Action Items

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a newsletter for ACI's clients and their advisors

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ERISA Section 404(c):
Fiduciary Liability Exposure

by Stuart Hack

When writing about ERISA Section 404 liability exposure, I feel like the dentist asking the reluctant patient to open wide, wider.

The fact is, despite warm assurances from plan vendors that all is well, plan sponsors of participant-directed plans need to pay serious attention to their fiduciary liability exposure. Fiduciaries are personally and jointly liable for the investment results experienced by plan participants. Plan fiduciaries include the plan sponsor, certain officers of the plan sponsor, the board of directors of the plan sponsor, named trustees, the named plan administrator, and anyone else who acts in a fiduciary capacity.

Under ERISA Section 404(a), fiduciaries must meet the criteria of being an expert at their duties, described as the "prudent man standard of care." Fiduciary duties include: Deciding on the asset allocation that will carry out the intentions of the plan; selecting investment managers for each asset class; monitoring the asset allocation and the managers against documented criteria; and making changes in the asset allocation and/or managers when appropriate.

Case law follows and reinforces ERISA provisions and regulations. In Allison v. Bank One, there were only 10 participants and the initial loss was only $138,000. With imputed interest, the claim grew to over $250,000 by the time the case went to the appellate court. Bank One was held liable as the named trustee, because it selected the investment that went sour. In Conner v. Mid South Insurance Agency, et al, the court commented, "Upon plaintiff's departure from employment, he discovered that his pension plan investment failed to grow, and he claims that defendants are liable for the resulting loss. For the most part, we agree with plaintiff's assertions."

Participant Directed Accounts

In a participant-directed plan, 404(a) makes the fiduciaries responsible for every participant's investment allocation *unless the plan qualifies as a "404(c) plan"*. To qualify, the plan must meet each of the requirements of the Department of Labor's 404(c) regulations.

See "404(c)" on page 2

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404(c) *continued from page 1*

Some of the common gaps in 404(c) compliance include failure to:

1. Provide participants a Notice of Intent to be a "404(c) plan"
2. Name the 404(c) fiduciaries who are designated to:
    a. Provide investment information to participants.
    b. Receive and carry out participant investment directions.
3. Designate the "core" investment options.
4. Have a documented process to select and monitor the investment classes for participant investment direction.
5. Have an investment policy for the "default"investment option.
6. Disclose charges made against participant accounts.
7. Provide all of the investment information required under 404(c).
8. Provide current prospectuses immediately prior to (or immediately after) the first time a participant invests in a fund.

Vendors Rarely Take On or Eliminate Your Fiduciary Responsibility

If you pay insufficient attention to fiduciary responsibility or think that someone else is taking care of it, you are increasing your liability exposure. While the plan vendor, investment provider or broker may be assisting you, unless they agree to be a co-fiduciary with you—in writing—you are it! The plan sponsor and other plan fiduciaries are responsible for plan investment decisions, not the vendor or broker.

When vendors mention, "We carefully select all of the funds in our program," that does not eliminate your fiduciary obligation to the plan and its participants. Again, you are protected only if the vendor and/or broker agree to be named as a fiduciary. Under ERISA, the plan fiduciaries have all of the responsibility and all of the liability exposure.

Vendors may tell you that their materials and procedures are 404(c) compliant. That does not mean that the plan actually complies with 404(c). Their materials and procedures are only a part of what it takes to comply.

How Large Is the Exposure? What Are the Odds of Being Sued?

Your exposure is 100% of any proven investment loss (defined to include what the assets could have grown to, including imputed interest). If fraud or self-dealing is involved, there are monetary and criminal penalties, substantially increased by the recently enacted Sarbanes-Oxley Act of 2002. However, the largest expenses of a DOL audit or participant lawsuit occur regardless of whether you win or lose. They include legal expenses and professional fees to defend, the impact on employee moral, and the diversion of vital company resources.

The DOL audits a very small percentage of plans every year. Right now, one particular issue upon which they are focusing is the delayed deposit of participant deferrals. Once into your plan, the DOL voraciously looks at other issues. They typically ask for your Investment Policy Statement and Investment Committee meeting minutes. If *you* are the one that is audited, it doesn't matter that the odds were low for it ever happening.

Exposure to being sued is an unknown, but growing possibility. How your employees are treated and how much money they lose in their accounts seem to be critical issues. A handful of law firms have set up websites to attract the attention of disheartened plan participants. How large your plan is may make a difference, but don't count on it. Allison v. Bank One involved only 10 participants and went all the way to the 10th Circuit Court of Appeals.

