

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

Chapter 52, Criminal Investigations Program

1. **Statutory Authority.** Section 506(b) of the Employee Retirement Income Security Act (ERISA) provides that the Secretary of Labor shall have the responsibility and authority to detect, investigate and refer, where appropriate, criminal violations of Title I of ERISA as well as other related federal laws, including Title 18 of the United States Code.

2. **Program 52 Investigations.** EBSA criminal investigations are conducted under Program 52. A Program 52 investigation should be opened on the subject of the investigation and the case opening form should state the reason for the case opening and potential criminal violations that may be involved. All material allegations and/or investigative leads should be fully investigated. Criminal statute sections to be investigated include, but are not limited to, the following:

- a. Title 18 U.S.C. § 664, "Theft or Embezzlement from Employee Benefit Plan";
- b. Title 18 U.S.C. § 1027, " False Statements and Concealment of Facts in Relation to Documents Required by the Employee Retirement Income Security Act";
- c. Title 18 U.S.C. § 1954, "Offer, Acceptance or Solicitation to Influence Operations of Employee Benefit Plans".
- d. Title 29 U.S.C. § 1111, "Prohibition Against Certain Persons Holding Certain Positions" (ERISA Section 411)¹
- e. Title 29 U.S.C. § 1131 "Willful Violation of Title I, Part 1" (ERISA Section 501);
- f. Title 29 U.S.C. § 1141 "Coercive Interference" (ERISA Section 511);
- g. Title 18 U.S.C. § 669, "Theft or Embezzlement In Connection With Health Care";

¹ When the issues relate to a reduction of a bar or an exemption pursuant to section 411(a), the investigation should be conducted as a Program 47. Refer to Chapter 47 of this Manual

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- h. Title 18 U.S.C. § 1035, “False Statements Relating To Health Care Matters”;
 - i. Title 18 U.S.C. § 1347, “Health Care Fraud”; and
 - j. Title 18 U.S.C. § 1518, “Obstruction of Criminal Investigations of Health Care Offenses”.
 - k. Other criminal statutes that may be violated in connection with employee benefit plan operations such as 18 U.S.C. § 1341, “Mail Fraud”; 18 U.S.C. § 1343, “Wire Fraud”; 18 U.S.C. § 1346, “Honest Services Fraud”; and 18 U.S.C. § 371, “Conspiracy.”

3. **Dual Responsibility.** In investigations relating to employee benefit plans, there may be overlapping jurisdiction of civil and criminal violations of ERISA and related sections of Title 18 of the United States Code. Decisions on whether to pursue an investigation civilly, criminally, or both civilly and criminally will be made on a case by case basis by the Regional Director (RD).

4. **Parallel Investigations.** When an ERISA civil investigation develops evidence sufficient to make a preliminary determination that matters being investigated may also constitute a violation of either Title 18 or the ERISA criminal sections, the RD should open a criminal investigation on the subject. The decision as to whether to conduct civil and criminal investigations concurrently or consecutively will be made by the RD on a case by case basis.

If a decision has been made by the RD to proceed concurrently with both civil and criminal investigations, the following should be observed:

- a. Neither the same Investigator/Auditor nor the same Group Supervisor may be assigned to both the civil and criminal investigations. The Investigator/Auditor assigned to the civil investigation may either continue working on the civil investigation or be reassigned to the criminal investigation as determined by the RD, except as indicated in the next paragraph. In addition, the same person may not be the second-level reviewer for both the civil and criminal investigations. For example, the RD could be the secondary reviewer for the civil investigation and the DRD the secondary reviewer for the criminal investigation.
- b. If it has been determined that the civil investigation will be referred to the SOL for litigation, the Investigator/Auditor and Group Supervisor for the civil investigation should not be reassigned to the criminal investigation so long as the investigation remains open unless specifically authorized by the RD. The Chief, DFO, will be informed of this decision.
- c. When the criminal investigation is opened, all relevant documents, interviews and other information from the civil case file will be duplicated

and placed within the criminal case file. Any further access to the civil case file by the Investigator/Auditor for the criminal investigation will be coordinated by the Regional Criminal Coordinator.

