

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

Ann H. Womer Benjamin, Superintendent,
Ohio Department of Insurance, in her capacity
as Rehabilitator of Builders & Contractors
Employee Benefit Association Trust

2100 Stella Court
Columbus, Ohio 43215,

Plaintiff,

v.

A Day In The Country
4744 State Route 39
Berlin, OH 44610

Ace Special T Shirts
334 N. Mulberry Street
Tremont City, OH 45372

Airfasco Industries Inc.
207 Schneider Street NE
N. Canton, OH 44720

Airport Chevrolet
4363 Warren Sharon Road
Vienna, OH 44473

Alco Music / Alco Land
40 1/2 South Meridian Road
Youngstown, OH 44509

Allen Farms
1112 County Road 251
Polk, OH 44866

Amadco / Carroll Glass
10300 Brecksville Road
Brecksville, OH 44141

03CVH09 10020

Case No.

Judge

FILED
CLERK OF COURTS
OHIO
SEP 12 AM 11:37
CLERK OF COURTS-CV

Ameri Truck Ltd., Inc.
P.O. Box 525
Wadsworth, OH 44282-0525

Armandos Inc.
4340 Boardman-Canfield Road
Canfield, OH 44406

Associated Tool & Die Inc.
390 East Taggart
E. Palestine, OH 44413

Association Plan Administrators
2858 West Market Street
Akron, OH 44333

Authorized Factory Service
940 1st Avenue
Coraopolis, PA 15108

B & M Floor Covering
444 Cresthill Drive
Suffield, OH 44260

B.T. Ramsay & Co.
Post Office Box 488
Aurora, OH 44202

Beard Insurance Agency
2920 Niles Cortland Road
Cortland, OH 44410

Bennett/Dover Home Remod.
29341 Lorain Road
North Olmsted, OH 44070

Berresford Enterprises
520 South Main Street, Suite 2445
Akron, OH 44311

Bestway Bath Systems Inc.
6543 Harrison Avenue
Cincinnati, OH 45247

Lois Blackburn
31500-C North Marginal
Willowick, OH 44095

Bollin Label Systems
1152 East Broadway
Toledo, OH 43605

Milton Brooks
7603 Kennedy Court
Mentor, OH 44406

Bruce Tims Contracting
454 Sycamore Road
Medway, OH 45341

Bruderly Excavating Co.
17380 Middletown Road
North Benton, OH 44449

Buckstone Foods, Inc.
404 Vienna Avenue
Niles, OH 44446

Business Equipment Co.
61 North 4th Street
Zanesville, OH 43701

Cambridge Mach. & Supply
128 Steubenville Avenue
Cambridge, OH 43725

Cambridge Rental & Sales
428 South 11th Street
Cambridge, OH 43725

Cambridge Senior Comm.
Post Office Box 1090
Cambridge, OH 43725

Canfield Dairy Queen
101 South Broad Street
Canfield, OH 44406

Cantrell Construction, Co.
501 Manhattan Parkway
Painesville Township, OH 44077

Capital Securities
850 Boardman-Canfield Road
Boardman, OH 44512

Capitol International
47829 Tomahawk
Negley, OH 44441

Carmen Landscaping
2977 Erich Drive
Willoughby, OH 44092

Chuck Foster Trucking Inc.
30194 Canal Street
Hanoverton, OH 44423

Command Plastic
124 West Avenue
Tallmadge, OH 44278

Congress Insurance Agency
2858 West Market Street
Akron, OH 44333

Countryside Builders
10125 Black Pike
New Carlisle, OH 45344

Kenneth Cowens M.D. Inc.
333 Park Avenue
Youngstown, OH 44504

Crick Construction
13046 Diagonal Road
Salem, OH 44460

D.J. Group
P.O. Box 337
Beverly, OH 45715

Dan's Auto Repair
Post Office Box 246
E. Palestine, OH 44413

Davidson Industries
1630 Wilson Avenue
Youngstown, OH 44506

Dealers Supply Co.
112 South Duke Street
Durham, NC 27701

Diane Dinkens
843 Marilyn Drive
Kent, OH 44240

Dodson Furniture Inc.
5480 Youngstown Warren Road
Niles, OH 44446

William R. Dorsey D.O. Inc.
2591 Miamisburg-Centerville
Dayton, OH 45459

Steven Downer, DPM
409 Second Street
Marietta, OH 45750

E.L. Stone Company, Inc.
2998 Eastern Road
Norton, OH 44203

Robert W. Egolf Construction
4479 Clearview Drive
Canfield, OH 44406

Empire Corporation
1946 Trapas Avenue
Akron, OH 44319

Ermco, Inc.
Post Office Box 347
Willoughby, OH 44096

Esterle Mold & Machine
1539 Commerce Drive
Stow, OH 44224

F.A. Makoski Construction
11139 Caves Road
Chesterland, OH 44026

F.A.P. Industries
156 Nulf Drive
Columbiana, OH 44408

F.A.R.M. Association
7135 Waldo Delaware Road
Waldo, OH 43356

Fair Sales Consultants
47829 Tomahawk Drive
Negley, OH 44441

FGM Landscaping
Post Office Box 770975
Lakewood, OH 44107

Fehrman Tool & Die
8824 Clay Pike Road
Byesville, OH 43723

Flohr Machine Company
1028 Coventry Road
Barberton, OH 44203

Fostoria Grain Inspection
626 West Fourth Street
Fostoria, OH 44830

Gentzler Tool & Die Corp.
Post Office Box 158
Green, OH 44232

Kraig George
7163 Bluebird Drive NW
E. Canton, OH 44730

Gezzar Landscaping
3718 Oneida Street
Stow, OH 44224

Gill's Quality Meat Market
1522 Selma Road
Springfield, OH 45505

Goal Tenders Enterprise
1100 East Street
Fairport, OH 44077

Godard Leasing & Sales
Post Office Box 249
Sharon Center, OH 44274

Guernsey Motel Corp.
135 North 7th Street
Zanesville, OH 43701

Hearn Paper Company
556 N. Meridian Road
Youngstown, OH 44509

Hillis & Small, Co. L.P.A
825 Adair Avenue
Zanesville, OH 43701

Holland Pontiac
7977 Hills & Dales Road
Massillon, OH 44646

Homes For Kids of Ohio
31 North Main Street
Niles, OH 44446

Honey Creek Contracting
11640 S. Stateline Road
Petersburg, OH 44454

Internet Computing Services
638 Miamisburg-Centerville
Dayton, OH 45459

K.M.A. and Associates Inc.
820 West Superior
Cleveland, OH 44113

Kehler Landscaping
783 East 14th Street
Ashtabula, OH 44004

Kilar Mfg., Inc.
2616 North Main Street
Hubbard, OH 44425

Barbara King
12613 Imperial Avenue
Cleveland, OH 44120

King Expediting
3902 Felice Court
Beavercreek, OH 45432

Labrinth Imagin Systems
26401 Emery Road, #102
Cleveland, OH 44128

Larry's Pet Grooming
976 Mcintire Avenue
Zanesville, OH 43701

Lashley Tractor Sales Inc.
24821 State Route 313
Quaker City, OH 43773

Lawn & Order
7183 Weaver Road
Germantown, OH 45327-9378

Leasco Equipment Services
Box 713
Marietta, OH 45750

Deborah Ligotti
11875 Market Sttreet Ext. Rt. 7
N. Lima, OH 44452

Lucas Distributing
17911 Hartland Avenue
Cleveland, OH 44119

Luscher Construction
2342 Mccleary Jacoby
Cortland, OH 44410

M & B Interior Construction Ltd.
Post Office Box 2670
Springfield, OH 45501-2670

M.J. Brown Company
220 Wall Street
Tiffin, OH 44883

Macritchie Materials
Post Office Box 90
West Millgrove, OH 43467

Madhu Asset Management
4010 Boardman Canfield Road, Suite 1
Canfield, OH 44406

Mahoning Womens Center
4025 Market Street
Youngstown, OH 44512

Rose Maran
19617 Gardenview Drive
Maple Heights, OH 44137

Marion Tile & Carpet
