3), 29 U.S.C. § 1105(a)(1) through (3), from at least January 1, 2016 to November 1, 2016, Defendants **BLACK WOLF CONSULTING, INC., ROD MAYNOR, VERITAS PEO, LLC, VERITAS BENEFITS, LLC, JAMES D'IORIO,** and **CHARLES LAMANTIA** are liable for the breaches of their co-fiduciaries as described above, because they knowingly participated in or concealed an act or

omission of their co-fiduciaries, knowing that such act or omission was a breach; they enabled their co-fiduciaries to commit a breach by breaching their own fiduciary duties under ERISA § 404(a)(1), 29 U.S.C. § 1104(a)(1); and they had knowledge of a fiduciary breach by their co-fiduciaries and did not make reasonable efforts under the circumstances to remedy it.

144. As a result of the conduct described above, Defendants **WILSON BENEFIT SERVICES, LLC, WBS, LLC, and DONALD R. WILSON** knowingly participated in the breaches of fiduciary duty described herein and are subject to such appropriate equitable relief to redress the violations in which they knowingly participated and by which they were unjustly enriched and are liable thereby pursuant to ERISA § 502(a)(5), 29 U.S.C. § 1132(a)(5).

145. By the actions and failures to act as described above, from approximately December 1, 2016 to November 3, 2017, Defendants **AEU HOLDINGS, AEU BENEFITS, STEPHEN SATLER, STEVEN GOLDBERG, BLACK WOLF CONSULTING, INC., and ROD MAYNOR:**

A. failed to hold all assets of an employee benefit plan in trust by one or more trustees named in the trust instrument or plan instrument or appointed by a person who is a named fiduciary, in violation of ERISA § 403(a), 29 U.S.C. § 1103(a); and

B. maintained the indicia of ownership of plan assets outside the jurisdiction of the district courts of the United States, in violation of ERISA § 404(b), 29 U.S.C. § 1104(b).

146. As a result of the foregoing breaches of duty, Defendants **AEU BENEFITS, AEU HOLDINGS, STEPHEN SATLER, STEVEN GOLDBERG, BLACK WOLF CONSULTING, INC., and ROD MAYNOR** caused losses to the ERISA-covered employee

benefit plans participating in the AEU Plan, for which the Participating Plans are entitled to equitable relief. ERISA § 409, 29 U.S.C. § 1109.

147. Pursuant to ERISA § 405(a)(1) through (3), 29 U.S.C. § 1105(a)(1) through (3), from at least December 1, 2016 to November 3, 2017, Defendants **BLACK WOLF CONSULTING, INC.**, and **ROD MAYNOR** are liable for the breaches of their co-fiduciaries as described above, because they knowingly participated in or concealed an act or omission of their co-fiduciaries, knowing that such act or omission was a breach; they enabled their co-fiduciaries to commit a breach by breaching their own fiduciary duties under ERISA § 404(a)(1), 29 U.S.C. § 1104(a)(1); and they had knowledge of a fiduciary breach by their co-fiduciaries and did not make reasonable efforts under the circumstances to remedy it.

COUNT TWO

The AEU Defendants Paid Themselves and Others Unreasonable Aggregate Administrative Fees and Expenses from Plan Assets

148. Paragraphs 1-147 above are incorporated by reference.

149. At all times relevant to this Amended Complaint, the AEU Defendants were fiduciaries and parties-in-interest to the Participating Plans.

150. The AEU Defendants were responsible for managing the AEU Plan and Participating Plans, monitoring service providers, hiring and firing services providers, and controlling expenses.

151. The AEU Defendants permitted Veritas to mark up the contribution amounts set by the AEU Defendants so that Veritas could collect undisclosed fees, and also directed Wilson Benefit to pay a PEO Referral fee each month to Veritas.

152. The AEU Defendants permitted Black Wolf to collect undisclosed fees that ranged from between 17 and 44 percent of the contribution amounts Black Wolf charged the participating employers in the AEU Plan.

153. The AEU Defendants caused the AEU Plan and Participating Plans to maintain at least two accounts in Bermuda, incurring unnecessary and undisclosed management fees, trustee fees, and attorney fees.

154. The AEU Defendants caused the AEU Plan and Participating Plans to pay substantial undisclosed fees for compliance with certain federal reporting requirements, but these reporting requirements were not being met.

