

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

Ann H. Womer Benjamin,
Superintendent of Insurance,

Plaintiff,

v.

Case No. 02CVH02-2010
Judge Pfeiffer

Builders & Contractors Employee Benefit
Association Trust,

Defendant.

FILED
COMMON PLEAS COURT
FRANKLIN CO., OHIO
2003 SEP -4 PM 2:04
CLERK OF COURTS

**MOTION TO APPROVE REHABILITATION PLAN OF BUILDERS & CONTRACTORS
EMPLOYEE BENEFIT ASSOCIATION TRUST**

On March 4, 2002, this Court journalized an Agreed Order Appointing Rehabilitator ("Rehabilitation Order") placing Defendant, Builders & Contractors Employee Benefit Association Trust ("Trust"), into rehabilitation pursuant to R.C. 3903.01 *et. seq.* The Rehabilitation Order vested Plaintiff, Ann H. Womer Benjamin, Superintendent, Ohio Department of Insurance ("Rehabilitator"), with title to all assets of the Trust, as well as control over the Trust's operational activities.

Throughout the rehabilitation proceedings, the Rehabilitator has employed deputy rehabilitators who have presided over the daily operations of the Trust. In addition, these deputy rehabilitators have conducted an extensive review of the Trust's financial records in order to determine the condition of the Trust.

On February 20, 2003, the Rehabilitator filed a Plan of Reorganization outlining numerous activities which have been undertaken in furtherance of the rehabilitation proceedings. At the time of the filing of the Plan of Reorganization, it appeared that the Trust possessed sufficient capital to allow it to emerge from the rehabilitation proceedings as a going concern. Therefore, the Plan of Reorganization contained several references to actions associated with a reorganization of the Trust itself. However, subsequent unforeseeable events have had a negative influence on the financial condition of the Trust. In recent months, the Trust has made substantial payments relating to outstanding medical claims. In addition, the Trust has experienced significant losses in membership. These factors require that the original Plan of Reorganization be vacated, and a new, revised plan for the future of the Trust be submitted to the Court.

The financial statement prepared for the Trust in June 2003 indicates that the Trust is operating at a negative net worth of approximately 1.5 million dollars. (A copy of this financial statement is attached hereto and marked as "Exhibit A") Therefore, the Trust remains in financially hazardous condition. O.R.C. §3903.12(A). This is due in large part to the aforementioned payment of large amounts of outstanding claims and the loss of a significant percentage of the Trust's membership.

In recent months, the interim Board of Trustees for the Trust conveyed to the Rehabilitator their belief that the Trust is unable to continue as a going concern. Taking this factor into account, along with the negative net worth reflected in the June 2003 financial statement, the Rehabilitator has determined that it would be in the best interest of the Trust's members, its creditors and the public, if the Trust's liabilities are finally

determined and paid under the jurisdiction of the Rehabilitator. The Rehabilitator believes this new, revised plan is the most appropriate for protecting the Trust's members, its creditors and the public and will be executed in the most effective and efficient manner possible.

The Rehabilitator has outlined several activities, which are currently being undertaken in furtherance of the dissolution of the Trust. First, the Trust has been placed under the direction of Douglas L. Hertlein, Chief Deputy Rehabilitator. Since the operation of the Trust will be discontinued and wrapped up, all employees of the Trust will be terminated as their jobs become no longer needed and all officers and trustees of the Trust will be dismissed. The Rehabilitator plans to promptly determine what staff will be required to complete the dissolution. In addition, all agents and members of the Trust will be notified of the plan to dissolve the Trust.

In an effort to protect the current members of the Trust during the dissolution process, the Rehabilitator plans to solicit acceptable new health insurance coverage for all current members of the Trust. This should allow for uninterrupted health care coverage for all current Trust members.

In order to collect the outstanding assessment amounts owed by current and former members of the Trust, special counsel has prepared a complaint naming as defendants those current and former members of the Trust who have failed or refused to pay the amounts owed on two prior assessments. This complaint will be filed in the Franklin County Court of Common Pleas immediately. Additionally, other assets,

including potential negligence and malpractice claims, will be investigated and pursued if such claims appear to be well founded and beneficial to enhance the Trust's assets. The Rehabilitator will also levy further assessments as necessary to fund the run-off of the Trust.

After the Trust's liabilities have been finally determined and paid, the Rehabilitator will file with the Court a final accounting and will seek an order winding up all corporate affairs and dissolving the Trust.