1705 Gypsy Road
Niles, OH 44446

Matkoz Inc.
225 Tarhe Trail
Upper Sandusky, OH 43351

McQuaid's Distributing
1795 North State Street
Girard, OH 44420

Michael Day Enterprises
Post Office Box 179
Wadsworth, OH 44282

Tim Mitchell
1410 Springfield Pike
Cincinnati, OH 45215

Mp3 Player.Com
6325 Paderborn Drive
Hudson, OH 44236

MRI - Specialty Group
5255 Mayfield Heights Road, Suite 200
Lyndhurst, OH 44124

MRI - II
5255 Mayfield Heights Road
Lyndhurst, OH 44124

Muskingum Pediatric
751 Forest Avenue, Suite 100
Zanesville, OH 43701

Nescor Plastics Corp.
4300 Kinsman Road
Mesopotamia, OH 44439

NM of El Paso
49 West Federal Street
Niles, OH 44446

Northeast Tire Mold, Inc.
156 Opportunity Parkway
Akron, OH 44307

Nuway Services, Inc.
3441 Sportsman Club Road
Johnstown, OH 43031

OH Eye Associates, Inc.
8110 Market Street
Boardman, OH 44512-6243

Ohio Foundry, Inc.
240 Southwest Avenue
Tallmadge, OH 44278

Pace Mason Contractors
5260 Wooster Road West
Norton, OH 44203

Palmer Bros. Concrete
12205 East Gypsy Lane Road
Bowling Green, OH 43402

Kathryn Y. Parks
18404 Hazelwood Avenue
Maple Heights, OH 44137

Patierno Contracting Inc.
2800 East Midlothian Boulevard
Struthers, OH 44471

Perfect Cut-Off Inc.
29201 Anderson Road
Wickliffe, OH 44092

Pine Ridge Packing & Proc.
Route #1, Box 171
Fleming, OH 45729

Pleasantview Nursing Home
7451 Pleasantview Drive
Lisbon, OH 44432

Portage Packaging
145 River Street
Kent, OH 44240

Production Packaging
5232 Tod Avenue SW #12
Warren, OH 44481

Progressive Landscape
Post Office Box 277
Avon Lake, OH 44012

Quality Builders
60456 Patch Road
New Concord, OH 43762

R & R Enterprises of OH
Post Office Box 878
Springfield, OH 44501

R.B. Thomas Electric, Inc.
6231 Chittenden Road
Hudson, OH 44236

R.H. Little Co., Inc.
4434 Southway S.W.
Canton, OH 44706

R.L. Smith Printing
210 W. Wood Street
Youngstown, OH 44501

Regula Farms
7106 Renner Road SW
Fresno, OH 43824

Republic Mills Inc.
888 School Street
Okolona, OH 43550

Retail Marketing Service
28A Scioto Drive
Heath, OH 43056

Ridgely Home Modernizing
1551 East Main Street
Springfield, OH 45503

Rixan Associates, Inc.
7560 Paragon Road
Dayton, OH 45459

J. A. Rocco, D.D.S.
20 Seagate Drive #102
Naples, FL 34103

Rodeway Inn
1715 West North Street
Springfield, OH 45504

Russell Automotive Center
15565 Chillicothe Road
Chagrin Falls, OH 44022

S & S Processing, Inc.
Post Office Box 184
Hubbard, OH 44425

Sandy's Tire Sales
2380 Elm Road Ext.
Cortland, OH 44410

SGF Management Inc.
1329 Market Avenue North
Canton, OH 44714

Slats & Nails Inc.
5610 Lindentree Road
Mineral City, OH 44656

Smith-Lustig Paper Box Co.
2165 East 31st Street
Cleveland, OH 44115

Sourlis Rentals Inc.
3351 Little York Road
Dayton, OH 45414

Southwest Tire Molds, Inc.
159 Opportunity Parkway
Akron, OH 44307

William T. Stark
1245 Shannon Road
Girard, OH 44420

Thomas Stephan
9129 North Johnson
North Benton, OH 44449

Super Tire
3485 State Route 5
Cortland, OH 44410

Superior Maintenance
783 East 14th Street
Ashtabula, OH 44004

Sweeney's Too
777 Lexington Avenue
Mansfield, OH 44907

T.C. Hunan House, Inc.
1800 Coventry Road
Cleveland Heights, OH 44118

Tavens Container
10200 Miles Avenue
Cleveland, OH 44105

Tewel Corporation
7041 T.W. Boulevard
Hubbard, OH 44425

The A.G. Stafford Co.
2006 Allen Avenue SE
Canton, OH 44707

The Fire House
125 East Church Street
Newark, OH 43055

The Flying Turtle
2100 Harrington Memorial
Mansfield, OH 44903

The Mocha House Inc.
467 High Street NE
Warren, OH 44481

The Roekel Company
36 South 2nd Street
Zanesville, OH 43701

Therm-O-Link
10513 Freedom Street
Garrettsville, OH 44231

Timeless Treasures
5803 Lake Avenue
Greenville, OH 45331

Tyrone Tobias
2253 Pinebrooke Court
Miamisburg, OH 45342

Tony Pesce Chrysler-Plymouth
995 North Market Street
E. Palestine, OH 44413

Tony Trolio's T-Shirts
35 W. Mckinley Way
Poland, OH 44514

Tony's Lawn Care
7910 Stacy Road
Sandusky, OH 44870

Tri-County Emergency Med.
855 West Maple Street #120
Hartville, OH 44632

Unity Presbyterian Church
130 North 7th Street
Cambridge, OH 43725

Vess Warner Inc.
Rt. 2 Post Office Box 227
Warner, OH 45745

W.T. Pettit & Sons Co. Inc.
1670 Keefer Road
Girard, OH 44420

Warren G. Jones Const.
2439 West Nimisila Road
Clinton, OH 44216

Wayne's Truck & Auto Repair
4324 State Route 5 SW
Newton Falls, OH 44444

Weber Construction
911 Lincoln Avenue
Fostoria, OH 44830

West Branch Nursing Home
451 Valley Road
Salem, OH 44460

Western Reserve Raquet
11013 Aurora-Hudson Road
Streetsboro, OH 44241

Wise Chevrolet, Inc.
1572 State Route 44
Randolph, OH 44265

Wolfe Grinding, Inc.
4582 Allen Road
Stow, OH 44224

World-Wide Services
5255 Mayfield Road
Lyndhurst, OH 44124

Zeiger Industries
4704 Wiseland Avenue SE
Canton, OH 44707

Ziegler Companies
4150 Millennium Boulevard SE
Massillon, OH 44646

Defendants.

COMPLAINT

Now comes Plaintiff, Ann H. Womer Benjamin, Superintendent of Insurance, Ohio Department of Insurance, in her capacity as Rehabilitator of Builders & Contractors Employee Benefit Association Trust (“Rehabilitator”) and states the following as her Complaint:

PARTIES, JURISDICTION AND FACTS COMMON TO ALL COUNTS

1. Plaintiff is the Rehabilitator of Builders & Contractors Employee Benefit Association Trust (the “Trust”), pursuant to the Agreed Order Appointing Rehabilitator (the “Rehabilitation Order”) entered on March 4, 2002 by the Court of Common Pleas, Franklin County (Judge Pfeiffer), which Rehabilitation Order is attached hereto as “Exhibit A.”
2. This Court has jurisdiction over this matter and venue is proper in Franklin County, Ohio pursuant to Ohio Revised Code Section (“R.C.”) 3903.04(E) and Civ.R. 3(E).
3. At all times material herein, the Trust was and continues to be an Ohio-domiciled insurer as defined in R.C. 3903.01(L).
4. At all times material herein, the Trust was and continues to be a Multiple Employer Welfare Arrangement (“MEWA”) governed by R.C. Chapter 1739 and was

established and maintained as a jointly administered trust for the purposes of offering and providing medical, surgical, pharmaceutical, dental and related benefits to its members' employees and their eligible dependents.

