

SERFF Tracking Number: WESA-125692879 State: Arkansas
Filing Company: United States Liability Insurance Company State Tracking Number: #29574 \$50
Company Tracking Number: PROF-CD-08-33
TOI: 17.1 Other Liability - Claims Made Only Sub-TOI: 17.1006 Directors & Officers Liability
Product Name: Corporate Directors & Officers and Employment Practices Liability Product
Project Name/Number: Submission of Revised Fiduciary Liability Coverage Endorsement/PROF-CD-08-33

Filing at a Glance

Company: United States Liability Insurance Company

Product Name: Corporate Directors & Officers and Employment Practices Liability Product SERFF Tr Num: WESA-125692879 State: Arkansas

TOI: 17.1 Other Liability - Claims Made Only SERFF Status: Closed State Tr Num: #29574 \$50

Sub-TOI: 17.1006 Directors & Officers Liability Co Tr Num: PROF-CD-08-33 State Status: Fees verified and received

Filing Type: Form Co Status: Reviewer(s): Betty Montesi, Edith Roberts

Author: Westmont Associates Disposition Date: 07/02/2008

Date Submitted: 06/23/2008 Disposition Status: Approved

Effective Date Requested (New): On Approval Effective Date (New):

Effective Date Requested (Renewal): On Approval Effective Date (Renewal):

State Filing Description:

General Information

Project Name: Submission of Revised Fiduciary Liability Coverage Endorsement Status of Filing in Domicile: Pending

Project Number: PROF-CD-08-33 Domicile Status Comments: Pending in PA

Reference Organization: None Reference Number: None

Reference Title: None Advisory Org. Circular: None

Filing Status Changed: 07/02/2008

State Status Changed: 06/25/2008 Deemer Date:

Corresponding Filing Tracking Number:

Filing Description:

The Company is submitting a revised version of its Fiduciary Liability Coverage Endorsement for your review and approval. The revisions to the form are intended to clarify the Company's intent.

Company and Contact

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Filing Contact Information

(This filing was made by a third party - westmontassociatesinc)

Sherri Nierzwicki, Analyst sherri@westmontlaw.com
 25 Chestnut Street (856) 216-0220 [Phone]
 Haddonfield, NJ 08033 (856) 216-0303[FAX]

Filing Company Information

United States Liability Insurance Company CoCode: 25895 State of Domicile: Pennsylvania
 25 Chestnut Street Group Code: 31 Company Type: Property and Casualty
 Suite 105
 Haddonfield, NJ 08033 Group Name: State ID Number:
 (856) 216-0220 ext. [Phone] FEIN Number: 23-1383313

Filing Fees

Fee Required? Yes
 Fee Amount: \$50.00
 Retaliatory? No
 Fee Explanation: AR filing fee
 Per Company: No

COMPANY	AMOUNT	DATE PROCESSED	TRANSACTION #
United States Liability Insurance Company	\$0.00	06/23/2008	

CHECK NUMBER	CHECK AMOUNT	CHECK DATE
29574	\$50.00	06/12/2008

SERFF Tracking Number: WESA-125692879 State: Arkansas
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Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
Approved	Edith Roberts	07/02/2008	07/02/2008

Objection Letters and Response Letters

Objection Letters				Response Letters		
Status	Created By	Created On	Date Submitted	Responded By	Created On	Date Submitted
Pending Industry Response	Edith Roberts	06/25/2008	06/25/2008	Westmont Associates	07/02/2008	07/02/2008

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Disposition

Disposition Date: 07/02/2008

Effective Date (New):

Effective Date (Renewal):

Status: Approved

Comment:

Rate data does NOT apply to filing.

SERFF Tracking Number: WESA-125692879 State: Arkansas
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Item Type	Item Name	Item Status	Public Access
Supporting Document	Uniform Transmittal Document-Property & Casualty	Approved	Yes
Supporting Document	Side by Side Comparison CD-400	Approved	Yes
Supporting Document	Letter of Authorization	Approved	Yes
Supporting Document	Cover Letter	Approved	Yes
Form (revised)	Fiduciary Liability Coverage Endorsement - Arkansas	Approved	Yes
Form	Fiduciary Liability Coverage Endorsement	Withdrawn	Yes

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Objection Letter

Objection Letter Status Pending Industry Response

Objection Letter Date 06/25/2008

Submitted Date 06/25/2008

Respond By Date

Dear Sherri Nierzwicki,

This will acknowledge receipt of the captioned filing.

Please reference Form CD-400 06-08, Page 3, Section VI, which states "maximum limit of liability...shall be the lessor of the amount specified in the Policy Declarations...or \$1,000,000.

AID Order # 2003-0108 requires that the minimum limit of liability for Fiduciary/Trust coverage, be no less than \$1,000,000 if the coverage contains defense payments within the limits of liability.

AID Order # 98-5 requires that the minimum limit of liability for Directors and Officers coverage, be no less than \$500,000 if the coverage contains defense payments within the limits of liability.

You amend one of two ways: You must either change the minimum limit requirement to \$1,000,000 if this coverage is intended to be written as "stand alone" coverage apart from D&O, or you must confirm that the limits for this coverage endorsement will be no less than \$500,000 and also confirm that the endorsement will be attached only to the D&O coverage.

Please let me know how you wish to amend.

Please feel free to contact me if you have questions.