Clearly, the best course of action is to prevent a DOL audit and participant litigation by carrying out case-proven and DOL-recommended procedures.

The Solutions

404(a) Responsibilities

To fulfill fiduciary responsibilities under ERISA 404(a), the recognized procedure for a participant-directed plan is to have an Investment Policy Statement (IPS) that establishes the process and criteria for selecting and monitoring the asset classes to meet 404(c) requirements, selecting and monitoring managers for each of the asset classes, and making changes when it is appropriate to do so.

404(c) Compliance

The 404(c) regulation is extensive, with over 30 requirements to fulfill. Typically 80% or more is already being done. It is essential to identify the 20% that needs to be

changed or added. While it may not be possible to do everything that is required, there are ways to come very close. Once the changes and additions are instituted, full documentation of how the plan fulfills every requirement provides the protection you need against potential DOL audit and participant litigation.

404(c) Compliance Process

1. Review against regulation for gaps.
2. Make changes and additions where needed.
3. Establish compliance procedure.
4. Document how plan complies.
5. Annual document review and update

Current Required 404(c) Actions and Issues

If you sponsor a participant-directed plan, there are decisions you need to make regarding 404(c).

Form 5500

Form 5500 question #8(a) requires the plan sponsor to state whether the plan is participant-directed and, if it is, whether the plan intends to be a "404(c) plan." The contents of 5500 filings are public information. Your answer to question #8a may profile your plan for a DOL audit and/or a law firm contacting your plan participants. Any plan that answers that it is participant-directed, but does not intend to be a 404(c) plan may be a sitting duck.

All answers on the form 5500 are made subject to penalty for perjury. If the plan sponsor answers that the plan is participant-directed and *does not* intend to be a 404(c) plan, it is saying, under oath, that the plan sponsor does not intend to be exempt from responsibility for participant investment allocation results. That will make a defense against a participant lawsuit very difficult.

A word of caution: The DOL has stated that if your answer to #8a is that you intend to be a "404(c) plan," they expect you to carry out that intent. Having proof that you have done everything you can to meet the 404(c) regulation requirements is very important.

GUST SPD

Pursuant to DOL regulations, the Summary Plan Description for your plan restatement must state if the plan intends to be a "404(c) plan."

Conclusion

Plan sponsors, certain officers, and board members have well-defined fiduciary responsibilities. Many plan spon-

See "404(c)" on page 6

Empoyee Benefit Plan Audit Requirements

by Warren J. Shulman

Generally if you have over 100 eligible participants in your employee benefit plan at the beginning of the plan year, an audit by an independent accountant is required. The number of participants entered on line 6 of the Form 5500 determines whether a plan is a "small plan" or a "large plan". Large plans, i.e. those with more than 100 eligible participants at the beginning of the plan year, are subject to the audit requirements.

There are two exceptions to this rule:

(1) 80-120 Participant Rule:

If the number of participants reported on Line 6 is between 80 and 120, and a Form 5500 was filed for the prior plan year, you may elect to complete the Form 5500 in the same category ("large plan" or "small plan") as was filed for the prior 5500. Thus if a Form 5500 was filed for the 2001 plan year as a small plan, and the number entered on Line 6 of the 2002 Form 5500 is 100 to 120, you may elect to complete the 2002 Form 5500 and schedules in accordance with the instructions for a small plan.

(2) Short Plan Year Rule:

If the plan had a short plan year of 7 months or less for either the prior plan year or the plan year being reported on the Form 5500, an election can be made to defer filing the accountant's report. If such an election was made for the prior plan year, the following year Form 5500 must be completed following the requirements for a large plan, including the attachment of the Schedule H and the accountant's reports, regardless of the number of participants entered on line 6 of the Form 5500.

Small plans may also be subject to the audit requirements. Effective for plan years beginning on or after May 1, 2001, the Department of Labor issued regulations that require certain small plans to attach a copy of an independent accountant's report to the annual Form 5500 unless certain requirements are met. Basically, if at least 95% of the investments of the plan are in "qualifying plan assets" at the beginning of the plan year, the audit requirement is waived. Qualifying plan assets include employer securi-

See "Audit Requirements" on page 6

Corporation vs. LLC

Which Is Right For You?

by Jon Karp, ESQ., CPA

With the start of each new venture, the owners must determine the type of entity to be used to carry on the business. Today the most commonly used entities are corporations and limited liability companies (LLCs). What are the considerations in choosing between a corporation and an LLC?