5. **Postponement/Delay Requests.** Requests for EBSA to postpone or delay a civil ERISA investigation, or the interviewing or taking testimony of witnesses, shall be considered after receipt of a written request, or an oral request which is confirmed in a letter to the requesting agency by the RD, stating the reasons why a postponement or delay is appropriate and the length of the anticipated delay. Upon receipt of such written request or confirming letter, the Chief of DFO, the Deputy Director for Criminal Enforcement and the Regional Solicitor's Office should be consulted before a decision is made regarding the request.

6. **Written Plan.** At the discretion of the RD, written investigative plans may be required. (See Figure 1 for a criminal investigative plan format.) Whenever the Investigator/Auditor or the supervisor concludes that a major change in the original plan and/or a significant amount of additional investigation is warranted, a written update of the plan will be prepared by the Investigator/Auditor for review by the supervisor (See Figure 2).

7. **Disclosure of Criminal Investigation.** EBSA does not inform plan officials or others as to the source of its investigations. Investigators/auditors should be forthright in stating that EBSA is conducting a criminal investigation. In those instances when EBSA investigators participate or assist other law enforcement agencies in the conduct of a criminal investigation, the field office should consult with the AUSA regarding the manner in which such disclosures should be made.

8. **Fidelity Bonds.** When appropriate during the criminal investigation, the field office should determine whether the plan meets the bonding requirements. If it is determined that the bond does not meet the bonding requirements the matter will be referred for possible civil action after the criminal investigation has been declined for prosecution or closed.

If a loss to a plan has been discovered during the criminal investigation, the field office should advise the prosecutor of the potential for recovery of plan losses through a fidelity bond. The field office shall consult with the prosecutor regarding whether plan officials should be advised of their responsibility to make a claim.

9. **Documentation.** All investigative activity must be fully documented in accordance with the requirements set forth in Chapter 21, "Files, Case Assignment and Case Control," Chapter 31, "Conducting and Documenting Interviews," and "Chapter 32, "Collection and Preservation of Evidence." All workpapers not included in an ROI will be placed in a separate indexed folder, which will be kept with the case file.

10. **Document Receipt and Custody of Records.** When an Investigator/Auditor receives records either on a voluntary basis or in response to a Grand Jury Subpoena, the records received should be carefully noted and proper steps should be taken to properly safeguard the records. See Sections 13, 14, 15, and 16 below regarding the storing, security and maintenance

of grand jury documents. Also, see Chapter 32, paragraphs 1. d. and e. for procedures to be followed when taking custody of any plan books and/or records produced voluntarily.

11. **Contact with U.S. Attorney's Office (USAO).** The USAO should be contacted at the earliest possible stage of the investigation to determine USAO interest and available resources to prosecute the matter. When interest in pursuing the investigation is expressed, the Investigator/ Auditor, with the approval of the supervisor, will consult on an as-needed basis with the Assistant U.S. Attorney (AUSA) assigned to the investigation. The AUSA should be advised if there is an on-going civil investigation. Similarly, if there is an on-going civil investigation and a criminal prosecutor has been assigned to the criminal investigation, the supervisor for the civil investigation should be notified. If the civil investigation has been referred to the Solicitor's office, the field office will provide the name of the AUSA to the regional solicitor as soon as possible.

12. **State/Local Prosecutors.** If the USAO does not express interest in pursuing the investigation, the field office should consider contacting state or local prosecutors. Investigators/ Auditors should be aware that any information obtained through a federal grand jury is subject to the secrecy requirements of Rule 6(e), and may not be disclosed to state or local prosecutors without authorization from the USAO.

13. **Use of the Grand Jury.** When Title 18 or ERISA criminal statutory violations are involved, the AUSA will be consulted as to whether or not Grand Jury Subpoenas will be used in obtaining records and testimony from witnesses. In addition to the Investigators/Auditors and Supervisory personnel who are involved in a Grand Jury investigation, the RO shall request that the Regional Criminal Coordinator and the Deputy Director for Criminal Enforcement be included on the Rule 6(e) disclosure lists.

14. **Handling and Securing Grand Jury Information.** Rule 6(e) prohibits the disclosure of any information that would reveal matters occurring before the grand jury. Rule 6(e) does not cover all information developed during the course of a grand jury investigation, but only information that would reveal the strategy or direction of the investigation, the nature of evidence produced before the grand jury, the views expressed by members of the grand jury, or anything else that actually occurred before the grand jury. Documents secured pursuant to Grand Jury Subpoenas may be secret and subject to the disclosure rules found under Rule 6(e). Local rules and case law in the jurisdiction where the grand jury is sitting govern whether subpoenaed documents are subject to the secrecy rules of 6(e). However, Investigators/auditors should presume that documents subpoenaed by a grand jury are subject to the secrecy requirement of 6(e) unless instructed otherwise by the AUSA. This information may include all materials obtained through the Grand Jury Subpoena and any work papers, schedules, etc. which have been prepared using information obtained by the Grand Jury Subpoena.