Sincerely,

Edith Roberts

Response Letter

Response Letter Status Submitted to State

Response Letter Date 07/02/2008

Submitted Date 07/02/2008

Dear Edith Roberts,

SERFF Tracking Number: WESA-125692879 State: Arkansas
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Comments:

Response 1

Comments: Dear Ms. Roberts:

This is in response to your 6/25/08 Objection Letter regarding the above referenced submission.

The Limits of Liability and Retention provision of form CD-400 has been amended per your request and the revised endorsement has been attached for your review.

I hope this reply has satisfactorily addressed your concern. Please contact me if you have any questions or require additional information. Thank you for your careful and continued attention to this submission.

Sincerely,
 Jennifer Waldron
 Westmont Associates, Inc.
 (856) 216-0220

Changed Items:

No Supporting Documents changed.

Form Schedule Item Changes

Form Name	Form Number	Edition Date	Form Type	Action	Action Specific Data	Readability Score	Attach Document
Fiduciary Liability Coverage Endorsement - Arkansas	CD-400	6 08	Endorsement/Amendment/Conditions	Replaced		0	CD-400-AR_06-08_.pdf
Previous Version							
Fiduciary Liability Coverage Endorsement	CD-400	6 08	Endorsement/Amendment/Conditions	Replaced		0	CD-400_06-08_.pdf

No Rate/Rule Schedule items changed.

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Sincerely,
Westmont Associates

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Form Schedule

Review Status	Form Name	Form #	Edition Date	Form Type Action	Action Specific Data	Readability	Attachment
Approved	Fiduciary Liability Coverage Endorsement - Arkansas	CD-400 AR	6 08	Endorsement/Amendment/Conditions Replaced	Replaced Form #:0.00 CD-400 (08-02) Previous Filing #:		CD-400 AR _06-08_.pdf

**UNITED STATES LIABILITY INSURANCE GROUP
WAYNE, PENNSYLVANIA**

This Endorsement modifies insurance provided under the following:

**COVERAGE PART A.,
CORPORATE DIRECTORS AND EMPLOYMENT PRACTICES LIABILITY
POLICY**

FIDUCIARY LIABILITY COVERAGE ENDORSEMENT - ARKANSAS

This endorsement provides coverage for **Loss** (as defined herein) and **Defense Costs** (as defined herein) for a **Wrongful Fiduciary Act** (as defined herein).

For purposes of coverage provided by this endorsement only, Coverage Part A., CORPORATE DIRECTORS AND OFFICERS LIABILITY and the COMMON POLICY CONDITIONS are amended as follows:

- I. The terms and conditions of the above referenced Coverage Part A and Common Policy Conditions that are applicable to “**Wrongful Act** shall also apply to “**Wrongful Fiduciary Act**” except for Section VI. UNLIMITED REPORTING PERIOD FOR FORMER DIRECTORS AND OFFICERS.
 - II. Section III. DEFINITIONS, is amended as follows:
 - E. “**Employee**” does not include an independent contractor or volunteer.
 - G. “**Insured**”, is deleted and replaced with the following:

“**Insured**” means the **Organization**, an **Employee Benefit Plan** and any **Fiduciary**.
 - H. “**Loss**” shall include damages and settlements which an **Insured** is legally obligated to pay as a result of a **Wrongful Fiduciary Act**, including a civil penalty of up to five percent (5%) imposed upon any **Fiduciary** under Section 502 (i) of **ERISA** and a civil penalty of up to twenty percent (20%) imposed upon an **Insured** under section 502 (l) of **ERISA**.
- “**Loss**” does not mean:
- a. That portion of any settlement or judgment which constitutes benefits due or to become due or which would be due, under the terms of an **Employee Benefit Plan**, including but not limited to attorney fees incurred by a beneficiary to recover benefits except to the extent that benefits and attorney fees are payable as a personal obligation of a **Fiduciary** because of a **Wrongful Fiduciary Act**; or
 - b. Any **Loss** which is based upon, arises out of or is in consequence of the failure of an **Insured** to collect or ensure the collection of contributions owed by the **Organization** to an **Employee Benefit Plan** unless the failure is because of the negligence of any **Fiduciary**: or
 - c. The return or reversion to the **Organization** of any **Employee’s** contribution to the **Insured** if such contribution is or could be chargeable to any **Employee Benefit Plan**;

provided that **Defense Costs** shall not be excluded from a., b. and c. above.

III. Section III. DEFINITIONS is amended to add the following:

P. “Administration” means: providing advice, counsel, notice or interpretation to **Employees**, participants or beneficiaries with respect to an **Employee Benefit Plan**; handling records in connection with an **Employee Benefit Plan**; or performing duties in connection with the enrollment, termination or cancellation of **Employees**, participants or beneficiaries under an **Employee Benefit Plan**.

Q. “ERISA” means the Employee Retirement Income Security Act of 1974.

R. “Fiduciary” means any past, present or future director, officer, trustee or **Employee** of the **Organization** who exercises discretionary authority or discretionary control respecting management of an **Employee Benefit Plan** or management or disposition of its assets, renders or has authority or responsibility to render investment advice for a fee, or has discretionary authority or responsibility in the administration of such plan.