Traditionally, the forms of conducting a business have been a proprietorship, a general partnership, a limited partnership, and a corporation. For most businesses, limiting liability is a major concern, and therefore corporations have been most commonly used.

In recent years, a new type of legal entity has become available, which combines the most desirable attributes of a corporation and a partnership, without including their sometimes undesirable requirements. This new entity is a limited liability company ("LLC"). To understand the benefits of an LLC, it must be compared to other entity structures.

The major benefit of a partnership is that it is governed by its partnership agreement, which can be an extremely flexible document. A partnership can provide for multiple classes of ownership, special allocations of income and loss that are different from ownership percentages, and flow-through taxation so that the entity itself does not have a separate level of taxation. A major disadvantage of a partnership is that its partners, or in the case of a limited partnership, its general partner, has unlimited liability to creditors.

In an LLC, the entity provides limited liability to its owners, so that none of its owners are subject to unlimited liability for the LLC's debts. Like a partnership, it is governed by an operating agreement, which is similar to a partnership agreement, and therefore very flexible. In an LLC, as in a partnership, there is no tax at the entity level, there may be multiple classes of ownership, and there may be special allocations of profit and loss that are not in the same percentages as are the ownership interests. Thus the LLC has the flexibility of a partnership, and does not have an entity level of tax like a partnership, but unlike a partnership does provide limited liability to its owners.

Corporations may elect S corporation treatment, in which case there is no federal tax on the corporation. However there are some significant limitations on operating an S corporation. An S corporation is limited to 75 shareholders and an S corporation cannot have more than one class of stock. Therefore, even though an S corporation is not subject to federal taxation, it does have limited flexibility due to the requirement that all shareholders be treated the same.

A corporation has very strict rules as to owners' rights and distributions of profits. These rules are dictated by statute, and cannot be changed. An LLC has very flexible rules regarding rights of owners and the distribution of profits, which can be customized in the operating agreement to meet whatever the needs of the owners are. The rules of the operating agreement may also be customized in connection with family estate planning, to produce a large discount on the value of an ownership interest.

As a result of recent changes, an LLC may have only one member. One drawback of an LLC is the annual "fee" due to the State of California which is based on the LLC's gross receipts. This fee ranges from $900 on gross receipts in excess of $250,000, to almost $12,000, on gross receipts in excess of $5,000,000. This fee can be considered an equivalent of "insurance", as the price being paid to avoid personal liability for the entity's debts.

If the entity is going to be used to "go public," or it is anticipated that it will have a large number of owners, then a corporation is probably the preferred choice. The overwhelming number of public companies are corporations and the flexibility of the LLC operating agreement can become too complex when there is a large number of owners. For this reason, a corporation is usually the entity of choice if there will be a large number of owners.

A corporation is the entity of choice where the entity will be used as a public company. However, in most instances with

See "Corporation vs. LLC's" on page 8

Don't Forget About Year-End Partnership Election Forms

by Tobi Cogswell, Consulting Administrator

Under the 401(k) regulations, a partner must make an election to defer prior to the close of the partner's taxable year. This election can be either a percentage of income, a dollar amount, or the amount that can be contributed without failing any on discrimination testing.

The taxation structure of the employer will be the indicator for determining if the entity is subject to the partnership rules for tax-qualified plans. If your business form is a partnership, if you changed your business form to an LLP, or if your business form is an LLC and you elect to be taxed as a partnership, partnership elections will be required.

Please contact your ACI administrator if you need a Partnership Deferral Election form.

Controlled Groups and Family Attribution

The Soap Opera Scenario

by Laura Mitchell, Consulting Actuary

There are various types of "controlled groups" of companies. Most involve 80% common ownership of at least two organizations. The most common controlled groups are characterized as "parent-subsidiary," where the parent corporation owns at least 80% of another business. The other type of controlled group is called a "brother-sister" group. In this arrangement, the combined ownership of five individuals equals or exceeds 80% of both businesses. There are a few other rules that are used to identify brother-sister controlled groups, but this combined ownership rule is the most basic identifier. No matter what type of controlled group you may be in, if you are part of one, all companies that are part of the controlled group must be treated as if they are all one company for qualified plan purposes.