155. The AEU Defendants caused the AEU Plan and Participating Plans to pay for excessive reinsurance, amounting to \$10.5 million in reinsurance costs in 2016, when this insurance only covered \$3.5 million in claims.

156. The AEU Defendants also paid themselves from the AEU Plan and Participating Plans' assets, including an undisclosed program management fee of approximately 11 to 13 percent of the expected claims cost, as well as a separate undisclosed management fee of approximately 2.5 percent to a subsidiary called CoreCare.

157. The AEU Defendants caused the AEU Plan and Participating Plans to pay aggregate undisclosed administrative fees and expenses that represent 41 percent of the contribution amounts Black Wolf charged to the participating employers in the AEU Plan. Including Black Wolf's undisclosed fees in 2017, the expenses are well over 50 percent of the contribution amounts.

158. As CEO and COO of AEU Holdings, respectively, Satler and Goldberg were responsible for providing direction to Wilson Benefit or SD Trust as to the amounts to pay service providers and administration fees.

159. By the actions and failures to act as described above, Defendants **AEU HOLDINGS, AEU BENEFITS, STEPHEN SATLER, and STEVEN GOLDBERG:**

A. failed to act solely in the interest of the participants and beneficiaries of the Participating Plans and for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of plan administration, in violation of ERISA § 404(a)(1)(A), 29 U.S.C. § 1104(a)(1)(A);

B. failed to act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, in violation of ERISA § 404(a)(1)(B), 29 U.S.C. § 1104(a)(1)(B);

C. used the Participating Plans' assets in transactions which furnished goods, services, or facilities between the and Participating Plans and a party in interest, in violation of ERISA § 406(a)(1)(C), 29 U.S.C. § 1106(a)(1)(C);

D. used the Participating Plans' assets in transactions which they knew or should have known constituted a direct or indirect transfer to, or use by or for the benefit of, a party in interest, of assets of the AEU Plan, in violation of ERISA § 406(a)(1)(D), 29 U.S.C. § 1106(a)(1)(D); and

E. dealt with assets of the Plans in their own interest in violation of ERISA § 406(b)(1), 29 U.S.C. § 1106(b)(1).

160. As a result of the foregoing breaches of duty, Defendants **AEU BENEFITS, AEU HOLDINGS, STEPHEN SATLER,** and **STEVEN GOLDBERG** caused losses to the ERISA-covered employee benefit plans participating in the AEU Plan, for which the Participating Plans are entitled to equitable relief. ERISA § 409, 29 U.S.C. § 1109.

COUNT THREE

Black Wolf Took Undisclosed, Excessive Compensation from Plan Assets

161. Paragraphs 1-160 above are incorporated by reference.

162. At all times relevant to this First Amended Complaint, Black Wolf Consulting, Inc. and Rod Maynor were fiduciaries and parties-in-interest to the Participating Plans.

163. Black Wolf added an undisclosed amount of additional compensation to the monthly contributions it billed to each Participating Plan. Black Wolf made no effort to disclose these fees to the Participating Plans.

164. Black Wolf set its own compensation, and the amount of compensation varied among Participating Plans and for different plan options (*e.g.*, Self, Family, *etc.*). Whereas the AEU Defendants designated 36 different contribution rates for the 36 different plan options, Black Wolf was charging 192 different contribution rates to various employers.

165. Black Wolf's compensation, set by Maynor, ranged from 17 to 44 percent of the contribution assessed per participant.

166. The AEU Defendants approved Black Wolf assessing a contribution "spread," which was assessed at Maynor's discretion, on top of the contributions charged to Participating Plans.

167. Neither Black Wolf nor the AEU Defendants disclosed Black Wolf's additional compensation to the Participating Plans. Black Wolf's invoices issued to Participating Plans combine Black Wolf's "spread" and the "base" contribution amount for each participant, such that the two were indistinguishable, and simply labeled the amount due as the "Price Each." The marketing materials presented to the Participating Plans disclosed only two fees: (1) a one-time, \$100 set-up fee, and (2) a \$20 monthly billing fee. The Participating Plans had no way of knowing the undisclosed amount of additional compensation collected by Black Wolf for the various plan options.

168. The AEU Defendants have acknowledged that Black Wolf's setting of rates was done in an "ad hoc" manner.

169. From the plan assets that Black Wolf retained, it also paid a portion of its undisclosed "fees" to the sub-brokers working on its behalf, pursuant to contractual obligations or other agreements with these brokers.