S. “Fiduciary Claim” means:

(1) Any written notice received by any **Insured** that any person or entity intends to hold such **Insured** responsible for a **Wrongful Fiduciary Act**; or

(2) Any written demand for monetary or non-monetary relief received by any **Insured** seeking to hold such **Insured** responsible for a **Wrongful Fiduciary Act**; or

(3) Any judicial or administrative proceeding initiated against any **Insured** seeking to hold such **Insured** responsible for a **Wrongful Fiduciary Act**.

A **Fiduciary Claim** shall be considered first made when an **Insured** or its legal representative or agent first receives notice of such claim.

T. “Employee Benefit Plan” means any employee welfare benefit plan(s) or employee pension benefit plan(s) identified in the **Application** for this Policy as each are defined by **ERISA**, which is sponsored by the **Organization** solely for the benefit of **Employees** of the **Organization**. **Employee Benefit Plan** does not mean workers’ compensation, unemployment insurance, social security, or disability benefits or any similar benefits provided under any federal, state, or local law or common law.

U. “Wrongful Fiduciary Act” means:

(1) any actual or alleged breach of the responsibilities, obligations or duties imposed on a **Fiduciary** by **ERISA**.

(2) Negligent acts, errors or omissions of a **Fiduciary** in the **Administration** of an **Employee Benefit Plan**.

The same **Wrongful Fiduciary Act**, and interrelated series of **Wrongful Fiduciary Acts** or a series of similar or related **Wrongful Fiduciary Acts** by one or more **Insureds** shall be deemed to be one **Wrongful Fiduciary Act** and to have commenced at the time of the earliest **Wrongful Fiduciary Act**.

IV. Section IV, EXCLUSIONS, G. is deleted in its entirety.

V. Section IV, EXCLUSIONS is amended to add the following:

R. The **Company** shall not be liable to pay any **Loss** or **Defense Costs** in connection with any **Fiduciary Claim** made against the **Organization** or any **Fiduciary** based upon, directly or indirectly arising out of or in any way involving the **Organization's** or **Fiduciary's** failure to obtain or maintain adequate insurance or bonds covering **Employee Benefit Plan** property or assets.

VI. Section V, LIMITS OF LIABILITY AND RETENTION, is amended to add the following:

I. The maximum limit of liability of the **Company** for Fiduciary Liability under this endorsement shall be the amount specified in the Policy Declarations as "IN THE AGGREGATE". However, if the "IN THE AGGREGATE" limit is less than \$1,000,000, the limit of liability for Fiduciary Liability shall be \$1,000,000. **Defense Costs** for any **Fiduciary Claim** are included in and not in addition to the maximum limit of liability as set forth herein

VII. Section VII. PRESUMPTION OF INDEMNIFICATION/DELETION OF RETENTION shall not apply to any **Loss** resulting from any **Claim** for an actual or alleged **Wrongful Fiduciary Act**.

VIII. The following is added to COMMON POLICY CONDITIONS, XII. CHANGES IN EXPOSURE:

If after the inception date of this Policy:

- (1) an **Employee Benefit Plan** for which coverage is provided under this Policy is merged with an **Employee Benefit Plan** for which coverage is also provided under this Policy, this Policy shall continue in full force and effect as respects both plans; or
- (2) an **Employee Benefit Plan** for which coverage is provided under this Policy is merged with another **Employee Benefit Plan** for which coverage is not provided under this Policy, this Policy shall continue in full force and effect as respects the Covered Plan as to a **Wrongful Fiduciary Act** occurring prior to the date of such merger, but coverage will cease as respects any actual or alleged **Wrongful Fiduciary Act** occurring after the merger; or
- (3) an **Employee Benefit Plan** is sold or terminated, this Policy shall continue in full force and effect as respects a **Wrongful Fiduciary Act** occurring prior to the date of the sale or termination, but coverage will cease as respects any actual or alleged **Wrongful Fiduciary Act** occurring after the date of the sale or termination;

provided that the **Parent Organization** shall give the **Company** written notice of such merger, sale or termination as soon as practicable, but not later than 30 days after the effective date of the merger, sale or termination.

All other terms and conditions of this Policy remain unchanged. This endorsement is a part of your Policy and takes effect on the effective date of your Policy unless another effective date is shown.

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Rate Information

Rate data does NOT apply to filing.

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Supporting Document Schedules

Satisfied -Name: Uniform Transmittal Document-Property & Casualty **Review Status:** Approved 07/02/2008

Comments:

Attachment:

AR NAIC.pdf

Satisfied -Name: Side by Side Comparison CD-400 **Review Status:** Approved 07/02/2008

Comments:

Attached is the side by side comparison for form CD-400.

Attachment:

CD-400 Comparison.pdf

Satisfied -Name: Letter of Authorization **Review Status:** Approved 07/02/2008

Comments:

Attached is the Letter of Authorization

Attachment:

Westmont Authorization Letter.pdf

Satisfied -Name: Cover Letter **Review Status:** Approved 07/02/2008

Comments:

Attachment:

Draft Cover Letter.pdf

Property & Casualty Transmittal Document

<p>1. Reserved for Insurance Dept. Use Only</p>	<p>2. Insurance Department Use only</p> <p>a. Date the filing is received:</p> <p>b. Analyst:</p> <p>c. Disposition:</p> <p>d. Date of disposition of the filing:</p> <p>e. Effective date of filing:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">New Business</td> <td></td> </tr> <tr> <td>Renewal Business</td> <td></td> </tr> </table> <p>f. State Filing #:</p> <p>g. SERFF Filing #:</p> <p>h. Subject Codes</p>	New Business		Renewal Business	
New Business					
Renewal Business					