Ownership also includes an IRS concept known as "family attribution." Family attribution is a way to determine how many other people are deemed to own the stock of an individual. In general, if you own corporate stock, your spouse, parents, grandparents and children are also deemed to own that stock. This can significantly complicate the determination of ownership of a business. Fortunately, there is no family attribution between siblings.

Here are some examples of how family attribution works:

Scenario A:
John and Jane are married. John, an attorney, owns 100% of law firm, WS&E, Inc. Jane is deemed to own 100% of WS&E by her marriage to John. Jane, a dentist, owns 80% of her dental practice, City Dental, Inc. (CDI). Through family attribution, John is also deemed to own 80% of CDI. Thus, WS&E and CDI are members of a controlled group. For retirement plan purposes, they are considered a single business.

Scenerio B:
John and Jane divorce. After the divorce, the ownership of the entities changes. John still owns 100% of WS&E, but he is no longer deemed to own any part of CDI. Jane still owns 80% of CDI, but is no longer deemed to own any part of WS&E. WS&E and CDI are no longer members of a controlled group.

Scenerio C:
Shortly after the divorce is finalized, Jane gives birth to Jack (John's child). Because of family attribution from parent to child, Jack is deemed to own 100% of WS&E and 80% of CDI. WS&E and CDI are once again a controlled group. One interesting wrinkle to the family attribution rules is that even if John and Jane had never been married, having a child together would cause their businesses to be a controlled group.

These examples, while relatively simple, demonstrate how quickly situations become complicated with respect to family attribution and controlled groups. It's a good idea to keep this in mind when completing your annual retirement plan questionnaire. Please contact an ACI consultant or administrator if you have any questions regarding controlled grops and family attribution.

Health Reimbursement Arrangements: A New Tool for Customizing Your Employee Benefits

by Richard Valenstein

Perhaps the last time you had your benefits-expert review benefit strategies, you weren't able to design your health plan exactly as you had wished. Maybe your goals were:

- To provide a larger tax-sheltered side-fund so that executives could meet more of their expenses;
- To set aside funds that key employees could use after they retire;
- To lower medical insurance premiums by having employees pay more of their health expenses, while giving them money that would accumulate from year to year if they were careful with their expenditures;
- To reward employees with extra cash if they took steps to improve their health, and provide a "benefit penalty" if they continued to neglect good health habits.

If you were unable to address any (or all) of these issues, then perhaps you should look again. The IRS has introduced a new benefit-planning vehicle, called Health Reimbursement Arrangements (HRAs). Prior to HRAs, businesses made use of other benefit legislation to accomplish plan design modifications. Flexible Spending Accounts (FSAs) and Medical Spending Accounts (MSAs) are some of the most useful tools. Now, however, HRAs

See "Health Arrangements" on page 6

Health Arrangements *continued from page 5*

provide useful new features that can be combined with FSAs and MSAs to magnify the benefits.

HRAs are a Federal legislative response to support the concept of *consumer-driven healthcare.* Large employers had developed the perception that the crisis in benefit inflation exists partially because employees have become disconnected from financial responsibility for the services they receive. As a solution, employers looked for a way to link a high-deductible medical benefit plan to a new type of tax-sheltered side-fund. Thus, HRAs were born. In practice, HRAs facilitate a side-fund so that employees might either pay their own medical bills or pay more of their own premium, with the goal that they may become aware of actual costs and be more careful consumers.

So that an HRA may more effectively allow a high-deductible medical benefit plan to be linked with a cash side-fund, the HRA side-fund contains unique features and requirements:

- HRAs must be solely employer-funded, with no employee contributions;
- In return, the 'use it or lose it' feature is eliminated, allowing the employer to expand the plan document so that funds can accumulate over many years;
- Expenditure of funds may be limited to specified expenses, such as medical expenses that are reasonable and customary;
- The employer is also granted discretion to expand coverage to retirees and directors, to reimburse claims incurred after the 12-month funding period, or to allow the spending of funds into retirement.

Benefits advisors are excited because HRAs and FSAs can now be combined to expand available health benefit planning options. An organization like ACI can partner with you to fulfill a "consumer-driven healthcare" philosophy by administering the side-fund and working with the benefits advisor of your choice to design your strategy.

Richard Valenstein has been a broker since 1973 and heads an employee benefits agency that customizes benefits to corporate cultures. Currently, he designs and places benefits for approximately 70 corporate clients of diverse size. He is a graduate of Lehigh University and Claremont Graduate School. Mr. Valenstein can be reached at 714-544-9905 or email at valenmug@pacbell.net.