Grand jury information cannot be used in any civil investigation unless the court issues an appropriate order under Rule 6(e) of the Federal Rules of Criminal Procedure. See Chapter 33, "Subpoenas," paragraph 17, for procedures to be followed in seeking "6(e) orders."

March 2007

When grand jury information is being used by EBSA employees, the employee is responsible for ensuring that no unauthorized persons may gain access to the information. When grand jury information is not being used, it should be securely stored. These precautions should be taken whether the grand jury information is on paper, electronic, or in any other format.

Grand jury documents, including electronic media, should be separated from all other documents. Grand jury documents should be kept in separately marked envelopes, boxes or file cabinets and be clearly marked to indicate that it contains grand jury material. Investigators should not commingle grand jury documents with evidence obtained by other means. Each submission of grand jury information should be separately identified as to its source and date received, and separately numbered and indexed.

Records obtained pursuant to investigative demand procedures under 18 U.S.C. § 3486 are not subject to the constraints of Rule 6(e) of the Federal Rules of Criminal Procedure.

15. **Maintenance of Case Files.** Criminal case files that contain non-grand jury information shall be maintained in a secure fashion within the field office. Case files that contain grand jury information should be properly secured and stored as indicated in paragraph 14.

16. **Returning, Archiving or Destroying Grand Jury Documents.** Criminal cases should be archived according to EBSA policy. Prior to archiving the case files, and with the permission of the AUSA, all grand jury information shall be removed from the file and --

- a. offered for return to its original source, and if so requested, returned to that source;
- b. if not returned to its original source, destroyed by the field office. The field office is authorized to use private contractors for this purpose²;
- c. archived³; or
- d. otherwise handled as instructed by the AUSA.

² Before giving private contractors grand jury information for destruction, the documents will be placed in boxes, securely taped and marked "NOT TO BE OPENED BY UNAUTHORIZED PERSONS."

³ In addition to the standard markings required for boxes being transferred to the Federal Records Center, boxes containing grand jury information should also be marked "GRAND JURY INFORMATION. NOT TO BE OPENED BY UNAUTHORIZED PERSONS." on the top of the box.

17. **Use of Administrative Subpoenas.** EBSA does not issue administrative subpoenas in conducting criminal investigations.

18. **Criminal Investigation Interviews.** In criminal investigation interviews, Investigators/Auditors must clearly identify themselves. EBSA credentials are to be displayed to interviewees and the Investigator/Auditor should seek the voluntary cooperation of the interviewee. The investigator is to advise that he/she is conducting a criminal investigation. The interviewee must also be informed that any information obtained may be referred to the U.S. Department of Justice or other appropriate agency. See Chapter 31, paragraph 15.

In those instances when EBSA investigators participate or assist other law enforcement agencies in the conduct of a criminal investigation, the field office should consult with the AUSA regarding the manner in which criminal interviews are to be conducted.

19. **Retention of Investigator's Notes, Warnings to Witnesses and Subjects, etc.** For civil investigations, program policy on matters such as retention of investigator's notes, warnings to subjects and other witnesses, etc., is established on a national level and implemented in a uniform manner throughout the field offices. In criminal investigations, however, it is the responsibility of each field office to conform to the practice of the USAO in the district in which the criminal investigation is being conducted. If the USAOs within the jurisdiction of a region have different procedures, the field office should, in all investigations, be governed by the procedure of the USAO with jurisdiction over the criminal investigation being investigated. Interview notes should be retained. (See Chapter 31, paragraph 21.b.) If no notes are taken during an interview, and a rough draft representing the Investigator's/Auditor's impressions of the interview is prepared immediately after the interview, the rough draft should be retained, unless the AUSA directs otherwise.

20. **Expert Witnesses.** When EBSA expert witnesses are required, requests should be coordinated through the Deputy Director for Criminal Enforcement.