170. Given the disproportionate amount of fees assessed and Black Wolf's payment from plan assets of portions of these fees to brokers who provided no services to the AEU Plan or the Participating Plans, Black Wolf's undisclosed compensation was excessive and unreasonable, and did not constitute an ordinary and necessary plan expense.

171. By the actions described above, Defendants **BLACK WOLF CONSULTING, INC.**, and **ROD MAYNOR**:

A. failed to act solely in the interest of the participants and beneficiaries of the Participating Plans and for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of plan administration, in violation of ERISA § 404(a)(1)(A), 29 U.S.C. § 1104(a)(1)(A);

B. failed to act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, in violation of ERISA § 404(a)(1)(B), 29 U.S.C. § 1104(a)(1)(B);

C. used the Participating Plans' assets in transactions which furnished goods, services, or facilities between the Participating Plans and a party in interest, in violation of ERISA § 406(a)(1)(C), 29 U.S.C. § 1106(a)(1)(C);

D. used the Participating Plans' assets in transactions which it knew or should have known constituted a direct or indirect transfer to, or use by or for the benefit of, a party in interest, of assets of the Participating Plans, in violation of ERISA § 406(a)(1)(D), 29 U.S.C. § 1106(a)(1)(D);

E. dealt with assets of the Participating Plans in its own interest in violation of ERISA § 406(b)(1), 29 U.S.C. § 1106(b)(1); and

F. acted on behalf of a party whose interests were adverse to the interests of the Participating Plans or the interests of their participants and beneficiaries, in violation of ERISA § 406(b)(2), 29 U.S.C. § 1106(b)(2).

172. As a result of the foregoing breaches of duty, **BLACK WOLF CONSULTING, INC.**, and **ROD MAYNOR** caused losses to the ERISA-covered employee benefit plans participating in the AEU Plan, for which the Participating Plans are entitled to equitable relief. ERISA § 409, 29 U.S.C. § 1109.

173. Pursuant to ERISA § 405(a)(1) through (3), 29 U.S.C. § 1105(a)(1) through (3), Defendants **AEU HOLDINGS** and **AEU BENEFITS** are liable for the breaches of their co-fiduciaries because, as described above, they knowingly participated in or concealed an act or

omission, knowing that such act or omission is a breach; they enabled the other fiduciaries to commit a breach by breaching their own fiduciary duties under ERISA § 404(a)(1), 29 U.S.C. § 1104(a)(1); and they had knowledge of a fiduciary breach and did not make reasonable efforts under the circumstances to remedy it.

COUNT FOUR

The AEU Defendants and Black Wolf Failed to Pay Claims, and Failed to Disclose Both the AEU Plan's Failure to Pay Claims and the Inadequate Plan Funding to Existing and New Participating Plans

174. Paragraphs 1-173 above are incorporated by reference.

175. At all times relevant to this First Amended Complaint, AEU Benefits, AEU Holdings, Stephen Satler, Steven Goldberg, Black Wolf Consulting, Inc., and Rod Maynor were fiduciaries and parties-in-interest with respect to the Participating Plans.

176. Starting in the summer of 2016, the AEU Plan stopped paying most claims. Since that time, the AEU Plan has been unable to pay medical claims for all participants and beneficiaries.

177. The AEU Defendants and Black Wolf were aware of unpaid claims since being put on notice in fall of 2016, continuing throughout 2017.

178. The amount of unpaid claims continued to rise, suffering from a significant funding shortage with current unpaid, adjudicated claims exceeding \$51 million.

179. Claims administrator BPA sent numerous emails to the AEU Defendants requesting funding to pay the unpaid claims in 2017. On July 26, 2017, BPA sent an email to the AEU Defendants noting the very high call volumes BPA was receiving as a result of unpaid

claims. On July 28, 2017, BPA sent an email to Satler, with Goldberg copied, regarding BPA's intent to terminate its services due to the outstanding unpaid claims.

180. From May to July 2017, Goldberg received several emails informing him of the AEU Plan's failure to pay claims and, as COO of AEU Holdings, Goldberg personally responded to many of these emails.