5. Members of a MEWA are subject to assessments, as well as premiums, levied by the MEWA pursuant to R.C. 1739.14 and R.C. 1739.15. The Rehabilitator of the Trust, pursuant to R.C. Chapter 3903 and the Rehabilitation Order, is vested with all the rights of actions of the MEWA, including the levying of assessments and the pursuit of the collection of claims.

6. At all times material herein, the Trust was and continues to be administered in accordance with the Trust Agreement, Plan Document, and individual agreements between the Trust and its employer-members ("members").

7. Such individual agreements are evidenced by either Master Agreements or agreements implied through the conduct of the parties ("Agreements").

8. The Trust is subject to regulation by the Ohio Department of Insurance as to, among other things, the standards for maintenance of specified levels of surplus and reserves.

9. Defendants herein are Ohio Corporations, business entities or individuals having their usual place of business in Ohio and are currently or have been members in the Trust.

10. The Rehabilitator, pursuant to paragraph 5 of the Rehabilitation Order, is vested with the title to all property, deposits, securities, contracts, rights of action,

books, records and other assets of the Trust, and is authorized to deal with same in her own name as Rehabilitator.

11. Pursuant to paragraph 7(c) of the Rehabilitation Order, the Rehabilitator is further vested with authority to take such action as she considers necessary or appropriate to reform or revitalize the Trust, including, but not limited to, collecting all claims, accounts receivables, agents' balances, reinsurance proceeds and other amounts owing to the Trust.

12. Pursuant to R.C. 1739.13, the Trust is required to maintain a surplus sufficient to protect the interests of its members and their employees, which at no time shall be less than \$150,000.

13. Defendants, as members of the Trust, assumed liability for all legal obligations of the Trust under R.C. 1739.01 to 1739.22 in proportion to the ratio of the total number of covered employees of the member, at the time such liability arose, to the total number of covered employees of all members of the Trust, to the extent that the total legal obligations of the Trust exceed the amount of any separate reserve fund.

14. On or about July 1, 2001, the members were issued written notice of an assessment equal to one month's premium ("July, 2001 Assessment") due to the Trust's reported surplus falling below minimum statutory requirements.

15. The July, 2001 Assessment was issued to all employers who were active members of the Trust on June 1, 2001.

16. On or about September 15, 2002, the members were issued a written notice of a second assessment ("September, 2002 Assessment") due to the Trust's

reported surplus again falling below minimum statutory requirements. Sample copies of the assessment notices are attached hereto as "Exhibit B."

17. The September, 2002 Assessment was issued to all employers who were active members of the Trust at any time during the 2001 calendar year.

18. Each Defendants' individual proportionate balances owed for the July, 2001 Assessment and/or the September, 2002 Assessment are as follows:

Defendant	July, 2001 Assessment	September, 2002 Assessment
A Day In The Country	\$551.00	\$388.23
Ace Special T Shirts	\$0.00	\$163.72
Airfasco Industries Inc.	\$0.00	\$564.62
Airport Chevrolet	\$1,804.75	\$1,872.16
Alco Music / Alco Land	\$0.00	\$1,286.40
Allen Farms	\$0.00	\$25.08
Amadco / Carroll Glass	\$466.82	\$340.26
Armandos Inc.	\$0.00	\$1,727.19
Ameri Truck Ltd., Inc.	\$0.00	\$1,629.87
Associated Tool & Die Inc.	\$0.00	\$3,787.87
Association Plan Administrators	\$0.00	\$5,591.75
Authorized Factory Service	\$1,468.85	\$1,706.58
B & M Floor Covering	\$0.00	\$230.41
B.T. Ramsay & Co.	\$236.23	\$2,494.89
Beard Insurance Agency	\$0.00	\$301.02
Bennett/Dover Home Remod.	\$0.00	\$4,884.89
Berresford Enterprises	\$4,298.30	\$3,796.82
Bestway Bath Systems Inc.	\$0.00	\$419.26
Lois Blackburn	\$376.00	\$414.66
Bollin Label Systems	\$0.00	\$4,939.97
Milton Brooks	\$0.00	\$49.69
Bruce Tims Contracting	\$0.00	\$308.92
Bruderly Excavating Co.	\$0.00	\$325.07
Buckstone Foods, Inc.	\$419.31	\$4,775.14
Business Equipment Co.	\$0.00	\$3,852.91
Cambridge Mach. & Supply	\$0.00	\$4,215.63
Cambridge Rental & Sales	\$854.08	\$895.96

Cambridge Senior Comm.	\$0.00	\$46.82
Canfield Dairy Queen	\$655.49	\$672.41
Cantrell Construction, Co.	\$445.50	\$358.13
Capital Securities	\$0.00	\$711.40
Capitol International	\$124.37	\$2,411.02
Carmen Landscaping	\$0.00	\$123.04
Chuck Foster Trucking Inc.	\$0.00	\$6,554.17
Command Plastic	\$5,962.44	\$9,338.81
Congress Insurance Agency	\$476.44	\$708.53
Countryside Builders	\$0.00	\$899.40
Kenneth Cowens M.D. Inc.	\$0.00	\$54.66
Crick Construction	\$1,358.26	\$1,759.07
D.J. Group	\$0.00	\$856.07
Dan's Auto Repair	\$0.00	\$720.72
Davidson Industries	\$0.00	\$994.43
Dealers Supply Co.	\$0.00	\$8,480.79
Diane Dinkens	\$0.00	\$342.46
Dodson Furniture Inc.	\$3,855.36	\$4,025.54
William R. Dorsey D.O. Inc.	\$0.00	\$88.56
Steven Downer, DPM	\$644.00	\$542.47
E.L. Stone Company, Inc.	\$0.00	\$6,860.36
Robert W. Egolf Construction	\$635.22	\$401.08
Empire Corporation	\$2,940.00	\$2,375.92
Ermco, Inc.	\$6,578.83	\$6,592.19
Esterle Mold & Machine	\$2,321.32	\$22,880.07
F.A. Makoski Construction	\$0.00	\$340.96
F.A.P. Industries	\$0.00	\$1,245.57
F.A.R.M. Association	\$0.00	\$817.93
Fair Sales Consultants	\$395.69	\$384.97
Fehrman Tool & Die	\$0.00	\$1,886.29
FGM Landscaping	\$0.00	\$628.38
Flohr Machine Company	\$4,028.49	\$2,402.23
Fostoria Grain Inspection	\$0.00	\$489.26
Gentzler Tool & Die Corp.	\$0.00	\$2,250.86
Kraig George	\$133.65	\$96.76
Gezzar Landscaping	\$0.00	\$26.27
Gill's Quality Meat Market	\$0.00	\$288.39
Goal Tenders Enterprise	\$0.00	\$109.50
Godard Leasing & Sales	\$2,586.88	\$2,507.49
Guernsey Motel Corp.	\$2,017.26	\$1,188.09
Hearn Paper Company	\$0.00	\$4,586.93

Hillis & Small, Co. L.P.A	\$0.00	\$30.01
Holland Pontiac	\$0.00	\$4,534.97
Homes For Kids of Ohio	\$0.00	\$6,443.86
Honey Creek Contracting	\$0.00	\$2,383.21
Internet Computing Services	\$0.00	\$289.14
K.M.A. and Associates Inc.	\$0.00	\$615.09
Kehler Landscaping	\$0.00	\$38.00
Kilar Mfg., Inc.	\$0.00	\$6,939.51
Barbara King	\$0.00	\$53.94
King Expediting	\$0.00	\$913.77
Labrinth Imagin Systems	\$0.00	\$340.19
Larry's Pet Grooming	\$305.05	\$165.44
Lashley Tractor Sales Inc.	\$0.00	\$2,722.37
Lawn & Order	\$0.00	\$305.17
Leasco Equipment Services	\$1,282.18	\$1,277.28
Deborah Ligotti	\$210.00	\$240.99
Lucas Distributing	\$0.00	\$141.64
Luscher Construction	\$0.00	\$79.58
M & B Interior Construction, Ltd	\$851.85	\$246.53
M.J. Brown Company	\$0.00	\$1,371.90
Macritchie Materials	\$0.00	\$5,945.35
Madhu Asset Management	\$173.25	\$165.94
Mahoning Womens Center	\$0.00	\$218.28
Rose Maran	\$125.00	\$149.06
Marion Tile & Carpet	\$0.00	\$180.79
Matkoz Inc.	\$976.96	\$2,006.86
McQuaid's Distributing	\$836.01	\$6,081.75
Michael Day Enterprises	\$0.00	\$17,986.81
Tim Mitchell	\$0.00	\$39.22
Mp3 Player.Com	\$0.00	\$441.34
MRI - Specialty Group	\$46,278.40	\$24,213.98
MRI - II	\$17,130.41	\$8,043.82
Muskingum Pediatric	\$0.00	\$49.90
Nescor Plastics Corp.	\$0.00	\$7,591.12
NM of El Paso	\$618.82	\$978.73
Northeast Tire Mold, Inc.	\$0.00	\$4,895.32
Nuway Services, Inc.	\$0.00	\$1,696.08
OH Eye Associates, Inc.	\$0.00	\$2,930.65
Ohio Foundry, Inc.	\$0.00	\$147.04
Pace Mason Contractors	\$967.58	\$1,130.42
Palmer Bros. Concrete	\$0.00	\$3,344.36