21. **Search and Seizure.** Investigators/Auditors may conduct and participate in a search and seizure action. Although EBSA Investigators/Auditors may prepare an affidavit, the application or request for a warrant should be made by the AUSA, or agents from other law enforcement agencies, who are authorized to apply for a warrant. Investigators/Auditors may serve the warrant; however, on-site search and seizure actions should be coordinated with the law enforcement agencies applying for the warrant.

22. **Reports.** In those investigations where the field office has contacted the AUSA, the field office will consult with the AUSA regarding whether a written report will be prepared and its format. The format which may be used for closed reports is included as Figure 3. See Figure 4 for the format which may be used for action reports and Figure 5 for cover letters to the AUSA.

23. **Declinations.** When an oral declination is received, the field office will confirm with a letter to the AUSA or by memo to the case file. The letter or memo should include the reasons for the declination.

24. **Case Closing.** The field office will close the investigation when no violations are found, when the AUSA declines to prosecute, or when prosecution is completed (either upon sentencing or acquittal). If the field office learns that a case decision may be appealed, the investigation should remain open until all appeals processes have been completed.

25. **Documents to OE.** The Deputy Director for Criminal Enforcement should be provided with copies of indictments, pre-trial diversion agreements, plea agreements, sentencing documents, and other documents that may be requested on a case by case basis. If any documents contain grand jury information, those documents should be placed in an envelope addressed to the Deputy Director for Criminal Enforcement and marked "CONFIDENTIAL - TO BE OPENED BY ADDRESSEE ONLY."

26. **Plea Agreements.** If, during plea agreement negotiations, the AUSA entertains a request from a defendant in which the Government, through the Department of Labor, would agree not to file any civil action under ERISA to seek civil damages nor to seek injunctive relief, the AUSA must be advised that such an agreement must be coordinated with OE. The RD should prepare a memorandum to the Director of Enforcement which provides the rationale for the RD's recommendation. Any unusual provisions in a plea agreement should be brought to the attention of the Deputy Director for Criminal Enforcement.

27. **Debarment Notice.** A debarment letter should be sent to the convicted person after sentencing (Figure 6). The letter should be sent certified mail return receipt requested or delivered by other means so as to document that the debarred person has been notified of the debarment. The AUSA should be advised of this action. This letter will put a person convicted of one of the enumerated crimes under Section 411 on notice that such person is prohibited from occupying a position related to employee benefit plan administration, and that the intentional violation of this prohibition is a criminal violation subject to prosecution. If appropriate, a similar letter can be sent to plan officials or service providers (Figure 7). In instances when the crime is not enumerated under Section 411, the RO will prepare a memo to the Deputy Director for Criminal Enforcement, seeking guidance as to the application of Section 411.

MEMORANDUM FORMAT FOR CRIMINAL CASE INVESTIGATIVE PLAN

SUBJECT: Subject's Name
Address
SSN#
Case No.

TO: Supervisor

Investigative Plan for Subject Case

I. Results of Indices Search

Summarize pertinent information in any other investigative files involving the subject which might have a bearing on the investigation.

II. Allegations/Investigative Leads

Analyze each allegation or investigative lead within the context of the applicable sections of the statute and regulations. Identify each allegation or lead seriatim using the following general outline:

A. Set forth the alleged violation or lead, being as concise as possible without sacrificing the meaning.

a. Indicate which statutory provision(s) (*e.g.*, 18 U.S.C. § 664) appears to have been violated together with applicable references to any regulations (applicable to ERISA 501 violations only).

b. List the elements of proof needed to establish that a violation has occurred.)

B. Repeat as in A for all allegations/leads.

III. Planned Investigative Activity

Indicate what records will be reviewed and/or what interviews will be conducted and what information and documentation will be solicited to fully investigate the allegations and/or investigative leads. The following outline should be used in setting out the planned investigative activity:

(Figure 1)

A. General

Set forth any investigative activity not related to resolving a specific allegation or lead such as verifying the adequacy of the plan's bond.

B. Allegation/Lead #1

Identify all of the activity needed to fully investigate the allegation/lead.

C. Allegation/Lead #2

(Repeat as in B for all allegations/leads.)

IV. Estimation of the number of workdays required to complete the investigation.

Investigator/Auditor

Approved: _____
Supervisor

Date: _____

MEMORANDUM FORMAT FOR UPDATING CRIMINAL CASE INVESTIGATIVE PLAN

SUBJECT: Subject's Name
Address
SSN #
Case No.