3. Group Name	Group NAIC #

4. Company Name(s)	Domicile	NAIC #	FEIN #	State #

5. Company Tracking Number	
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Contact Info of Filer(s) or Corporate Officer(s) [include toll-free number]

6.	Name and address	Title	Telephone #s	FAX #	e-mail

7. Signature of authorized filer	
8. Please print name of authorized filer	

Filing information (see General Instructions for descriptions of these fields)

9. Type of Insurance (TOI)	
10. Sub-Type of Insurance (Sub-TOI)	
11. State Specific Product code(s)(if applicable)[See State Specific Requirements]	
12. Company Program Title (Marketing title)	
13. Filing Type	<input type="checkbox"/> Rate/Loss Cost <input type="checkbox"/> Rules <input type="checkbox"/> Rates/Rules <input type="checkbox"/> Forms <input type="checkbox"/> Combination Rates/Rules/Forms <input type="checkbox"/> Withdrawal <input type="checkbox"/> Other (give description)
14. Effective Date(s) Requested	New: <input type="text"/> Renewal: <input type="text"/>
15. Reference Filing?	<input type="checkbox"/> Yes <input type="checkbox"/> No
16. Reference Organization (if applicable)	
17. Reference Organization # & Title	
18. Company's Date of Filing	
19. Status of filing in domicile	<input type="checkbox"/> Not Filed <input type="checkbox"/> Pending <input type="checkbox"/> Authorized <input type="checkbox"/> Disapproved

Property & Casualty Transmittal Document—

20.	This filing transmittal is part of Company Tracking #	
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21.	Filing Description [This area can be used in lieu of a cover letter or filing memorandum and is free-form text]
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22.	Filing Fees (Filer must provide check # and fee amount if applicable) [If a state requires you to show how you calculated your filing fees, place that calculation below]
------------	---

Check #:
Amount:

Refer to each state's checklist for additional state specific requirements or instructions on calculating fees.

*****Refer to the each state's checklist for additional state specific requirements (i.e. # of additional copies required, other state specific forms, etc.)**

PC TD-1 pg 2 of 2

FORM FILING SCHEDULE

(This form must be provided ONLY when making a filing that includes forms)
 (Do not refer to the body of the filing for the forms listing, unless allowed by state.)

1.	This filing transmittal is part of Company Tracking #	
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2.	This filing corresponds to rate/rule filing number (Company tracking number of rate/rule filing, if applicable)	
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3.	Form Name /Description/Synopsis	Form # Include edition date	Replacement Or withdrawn?	If replacement, give form # it replaces	Previous state filing number, if required by state
01			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
02			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
03			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
04			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
05			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
06			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
07			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
08			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
09			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		
10			<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn		

PC FFS-1

RATE/RULE FILING SCHEDULE

(This form must be provided ONLY when making a filing that includes rate-related items such as Rate; Rule; Rate & Rule; Reference; Loss Cost; Loss Cost & Rule or Rate, etc.)

(Do not refer to the body of the filing for the component/exhibit listing, unless allowed by state.)

1.	This filing transmittal is part of Company Tracking #	
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2.	This filing corresponds to form filing number (Company tracking number of form filing, if applicable)	
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Rate Increase
 Rate Decrease
 Rate Neutral (0%)

3.	Filing Method (Prior Approval, File & Use, Flex Band, etc.)	
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4a.	Rate Change by Company (As Proposed)						
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Company Name	Overall % Indicated Change (when applicable)	Overall % Rate Impact	Written premium change for this program	# of policyholders affected for this program	Written premium for this program	Maximum % Change (where required)	Minimum % Change (where required)

4b.	Rate Change by Company (As Accepted) For State Use Only						
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Company Name	Overall % Indicated Change (when applicable)	Overall % Rate Impact	Written premium change for this program	# of policyholders affected for this program	Written premium for this program	Maximum % Change	Minimum % Change

5. Overall Rate Information (Complete for Multiple Company Filings only)			
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		COMPANY USE	STATE USE
5a	Overall percentage rate indication (when applicable)		
5b	Overall percentage rate impact for this filing		
5c	Effect of Rate Filing – Written premium change for this program		
5d	Effect of Rate Filing – Number of policyholders affected		

6.	Overall percentage of last rate revision	
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7.	Effective Date of last rate revision	
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8.	Filing Method of Last filing (Prior Approval, File & Use, Flex Band, etc.)	
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9.	Rule # or Page # Submitted for Review	Replacement or withdrawn?	Previous state filing number, if required by state
01		<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	
02		<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	
03		<input type="checkbox"/> New <input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn	

UNITED STATES LIABILITY INSURANCE GROUP
WAYNE, PENNSYLVANIA

This Endorsement modifies insurance provided under the following:

COVERAGE PART A.,
CORPORATE DIRECTORS AND EMPLOYMENT PRACTICES LIABILITY
POLICY

FIDUCIARY LIABILITY COVERAGE ENDORSEMENT

This endorsement provides coverage for Loss (as defined herein) and Defense Costs (as defined herein) for a Wrongful Fiduciary Act (as defined herein).