Kathryn Y. Parks	\$0.00	\$38.88
Patierno Contracting Inc.	\$737.37	\$814.57
Perfect Cut-Off Inc.	\$0.00	\$1,254.87
Pine Ridge Packing & Proc.	\$0.00	\$101.86
Pleasantview Nursing Home	\$5,161.16	\$5,320.86
Portage Packaging	\$4,269.00	\$2,468.91
Production Packaging	\$0.00	\$1,494.03
Progressive Landscape	\$0.00	\$104.09
Quality Builders	\$459.91	\$212.80
R & R Enterprises of OH	\$0.00	\$259.78
R.B.Thomas Electric, Inc.	\$4,567.28	\$4,648.00
R.H. Little Co., Inc.	\$0.00	\$4,233.48
R.L. Smith Printing	\$0.00	\$1,888.50
Regula Farms	\$77.10	\$561.68
Republic Mills Inc.	\$0.00	\$6,147.93
Retail Marketing Service	\$0.00	\$352.22
Ridgely Home Modernizing	\$0.00	\$754.07
Rixan Associates, Inc.	\$5,141.20	\$4,705.24
J.A. Rocco, D.D.S.	\$0.00	\$471.13
Rodeway Inn	\$0.00	\$114.91
Russell Automotive Center	\$659.64	\$681.45
S & S Processing, Inc.	\$0.00	\$2,319.78
Sandy's Tire Sales	\$377.75	\$590.43
SGF Management Inc.	\$475.07	\$6,718.45
Slats & Nails Inc.	\$7,224.39	\$5,810.03
Smith-Lustig Paper Box Co.	\$5,070.44	\$8,176.32
Sourlis Rentals Inc.	\$0.00	\$112.88
Southwest Tire Molds, Inc.	\$0.00	\$1,046.26
William T. Stark	\$0.00	\$56.44
Thomas Stephan	\$0.00	\$66.25
Super Tire	\$913.05	\$626.43
Superior Maintenance	\$0.00	\$246.26
Sweeney's Too	\$0.00	\$1,205.21
T.C. Hunan House, Inc.	\$0.00	\$453.31
Tavens Container	\$3,298.66	\$5,785.72
Tewel Corporation	\$0.00	\$4,760.12
The A.G. Stafford Co.	\$0.00	\$3,968.69
The Fire House	\$0.00	\$436.23
The Flying Turtle	\$0.00	\$186.13
The Mocha House Inc.	\$0.00	\$2,089.03
The Roekel Company	\$0.00	\$8,596.39

Therm-O-Link	\$0.00	\$31,869.62
Timeless Treasures	\$0.00	\$361.27
Tyrone Tobias	\$0.00	\$48.20
Tony Pesce Chrysler-Plymouth	\$5,676.00	\$5,757.56
Tony Trolio's T-Shirts	\$0.00	\$355.28
Tony's Lawn Care	\$0.00	\$45.30
Tri-County Emergency Med.	\$0.00	\$2,606.27
Unity Presbyterian Church	\$176.33	\$5.19
Vess Warner Inc.	\$0.00	\$879.67
W.T. Pettit & Sons Co. Inc.	\$0.00	\$763.93
Warren G. Jones Const.	\$828.88	\$786.26
Wayne's Truck & Auto Repair	\$334.80	\$326.81
Weber Construction	\$0.00	\$704.49
West Branch Nursing Home	\$4,613.26	\$3,946.54
Western Reserve Raquet	\$0.00	\$972.63
Wise Chevrolet, Inc.	\$0.00	\$2,427.64
Wolfe Grinding, Inc.	\$750.67	\$975.16
World-Wide Services	\$178.28	\$279.71
Zeiger Industries	\$0.00	\$4,551.63
Ziegler Companies	\$22,865.08	\$40,139.29

CAUSES OF ACTION

FIRST CLAIM – BREACH OF STATUTORY DUTY

19. Plaintiff restates the preceding facts and allegations as if fully rewritten herein.

20. Pursuant to R.C. 1739.14, Defendants, as members of the Trust, share a statutory duty to pay a premium equal to their proportionate share of the projected obligations for employee welfare benefit liabilities, administrative expenses and other costs incurred by the Trust.

21. Pursuant to R.C. 1739.13, Defendants, as members of the Trust, share a statutory duty to ensure that the Trust maintains minimum surplus amounts sufficient to protect the interests of its members and their employees, which at no time shall be less than \$150,000.

22. To date, Defendants have failed to pay the July, 2001 Assessment and/or the September, 2002 Assessment.

23. As a result, Defendants have breached their statutory duty to ensure that the Trust maintains a minimum statutory surplus.

24. As a direct and proximate result of Defendants' statutory breach, Plaintiff has been damaged in varying amounts, the total of which is known to exceed \$25,000.00 with the individual amounts specified in paragraph 18.

SECOND CLAIM – BREACH OF EXPRESS CONTRACT

25. Plaintiff restates the preceding facts and allegations as if fully rewritten herein.

26. Defendants entered into Agreements with Plaintiff to become members of the Trust and to obtain all of the benefits of such membership.

27. Pursuant to R.C. 1739.13, Defendants, as members of the Trust, share a statutory duty to ensure that the Trust maintains minimum surplus amounts sufficient to protect the interests of its members and their employees, which at no time shall be less than \$150,000.

28. On or about July 1, 2001, the Trust demanded that certain Defendants pay their proportionate share of the July, 2001 Assessment.

29. On or about September 15, 2002, the Trust also demanded that certain Defendants pay their proportionate share of the September, 2002 Assessment.

30. To date, Defendants have refused to pay the July, 2001 Assessment and/or the September, 2002 Assessment, which amounts are noted in paragraph 18 above.

31. As a result of Defendants' failure to pay the Assessments, Defendants have breached their contractual and statutory obligations as members of the Trust. As a direct and proximate result of Defendants' breach, Plaintiff has been damaged in varying amounts, the total of which is known to exceed \$25,000.00 with the individual amounts specified in paragraph 18.

THIRD CLAIM – BREACH OF IMPLIED CONTRACT

32. Plaintiff restates the preceding facts and allegations as if fully rewritten herein.

33. In acceptance of Defendants' becoming members of the Trust, the Trust provided health benefits for Defendants' employees and their eligible dependents.

34. In consideration of the provision of health benefits, Defendants impliedly agreed to assume and discharge all liability under the Trust, in proportion to the ratio of the total number of covered employees employed by that particular Defendant to the total number of covered employees employed by all members of the Trust.

35. Pursuant to R.C. 1739.13, Defendants, as members of the Trust, share a statutory duty to ensure that the Trust maintains minimum surplus amounts sufficient to protect the interests of its members and their employees, which at no time shall be less than \$150,000.

36. As members, by refusing to pay their proportionate shares of the July, 2001 Assessment and/or the September, 2002 Assessment, the amounts of which are referenced above in paragraph 18, Defendants have breached their contractual obligations.