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sors have not done what is needed to meet their responsibilities, largely because they think someone else is taking care of it. This can be a very costly assumption. It is unnecessary to risk litigation and business interruption. There are well-known, court-tested and DOL-recommended procedures that you can implement to meet your fiduciary responsibilities.

Stuart Hack is a recognized authority in 404(c) compliance. Mr. Hack has over 30 years of consulting and management experience in the pension industry. He was the founder and CEO of a pension consulting, plan administration and registered investment advisory firm. Today, Mr. Hack consults with plan sponsors and service providers on fiduciary liability exposure issues and provides liability exposure solutions.

Audit Requirements *continued from page 3*

ties, participant loans, assets held by banks, insurance companies, broker-dealers, or another organization authorized to hold IRA assets, mutual funds, or investment and annuity contracts issued by an insurance company. For an individual account plan, qualifying assets include assets in the individual account of a participant over which that participant has the opportunity to exercise control, and in which the participant gets a statement of assets at least once a year.

If the 95% requirement is not met, the Plan Sponsor can still be exempt from the audit requirements as long as the Trustee increases the ERISA fiduciary bond to 100% of the non-qualifying assets, (the Trustee must still have an ERISA fiduciary bond equal to the lesser of $500,000 or 10% of all plan assets so this is an additional amount over and above the ERISA fiduciary bond). In addition, the summary annual report for the plan needs to contain additional information regarding the assets, and additional notices to plan participants need to be provided.

Warren J. Shulman, CPA is a partner in the business advisory and CPA firm of Green Hasson & Janks LLP. The 70-person firm located in Westwood provides tax, accounting and consulting services for closely held businesses and related individuals. Warren has over 12 years of public accounting experience and is responsible for the audits of more than 20 employee benefit plans. Warren is a member of the American Institute of Certified Public Accountants and the California Society of Certified Public Accountants. Warren can be contacted at (310) 873-1620 or e-mailed at wjshulman@ghjadvisors.com.

Recruiting Is Important: Make It Important to Everyone In Your Company

by John Wentworth

What's wrong with this picture?

Components are needed for a company's operation. Engineers gather and design a system and spec the components. They know how much the right components cost and they budget that amount into the price of the product.

Engineering hands off the specs to purchasing. Purchasing scours the world for the components that meet the spec at the lowest price of acquisition. If the component is particularly esoteric, purchasing may employ the services of specialist consultants to identify reliable sources and help make the deals.

Before the components are purchased in quantity, they are tested, and they are tested again before they are installed.

What's wrong with the picture? Nothing except that this level of care is applied to materials, tools, machines and the like, but not to the acquisition of people.

Compare:

The engineering department needs a new engineer. The hiring manager talks to the recruiter, an overworked human resources generalist who doesn't know very much about recruiting, doesn't like it and is too busy with unhappy employees to really care.

She runs a posting in Monster.com, gets 500 responses and gives up in the face the overwhelming volume. After she asks the department administration to sort though the responses, she calls a headhunter. The headhunter works for a contingency employment agency and sees staffing as a sales function. He peddles easy-to-find candidates to the highest bidder.

The admin doesn't really understand the job, so she passes along 75 out of the 500 responses, just to make sure. The headhunter sends over everyone in his files. The hiring manager plows through the resumes and doesn't find anyone who is right. Time goes on. The job does not get filled. Finally, the hiring manager hires someone who is not really right, but the best of the candidates he has. The person never really performs to standard.

Recruiting lives in a dark corner, unlit by modern management techniques, still done pretty much as it was done 50 years ago. The result: management's satisfaction with recruiting is generally low and has been for so long that expectations regarding what it could be are low, as well.

See "Recruiting" on page 8

Culture and Compensation Survey Results

Earlier this year, ACI conducted a survey of our clients to determine the value businesses place on defining their culture and developing compensation strategies that support their cultures. The results were somewhat surprising. Here's what we learned from our clients:

- 60% of respondents have written corporate values, but only half of the 60% communicated those values to their employees. Only 30% of respondents tied compensation to employees' adherence to organizational values.
- 75% of respondents have a vision for their business, and 65% invest time in clearly explaining their vision to their employees.

It's not surprising that business owners establish a vision—they need one in order to understand where they're taking the organization. What's surprising is that 25% of the respondents don't have a vision for their business. It's encouraging to note, however, that most respondents recognize the importance of explaining the vision to their employees. They understand the need to periodically focus employees on the big picture.