Respectfully submitted,

JIM PETRO
Attorney General
State of Ohio

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State of Ohio, representing Ann H. Womer
Benjamin, Superintendent, Ohio Department of
Insurance, as Rehabilitator of Builders and
Contractors Employee Benefit Association Trust

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the aforementioned Motion to Approve Rehabilitation Plan of Builders & Contractors Employee Benefit Association Trust was served this 4th day of September, 2003, by regular U.S. Mail, postage prepaid, upon the following:

Timothy Petric
Finance Director
Builders & Contractors Employee Benefit
Association
68 Baker Boulevard, Suite 100
Akron, Ohio 44333

Michael Linton
Chief Executive Officer
Mock Woodworking Company
4400 West Pike
Zanesville, OH 43701

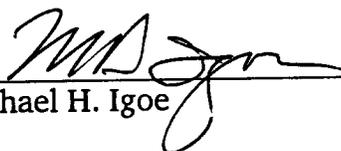
Thomas Brubaker
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Portage Tool Company
2675 Wingate Avenue
Akron, OH 44314

Jamie Downing
Office Manager
Hann Manufacturing, Inc.
4678 North State Rt. 60 NW
McConnelsville, OH 43756

James Miller
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The Callos Companies
130 Spring Side Drive, Suite C-300
Akron, OH 44333

William Lippert
President
L&L Truck Sales Company
570 Barber Road
Barberton, OH 44203

Jarrold Kasun
Manager, Treasurer
B&W Pharmacy
Dietz Shopping Center
Post Office Box 697
Beverly, OH 45715



Michael H. Igoe

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Builders and Contractors Employee Benefit Trust
Balance Sheet
As of June 30, 2003

Assets	Per Books 6/30/03	Non-Admitted	Statutory Admitted
Cash:			
Investments	\$ 847,118	\$ -	\$ 847,118
Operating	719,431	-	719,431
Total Cash	<u>1,566,549</u>	<u>-</u>	<u>1,566,549</u>
Accounts Receivable:			
Subrogation	424,926	-	-
Allowance for D/A - Subrogation	(391,926)	-	-
Net Subrogation	<u>33,000</u>	<u>(33,000)</u>	<u>-</u>
Assessment 2000	207,880	-	-
Allowance for D/A - Assessment 2000	(171,172)	-	-
Net Assessment 2000	<u>36,708</u>	<u>(36,708)</u>	<u>-</u>
Assessment 2001	469,142	-	-
Allowance for D/A - Assessment 2001	(286,828)	-	-
Net Assessment 2001	<u>182,314</u>	<u>(182,314)</u>	<u>-</u>
Premium	62,509	-	62,509
Interest	-	-	-
Claims/Fees Recoveries	573,901	-	-
Allowance for D/A - Claims/Fee Recoveries	(559,730)	-	-
Net Claims/Fees Recoveries	<u>14,171</u>	<u>(14,171)</u>	<u>-</u>
ClaimsPro Rebate	1,998	-	1,998
Congress Insurance	450,574	-	-
Allowance for D/A - Congress Insurance	(450,574)	-	-
Net Congress Insurance	<u>-</u>	<u>-</u>	<u>-</u>
Congress Construction	128,250	-	-
Allowance for D/A - Congress Construction	(128,250)	-	-
Net Congress Construction	<u>-</u>	<u>-</u>	<u>-</u>
APA	55,934	-	-
Allowance for D/A - APA	(55,934)	-	-
Net APA	<u>-</u>	<u>-</u>	<u>-</u>
Total Accounts Receivable	<u>330,700</u>	<u>(266,193)</u>	<u>64,507</u>
Fixed Assets:			
Equipment	41,877	-	41,877
Accumulated Depreciation - Equipment	(9,035)	-	(9,035)
Total Fixed Assets	<u>32,842</u>	<u>-</u>	<u>32,842</u>
Other Assets:			
Prepaid Assessment Fee	-	-	-
Prepaid Expense	-	-	-
Security Deposit	3,118	-	3,118
Total Other Assets	<u>3,118</u>	<u>-</u>	<u>3,118</u>
Total Assets	<u>\$ 1,933,209</u>	<u>\$ (266,193)</u>	<u>\$ 1,667,016</u>

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Balance Sheet
As of June 30, 2003**

Liabilities & Equity	Per Books 6/30/03	Non-Admitted	Statutory Admitted
Accounts Payable:			
General Administrative	247,575	-	247,575
Medical Claims	2,500,000	-	2,500,000
Dental Claims	-	-	-
Pharmacy Claims	-	-	-
MMO Health Claims Savings	-	-	-
Unearned Premium	348,115	-	348,115
Accrued QCP	-	-	-
Salaries Payable	6,620	-	6,620
Accrued PTO	9,110	-	9,110
Accrued Taxes	3,117	-	3,117
Accrues IRA Employer Match	6,446	-	6,446
Unpaid Claims Adjustment	50,000	-	50,000
Total Accounts Payable	3,170,982	-	3,170,982
Equity:			
Surplus	646,004	(2,149,969)	(1,503,966)
Net Income	(1,883,776)	1,883,776	-
Total Equity	(1,237,773)	(266,193)	(1,503,966)
Total Liabilities and Equity	\$ 1,933,209	\$ (266,193)	\$ 1,667,016