37. As a direct and proximate result of Defendants' breach, Plaintiff has been damaged in varying amounts, the total of which is known to exceed \$25,000.00 with the individual amounts specified in paragraph 18.

FOURTH CLAIM – UNJUST ENRICHMENT

38. Plaintiff restates the preceding facts and allegations as if fully rewritten herein.

39. By refusing to comply with the Superintendent's demand to pay their proportionate shares of the July, 2001 Assessment and /or September, 2002 Assessments, Defendants have knowingly and financially benefitted at the expense of Plaintiff.

40. Further, by refusing to comply with the Superintendent's demand to pay their proportionate shares of the July, 2001 Assessment and/or September, 2002 Assessment, Defendants have retained such benefit under circumstances that are unjust and have, thereby, been unjustly enriched.

41. As a direct and proximate cause of Defendants' unjust enrichment, Plaintiff has been damaged in varying amounts, the total of which is known to exceed \$25,000.00 with the individual amounts specified in paragraph 18.

WHEREFORE, for each claim, Plaintiff Ann H. Womer Benjamin, Superintendent of Insurance, Ohio Department of Insurance, in her capacity as Rehabilitator of the Trust, demands judgment against the individual Defendants in the various amount set forth in this Complaint plus interest, costs and attorney's fees.

JIM PETRO
Attorney General, State of Ohio

By: 
Michael H. Igoe (0012866)
David M. Karr (0063613)
Necol Russell-Washington (0073367)
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Columbus, Ohio 43215
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Special Counsel for the Attorney General
State of Ohio, representing Ann H. Womer
Benjamin, Superintendent of the Ohio
Department of Insurance, as Rehabilitator for
Builders and Contractors Employee Benefit
Association Trust

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

J. LEE COVINGTON, II,
Superintendent of Insurance
Ohio Department of Insurance
2100 Stella Court
Columbus, Ohio 43215,

Plaintiff,

vs.

BUILDERS AND CONTRACTORS
EMPLOYEE BENEFIT ASSOCIATION TRUST,
2858 West Market Street, Suite N
Akron, Ohio 44333,

Defendant.

CASE NO. 02CVH-02-2010

JUDGE Pfeiffer

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
02 MAR -4 PM 12:10
CLERK OF COURTS

AGREED ORDER APPOINTING REHABILITATOR

This cause came before this Court on the complaint of J. Lee Covington, II, Superintendent of Insurance of the State of Ohio, pursuant to R.C. 3903.12(A) and (L). Plaintiff appeared by and through the Ohio Attorney General, Betty D. Montgomery.

After having heard and considered the facts set forth in Plaintiff's complaint, this Court finds that the law and facts are as Plaintiff has alleged in his complaint and that there exists a present and urgent necessity for the immediate entry of this order. This Court further finds that:



1. Defendant Builders and Contractors Employee Benefit Association Trust (hereinafter referred to as "Builders And Contractors") is in such condition that its further transaction of business would be financially hazardous to its policyholders, creditors or the public, as described under R.C. 3903.12(A).

2. Defendant Builders and Contractors, its members, officers, directors, agents, employees, partners, representatives and those acting in concert with it should be enjoined and restrained from conducting, operating or engaging in the business of insurance or any other business of Defendant under any charter, permit, license, registration, certificate of authority, power or privilege of Defendant, and that any banks, savings and loan association, corporation, depositors, employers' welfare trusts, unions, agents, or other legal entities should be enjoined and restrained from removing or disposing of any of the assets, books, records, or property of Defendant, or of any debt or claim owed to, by or for said Defendant, without the express written authorization of the Rehabilitator.

3. Without the appointment of a Rehabilitator, Defendant is not in a condition to continue the insurance business and may cause harm to the interests of its policyholders, creditors or the public in general, and that unless restrained, Defendant will be forced to operate in a condition contrary to the best interests of Defendant's policyholders, creditors and the general public.

4. Without the appointment of a Rehabilitator, the assets of Defendant may become dissipated, causing irreparable and immediate injury of the policyholders, Defendant creditors and the general public.

5. Defendant, on February 13, 2002, consented to the appointment of a Rehabilitator in accordance with R.C. 3903.12(L) and waived both service of process and the holding of a formal hearing to show cause in connection with said appointment.

It is hereby ORDERED, ADJUDGED and DECLARED as follows:

1. Sufficient cause exists for the rehabilitation of Defendant.

2. J. Lee Covington, II, Superintendent of Insurance for the State of Ohio, and his successors in office, is appointed Rehabilitator of Defendant Builders and Contractors for the purpose of rehabilitation of defendant pursuant to the provisions of R.C. Chapter 3903.

3. The Rehabilitator may appoint a Chief Deputy Rehabilitator and other such Deputy Rehabilitators as he deems necessary for purposes of rehabilitation of Defendant pursuant to the provisions of R.C. Chapter 3903.

4. The Rehabilitator shall forthwith take and secure possession of all assets and property of Defendant, including, but not limited to, all property, contracts, deposits, securities, rights of action, accounts, safe deposit boxes and books and records of Defendant, wherever located, and administer them under the general supervision of the Court.

5. The Rehabilitator is vested by operation of law with the title to all property, deposits, securities, contracts, rights of action, books, records and other assets of Defendant as of the date of the entry of this Order directing Rehabilitation, and is authorized to deal with same in his own name as Rehabilitator.

6. As soon as practical after the Entry of this Order, the Rehabilitator shall prepare an inventory of all property of Defendant and shall submit an accounting to this Court at such intervals as ordered by this Court.

7. The Rehabilitator is authorized to take such action as he considers necessary or appropriate to reform and revitalize Defendant, including, but not limited to, the following:

(a) The Rehabilitator shall have all the powers of the directors, officers, and managers of Defendant, whose authorities are hereby suspended, except those powers as are specifically redelegated by the Rehabilitator.

(b) The Rehabilitator shall have full power to direct and manage to hire and discharge employees subject to any contract rights they may have, and to deal with the property and business of Defendant.

(c) The Rehabilitator shall collect all claims, accounts receivable, agents' balances, reinsurance proceeds and other amounts owing to Defendant, and shall bring such actions as are necessary, in his discretion, to collect the same and shall settle and compromise any of such claims, or other amounts owing to Defendant whenever he shall deem it advisable to do so, upon such terms and conditions as appear to him to be justifiable. The Rehabilitator shall also have the power to compromise any obligation of Defendant where it appears appropriate or necessary.

(d) The Rehabilitator may make transfers and sales of any assets or property of Defendant, enter into contracts, incur and discharge obligations and make expenditures from the income and receipts of the business of Defendant for labor,

insurance, equipment, inventory and supplies required, and to do any and every other act necessary to enable him to perform the duties imposed upon him by this Order.

(e) The Rehabilitator shall take all steps necessary to place all bank accounts, stock certificates, securities, certificates of deposit and other financial instruments of Defendant into his own name, and shall use any accounts of Defendant as an operating fund for the business of the rehabilitation of Defendant, and shall keep a true and correct account of any and all receipts or expenditures which he shall make as Rehabilitator in the course of the operation of said business.

(f) The Rehabilitator may, in his discretion, withhold or discontinue the payment of any pending claims against or involving Defendant until such time as the Rehabilitator has sufficient time to evaluate the claims and the overall financial condition of the Defendant.

8. If it appears to the Rehabilitator that there has been criminal or tortious conduct, wrongful sequestration or diversion of Defendant Builders and Contractors's assets, or breach of any contractual or fiduciary obligation detrimental to Defendant by any officer, manager, agent, director, trustee, broker, employee of Defendant or other person, he may pursue all appropriate legal remedies on behalf of Defendant.

9. If the Rehabilitator determines that reorganization, consolidation, conversion, reinsurance, merger or other transformation of Defendant is appropriate, he shall prepare a plan to effect such changes. Upon application of the Rehabilitator for approval of the plan, and after such notice and hearings as this Court may prescribe, the Court may either approve or disapprove the plan proposed, or may

modify it and approve it as modified. Any plan approved under this section shall be, in the judgment of this Court, fair and equitable to all parties concerned. If the plan is approved, the Rehabilitator shall carry out the plan.