For purposes of coverage provided by this endorsement only, Coverage Part A., CORPORATE DIRECTORS AND OFFICERS LIABILITY and the COMMON POLICY CONDITIONS are amended as follows:

I. The terms and conditions of the above referenced Coverage Part A and Common Policy Conditions that are applicable to “Wrongful Act shall also apply to “Wrongful Fiduciary Act” except for Section VI. UNLIMITED REPORTING PERIOD FOR FORMER DIRECTORS AND OFFICERS.

II Section III. DEFINITIONS, is amended as follows:

E. “Employee” does not include an independent contractor or volunteer.

G. “Insured”, is deleted and replaced with the following:
“Insured” means the Organization, an Employee Benefit Plan and any Fiduciary.

H. “Loss” shall include damages and settlements which an Insured is legally obligated to pay as a result of a Wrongful Fiduciary Act, including a civil penalty of up to five percent (5%) imposed upon any Fiduciary under Section 502 (i) of ERISA and a civil penalty of up to twenty percent (20%) imposed upon an Insured under section 502 (l) of ERISA.

“Loss” does not mean:

- a. That portion of any settlement or judgment which constitutes benefits due or to become due or which would be due, under the terms of an Employee Benefit Plan, including but not limited to attorney fees incurred by a beneficiary to recover benefits except to the extent that benefits and attorney fees are payable as a personal obligation of a Fiduciary because of a Wrongful Fiduciary Act; or
- b. Any Loss which is based upon, arises out of or is in consequence of the failure of an Insured to collect or ensure the collection of contributions owed by the Organization to an Employee Benefit Plan unless the failure is because of the negligence of any Fiduciary; or
- c. The return or reversion to the Organization of any Employee’s contribution to the Insured if such contribution is or could be chargeable to any Employee Benefit Plan;

Deleted: CORPORATE DIRECTORS AND OFFICERS

Deleted: (IF APPLICABLE)

Deleted: ¶

¶ It is hereby agreed that Corporate Directors and Officers Liability is amended as follows:

Deleted: 1. III. DEFINITIONS is amended as follows:¶

¶ <#>“Employee” shall not include an Independent Contractor for any Claim involving an actual or alleged Wrongful Fiduciary Act.¶

¶ <#>“Individual Insured” shall also include a Fiduciary.¶

¶ <#>“Loss” shall also include civil penalties imposed upon an Individual Insured as a Fiduciary under Section 502(l) and 502(i) of ERISA.¶

¶ Loss shall not include any amount for which an Insured is absolved from payment by reason of any covenant, agreement (other than indemnification of an Insured person by the Organization), or court order.¶

¶ <#>“Organization” shall also mean an Employee Benefit Plan.¶

¶ <#>“Wrongful Act” shall also mean a Wrongful Fiduciary Act.¶

¶ <#>The following additional definitions are added to III. DEFINITIONS:¶

¶ <#>“Administration” means:¶

¶ <#>interpreting or counseling on Employee Benefits under any Employee Benefit Plan; or¶

¶ <#>activities affecting enrollment, termination, record handling, or cancellation of Employees or participants under any Employee Benefit Plan.¶

¶ <#>“ERISA” means the Employee Retirement Income Act of 1974, as amended.¶

¶ <#>“Employee Benefit Plan” means:¶

¶ <#>any Welfare Plan which was, is now, or becomes sponsored solely by the Parent Organization or any Subsidiary insured under this Policy or jointly by the Parent Organization and a labor organization exclusively for the benefit of Employees of the Parent Organization or insured Subsidiary; or¶

... [1]

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provided that **Defense Costs** shall not be excluded from a., b. and c. above.

III. Section III. DEFINITIONS is amended to add the following:

P. “Administration” means: providing advice, counsel, notice or interpretation to **Employees**, participants or beneficiaries with respect to an **Employee Benefit Plan**; handling records in connection with an **Employee Benefit Plan**; or performing duties in connection with the enrollment, termination or cancellation of **Employees**, participants or beneficiaries under an **Employee Benefit Plan**.

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Q. “ERISA” means the Employee Retirement Income Security Act of 1974.

R. “Fiduciary” means any past, present or future director, officer, trustee or **Employee** of the **Organization** who exercises discretionary authority or discretionary control respecting management of an **Employee Benefit Plan** or management or disposition of its assets, renders or has authority or responsibility to render investment advice for a fee, or has discretionary authority or responsibility in the administration of such plan.

S. “Fiduciary Claim” means:

(1) Any written notice received by any **Insured** that any person or entity intends to hold such **Insured** responsible for a **Wrongful Fiduciary Act**; or

(2) Any written demand for monetary or non-monetary relief received by any **Insured** seeking to hold such **Insured** responsible for a **Wrongful Fiduciary Act**; or

(3) Any judicial or administrative proceeding initiated against any **Insured** seeking to hold such **Insured** responsible for a **Wrongful Fiduciary Act**.

A **Fiduciary Claim** shall be considered first made when an **Insured** or its legal representative or agent first receives notice of such claim.

T. “Employee Benefit Plan” means any employee welfare benefit plan(s) or employee pension benefit plan(s) identified in the **Application** for this Policy as each are defined by **ERISA**, which is sponsored by the **Organization** solely for the benefit of **Employees** of the **Organization**. **Employee Benefit Plan** does not mean workers’ compensation, unemployment insurance, social security, or disability benefits or any similar benefits provided under any federal, state, or local law or common law.