TO: Supervisor

Update of Investigative Plan

I. Changes in Original Plan

(Identify any deletions from the original plan together with the reason for the deletions.)

II. Additional Planned Investigative Activity

(Fully describe what additional investigation will be conducted.)

III. Changes in the Estimated Number of Workdays

(After consultation with the Investigator/ Auditor, the supervisor will note any changes in the estimated number of workdays required to complete the investigation.)

Approved: _____ Date: _____
Supervisor

Report of Investigation
SAMPLE FORMAT

U.S. Department of Labor
Employee Benefits Security Administration



This document is the property of the Employee Benefits Security Administration.
Its contents are not to be disclosed to unauthorized persons.

File No. 52

Subject:

Date

Name of Subject and Address

By Investigator/Auditor

or

Approved by

Related Entity and Address

Status: Closed

I. PREDICATION

Basis for case.

II. BACKGROUND

This can be limited to setting forth the facts about the subject, e.g. relationship to plan(s) or related entities, type of plan(s), total participants and assets for most recent year or nature of related entities.

III. FINDINGS

Cite the facts to show that the allegation(s) was not a violation. In cases where violations are substantiated, state reasons for declination.

(Figure 3)

Report of Investigation

SAMPLE FORMAT

U.S. Department of Labor
Employee Benefits Security Administration

This document is the property of the Employee Benefits Security Administration.
Its contents are not to be disclosed to unauthorized persons.

File No. 52

Subject:

Name of Subject and Address

Date

or

By Investigator/Auditor

Related Entity and Address

Approved by

Status: Action

I. PREDICATION

Basis for investigation.

II. BACKGROUND

Purpose: To identify 1) plan sponsor, e.g. corporate structure, officials, key employees, their duties; 2) the plan(s) or related entities. Information on the plan should include: type of plan, when established, type of benefits, type of administrator, total participants and assets for most recent year and fidelity bond; 3) service providers where relevant. This section will establish coverage and who the person(s) or the violator(s) are.

Evidence in support of these elements must be presented and cited as exhibits. This section may be broken down into additional sub-headings, e.g.:

A. Plan Sponsor

B. Plan

III. ISSUES

Purpose: To present facts that establish the nature of the act(s) that give rise to the violation(s) and establish the proof. For example, under 18 USC § 664, it must be proved that the assets of a plan or assets of a connected fund were involved, that there was a depletion of those assets and that it was willful. This section must also show when the act(s) occurred for statute of limitation purposes.

Evidence in support of the facts in this section, must be presented and cited as exhibits. This section may be broken down into sub-headings as necessary.

(Figure 4)

IV. LEADS

Purpose: To detail any investigation scheduled or additional investigation that needs to be accomplished.

V. EXHIBITS

All significant facts presented in the report should be supported with exhibit citations. The following procedures should be used in submitting exhibits.

1. State the name of the individual who is the subject of an RI, signed statement or sworn administrative testimony and the date of the interview or testimony.
2. Precisely identify each exhibit such as documents and schedules, etc., should be
3. Exhibit each supporting document separately.
4. Number multiple page exhibits.
5. Identify exhibits by number.
6. Ensure that all copies are legible.
7. Include as exhibits all Plan documents (trust agreement; etc.), relevant minutes of meetings of Plan fiduciaries, cancelled checks, contracts/agreements, or any other supporting documents pertaining to the transaction(s) at issue, third-party corroborating interviews and/or records.

(Figure 4)

March 2007

FORMAT FOR REGIONAL DIRECTOR'S LETTER
TO THE UNITED STATES ATTORNEY
FOR PROSECUTION

USAO
Address

Attention: _____ (AUSA Assigned Investigation)

RE: Subject(s) of Investigation

Dear _____:

This letter should briefly 1) provide background information on the plan or entities involved or the subject(s); 2) summarize the violations; 3) point out statute of limitations concerns and list earliest date that there could be a bar; 4) discuss any parallel investigations; 5) discuss possible defenses; 6) identify any need for additional investigation; and 7) provide recommendations. In short, it should be a synopsis of the investigation.

Introduction: Briefly present background information regarding the plan(s) and/or related entities involved, the subject(s), and other agency involvement.

Violation(s): Briefly summarize the violations, discuss any statute of limitation concerns and point out the earliest possible date that may bar a violation.