10. The Rehabilitator shall have the power and authority under Sections 3903.26 and 3903.27 of the Revised Code to avoid fraudulent or preferential transfers. The Rehabilitator shall review all transactions, agreements, contracts, transfers of property or other actions agreed upon, entered into, made or incurred by Defendant within one year immediately prior to the filing of the complaint for rehabilitation. The Rehabilitator is hereby authorized to withhold or suspend any payments on any such transaction, agreement, contract, transfer of property or any other obligation of Defendant that may be due or owing for a period of ninety days or until such time as is necessary for the Rehabilitator to properly review such debt or claim. No legal action shall be taken or filed by a creditor or other person for any such amounts due against Defendant on any such transaction, agreement, contract, transfer of property or other action incurred or made within one year of the filing of the complaint for rehabilitation, and no delivery of or furnishing of services required thereby shall be suspended, discounted or terminated by such creditors or other persons during the ninety-day period of time that the Rehabilitator is reviewing such debt or claim, without further order of this Court.

11. The Rehabilitator is hereby granted and given all powers and authority under any and all statutes and under the common laws of this state authorizing the appointment of Rehabilitators, and, particularly, is granted and given all powers and

authority contained in R.C. Chapter 3903, including, without limitation, those enumerated herein.

12. All officers, directors, trustees, employees or agents of Defendant, or any other person, firm, association, partnership, corporation or other entity in charge of any aspect of Defendant's affairs, including, but not limited to, banks, savings and loan associations, financial or lending institutions, brokers, stock or mutual associations, or any parent, holding company, subsidiary or affiliated corporation or any other representative acting in concert with Defendant, shall cooperate with the Rehabilitator in the performance of his duties. The definition of "to cooperate" shall include, but not be limited to, a duty to do both of the following:

(a) Rely promptly in writing to any inquiry from the Rehabilitator requesting such a reply; and

(b) Immediately deliver to, and immediately make available to, the Rehabilitator any books, accounts, documents, records, information, computers, tapes, discs, writings, any other recording of information, pertaining to, or the property of, Defendant in his possession, custody or control.

(c) Disclose verbally or in writing, in the transmission requested by the Rehabilitator, the exact whereabouts of such items and information referenced in paragraph (b) above, if not in possession, custody or control of the officers, directors, trustees, employees or agents of Defendant, or any other person, firm, association, partnership, corporation or other entity in charge of any aspect of Defendant's affairs.

13. No member, officer, director, employee, partner, agent, representative of Defendant, or any other person acting in concert with Defendant, shall obstruct or interfere with the Rehabilitation in the conduct of his duties as Rehabilitator, and these persons are hereby restrained, except under the express authorization of the Rehabilitator or by the further order of this Court, from doing, operating and conducting the business of insurance of Defendant under any charter, permit, license, power or privilege, belonging to or heretofore issued by or to said Defendant, and from in any manner conducting, doing or engaging in the business of insurance; from disposing of, using, transferring, selling, assigning, canceling, hypothecating or concealing in any manner or in any way, any books, records, equipment, money, accounts receivable, stocks (including the stock of Defendant), bonds, assets, notes, funds or any property or other assets of Defendant, whether real, personal or mixed or of any kind or nature, wherever situated including any claims or cause of action that Defendant might have against any person, firm association or corporation, belonging to, owned by, in the possession of, or claimed by Defendant; and disposing of any account, debt, deposit, share account, trust account, or any other asset owned, owned to, or held for the benefit of Defendant or under any other name.

14. All officers, directors, employees, agents, servants, representatives of Defendant and those acting in concert with Defendant, shall, by sworn written statement, inform the Rehabilitator of the nature, description and location of all assets or other property of Defendant not located on the premises of Defendant, including, but not limited to, all bank accounts, safe deposit boxes, safes, stock certificates,

bonds, certificates of deposit, cash, security or any other property, real personal or mixed, and these persons are specifically ordered and enjoined from disposing of, records or reports of Defendant, except under the express authorization of the Rehabilitator or by the further order of this Court.

15. All officers, directors, trustees, managers, employees or agents of Defendant, or any other person, firm, association, partnership, corporation or other entity in charge of any aspect of Defendant's affairs, including, but not limited to, banks, savings and loan associations, trust companies, financial or lending institutions, brokers, stock or mutual associations, any parent, holding company, subsidiary or affiliated corporation, or any other persons, firms, corporations, associations, depositories, employers, unions, welfare trusts, or other legal entities or any other representative acting in concert with Defendant, are hereby restrained as follows, except with the written consent of the Rehabilitator:

(a) From disposing of, using, releasing, transferring, withdrawing, allowing to be withdrawn or concealing in any manner or in any way the property or assets of Defendant, of any kind or nature whatsoever, wherever situated, or from disposing of any account, or any other assets owned, owed to or held for the benefit of defendant, or any account, debt, share account, trust account, or other assets owned or held individually, jointly, or severally, for Defendant, whether such account, debt, deposit, share account, trust account, or any other assets owned or held for such Defendant, or under any other name, except under the express written authorization of the Rehabilitator or by the further order of this Court.

(b) From doing anything, directly or indirectly, to prevent the Rehabilitator from gaining access to, acquiring, examining or investigating any books, documents or records pertaining to or concerning Defendant or its affairs, under whatever name such books, documents or records may be filed or found or wheresoever such books, documents or records may be found or situated.

(c) From interfering in any way with the lawful acts of the Rehabilitator who has been appointed herein or from disposing of, converting, dissipating, or concealing in any manner or in any way any of the assets, books, property, records, or reports of Defendant.

16. Any action or proceeding pending in any Court in which Defendant is a party or is obligated to defend a party, is hereby stayed for a period of ninety days and such additional time as is necessary for the Rehabilitator to obtain proper representation and prepare for further proceedings. The Rehabilitator shall take such action respecting such pending litigation as he considers necessary in the interests of justice and for the protection of policyholders, creditors and the public. The Rehabilitator shall immediately consider all litigation pending outside this state and shall petition the Courts having jurisdiction over such litigation for stays wherever necessary to protect the estate of Defendant.

17. Any action by or against Defendant that might have been commenced when the complaint for rehabilitation was filed may be continued for at least ninety days after this order of rehabilitation is entered.

18. All third persons dealing with interests in real property or other property of Defendants are charged with notice of this order as provided in R.C. 3903.13(A).

19. The Rehabilitator may appoint one or more special duties, who shall have the powers and responsibilities of the Rehabilitator granted under this order, and may employ such clerks and assistants or security personnel as he considers necessary, such persons serving at the pleasure of the Rehabilitator.

20. The compensation of the Chief Deputy Rehabilitator, the Deputy Rehabilitators and any other special deputies, clerks, and assistants and all expenses of taking and securing possession of the property and affairs of Defendant and of conducting the rehabilitation of Defendant shall be fixed by the Rehabilitator, with the approval of this Court and shall be paid out of the funds or assets of Defendant. In the event that the property of Defendant does not contain sufficient cash or liquid assets to defray the costs incurred, the Superintendent of Insurance may advance the costs so incurred out of any appropriation for the maintenance of the Department of Insurance. Any amounts so advanced for expenses of administration shall be repaid

to the Superintendent for the use of the Department out of the first available money of Defendant.