U. “Wrongful Fiduciary Act” means:

(1) any actual or alleged breach of the responsibilities, obligations or duties imposed on a **Fiduciary** by **ERISA**.

(2) Negligent acts, errors or omissions of a **Fiduciary** in the **Administration** of an **Employee Benefit Plan**.

The same **Wrongful Fiduciary Act**, and interrelated series of **Wrongful Fiduciary Acts** or a series of similar or related **Wrongful Fiduciary Acts** by one or more **Insureds** shall be deemed to be one **Wrongful Fiduciary Act** and to have commenced at the time of the earliest **Wrongful Fiduciary Act**.

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IV. Section IV, EXCLUSIONS, G. is deleted in its entirety.

V. Section IV, EXCLUSIONS is amended to add the following:

R. The **Company** shall not be liable to pay any **Loss** or **Defense Costs** in connection with any **Fiduciary Claim** made against the **Organization** or any **Fiduciary** based upon, directly or indirectly arising out of or in any way involving the **Organization's** or **Fiduciary's** failure to obtain or maintain adequate insurance or bonds covering **Employee Benefit Plan** property or assets.

VI. Section V, LIMITS OF LIABILITY AND RETENTION, is amended to add the following:

I. The maximum limit of liability of the **Company** for **Fiduciary Liability** under this endorsement shall be the lesser of the amount specified in the Policy Declarations as "IN THE AGGREGATE" or \$1,000,000. **Defense Costs** for any **Fiduciary Claim** are included in and not in addition to the maximum limit of liability as set forth herein.

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VII. Section VII. PRESUMPTION OF INDEMNIFICATION/DELETION OF RETENTION shall not apply to any **Loss** resulting from any **Claim** for an actual or alleged **Wrongful Fiduciary Act**.

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VIII. The following is added to COMMON POLICY CONDITIONS, XII. CHANGES IN EXPOSURE:

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If after the inception date of this Policy:

- (1) an **Employee Benefit Plan** for which coverage is provided under this Policy is merged with an **Employee Benefit Plan** for which coverage is also provided under this Policy, this Policy shall continue in full force and effect as respects both plans; or
- (2) an **Employee Benefit Plan** for which coverage is provided under this Policy is merged with another **Employee Benefit Plan** for which coverage is not provided under this Policy, this Policy shall continue in full force and effect as respects the Covered Plan as to a **Wrongful Fiduciary Act** occurring prior to the date of such merger, but coverage will cease as respects any actual or alleged **Wrongful Fiduciary Act** occurring after the merger; or
- (3) an **Employee Benefit Plan** is sold or terminated, this Policy shall continue in full force and effect as respects a **Wrongful Fiduciary Act** occurring prior to the date of the sale or termination, but coverage will cease as respects any actual or alleged **Wrongful Fiduciary Act** occurring after the date of the sale or termination;

provided that the **Parent Organization** shall give the **Company** written notice of such merger, sale or termination as soon as practicable, but not later than 30 days after the effective date of the merger, sale or termination.

All other terms and conditions of this Policy remain unchanged. This endorsement is a part of your Policy and takes effect on the effective date of your Policy unless another effective date is shown.

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1. III. DEFINITIONS is amended as follows:

“**Employee**” shall not include an Independent Contractor for any **Claim** involving an actual or alleged **Wrongful Fiduciary Act**.

“**Individual Insured**” shall also include a **Fiduciary**.

“**Loss**” shall also include civil penalties imposed upon an **Individual Insured** as a **Fiduciary** under Section 502(l) and 502(i) of **ERISA**.

Loss shall not include any amount for which an **Insured** is absolved from payment by reason of any covenant, agreement (other than indemnification of an **Insured** person by the **Organization**), or court order.

“**Organization**” shall also mean an **Employee Benefit Plan**.

“**Wrongful Act**” shall also mean a **Wrongful Fiduciary Act**.

The following additional definitions are added to III. DEFINITIONS:

“**Administration**” means:

interpreting or counseling on **Employee Benefits** under any **Employee Benefit Plan**; or

activities affecting enrollment, termination, record handling, or cancellation of **Employees** or participants under any **Employee Benefit Plan**.

“**ERISA**” means the Employee Retirement Income Act of 1974, as amended.

“**Employee Benefit Plan**” means:

any **Welfare Plan** which was, is now, or becomes sponsored solely by the **Parent Organization** or any **Subsidiary** insured under this Policy or jointly by the **Parent Organization** or insured **Subsidiary** and a labor organization exclusively for the benefit of **Employees** of the **Parent Organization** or insured **Subsidiary**; or

any **Pension Plan** identified in the **Application** for this Policy which is sponsored solely by the **Parent Organization** or a **Subsidiary** insured under this Policy or jointly by the **Parent Organization** or insured **Subsidiary** and a labor organization exclusively for the benefit of the **Employees** of the **Parent Organization** or insured **Subsidiary**; or

any Plan identified in the **Application** for this Policy that is not subject to **ERISA** but that provides welfare or pension benefits for the **Employees** of the **Parent Organization** or insured **Subsidiary**; or

any other Plan, not identified in clauses (1), (2), or (3) above, that provides benefits to **Employees** of the **Parent Organization** or insured **Subsidiary** that the **Company** elects to cover and specifically identify in the endorsements to this Policy; or

any **Pension Plan** formed or acquired during the **Policy Period** and sponsored solely by the **Parent Organization** or **Subsidiary** insured under this Policy for the exclusive benefit of their **Employees** provided that the total assets of the plan do not exceed 25% of the total plan assets shown on the most recent **Application** submitted by the named **Insured** and provided that the **Parent Organization** provides written notice of the plan to the **Company** prior to the end of the **Policy Period**.