181. Employers and brokers contacted Black Wolf Consulting, Inc. and Maynor directly regarding unpaid claims in 2017.

182. In March 2017, in a memorandum from Satler and other AEU officers, the AEU Defendants acknowledged that the AEU Plan is materially underfunded with approximately 21,000 unpaid claims. The AEU Defendants sent a similar memorandum to Maynor in March 2017, noting unpaid claims from 2016 to date.

183. In April 2017, Maynor communicated in writing with Stoughton regarding unpaid claims and complaints from participants.

184. Despite these unpaid claims, Black Wolf continued to attempt to enroll new employers in the AEU Plan without advising them of the AEU Plan's inability to pay claims.

185. Neither Black Wolf nor the AEU Defendants disclosed the fact that the AEU Plan was unable to pay claims to either the current or newly enrolled Participating Plans, while unwitting participants and beneficiaries continued to incur claims for medical services and face collections notices and possible litigation for existing unpaid medical claims.

186. From at least January 1, 2016, to December 1, 2016, Wilson Benefit acted as asset custodian for and managed the movement of all funds of the AEU Plan and Participating Plans,

and received fees for these services. In this role, Wilson Benefit was aware of the unpaid claims in 2016.

187. By the actions and failures to act as described above, Defendants **AEU HOLDINGS, AEU BENEFITS, STEPHEN SATLER, STEVEN GOLDBERG, BLACK WOLF CONSULTING, INC.,** and **ROD MAYNOR:**

A. failed to act solely in the interest of the participants and beneficiaries of the Participating Plans and for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of plan administration, in violation of ERISA § 404(a)(1)(A), 29 U.S.C. § 1104(a)(1)(A); and

B. failed to act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, in violation of ERISA § 404(a)(1)(B), 29 U.S.C. § 1104(a)(1)(B).

188. As a result of the foregoing breaches of duty, **AEU BENEFITS, AEU HOLDINGS, STEPHEN SATLER, STEVEN GOLDBERG, BLACK WOLF CONSULTING, INC.,** and **ROD MAYNOR** caused losses to the ERISA-covered employee benefit plans participating in the AEU Plan, for which the Participating Plans are entitled to equitable relief. ERISA § 409, 29 U.S.C. § 1109.

189. Pursuant to ERISA § 405(a)(1) through (3), 29 U.S.C. § 1105(a)(1) through (3), Defendants **AEU BENEFITS, AEU HOLDINGS, STEPHEN SATLER, STEVEN GOLDBERG, BLACK WOLF CONSULTING, INC.,** and **ROD MAYNOR** are liable for the breaches of their co-fiduciaries as described above, because they knowingly participated in or concealed an act or omission of their co-fiduciaries, knowing that such act or omission was a

breach; they enabled their co-fiduciaries to commit a breach by breaching their own fiduciary duties under ERISA § 404(a)(1), 29 U.S.C. § 1104(a)(1); and they had knowledge of a fiduciary breach by their co-fiduciaries and did not make reasonable efforts under the circumstances to remedy it.

190. As a result of the conduct described above, Defendants **WILSON BENEFIT SERVICES, LLC, WBS, LLC, and DONALD R. WILSON** knowingly participated in the breaches of fiduciary duty described herein and are subject to such appropriate equitable relief to redress the violations in which they knowingly participated and by which they were unjustly enriched and are liable thereby pursuant to ERISA § 502(a)(5), 29 U.S.C. § 1132(a)(5).

COUNT FIVE

Black Wolf Transferred Plan Assets to Rod Maynor for Personal Use

191. Paragraphs 1-190 above are incorporated by reference.

192. Participating employers enrolled in the AEU Plan by Black Wolf paid all contributions to Black Wolf's account at Bank of Pontiac, No. ****6428 ("Account 6428").

193. Upon information and belief, Account 6428 was comprised solely of contributions received from Participating Plans, and therefore, held plan assets.

194. As the President, CEO, and sole owner, Rod Maynor directed all financial decisions and payments from Account 6428.

195. Rod Maynor and Anna Maynor were the signatories on Account 6428.

196. Anna Maynor signed checks to Rod Maynor from Account 6428 totaling \$1,699,138.84 in 2016.

197. Anna Maynor signed checks to Rod Maynor from Account 6428 totaling \$1,655,535.10 in 2017.

198. Between 2016 and 2017, Black Wolf Consulting, Inc. and Rod Maynor caused over \$3.3 million in plan assets to be transferred to Rod Maynor who was a party in interest to the AEU Plan and Participating Plans.