Beverly H. Pfeiffer
JUDGE

APPROVED:

BETTY D. MONTGOMERY (0007102)
Attorney General

Lawrence D. Pratt
LAWRENCE D. PRATT (0021870)
SCOTT MYERS (0040686)

Assistant Attorneys General
Health and Human Services Section
30 East Broad Street, 26th Flr.
Columbus, Ohio 43215-3428
(614) 466-8600

BUILDERS AND CONTRACTORS EMPLOYEE
BENEFIT ASSOCIATION TRUST

BY: *Gene M. Naper*
Trustee & Secretary

Builders and Contractors.ord

THE STATE OF OHIO Franklin County, ss	JOHN O'GRADY, Clerk OF THE COURT OF COMMON PLEAS WITHIN AND FOR SAID COUNTY.
HEREBY CERTIFY THAT THE ABOVE AND FORE- GOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL <i>agreed order</i>	
NOW ON FILE IN MY OFFICE.	
WITNESS MY HAND AND SEAL OF SAID COUNTY	
THIS <i>4</i> DAY OF <i>Mar</i> A.D. 20 <i>02</i>	JOHN O'GRADY, Clerk
By <i>[Signature]</i>	Deputy

September 15, 2002

Client Name
Address
City, State ZIP

Re: Financial Condition of *Your* Trust

Dear Member:

Builders & Contractors Employee Benefit Association Trust ("BCEBAT") is a Multiple Employer Welfare Arrangement (MEWA) governed by both Federal and Ohio laws, and is specifically organized under Chapter 1739 of the Ohio Revised Code. The law permits a MEWA to operate group self-insured health benefit plans. BCEBAT operates group self-insured health plans and has provided for the reinsurance of medical claims that exceed Three Hundred Thousand Dollars (\$300,000). Your organization is a *Member* and *Sponsor* of BCEBAT.

BCEBAT is a not-for-profit organization, and is the largest licensed MEWA in the state of Ohio. BCEBAT Members include over four hundred (400) employer groups like yours that obtain health benefits for almost 4,500 employees and their families. With a MEWA, financial surplus and shortfalls are shared among its Members. Over the years, Members have been the benefactors of reasonable costs for health benefits by pricing the program with fair and very reasonable rates. In most cases, each Member has been able to offer their employees a quality health plan that does not reflect the high costs associated with for-profit organizations that we all know in the health insurance market place.

Currently, BCEBAT is in rehabilitation under the supervision of the Ohio Department of Insurance pursuant to the Agreed Order Appointing Rehabilitator. The rehabilitation was necessary because of the hazardous financial condition of BCEBAT as determined by the Ohio Department of Insurance. Over the months, we have determined that the following business activities significantly affected the assets of BCEBAT, and placed the Trust in "hazardous financial condition":

- Lack of proper "corporate" governance and Member involvement;
- The reinsurance threshold was raised from \$100,000 to \$400,000;
- BCEBAT agreed to improperly subrogate claims for enrollees who required medical benefits for automobile or worker's compensation claims;
- Medical claims were not adequately recorded and reported;
- Members and their employees were allowed to remain enrolled in BCEBAT even though payments were not received for months; and
- The Assessment levied for fiscal year 2000 was insufficient and not properly administered. Payments were not solicited from all Members uniformly. An outstanding balance of approximately \$320,000 remains that is being pursued on behalf of the Trust.

Since March, your Agent/Broker and a small group of Members have worked with the Office of the Deputy Rehabilitator to stabilize the operation of BCEBAT. Key activities completed to improve the financial condition of BCEBAT include:



- Hire BCEBAT staff to administer benefits and eliminate the cost for a Third Party Administrator;
- Select a new computer system to administer claims and premium management;
- Streamline benefit plan designs and expand medical benefits for all Members;
- Create a Benefit Handbook that is user friendly;
- Implement cost triggers and controls to ensure high quality care at a reasonable cost;
- Re-engineer the Prescription Benefit to a three-tier program that includes effective cost controls;
- Contract with Quality Care Partners, a high quality medical management organization for all Members;
- Consolidate provider networks to control costs and provide Members with reasonable out-of-state coverage;
- Implement a "Nurse Hotline" program that is available to members 24 hours a day/seven days a week;
- Adopt strong financial controls to manage assets and control business expenses;
- Re-contract the Agent/Broker community with a commissions schedule that is well within industry standards;
- Establish a web site, www.bcebat.com, that provides direct connectivity for Customer Service;
- Methodically pay all outstanding claims that included a large 2001 backlog; and
- Complete the conversion to a state-of-the-art claims administration system by year-end.

With your help BCEBAT will be back on the road to financial recovery. However, an infusion of capital by its Membership totaling \$1.4 million is required to cover the financial losses for 2001 and move the Trust towards the Ohio Department of Insurance surplus requirements for financial solvency, which include a more proportional "premiums to surplus" ratio. As previously discussed, the Members of a MEWA are ultimately liable for its debts that are not covered by reinsurance. Therefore, each Member enrolled in BCEBAT for 2001 is liable for a share of any deficit incurred for that fiscal year. Each Member enrolled in 2001 will have their assessment pro-rated based upon the amount of premium paid to the Trust in 2001 as a percent of total BCEBAT premiums (\$16,905,527) for the year. Assessment of Members is based upon membership in 2001. Please be assured that all Members enrolled in BCEBAT for any period of time in 2001 will be properly assessed their share, and BCEBAT will pursue all reasonable avenues to collect each Member's assessment. Members will be asked to pay their assessment over a three (3) month period, beginning with the October 2002 due date, and to be paid in full by December 2002. Your assessment is as follows:

<u>Member Premium</u>	<u>Months Covered</u>	<u>% of Total Trust Premium</u>	<u>2001 Assessment</u>	<u>Payment 1 Oct. 1st</u>	<u>Payment 2 Nov. 1st</u>	<u>Payment 3 Dec. 1st</u>
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On Thursday, October 9, 2002, there will be a meeting of the Trust's Business Advisory Council. The purpose of this meeting will be to discuss the reorganization of the Trust that includes governance and controls, the appointment of an interim Board of Trustees, and plans to move the BCEBAT out of Rehabilitation. We encourage you to participate in the control of your Trust. Please contact our office if you are interested in attending. On Thursday, September 12, 2002, fourteen (14) Members participated in the first meeting of this group.

Page 3
Member Letter
September 15, 2002

Thank you for your continued cooperation. We hope that this letter helps you understand the advantages as well as your responsibilities as a *Member* and *Sponsor* of BCEBAT.

Very truly yours,

Mary Jo Lopez
Deputy Rehabilitator

Cc: Agent/Broker of Record
Business Advisory Counsel
Jeffrey Ferris, Deputy Rehabilitator
Richard V. Patchen, Special Counsel

September 15, 2002

Name of Employer Group
Address
Address

By Certified Mail

Re: Request for Payment of Assessment on Behalf of the Builders & Contractors Employee Benefit Association Trust ("BCEBAT")

Dear Former Member:

Builders & Contractors Employee Benefit Association Trust ("BCEBAT") is a Multiple Employer Welfare Arrangement (MEWA) governed by both Federal and Ohio laws, and is specifically organized under Chapter 1739 of the Ohio Revised Code. The law permits a MEWA to operate group self-insured health benefit plans. BCEBAT operates group self-insured health plans and has provided for the reinsurance of medical claims that exceed Three Hundred Thousand Dollars (\$300,000). ***In 2001 your organization was a Member and Sponsor of BCEBAT.***

BCEBAT is a not-for-profit organization and is the largest licensed MEWA in the state of Ohio. In 2001, BCEBAT's Membership included over five hundred (500) employer groups like yours that obtained health benefits for almost 5,500 employees and their families. With a MEWA, financial surplus and shortfalls are shared among its Members. Over the years, Members have been the benefactors of reasonable costs for health benefits by pricing the program with fair and very reasonable rates. In most cases, each Member has been able to offer their employees a quality health plan that does not reflect the high costs associated with for-profit organizations we all know in the health insurance market place.

Currently, BCEBAT is in rehabilitation under the supervision of the Ohio Department of Insurance pursuant to the Agreed Order Appointing Rehabilitator. The rehabilitation was necessary because of the hazardous financial condition of BCEBAT as determined by the Ohio Department of Insurance. Over the months, we have determined that the following business activities significantly affected the assets of BCEBAT, and placed the Trust in "hazardous financial condition":

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- The reinsurance threshold was raised from \$100,000 to \$400,000;
- BCEBAT agreed to improperly subrogate claims for enrollees who required medical benefits for automobile or worker's compensation claims;
- Medical claims were not adequately recorded and reported;
- Members and their employees were allowed to remain enrolled in BCEBAT even though payments were not received for months; and
- The Assessment levied for fiscal year 2000 was insufficient and not properly administered. Payments were not solicited from all Members uniformly. An outstanding balance of \$320,000 remains that is being pursued on behalf of the Trust. ***If you have not paid in full your 2000 Assessment, the outstanding balance has been included in this notice.*** For the 2000 Assessment, Members enrolled in the Trust through June 30, 2001 were subject to the levy.