A **Pension Plan** formed or acquired by the **Parent Organization** or by a **Subsidiary** insured under this Policy during the **Policy Period** whose assets exceed 25% of the total plan assets shown on the **Parent Organization's** most recent **Application**, shall be a covered **Employee Benefit Plan** only if:

an **Application** for the plan with all required information is submitted to the **Company** as soon as practicable, but within 60 days of the effective date of the formation or acquisition; and
the **Parent Organization** provides the **Company** with such information as the **Company** may deem necessary; and
the **Parent Organization** accepts any special terms, conditions, exclusions, or additional premium charge as may be required; and
the **Company**, at its sole discretion, agrees to provide such coverage.

An **Employee Benefit Plan** shall not include any Employee Stock Ownership Plan or Multi-Employer Plan whether existing prior to policy inception or formed or acquired during the **Policy Period** unless such Plan is specifically identified in the endorsements to this Policy.

“Employee Benefits” means benefits provided through an **Employee Benefit Plan**, and also includes benefits provided under Workers’ Compensation Insurance, Unemployment Insurance, Social Security and Disability Insurance, and the Consolidated Omnibus Budget Reconciliation Act of 1985 and amendments thereto (“COBRA”).

“Fiduciary” means past, present, or future Directors, Officers, Trustees, or **Employees** of the **Organization** who were, are, or will be Fiduciaries or Administrators as defined in **ERISA** of any **Employee Benefit Plan**.

“**Pension Plan**” means any plan so defined by **ERISA** or in any related similar state, local or foreign law or regulation.

“**Welfare Plan**” means any plan so defined in **ERISA** or in any related or similar state, local or foreign law or regulation.

“**Wrongful Fiduciary Act**” means a breach of fiduciary duty by the **Insured** with respect to an **Employee Benefit Plan**, including but not limited to:

any breach of duties, obligations, and responsibilities imposed by **ERISA** or by **COBRA**, or by any related or similar state, local, or foreign law or regulation, in the discharge of the **Insured’s** duties as respects an **Employee Benefit Plan**; or

negligent acts, errors, or omissions of the **Insured** in the **Administration** of **Employee Benefits**; or

any other matter claimed against an **Insured** solely because of the **Insured’s** status as a **Fiduciary** as respects an **Employee Benefit Plan**.

IV. EXCLUSIONS is amended as follows:

It is agreed that Exclusion G and Exclusion I shall not apply to any **Claim** made against any **Insured** involving a **Wrongful Fiduciary Act**.

It is agreed that Exclusion K shall not apply to any **Claim** made against any **Insured** for a **Wrongful Fiduciary Act** involving the trust agreement or equivalent document establishing the **Employee Benefit Plan**.

The following exclusions are added to IV. EXCLUSIONS:

- R. the return or reversion to an employer of any contribution or asset of a Plan, provided that this exclusion will not apply to **Defense Costs** for such a **Claim**.
- S. any benefit due or to become due under an **Employee Benefit Plan** or benefits that would have been due if the plan complied with all applicable laws, provided that this exclusion shall not apply to **Defense Costs** for such a **Claim** and shall not apply to the extent that

the benefits are payable as a personal obligation of an **Individual Insured**; and

recovery for the benefits is based upon a covered **Wrongful Fiduciary Act**.
- T. the failure to collect an employer’s contributions owed to an **Employee Benefit Plan**, provided that this exclusion will not apply to **Defense Costs** for such a

Claim and will not apply if the failure is caused by the negligence of any **Insured**.

U. any **Wrongful Fiduciary Act** which is alleged to have occurred prior to the date of the formation or acquisition of an **Employee Benefit Plan** by the **Insured**.

V. an **Insured's** failure to comply with any law concerning Workers' Compensation, Unemployment Insurance, Social Security, Disability Insurance, or any related or similar law other than COBRA.

V. LIMITS OF LIABILITY AND RETENTION, Paragraph A. is deleted in its entirety and replaced with the following:

The Limit of Liability specified in the Declarations as aggregate shall be the maximum liability for **Loss** from all **Claims** to which this Coverage Part applies, provided that the Limit of Liability specified in the Declarations as the Fiduciary Liability Aggregate shall be the maximum liability to which this Coverage Part applies for **Loss** from all **Claims** involving **Wrongful Fiduciary Acts**. The Fiduciary Liability Aggregate shall be part of and not in addition to the Limit of Liability specified in the Declarations as aggregate for this Coverage Part.

VII. PRESUMPTION OF INDEMNIFICATION/DELETION OF RETENTION shall not apply to any **Loss** resulting from any **Claim** for an actual or alleged **Wrongful Fiduciary Act**.

