

WALDHEGER • COYNE
& ASSOCIATES CO., L.P.A.
Attorneys at Law

2520032034593

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

December 31, 1992

U.S. Department of Labor
Pension and Welfare Benefits Administration
P.O. Box 75212
Washington, D.C. 20013-5212

Re: Southwest Family Physicians, Inc.

Dear Sir or Madam:

This letter constitutes a registration statement required under DOL Reg. Section 2520.104-23 as an alternative method of compliance with the reporting and disclosure requirements of Part 1 of Title I of the Employee Retirement Income Security Act of 1974 for unfunded pension plans maintained by an employer for a select group of management or highly compensated employees.

The following information is required by the regulation:

1. Employer's name: Southwest Family Physicians, Inc.
2. Employer's address: 7225 Old Oak Boulevard
Cleveland, Ohio 44130
3. Employer's EIN: 34-1166834
4. Number of Plans: 1

The employer believes that there is only one plan, but see the explanation below.

5. Employees covered: 8

The employer believes that there may be 8 covered employees, but see the explanation below.

The corporation is a professional corporation organized under the laws of the state of Ohio. Each of the corporation's shareholders has

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entered into an employment contract under which he is paid a share of amounts received by the corporation for services rendered by him before his termination of employment. Although each shareholder has a separate employment contract, the provisions regarding payment of these amounts is identical. There is no funding of this payment.

Given the lack of regulations defining the meaning of an "unfunded pension plan covering a select group of management or highly compensated employees", the corporation is not certain whether the arrangement described above is, in fact, an unfunded pension plan within the meaning of the statute. (Indeed, some representatives of the Department of Labor have stated publicly that, in their personal opinion, the arrangement described above is not an unfunded pension plan within the meaning of the statute.) This registration statement is being filed only to allow the corporation to take advantage of the Amnesty Program announced in the Federal Register on April 20, 1992.

Assuming that the arrangement described above does constitute an unfunded pension plan within the meaning of the statute, the corporation believes there is a single plan.

If further information is needed, please contact this firm.

Sincerely,

WALDHEGER • COYNE &
ASSOCIATES CO., L.P.A.

WCA:LP
Enclosure

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The U.S. Department Of Labor
Amnesty Program
Pension and Welfare Benefits Administration
P.O. Box 75212
Washington, DC 20013-5212

Re: Payment of Amnesty Charges

Dear Sirs:

Enclosed please find one of many checks in "Amnesty Fees" which our clients have elected to pay as provided for in your Amnesty Program. On their behalf, and on behalf of our law firm, we wish to express our outrage at the technique devised by the Department of Labor to exact these fees and request a full and immediate refund. By copy of this letter, we are simultaneously registering our protest and demand for refund with the President, the Secretary, and each member of the United States Congress.

The attorneys in our firm have practiced employee benefit law for many years. This is the first time in our experience that any branch of the federal government has resorted to "protection money" as a method of raising revenue. The Amnesty Program ill-befits a free system of government. In essence, if one pays \$1,000 for protection from audit, one is relieved of the risk of audit and of filing requirements. Since the Department has been extremely unclear on exactly which plans qualify as "employee benefit plans" and offers no system for prior determination, this leaves the plan administrator with a forced choice: either make his own determination that the appropriate filings were not due and risk a barrage of fees, interest, and penalties if the Department decides to pursue him, or pay \$1,000 and avoid the filing requirements all together.

This is policy by threat. If compliance with the filing requirements is sufficiently important to justify huge penalties, certainly \$1,000 should not free any plan administrator from the obligation. On the other hand, if the filings themselves are not critical, why should a plan be forced to pay for "protection" from the possibility of enormous penalties?

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It would be no different if the Internal Revenue Service were to sell "Amnesty" for \$1,000 for any late filings, failures to file, or mistakes on a taxpayer's 1040 Form with the threat that, if the protection money was not paid, there might well be an audit and huge penalties on the taxpayer. For the government to assert a "voluntary" fee to avoid enforcement of its own regulations is deplorable public policy. Either the fee or the regulation should be repealed.

On behalf of all of our clients, we state categorically that penalties should be collected from those who violate legitimate laws or regulations. A tax should be paid by those required by statute to pay a tax when it is determined to be due, but in no case should the government collect revenue by selling amnesty or protection from assessment to those who can afford the fee but cannot afford the risk of the assessment of a huge penalty that has never been enforced. It is bad enough that the penalties will be unevenly applied. It is obnoxious that blanket absolution can be purchased for a fee.

Therefore, we urge a complete refund of all monies raised by the Department of Labor under this Amnesty Program. We will continue to seek redress through every available forum.

WALDHEGER, COYNE & ASSOCIATES CO., L.P.A.



Ronald J. Waldheger



Michael P. Coyne

WCA:crsp:061

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MAY 7 1993
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BENEFITS ADMINISTRATION
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