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**Philip Castevens, ASA, MAAA**  
Principal  
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<b>TO: Addressee Number 1</b>	<b>Addressee Nnumber 2</b>	<b>Addressee Number 3</b>
John Smith Enterprises	Self-Funding Actuarial	Black and White Consult
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**RE: Discrimination Testing  
IRC Section 105(h)**

**Test Date**      **10/01/2010**

**Employer (Plan Sponsor)** ABC Holding Company

Single \_\_\_\_\_ Multiple (Controlled/Affiliated)?   X   Other Employers Include:

**LMN Service Company    EFG Manufacturing Company**

**PQR Sales Corporation    HIJ Marketing Company    STU Corporation**

<b>Plan Name</b>	<b>ABC Medical Benefits Plan</b>	<b>DOL No.</b>	601
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Plan Description	MRP
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Engager	John Smith Enterprises	Test Year	2010
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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 105(h) 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](http://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:

	<b><u>Are These Discrimination Tests Met?</u></b>
<b>1. <u>Per Se Discrimination Tests</u></b>	
a. Probationary Period	<b><u>Yes</u></b>
b. Benefits (Including Optional Benefits)	<b><u>Yes</u></b>
c. Participant Contributions	<b><u>Yes</u></b>
d. Tenure/Compensation	<b><u>Yes</u></b>
<b>2. <u>Eligibility Tests</u></b>	
a. <b><u>Percentage Tests</u></b>	
1. 70% Test	<b><u>No</u></b>
ii. 70/80% Test	<b><u>No</u></b>
b. <b><u>Fair Cross-Section Test</u></b>	
Average Compensation by Class	<b><u>Yes</u></b>
c. <b><u>Benefit Ratio Test</u></b>	<b><u>Yes</u></b>
<b>3. <u>Benefits and Contributions Tests</u></b>	<b><u>Yes</u></b>

**Is the Plan Non-Discriminatory for the Test Year?**

**Yes**

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>26</u>
Total Participants	<u>16</u>
Percent	<u>62%</u>

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

Total Employees	<u>26</u>
Excludible Employees	<u>6</u>
Eligible Employees	<u>20</u>
Total Participants (Omitting the Excludibles)	<u>14</u>
Percent	<u>70%</u>

70/80 % Test is inapplicable if 20/26  
is less than 70%

## 2. Fair Cross-Section Test

### a. Average Compensation by Class

<u>Class</u>	<u>Number</u>	<u>Annualized Compensation</u>	<u>Average</u>
<u>Employee Non-Participant</u>			
Excludible Class	<u>4</u>	<u>303,000</u>	<u>75,750</u>
Other Reasons	<u>6</u>	<u>406,000</u>	<u>67,700</u>
Sub-Total	<u>10</u>	<u>709,000</u>	<u>70,900</u>

### Employee Participant

HCI	<u>8</u>	<u>373,000</u>	<u>46,625</u>
Non-HCI	<u>8</u>	<u>649,000</u>	<u>81,125</u>
Total	<u>16</u>	<u>1,022,000</u>	<u>63,875</u>
All Employees	<u>26</u>	<u>1,731,000</u>	<u>66,577</u>

### 3. Benefit Ratio Test (Non-Excludible Only)

#### A. Ratio Percent

##### a. Numerator (Non-HCI Only)

(1) Participants	<u>6</u>
(2) Eligible Employees	<u>9</u>
(3) (1)/(2)	<u>67%</u>

##### b. Denominator (HCI)

(1) Participants Only	<u>8</u>
(2) Eligible Employees	<u>11</u>
(3) (1)/(2)	<u>73%</u>

(c) **Ratio Percent (a)/(b)x100** .807

#### B. Non-HCI Concentration Percent

(A) Non-HCI Eligible Employees	<u>9</u>
(B) HCI and Non-HCI Eligible Employees	<u>20</u>
(C) <b>Percent (A)/(B)</b>	<u>45%</u>

#### Safe Harbor Zone

Conclusively Safe	<u>50%</u>
Conclusively Unsafe	<u>40%</u>

#### 4. Benefits and Contributions Test

<u>Plan Participants</u>	<u>Number</u>	<u>Annualized</u>		<u>Participant Net Benefit Index</u>
		<u>Paid Qualified Benefits</u>	<u>Paid Participant Contributions</u>	
HCI	<u>8</u>	<u>67,000</u>	<u>17,000</u>	<u>6,250</u>
Non-HCI	<u>8</u>	<u>28,000</u>	<u>20,000</u>	<u>1,000</u>
Total	<u>16</u>	<u>95,000</u>	<u>37,000</u>	<u>3,625</u>

### 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 pay (not counting the excludible non-participants).
- 2.

# Submitted Data

The Submitted Data is privacy-protected and is accessible at [www.awpse.com](http://www.awpse.com).