

DISCOVERY LETTER TO PLAN SPONSOR OR ITS THIRD-PARTY PLAN ADMINISTRATOR - WITH ATTACHED DESCRIPTIONS OF INFORMATION NEEDED

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By R. Ann Fallon, af@disso.com, Walnut Creek, California 925-296-6000 on 3/22/06

Dear Mr. Smith:

I represent _____ in a dissolution proceeding involving your employee, _____ ("Employee"). Please be advised that, my client, _____, claims a community property interest in any and all benefits accrued or accruing under any employee benefit plan, fund or other arrangement in which Employee is a participant or beneficiary, or is reasonably expected to become eligible to become a participant or beneficiary by reason of his employment with your _____. The plans affected by this claim include, but are not limited to, any retirement savings or pension plans (whether qualified or non-qualified, funded or unfunded), stock option or similar plans of deferred compensation, severance agreements, and accumulated vacation benefits provided through or in connection with _____'s employment with your company/firm.

Accordingly, you are requested not to disburse any money or other benefits to or for the benefit of Employee, or to accept any change in a designated beneficiary; without the prior written consent of my client, or order of the court. Healthcare or disability benefits are not included in this restriction.

So that we may accurately ascertain and divide the community interest in each of the above-described benefits, please provide the information and documents requested on the attachment, for EACH affected plan, fund or arrangement ("Plan"), and attaching the requested materials. Your Employee's written authorization for this disclosure is enclosed, or has previously been provided to you.

This request is made to you in your capacity as employer, and as a fiduciary with respect to any of the Plans that are subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). If you are not the proper party to respond to this request with respect to any Plan, please forward this letter to the named Administrator of that Plan.

Your cooperation with this request within 30 days will avoid our having to obtain the needed information by formal deposition or other discovery, and will ensure that you are not assessed any penalties for non-compliance with your disclosure obligations under applicable federal law (including but not limited to the ERISA section 502(c) penalty of \$110 per day).

By a copy of this letter, I am advising Employee and his counsel of this request so that they may have an opportunity to arrange with you directly for any copies of your response that they may desire.

If there is any copying charge for the documents you are producing for us, please advise so that we may immediately forward you a check for the amount due.

Thank you in advance for your cooperation. * * *

"[e.g., end of a month prior to filing of complaint]" - suggest go back several months if monkey business is suspected.

"Date of marriage" means _____; "date of separation" means _____; "marital period" means the time between the date of marriage and date of separation. "Employee" refers to _____, whose social security number is _____.

A. For Defined Benefit Plans, Items 1 - 14

1. The name and description of each defined benefit retirement or pension plan covering the Employee, whether qualified or not, which plan existed from and after the date of marriage. Note: All further requests in this section should be responded to for each such plan as well as successor and predecessor plans of such plan.
2. A summary plan description and any summary of material modifications.
3. The plan document including all amendments.
4. Procedures relative to the handling and qualification of Domestic Relations Orders, including procedure re "hold" and model orders if any.
5. Date Employee commenced covered employment with the plan.
6. The date Employee became a participant in the plan.
7. The date of Employee's actual retirement.
8. Gaps in Employee's covered employment or credited service under the plan.
9. Employee's accrual of service and benefits under the plan on an annual basis since inception.
10. Employee's current accrued benefit payable at Normal Retirement.
11. Employee's current accrued benefit payable as if Employee were to retire at the earliest of (a) a date near to the date of your response or (b) Employee's earliest retirement date.
12. All worksheets supporting the calculation of the benefits of participant.
13. The most recent benefit statement provided to the employee.
14. All correspondence between plan administrator or other agents and employee or employee's agents from and after [e.g., end of a month prior to date of filing of Complaint].

B. For Defined Contribution Plans, Items 15 to end.

15. The name and description of each defined contribution retirement or pension plan covering the Employee, whether qualified or not, which plan has on deposit funds or assets whose ultimate source is attributable to contributions made during the marital period. Note: All further requests in this section should be responded to for each such plan as well as successor and predecessor plans of such plan.
16. A summary plan description and any summary of material modifications.
17. The plan document, including all amendments thereto.
18. Procedures relative to the handling and qualification of Domestic Relations Orders, including procedure re “hold” and model orders if any.
19. Date Employee commenced employment with the plan sponsor providing each Plan.
20. The date Employee became a participant in the plan.
21. The date Employee made or Employer made the first contribution to the plan for the benefit of Employee.
22. Names and administrators of any defined benefit plans under which Employee is also covered.
23. The date and terms of Employee's actual retirement or termination.
24. Employee account balance in each plan.
25. Activity and balances in the plan from [e.g., end of a month prior to date of filing Complaint] to the date of production of these documents (All benefit and account statements.)
26. Requests for distributions and distributions made by Employee whether by loan or otherwise from [e.g., end of a month prior to filing Complaint] to present.
27. Option elected or decision made by Employee affecting plan benefits.
28. The identity of the current named beneficiary or beneficiaries as to Employee's account balance.
29. All correspondence between plan administrator or other agents and employee or employee's agents from and after [e.g., end of a month prior to filing Complaint].