

U.S. Department of Labor

Labor-Management Services Administration
Washington, D.C. 20216



Reply to the Attention of:

OPINION NO. 83-32A
Sec. 3(1)

JUN 21 1983

Mr. David J. Bright
Director of Professional Development
Main Hurdman & Cranstoun
140 Broadway
New York, New York 10005

Dear Mr. Bright:

This is in reply to your letter of February 19, 1981, requesting an advisory opinion regarding coverage under title I of the Employee Retirement Income Security Act of 1974 (ERISA). Specifically, you ask whether the professional development programs offered by Main Hurdman & Cranstoun are covered by the reporting and disclosure requirements of part 1 of title I of ERISA.

You state that Main Hurdman & Cranstoun offers various in-house programs to its professional employees. Attendance is not mandatory but most professionals meet continuing professional education requirements of Main Hurdman & Cranstoun and of their state through these programs. Each office of Main Hurdman & Cranstoun submits a list of its professionals who will attend. Although no trust arrangement is involved, each office contributes a percentage of its net fees to the national budget which pays all expenses and costs of the programs.

In addition, by telephone on November 16, 1981, you advised a representative of the Department of Labor as follows: 1) most states require licensed accountants to participate in continuing professional education requirements; 2) for large accounting firms, it is more economical to provide the required professional development courses "in-house" than to pay for courses offered by others; 3) "in-house" programs can be tailored to suit the specific needs of the sponsoring firms; and 4) in view of the foregoing, Main Hurdman & Cranstoun maintains the programs primarily for its own convenience.

Part I of title I of ERISA applies to all employee welfare benefit plans and employee pension benefit plans covered by that title. The term "employee welfare benefit plan" is defined in ERISA section 3(1) to include:

. . . any plan, fund, or program . . . established or maintained by an employer or by an employee organization, or by both, to the extent that such plan, fund, or program was established, or is maintained for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, (A) . . . apprenticeship or other training programs, . . . or (B) any benefit described in section 302(c) of the Labor Management Relations Act, 1947 (other than pensions on retirement or death, and insurance to provide such pensions).

Therefore, based on your representations, it is the position of the Department of Labor that the

professional development programs of Main Hurdman & Cranstoun do not constitute an employee welfare benefit plan within the meaning of ERISA section 3(1) and are not covered by title I of ERISA.

This letter constitutes an advisory opinion under ERISA Procedure 76-1. Accordingly, this letter is issued subject to the provisions of the procedure, including section 10 thereof relating to the effect of advisory opinions.

Sincerely,

Jeffrey N. Clayton
Administrator
Pension and Welfare Benefit Programs