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Byron K. Averill  
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Mountain Home, ID 83647  
November 20<sup>th</sup>, 2015

Office of the State Actuary

Board of Trustees  
The Cement Masons and Plasterers Retirement Trust  
Welfare & Pension Administration Services, Inc. (WPAS)  
P.O. Box 34203  
Seattle, WA 98124-1203

RE: Earl Averill, Deceased / [REDACTED] / Application for Individual Account (IA) Death Benefits

Dear Sirs:

Earl Averill, who was a member of The Cement Masons & Plasterers union local #528 passed away on January 13<sup>th</sup>, 2015. My name is Byron Averill, Earl's brother, and I am the Executor of his his estate. As well, on December 17<sup>th</sup>, 2014, I was granted full power of attorney by my brother to handle all his affairs. On January 19<sup>th</sup>, 2015, I contacted WPAS regarding my brother's account and began working with your Pension Representative, Tammy Piper.

Late January, I received some paperwork from Ms. Piper, which I completed and returned. Apparently Ms. Piper had initially sent the incorrect forms. I only learned this after receiving different documents in the mail, along with a letter from her asking me to "complete the attached". Again, I completed and returned the paperwork. In May 2015, I finally received a response from WPAS and Ms. Piper in the form on an Application for Individual Account Death Benefits. The letter instructed me to completed the application, have it notarized, and return it along with all requested supporting documentation (Death Certificate, copy of member's Birth Certificate, copy of applicant's Birth Certificate, and copies of any and all Marriage Certificates / Divorce Paperwork if the beneficiary's name had changed). In four months, I completed all your forms only to receive yet another form and this new form requires documentation to be attached. Earl was living with me when he passed so, naturally, I would have his Death Certificate and, by all rights, I should have a copy of my own Birth Certificate. But why would I have a copy of my brother's Birth Certificate or Marriage / Divorce paperwork? Not only did the WPAS take their time handling matters of urgency like this, they also created obstacles requiring specific documentation before the Application for Individual Account Death Benefits could be completed and returned. Some people might have given up on this process due to how long it was taking; most would have given up when it came to providing documents that you didn't have and were difficult to get. Not me. During the next three months, I diligently worked on securing the documents that were required. It took a lot of patience, telephone calls, mailing off requests, and in total cost me over \$100.00, but I finally had everything I needed by the second week of September.

On September 24<sup>th</sup>, 2015, I sent the application along with all the required documents to Ms. Piper at WPAS overnight mail. On October 5<sup>th</sup>, I received an email from Ms. Piper informing me that one of her auditors said there was nothing payable in my brother IA. She went on to say that there was \$198.00 in Earl's account but it wasn't payable. I responded with some furious emails and telephone messages, getting no response until an email on October 27<sup>th</sup>. That email informed me that there was actually \$25,680.38 in my brother's individual account and because he did not meet the specific requirements for qualification, nothing was payable from that account. As well, the money in the account was non-refundable and would be forfeited. I still had not received an official letter of denial. On November 4<sup>th</sup>, 2015, I received a letter of denial regarding my Application for Individual Account Death Benefits and your explanation thereof. Ten months spent jumping through "hoop after hoop", complying with every request, spending over \$100.00 from my own pocket paying for documents and postage, believing that I would

receive my brother's money when all was said and done, in the end only to be left bewildered, exasperated, and flabbergasted. No one could begin to imagine how I felt at this point. Then I read your letter.

First, I would like to point out that the article and section referenced substantiating the reason for your denial has no merit. You then go on to cite "Article V, **Employee Retirement Benefits** section 5.07 (g) of the Plan states in part, Payment of Individual Account Benefit upon Death of Vested Employee Before Retirement; Preretirement Death Benefit for Unmarried Employee - No Individual Account preretirement death benefits are payable if an Employee dies prior to retirement with less than ten (10) Years of Service and is not married at the time of death" as reason for your denial. Unfortunately, whomever wrote this letter is a major "brain trust" and was incapable of transferring words from a page in a book verbatim. Please let me clarify this for you.

Article V, Section 5.07 (g) (2) is found on page 89 in the Cement Masons and Plasterers Retirement Trust, Pension Plan & Summary Plan Description (revised April 1, 2013) states:

"Preretirement Death Benefit For Unmarried Employee. If a vested Employee dies prior to retirement, and is not married at the time of death, his beneficiary is entitled to the Employee's Individual Account Balance, payable in a lump sum, as of the end of the quarter immediately preceding the Employee's death, plus the Contributions credited to the Employee's Individual Account since the previous quarter; and any earnings or losses credited to the Employee's Individual Account since the previous quarter. If Employer Contributions are received on behalf of the Employee after distribution of the Individual Account has been completed or commenced, the Contributions credited to the Employee's Individual Account shall be distributed to the beneficiary as soon as practicable." This is the verbatim text as written.

In your letter (copy attached & marked), the line immediately following someone's feeble attempt at quoting their own policy states, "As a result of the above quoted section of the Plan no death benefits are payable from the Individual Account and your application for death benefits is denied". It is undeniable that had the correct verbiage from said section been applied, my application would not have been denied but rather approved. Please note the above highlighted and underlined text which clearly states that if a vested Employee dies prior to retirement, and is not married at the time of death, his beneficiary (me) is entitled to the Employee's Individual Account Balance, payable in a lump sum. Inadvertently, the article and section you cited as reason for denial of my Application for Individual Account Death Benefits has miraculously become the reason you must approve said application. Before closing, I have a few other comments to make and issues to address.

Let me say that working with your organization has been extremely challenging. Had it not been for the legal counsel I hired to assist me with this process, I would have had no help whatsoever. One would think that an organization such as yours would be more empathetic to those having lost a loved one and are applying for some type of "death" benefit. Instead of being cold hearted and searching for a way to deny an application, do what is morally and ethically correct. Make the application process as simple and stress free as possible, working with rather than against the applicants. Ideally realistic? Totally! Probability/possibility of implementation? Slim to none because how, then, would the Welfare & Pension Administration Services, Inc. make any money?

The way I see it, by denying my application and not paying anything out WPAS makes \$25,680.38 off my brother Earl. So many of today's companies have gone awry, no longer concerned about people but rather the bottom line. They think it best to find some way to deny an application and not give that loyal, hard working man money that he honestly earned and is rightfully due so they can keep it themselves. What a "racket"! As a matter of fact, what your company is doing might very well violate federal racketeering laws. The term "racketeering" had always been synonymous with members of organized crime operations until 1970. Congress passed the Racketeer Influenced and Corruption Organizations Act (RICO) as part of the Organized Crime Control Act of 1970. Racketeering activity under federal law now includes criminal

offenses such as Embezzlement from Pension and Welfare funds. Just a thought. Now back to the main emphasis behind this correspondence.

In closing, I want to thank you for your prudent decision to reconsider and approve my Application for Individual Account Death Benefits on behalf of my brother, Earl Averill. I assure you that your actions have saved both of us a lot of time and unnecessary legal expense.

Respectfully submitted,



Byron K. Averill

cc:

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