199. By causing over \$3.3 million in plan assets to be transferred to Rod Maynor, Black Wolf Consulting, Inc. and Rod Maynor dealt with assets in their own interests and acted on behalf of themselves whose interest in profiting from the AEU Plan and Participating Plans was adverse to the interests of these Plans.

200. By the actions described above, Defendants **BLACK WOLF CONSULTING, INC.** and **ROD MAYNOR**:

A. failed to act solely in the interest of the participants and beneficiaries of the Participating Plans and for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of plan administration, in violation of ERISA § 404(a)(1)(A), 29 U.S.C. § 1104(a)(1)(A); and

B. failed to act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, in violation of ERISA § 404(a)(1)(B), 29 U.S.C. § 1104(a)(1)(B).

C. used the Participating Plans' assets in transactions which it knew or should have known constituted a direct or indirect transfer to, or use by or for the benefit of, a party in interest, of assets of the Participating Plans, in violation of ERISA § 406(a)(1)(D), 29 U.S.C. § 1106(a)(1)(D);

D. dealt with assets of the Participating Plans in its own interest in violation of ERISA § 406(b)(1), 29 U.S.C. § 1106(b)(1); and

E. acted on behalf of a party whose interests were adverse to the interests of the Participating Plans or the interests of their participants and beneficiaries, in violation of ERISA § 406(b)(2), 29 U.S.C. § 1106(b)(2).

201. As a result of the foregoing breaches of duty, **BLACK WOLF CONSULTING, INC.** and **ROD MAYNOR** caused losses to the ERISA-covered employee benefit plans participating in the AEU Plan, for which the Participating Plans are entitled to equitable relief. ERISA § 409, 29 U.S.C. § 1109.

COUNT SIX

Veritas Used Plan Assets to Operate Veritas' Business and for the Personal Use of its Owners

202. Paragraphs 1-201 above are incorporated by reference.

203. From at least January 1, 2016, to November 30, 2016, participating employers paid their Plan contributions directly to Black Wolf who in turn transferred most of the contributions to Veritas' account at First Niagara/KeyBank "Benefits Account" ****8992 ("Account 8992").

204. Veritas' direct clients transmitted payroll and health plan contributions in one lump sum to Veritas' "Operating Account" ****7319. A Veritas employee would then transfer the money for health plan contributions from this account to Account 8992.

205. Upon information and belief, Account 8992 was comprised solely of contributions received from Participating Plans in the AEU Plan, and therefore, held plan assets.

206. As the co-owners, D'Iorio and LaMantia authorized all wire transfers or payments from Account 8992.

207. From January 1, 2016 to February 23, 2017, at least \$3,249,334.52 were transferred from Account 8992 to Veritas Benefits, LLC, Veritas PEO, LLC, D'Iorio, LaMantia, or entities controlled by the foregoing.

208. Veritas Benefits, LLC, Veritas PEO, LLC, D'Iorio, and LaMantia caused over \$3.2 million in plan assets to be transferred to Veritas Benefits, LLC, Veritas PEO, LLC, D'Iorio, and LaMantia either directly or indirectly, and each of them was a party in interest to the AEU Plan and Participating Plans.

209. By causing over \$3.2 million in plan assets to be transferred to themselves, Veritas Benefits, LLC, Veritas PEO, LLC, D'Iorio, and LaMantia dealt with assets in their own interests and acted on behalf of themselves whose interest in profiting from the AEU Plan and Participating Plans was adverse to the interests of these Plans.

210. By the actions described above, **VERITAS BENEFITS, LLC, VERITAS PEO, LLC, JAMES D'IORIO, and CHARLES LAMANTIA:**

A. failed to act solely in the interest of the participants and beneficiaries of the Participating Plans and for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of plan administration, in violation of ERISA § 404(a)(1)(A), 29 U.S.C. § 1104(a)(1)(A); and

B. failed to act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, in violation of ERISA § 404(a)(1)(B), 29 U.S.C. § 1104(a)(1)(B).