Page 2
Letter to Former Member
September 15, 2002

Since March, the Agent/Broker community and a small group of Members have worked with the Office of the Deputy Rehabilitator to stabilize the operation of BCEBAT. Key activities completed to improve the financial condition of BCEBAT include:

- Hire BCEBAT staff to administer benefits and eliminate the cost for a Third Party Administrator;
- Select a new computer system to administer claims and premium management;
- Streamline benefit plan designs and expand medical benefits for all Members;
- Create a Benefit Handbook that is user friendly;
- Implement cost triggers and controls to ensure high quality care at a reasonable cost;
- Re-engineer the Prescription Benefit to a three-tier program that includes effective cost controls;
- Contract with Quality Care Partners, a high quality medical management organization for all Members;
- Consolidate provider networks to control costs and provide Members with reasonable out-of-state coverage;
- Implement a "Nurse Hotline" program that is available to members 24 hours a day/seven days a week;
- Adopt strong financial controls to manage assets and control business expenses;
- Re-contract the Agent/Broker community with a commissions schedule that is well within industry standards;
- Establish a web site, www.bcebat.com, that provides direct connectivity for Customer Service;
- Methodically pay all outstanding claims that included a large 2001 backlog;
- Complete the conversion to a state-of-the-art claims administration system by year-end.

The Office of the Deputy Rehabilitator has determined that there needs to be an infusion of capital by those Members that participated in the Trust in the 2001 calendar year. As a former Member of BCEBAT, you have the **liability and responsibility** to the Trust to contribute to the capital requirements as prescribed by Ohio law § 1739.14 and § 1739.15. An Assessment of \$ 1.4 million is required to cover the financial losses for 2001 and move the Trust towards the Ohio Department of Insurance surplus requirements for financial solvency, which include a more proportional "premium to surplus" ratio. As previously discussed, the Members of a MEWA are ultimately liable for its debts that are not covered by reinsurance. Therefore, each Member enrolled in BCEBAT for 2001 is liable for a share of any deficit incurred for that fiscal year. Each Member enrolled in 2001 will have their assessment pro-rated based upon the amount of premium paid to the Trust in 2001 as a percent of total BCEBAT premiums (\$16,905,527) for the year. The assessment of Members is based upon membership in 2001. Please be assured that all Members enrolled in BCEBAT for any period of time in 2001 will be properly assessed their share, and **BCEBAT will pursue all avenues to collect each Member's assessment**. As a former Member you will be asked to pay your assessment over a three (3) month period beginning with the October 2002 due date and to be paid in full by December 2002. Your assessment is as follows:

Assessment 2000
Assessment 2001

Page 3
Letter to Former Member
September 15, 2002

Thank you for your continued cooperation. We hope that this letter helps you understand your responsibilities as a *former Member* and *Sponsor* of BCEBAT. If you choose to ignore this letter, we will be forced to pursue legal recourse against your organization.

Very truly yours,

Mary Jo Lopez
Deputy Rehabilitator

Cc: Agent/Broker of Record
BCEBAT Business Advisory Council
Jeffrey Ferris, Deputy Rehabilitator
Richard V. Patchen, Special Counsel

366 EAST BROAD STREET
COLUMBUS, OHIO 43215
FAX: 614/221/0216
TELEPHONE: 614/228-6135
<http://www.cpmlaw.com>



CARLILE PATCHEN & MURPHY LLP
ATTORNEYS AT LAW

Writer's Direct Line: (614) 628-0872
Writer's E-Mail Address: rbn@cpmlaw.com

October 15, 2002

M _____

Dear :

As you know, your company previously provided benefits for your employees through membership in the Builders and Contractors Employee Benefit Association Trust (the "Trust") offered to your company in accordance with your Master Agreement. The Trust is a Multiple Employer Welfare Arrangement ("MEWA"), which is governed by the provisions contained in Ohio Rev. Code § 1739.01 et seq.

In July 2001, the Trust issued your company an assessment equal to one month's premium. Our records indicate that the Trust has received full payment for this assessment.

Subsequent to the July 2001 assessment, the Trust issued a second assessment to your company in September 2002. To date, the Trust has not received a payment from your company for the September 2002 assessment.

Pursuant to R.C. 1739.13, the Trust is required to maintain a surplus sufficient to protect the interests of its members and their employees. Both of the aforementioned assessments were issued to all members of the Trust in order to meet the minimum surplus amount required under R.C. 1739.13. As such, it is imperative that the Trust receive payment from your company for the amount indicated in the September 2002 notice of assessment.

While your employees are no longer insured through the Trust, your company remains obligated for the amounts owed for the September 2002 assessment, pursuant

M
October 15, 2002
Page 2

to the mandates of R.C. §§ 1739.14 and 1739.15. Your termination of membership in no way relieves your responsibility for remitting the total assessment as prescribed by law.

Our law firm has been engaged by the Trust to pursue any unpaid assessments. Our records indicate that your company owes \$_____ for September 2002 assessment amount. Therefore, please remit payment in full for the monies owed to the Trust to our attention:

Carlile Patchen & Murphy
ATTN.: Michael H. Igoe
366 East Broad Street
Columbus, Ohio 43215

If payment is not received within thirty (30) days from the date of this letter, the Trust will request our firm to take all necessary legal steps to obtain payment for the amounts owed.

Please feel free to contact me with any questions that you may have in this regard.

Very truly yours,

CARLILE PATCHEN & MURPHY LLP

Michael H. Igoe

cc: Jeffery J. Ferris, Deputy Rehabilitator
Mary Jo Lopez, Deputy Rehabilitator
Richard Patchen, Special Counsel

RBN/SWJ/535224.2
065278.001

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CARLILE PATCHEN & MURPHY LLP
ATTORNEYS AT LAW

Writer's Direct Line: (614) 628-0872
Writer's E-Mail Address: rbn@cpmlaw.com

October 15, 2002

M _____

Dear :

As you know, your company previously provided benefits for your employees through membership in the Builders and Contractors Employee Benefit Association Trust (the "Trust") offered to your company in accordance with your Master Agreement. The Trust is a Multiple Employer Welfare Arrangement ("MEWA"), which is governed by the provisions contained in Ohio Rev. Code § 1739.01 et seq.

In July 2001, the Trust issued your company an assessment equal to one month's premium. In addition to the July 2001 assessment, the Trust issued a second assessment in September 2002. To date, the Trust has not received payment from your company for either of these assessments.

Pursuant to R.C. 1739.13, the Trust is required to maintain a surplus sufficient to protect the interests of its members and their employees. Both of the aforementioned assessments were issued to all members of the Trust in order to meet the minimum surplus amount required under R.C. 1739.13. As such, it is imperative that the Trust receive payment from your company for the amount indicated in the July 2001 and September 2002 notices of assessment.

While your employees are no longer insured through the Trust, your company remains obligated for the amounts owed through the two previously issued assessments, pursuant to the mandates of R.C. §§ 1739.14 and 1739.15. Your termination of membership in no way relieves your responsibility for remitting the total assessment as prescribed by law.

M
October 3, 2002
Page 2

Our law firm has been engaged by the Trust to pursue all unpaid assessments. Our records indicate that your company owes the following:

July 2001

September 2002

Therefore, please remit payment in full for the monies owed to the Trust to our attention:

Carlile Patchen & Murphy
Attn.: Michael H. Igoe
366 East Broad Street
Columbus, Ohio 43215

If payment is not received within thirty (30) days from the date of this letter, the Trust will request our firm to take all necessary legal steps to obtain payment for the amounts owed.

Please feel free to contact me with any questions that you may have in this regard.

Very truly yours,

CARLILE PATCHEN & MURPHY LLP

Michael H. Igoe

cc: Jeffery J. Ferris, Deputy Rehabilitator
Mary Jo Lopez, Deputy Rehabilitator
Richard Patchen, Special Counsel

RBN/SWJ/535224
065278.001