Defenses: Present any defense that may be encountered.

Parallel Investigations: Advise of the existence of a parallel investigation and status.

Recommendations: Include any additional investigation activity which is underway or any that is, or should be, considered.

Sincerely,

Regional Director
cc: File

(Figure 5)

March 2007

SAMPLE DEBARMENT LETTER
CONVICTED PERSON

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DATE:

Name

Address

Dear _____:

On (date that judgment was entered), you were convicted of _____. As a result of this conviction, you are prohibited by Section 411 of the Employee Retirement Income Security Act (29 U.S.C. § 1111) from serving or being permitted to serve in the following positions and capacities.

You are prohibited from serving any employee benefit plan as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee or representative in any capacity. You are disqualified from serving in any capacity that involves decision-making authority or custody or control of the monies, funds, assets or property of any employee benefit plan.

You are prohibited from serving as a consultant or adviser to an employee benefit plan. The term "consultant" means any person who, for compensation, advises or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment or operation of such plan. A consultant or adviser to an employee benefit plan includes, but is not limited to, any entity whose activities are in whole or substantial part devoted to providing goods or services to any employee benefit plan.

Under the provisions of Section 411, you may not serve or be permitted to serve in any of the positions and capacities listed above until thirteen years after the conviction, or if imprisoned, until thirteen years after the end of any such imprisonment which resulted from the conviction, whichever is the later date. This disability applies unless such conviction is finally reversed on appeal; or your citizenship rights, having been revoked as a result of such conviction, have been fully restored; or you are granted an exemption from disqualification. The exemption may be granted by either the sentencing federal judge, in the case of a disqualifying federal offense, or the United States district court for the district in which a state or local disqualifying offense was committed.

The period of disability may be reduced to a shorter period by the court in which you are convicted and sentenced if you make application to that court for such relief. However, the period of disability may not be reduced by the court to a period which extends to less than three

(Figure 6)

March 2007

years after the conviction or after the end of any imprisonment resulting from the conviction, whichever is the later date.

This letter is to advise you that any intentional violation of the provisions of Section 411 is a felony, punishable by a fine or imprisonment for not more than five years, or both.

Sincerely,

Regional Director

cc: File

March 2007

SAMPLE DEBARMENT LETTER
BOARD OF TRUSTEES SPONSORS SERVICE PROVIDER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DATE:

Name
Address

Dear _____:

On (date that judgment was entered) _____, was convicted of _____ in violation of _____. As a result of this conviction, _____ is prohibited by Section 411 of the Employee Retirement Income Security Act (29 U.S.C. § 1111) from serving or being permitted to serve in the following positions and capacities.

_____ is prohibited from serving as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee or representative in any capacity of any employee benefit plan.

_____ is also disqualified from serving in any capacity that involves decision-making authority or custody or control of the monies, funds, assets or property of any employee benefit plan.

_____ is prohibited from serving as a consultant or adviser to an employee benefit plan. The term "consultant" means any person who, for compensation, advises or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment or operation of such plan. A consultant or adviser to an employee benefit plan includes, but is not limited to, any entity whose activities are in whole or substantial part devoted to providing goods or services to any employee benefit plan.

Under the provisions of Section 411, _____ may not serve or be permitted to serve in any of the positions and capacities listed above until thirteen (13) years after conviction, or if imprisoned, until thirteen (13) years after the end of any such imprisonment which results from the conviction, whichever is the later date. This disability applies unless such conviction is finally reversed on appeal; or _____'s citizenship rights, having been revoked as a result of such conviction, have been fully restored; or the convicted person is granted an exemption from disqualification. The exemption may be granted by either the sentencing federal judge, in the case of a disqualifying federal offense, or the United States district court for the district in which a state or local disqualifying offense was committed.

(Figure 7)

March 2007

The period of disability may be reduced to a shorter period by the court in which _____ was convicted and sentenced if _____ makes an application to that court for such relief. However, the period of disability may not be reduced by the court to a period which extends to less than three (3) years after the conviction or after the end of any imprisonment resulting from the conviction, whichever is the later date.

Section 411 imposes this disability on _____ and further provides that no person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of its terms.

This letter is to advise you that any intentional violation of the provisions of Section 411 is a felony, punishable by a fine or imprisonment for not more than five (5) years, or both.

Sincerely,

Regional Director

cc: File