C. used the Participating Plans' assets in transactions which it knew or should have known constituted a direct or indirect transfer to, or use by or for the benefit of, a party in interest, of assets of the Participating Plans, in violation of ERISA § 406(a)(1)(D), 29 U.S.C. § 1106(a)(1)(D);

D. dealt with assets of the Participating Plans in its own interest in violation of ERISA § 406(b)(1), 29 U.S.C. § 1106(b)(1); and

E. acted on behalf of a party whose interests were adverse to the interests of the Participating Plans or the interests of their participants and beneficiaries, in violation of ERISA § 406(b)(2), 29 U.S.C. § 1106(b)(2).

211. As a result of the foregoing breaches of duty, **VERITAS BENEFITS, LLC, VERITAS PEO, LLC, JAMES D'IORIO, and CHARLES LAMANTIA** caused losses to the ERISA-covered employee benefit plans participating in the AEU Plan, for which the Participating Plans are entitled to equitable relief. ERISA § 409, 29 U.S.C. § 1109.

COUNT SEVEN

Veritas Took Undisclosed, Excessive Compensation from Plan Assets

212. Paragraphs 1-211 above are incorporated by reference.

213. From at least January 1, 2016, to November 30, 2016, Veritas Benefits, LLC, Veritas PEO, LLC, James D'Iorio, and Charles LaMantia were fiduciaries and parties-in-interest to the Participating Plans.

214. Veritas added an undisclosed amount of additional compensation to the monthly contributions it collected from each Participating Plan in the AEU Plan. Veritas made no effort to disclose these fees to the Participating Plans.

215. Veritas set its own compensation, and the amount of compensation varied among Participating Plans. Veritas marked up the contribution rates set by the AEU Defendants, adding an average of 15% to all the plan rates it charged to participating employers enrolled in the AEU Plan by Black Wolf. Veritas also marked up the contribution rates it charged to participating employers enrolled in the AEU Plan directly by Veritas, charging an average of 54% mark-up.

216. Veritas also received a “PEO Referral Fee” from the AEU Plan as directed by the AEU Defendants that amounted to 3-5% of the expected claims cost.

217. Veritas also charged participating employers enrolled in the AEU Plan by Black Wolf either \$15 or \$20 per participant per month, as well as a one-time \$100 set-up fee.

218. D’Iorio and LaMantia, as owners and officers of Sterling Godfrey, Veritas’ holding company, were responsible for setting Veritas’ fees.

219. The AEU Defendants knew Veritas was increasing the contribution rates provided by AEU.

220. The AEU Defendants further directed Wilson Benefit to pay a “PEO Referral Fee” to Veritas (or Guided Benefits, LLC, a New Jersey limited liability company owned by LaMantia, on behalf of Veritas). The AEU Plan’s 2016 Form 5500 reported \$1,562,691 was paid to Guided Benefits, LLC in 2016. Guided Benefits performed no services for the AEU Plan and Participating Plans.

221. Neither Veritas, Black Wolf, nor the AEU Defendants disclosed Veritas’ additional compensation to the Participating Plans, other than the \$100 set-up fee. The Participating Plans had no way of knowing the amount of additional compensation collected by Veritas for the various plan options.

222. Given the disproportionate amount of fees assessed, Veritas' undisclosed compensation was excessive and unreasonable, and did not constitute an ordinary and necessary plan expense.

223. By the actions described above, Defendants **VERITAS BENEFITS, LLC, VERITAS PEO, LLC, JAMES D'IORIO, and CHARLES LAMANTIA:**

A. failed to act solely in the interest of the participants and beneficiaries of the Participating Plans and for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of plan administration, in violation of ERISA § 404(a)(1)(A), 29 U.S.C. § 1104(a)(1)(A); and

B. failed to act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, in violation of ERISA § 404(a)(1)(B), 29 U.S.C. § 1104(a)(1)(B);

C. used the Participating Plans' assets in transactions which furnished goods, services, or facilities between the Participating Plans and a party in interest, in violation of ERISA § 406(a)(1)(C), 29 U.S.C. § 1106(a)(1)(C);

D. used the Participating Plans' assets in transactions which it knew or should have known constituted a direct or indirect transfer to, or use by or for the benefit of, a party in interest, of assets of the Participating Plans, in violation of ERISA § 406(a)(1)(D), 29 U.S.C. § 1106(a)(1)(D);

E. dealt with assets of the Participating Plans in its own interest in violation of ERISA § 406(b)(1), 29 U.S.C. § 1106(b)(1); and

F. acted on behalf of a party whose interests were adverse to the interests of the Participating Plans or the interests of their participants and beneficiaries, in violation of ERISA § 406(b)(2), 29 U.S.C. § 1106(b)(2).