Corporate values are a stickier subject. Values have frequently been perceived as being "the soft side" of a business—the platitudes that look good on a plaque on a wall or in a brochure, but are not particularly relevant. Yet as countless corporate scandals have demonstrated, without real values that guide behaviors, things can go awry quickly. "Excellence," "Integrity" and "Respect" are meaningless to employees without clear explanation of how they relate to behaviors. By tying compensation programs to values, employers add "teeth" to them. When values are tied closely to both compensation and corporate strategy, employees aren't only focused on doing the right things. They're also focused on doing them the right way.

We'll include more survey results and observations in the next issue of Action Items.
ACI's consultants can assist you in developing corporate values and aligning them with your compensation programs. For more information, contact Jeff Wallace at extension 138.

Corporation's vs. LLC's *continued from page 4*

closely held businesses, the LLC is the entity of choice, offering much greater flexibility in operation, classes of membership, distributions of profit and losses, while retaining the benefit of limited liability. LLC's are ideal for holding rental real estate, as opposed to a limited partnership. LLC's, at their option, can be treated for tax purposes, as either partnerships or as corporations. If the LLC elects to be treated as a corporation, the members may elect S Corporation status, in which case the income will pass through to and be taxed at the level of the owners.

Jonathan A. Karp, licensed as both an attorney and a certified public accountant, is a shareholder of the West LA law firm of Reish Luftman McDaniel & Reicher. Jon has chaired or spoken at annual conferences of the California CPA Education Foundation. He is also a frequent lecturer to accounting firms and chapter and committee meetings of the California Society of Certified Public Accountants on business related tax topics.

Recruiting *continued from page 7*

What can you do?

First, believe that your company can find and hire great employees. You do not have to settle, despite what you have been told.

Second, give recruiting priority from the top of the organization on down. Not all the dysfunction about recruiting has to do with recruiters. We know many CEO's whose desire to get jobs filled is thwarted by subordinates who avoid reading resumes presented to them or interviewing qualified candidates. There are lots of reasons not to participate in recruiting, but if the jobs need to be filled, none of those reasons holds water.

Third, don't ask your hiring managers to recruit. Delegate recruiting to someone who is very good at it. If you don't have someone on staff, people exist who can help you pick one of your staff and train them. They can also help you put functional recruiting systems in place (see http://www.wentco.com/flowchart.htm). Use vendors. You have lots of choices—some good and some not as good. People exist who can help you evaluate them.

Fourth, train your hiring managers how to participate effectively in the recruiting process, particularly how to interview.

For the smartest companies, recruiting is part of everyone's job. Everyone in the organization, from the CEO to the security guard is constantly looking at people as potential employees. Those companies have one or more highly skilled recruiters who take the names, contact them, build relationships, have multiple conversations over months, bring the best in for interviews and keep the best of those in a pool to be drawn upon when their company needs that talent.

Jobs get filled on time and on budget with uncommonly talented individuals who are thoroughly screened and who want the job.

You can do this, too, if you let go of the traditional ideas about recruiting and replace them with modern management and common sense. But most importantly, remember that your people get your work done. Recruiting is important. Make it important to everyone.

John Wentworth owns, and on some days is allowed to run, The Wentworth Company, Inc. The Wentworth Company provides national turn-key employment department management, on-site project recruiting, executive search and recruiting consulting and training about recruiting. They have helped 300+ client companies hire more 20,000 new employees.

ACI In the News

SPEECHES & PRESENTATION

On September 21, Pat Byrnes was a co-presenter at the California CPA Education Foundation's Retirement Planning Conference in Universal City. The subject of the presentation was, *"Choosing the Right Plan for Your Clients"*.

Pat was also part of a panel that addressed the subject of blackout periods in a briefing tothe Department of Labor's Los Angeles & San Francisco Offices on October 21. This subject is particularly timely given passage of the Sarbanes-Oxley Act, which establishes new requirements on disclosure associated with blackout periods.

On July 22, Jeff Wallace and Laura Mitchell spoke at the Pasadena CPA Discussion Group on the subject of *Common Operational Errors in Retirement Plans.*

Each year, ACI prepares a number of presentations related to employee benefits and compensation issues. Many of the presentations are eligible for continuing education credit and have been presented at various professional conferences.

For a complete list of ACI's 2003 Presentation Topics, contact Lace Greene at (310) 316-1334, ext. 120, or at *lace.greene@acibenefits.com*.