

Actuarial Work-Products, Inc.

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TO: Addressee Number 1 Addressee Number 2 Addressee Number 3
John Smith Enterprises Self-Funding Actuarial Black and White Consult
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RE: **Discrimination Testing** **Test Date** 01/01/2011
IRC Section 129
Safe Harbor Test

Employer Advanced Marketing Services, Inc.

Single **Multiple (Controlled/Affiliated)?** NA **Other Employers Include:**

Plan Name DCAP Plan of Advanced Marketing Services **DOL No.** 649

Plan Description DCAP

Engager John Smith Enterprises **Test Year** 2011

This Work-Product constitutes an Actuarial Opinion that may be used to determine whether or not the subject health care plan is discriminatory as contemplated by IRC Section 129 and relevant Regulations and Rulings. The quantitative aspects of health care plan discrimination testing are properly of interest to the health actuary. Other areas of interest (plan restructuring, remediation, financial penalties, e.g.) properly remain with the accountant or attorney, however. This Work-Product is in three parts: (a) Opinion, (b) Quantitative Tests and (c) Submitted Data (stored at www.awpse.com).

Sincerely,

Principal or Certifying Actuary

Opinion

I am either (a) a Principal of Actuarial Work-Products, Inc. or (b) a Certifying Actuary designated as Addressee Number Three and am a member of both the (a) Society of Actuaries and (b) the American Academy of Actuaries. My firm has been retained by the Engager to provide calculations of certain actuarial items for the above-cited Health Care Plan and also to provide an opinion as to whether or not such Plan is discriminatory as contemplated by applicable Federal Laws, Regulations and Rulings. I relied upon the Engager cited herein as Addressee Number One as to the accuracy and completeness of the underlying data and documentation that was used in this Certification. In other aspects, my examination included (a) reviews of the actuarial assumptions, methods and submitted data and (b) tests of actuarial computations as I considered necessary under the circumstances.

The results of the discrimination tests that form the basis of my opinion are as follows:

	<u>Are These Discrimination Tests Met?</u>
1. <u>Per Se Discrimination Tests</u>	
a. Probationary Period	<u>Yes</u>
b. Benefits (Including Optional Benefits)	<u>Yes</u>
c. Participant Contributions	<u>Yes</u>
d. Tenure/Compensation	<u>Yes</u>
2. <u>Eligibility Tests</u>	
a. <u>Percentage Tests</u>	
i. 70% Test	<u>Yes</u>
ii. 70/80% Test	<u>NA</u>
b. <u>Benefit Ratio Test</u>	<u>Not Applicable</u>
3. <u>Benefits Tests</u>	
a. 5% Owner Concentration Test	<u>Yes</u>
b. 55% Average Benefit Test	<u>No</u>

Is the Plan Nondiscriminatory for the Test Year? _____

This Work-Product is an actuarial opinion as contemplated by the American Academy of Actuaries.

1. I am qualified to offer such opinion by reason of my meeting the requisite examination, experience and continuing education requirements of the American Academy of Actuaries.
2. I am independent of and have no conflicted interest with respect to this Work-Product.
3. This Work-Product was prepared at the request of the Engager who is identified herein and who may not be the end-user.
4. I intend to be a fiduciary with respect to this Work-Product and will act accordingly striving to meet the standards of conduct necessary to meet this end.
5. The professional liability for the computer-provided computations used in this Work-Product is assumed by Actuarial Work-Products, Inc. which has in place appropriate E & O insurance. Either the Principal or Certifying Actuary, as signing Actuary, assumes the professional liability for the data-handling activities and has in place appropriate E & O insurance; such Actuary does not assume the professional responsibility for flawed or inappropriately-submitted data but does assume the professional responsibility for reviewing/editing for general reasonableness and appropriateness. Professional liability for any related consulting is a facts and circumstances matter.

Date

Principal or Certifying Actuary

Quantitative Tests

1. Eligibility Test

a. 70% Test (All)

Total Employees	<u>50</u>
Total Employees Eligible to Participate	<u>10</u>
Percent	<u>90%</u>

b. 70/80% Test (Non-Excludible Only)

Total Employees	<u>50</u>
Excludible Employees	<u>10</u>
Eligible Employees	<u>40</u>
Total Employees Eligible to Participate (Omitting the Excludibles)	<u>37</u>
Percent	<u>92%</u>

70/80 % Test is inapplicable if 10 exceeds
30% of 50

2. Benefit Ratio Test (Non-Excludible Only)

Not Applicable

3. Benefits Tests

a. 25% Owners Concentration Test (Applicable to the Over-5% Owners)

<u>Employee Grouping</u>	<u>Number</u>	<u>Annualized Qualified Plan Benefits</u>	<u>Percentage</u>
Owners	<u>2</u>	<u>3,000</u>	<u>6%</u>

Non-Owners	<u>43</u>	<u>47,000</u>	<u>94</u>
Total	<u>45</u>	<u>50,000</u>	<u>100%</u>

b. 55% Average Benefits Test (Applicable to the HCE)

<u>Employee Grouping</u>	<u>Number</u>	<u>Annual Qualified Benefits</u>	<u>Average</u>
HCE	<u>5</u>	<u>15,000</u>	<u>3,000</u>
Non-HCE	<u>40</u>	<u>35,000</u>	<u>900</u>
Total	<u>45</u>	<u>50,000</u>	<u>1,111</u>

Ratio of (a) Non-HCE Average to (b) HCE Average must be at least 55%.

Comments

1. A highly compensated individual (HCI) is any person who is (a) one of the top five highly paid officers, (b) a more than a 10% shareholder (using IRC attribution rules) or (c) one of the top 25% employees in compensation (not counting the excludible non-participants)
2. A Highly Compensated Employee (HCE) is any employee who (a) is an officer, (b) is a more than 5% shareowner or (c) who has an annual compensation in excess of the limits set by IRC Section 414(q) (adjusted for COLA).
3. Owner is a person who is an over 5% shareowner.

Submitted Data

The Submitted Data is privacy-protected and is accessible at www.awpse.com.