224. As a result of the foregoing breaches of duty, **VERITAS BENEFITS, LLC, VERITAS PEO, LLC, JAMES D'IORIO, and CHARLES LAMANTIA** caused losses to the ERISA-covered employee benefit plans participating in the AEU Plan, for which the Participating Plans are entitled to equitable relief. ERISA § 409, 29 U.S.C. § 1109.

225. Pursuant to ERISA § 405(a)(1) through (3), 29 U.S.C. § 1105(a)(1) through (3), Defendants **AEU HOLDINGS** and **AEU BENEFITS** are liable for the breaches of their co-fiduciaries because, as described above, they knowingly participated in or concealed an act or omission, knowing that such act or omission is a breach; they enabled the other fiduciaries to commit a breach by breaching their own fiduciary duties under ERISA § 404(a)(1), 29 U.S.C. § 1104(a)(1); and they had knowledge of a fiduciary breach and did not make reasonable efforts under the circumstances to remedy it.

COUNT EIGHT

Veritas Failed to Pay Claims

226. Paragraphs 1-225 above are incorporated by reference.

227. From at least January 1, 2016, to November 30, 2016, Veritas Benefits, LLC, Veritas PEO, LLC, James D'Iorio, and Charles LaMantia were fiduciaries and parties-in-interest with respect to the Participating Plans.

228. Starting in the summer of 2016, the AEU Plan stopped paying most claims. Since that time, the AEU Plan has been unable to pay medical claims for all participants and beneficiaries. The amount of unpaid claims continued to rise during 2016.

229. Veritas Benefits, LLC, Veritas PEO, LLC, James D'Iorio, and Charles LaMantia were aware of unpaid claims since at least mid-2016.

230. As early as July 2016, LaMantia was fielding questions from Participating Plans about collections efforts for unpaid claims.

231. On September 7, 2016, D'Iorio was copied on a letter from Tall Tree detailing \$7.7 million in outstanding unpaid claims.

232. On September 29, 2016, Tall Tree sent D'Iorio a letter noting the funding defaults of the AEU Plan.

233. On November 3, 2016, LaMantia and D'Iorio received correspondence from Tall Tree detailing outstanding claims of \$8.6 million for the last 7 weeks.

234. Veritas continued to collect the same amount of undisclosed fees from Participating Plans throughout 2016.

235. From at least January 1, 2016, to December 1, 2016, Wilson Benefit acted as asset custodian for and managed the movement of all funds of the AEU Plan and Participating Plans, and received fees for these services. In this role, Wilson Benefit was aware of the unpaid claims in 2016.

236. By the actions and failures to act as described above, Defendants **VERITAS BENEFITS, LLC, VERITAS PEO, LLC, JAMES D'IORIO, and CHARLES LAMANTIA:**

A. failed to act solely in the interest of the participants and beneficiaries of the Participating Plans and for the exclusive purpose of providing benefits to participants

and their beneficiaries and defraying reasonable expenses of plan administration, in violation of ERISA § 404(a)(1)(A), 29 U.S.C. § 1104(a)(1)(A); and

B. failed to act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, in violation of ERISA § 404(a)(1)(B), 29 U.S.C. § 1104(a)(1)(B).

237. As a result of the foregoing breaches of duty, **VERITAS BENEFITS, LLC, VERITAS PEO, LLC, JAMES D'IORIO, and CHARLES LAMANTIA** caused losses to the ERISA-covered employee benefit plans participating in the AEU Plan, for which the Participating Plans are entitled to equitable relief. ERISA § 409, 29 U.S.C. § 1109.

238. As a result of the conduct described above, Defendants **WILSON BENEFIT SERVICES, LLC, WBS, LLC, and DONALD R. WILSON** knowingly participated in the breaches of fiduciary duty described herein and are subject to such appropriate equitable relief to redress the violations in which they knowingly participated and by which they were unjustly enriched and are liable thereby pursuant to ERISA § 502(a)(5), 29 U.S.C. § 1132(a)(5).

WHEREFORE, the Court having already granted a temporary restraining order and preliminary injunction in this matter (Docket Nos. 14, 59), and having appointed an independent fiduciary to control and marshal all assets of the AEU Plan and Participating Plans, the Secretary asks that this Court enter an Order:

1. Permanently removing Defendants **AEU BENEFITS, AEU HOLDINGS, STEPHEN SATLER, STEVEN GOLDBERG, BLACK WOLF CONSULTING, INC.,** and **ROD MAYNOR** and anyone acting on their behalf, including their officers, agents, employees, assigns, subsidiaries, affiliates, service providers, accountants, attorneys, and any other party acting in concert with them or at their direction, as fiduciaries, service providers, trustees, and administrators of the Participating Plans or the AEU Plan;

2. Permanently enjoining Defendants **AEU BENEFITS, AEU HOLDINGS, STEPHEN SATLER, STEVEN GOLDBERG, BLACK WOLF CONSULTING, INC.,** **ROD MAYNOR, VERITAS BENEFITS, LLC, VERITAS PEO, LLC, JAMES D'IORIO,** and **CHARLES LAMANTIA** and anyone acting on their behalf, including their officers, agents, employees, assigns, subsidiaries, affiliates, service providers, accountants, attorneys, and any other party acting in concert with them or at their direction from acting as a fiduciary, service provider, trustee, or administrator to the Participating Plans or the AEU Plan;

3. Requiring Defendants **AEU BENEFITS, AEU HOLDINGS, STEPHEN SATLER, STEVEN GOLDBERG, BLACK WOLF CONSULTING, INC., ROD MAYNOR, VERITAS BENEFITS, LLC, VERITAS PEO, LLC, JAMES D'IORIO,** and **CHARLES LAMANTIA** to restore all losses they caused to the Participating Plans;

4. Requiring Defendants **AEU BENEFITS, AEU HOLDINGS, STEPHEN SATLER, STEVEN GOLDBERG, BLACK WOLF CONSULTING, INC., ROD MAYNOR, VERITAS BENEFITS, LLC, VERITAS PEO, LLC, JAMES D’IORIO,** and **CHARLES LAMANTIA** to jointly and severally reimburse the fees and expenses of the Independent Fiduciary to the AEU Plan and Participating Plans;

5. Requiring Defendants **AEU BENEFITS, AEU HOLDINGS, STEPHEN SATLER, STEVEN GOLDBERG, BLACK WOLF CONSULTING, INC., ROD MAYNOR, VERITAS BENEFITS, LLC, VERITAS PEO, LLC, JAMES D’IORIO,** and **CHARLES LAMANTIA** to disgorge to the AEU Plan all profits and fees and other monies earned in connection with their violations;

6. Requiring Defendants **WILSON BENEFIT SERVICES, LLC, WBS, LLC,** and **DONALD R. WILSON** to disgorge to the AEU Plan all profits and fees and other monies earned as a result of their knowing participation in the violations described herein;

7. Permanently enjoining Defendants **AEU BENEFITS, AEU HOLDINGS, STEPHEN SATLER, STEVEN GOLDBERG, BLACK WOLF CONSULTING, INC., ROD MAYNOR, VERITAS PEO, LLC, VERITAS BENEFITS, LLC, JAMES D’IORIO,** and **CHARLES LAMANTIA** or anyone acting on their behalf including their principals, officers, directors, owners, agents, assigns or subsidiaries, from ever acting as a fiduciary or service provider to any plan covered by Title I of ERISA and from marketing or enrolling any employers, professional employer organizations, or participants in any ERISA or non-ERISA covered health plan or any plan purporting to provide any type of medical benefits;

8. Awarding the Secretary the costs of this action; and

9. Granting such other relief as may be equitable, just, and proper.

For the Secretary:

KATE S. O'SCANNLAIN
Solicitor of Labor

CHRISTINE Z. HERI
Regional Solicitor

/s/ Bruce C. Canetti
Bruce C. Canetti
Senior Trial Attorney

Martha P. Frydl
Trial Attorney

Brooke E. Worden
Trial Attorney

Attorneys for **R. ALEXANDER ACOSTA**,
Secretary of Labor, United States
Department of Labor, Plaintiff

P.O. ADDRESS:

U.S. Department of Labor
Office of the Solicitor
230 S. Dearborn St.
Room 844
Chicago, IL 60604
T: (312) 353-3271
F: (312) 353-5698
Canetti.bruce@dol.gov
Frydl.martha@dol.gov
Worden.brooke.e@dol.gov