The following is added to COMMON POLICY CONDITIONS, XII. CHANGES IN EXPOSURE:

If after the inception date of this Policy:

an **Employee Benefit Plan** for which coverage is provided under this Policy is merged with **Employee Benefit Plan** for which coverage is also provided under this Policy, this Policy shall continue in full force and effect as respects both plans; or

an **Employee Benefit Plan** for which coverage is provided under this Policy is merged with another **Employee Benefit Plan** for which coverage is not provided under this Policy, this Policy shall continue in full force and effect as respects the Covered Plan as to **Wrongful Fiduciary Acts** occurring prior to the date of such merger, but coverage will cease as respects any actual or alleged **Wrongful Fiduciary Act** occurring after the merger; or

an **Employee Benefit Plan** is sold or terminated, this Policy shall continue in full force and effect as respects **Wrongful Fiduciary Acts** occurring prior to the date of the sale or termination, but coverage will cease as respects any

actual or alleged **Wrongful Fiduciary Act** occurring after the date of the sale or termination

provided that the **Parent Organization** shall give the **Company** written notice of such merger, sale or termination as soon as practicable, but not later than 30 days after the effective date of the merger, sale or termination.

All other terms and conditions of this Policy remain unchanged. This endorsement is a part of your Policy and takes effect on the effective date of your Policy unless another effective date is shown.



UNITED STATES LIABILITY INSURANCE GROUP

A BERKSHIRE HATHAWAY COMPANY

190 South Warner Road, P.O. Box 6700, Wayne, PA 19087-4391
610.688.2535 888.523.5545 Fax 610.688.4391

1/7/2008

RE: United States Liability Ins Company: NAIC #0031-25895 FEIN#23-1383313
Mount Vernon Fire Insurance Company NAIC #0031-26522 FEIN#23-1575334
U.S. Underwriters Insurance Company NAIC #0031-35416 FEIN#23-2049904

Dear Sir or Madam,

In accordance with the applicable statutes and regulations of your state, Nancy Stepanski and Westmont Associates, Inc. is hereby authorized to file form, rate and rule filings on behalf of the above captioned companies.

Sincerely,

Mark Miller
State Filings Manager
United States Liability Insurance Group
190 South Warner Road
Wayne, PA 19087-2191

1.888.523.5545 X586
Fax: 610.688.4391
mmiller@usli.com



June 20, 2008

The Department of Insurance
Property and Casualty Division
Forms Review Section

RE: United States Liability Insurance Company /NAIC #25895
Corporate Directors & Officers and Employment Practices Liability Product
Form Revision Submission
Company Filing #: PROF-CD-08-33
Effective Date: Upon Earliest Possible Approval

To Whom It May Concern:

Enclosed you will find a form revision being filed for the Company's Corporate Directors and Officers and Employment Practices Liability form filing. A letter permitting Westmont Associates, Inc. to submit this filing on the Company's behalf is enclosed.

The Company is filing the following revised version of its endorsement form CD-400 for its currently filed and approved Corporate Directors and Officers and Employment Practices Liability product:

New Form Number	Form Title	Old Form Number
CD-400 (6/08)	Fiduciary Liability Coverage Endorsement	CD-400 (8/02)

The revisions made to the form are to clarify the Company's intent. Please note that there is no rate impact associated with the revisions made to the attached form.

Your approval and/or acknowledgement of this submission is respectfully requested, with the earliest permissible effective date. Thank you for your attention to this matter.

Respectfully Submitted,

Sherri Penn

Sherri Penn
Senior Analyst
sherri@westmontlaw.com

Enclosures

Cc: M. Miller

SERFF Tracking Number: WESA-125692879 *State:* Arkansas
Filing Company: United States Liability Insurance Company *State Tracking Number:* #29574 \$50
Company Tracking Number: PROF-CD-08-33
TOI: 17.1 Other Liability - Claims Made Only *Sub-TOI:* 17.1006 Directors & Officers Liability
Product Name: Corporate Directors & Officers and Employment Practices Liability Product
Project Name/Number: Submission of Revised Fiduciary Liability Coverage Endorsement/PROF-CD-08-33

Superseded Attachments

Please note that all items on the following pages are items, which have been replaced by a newer version. The newest version is located with the appropriate schedule on previous pages. These items are in date order with most recent first.

Original Date:	Schedule	Document Name	Replaced Date	Attach Document
No original date	Form	Fiduciary Liability Coverage Endorsement	06/12/2008	CD-400 _06-08_.pdf

**UNITED STATES LIABILITY INSURANCE GROUP
WAYNE, PENNSYLVANIA**

This Endorsement modifies insurance provided under the following:

**COVERAGE PART A.,
CORPORATE DIRECTORS AND EMPLOYMENT PRACTICES LIABILITY
POLICY**

FIDUCIARY LIABILITY COVERAGE ENDORSEMENT

This endorsement provides coverage for **Loss** (as defined herein) and **Defense Costs** (as defined herein) for a **Wrongful Fiduciary Act** (as defined herein).

For purposes of coverage provided by this endorsement only, Coverage Part A., CORPORATE DIRECTORS AND OFFICERS LIABILITY and the COMMON POLICY CONDITIONS are amended as follows:

- I. The terms and conditions of the above referenced Coverage Part A and Common Policy Conditions that are applicable to “**Wrongful Act** shall also apply to “**Wrongful Fiduciary Act**” except for Section VI. UNLIMITED REPORTING PERIOD FOR FORMER DIRECTORS AND OFFICERS.
 - II. Section III. DEFINITIONS, is amended as follows:
 - E. “**Employee**” does not include an independent contractor or volunteer.
 - G. “**Insured**”, is deleted and replaced with the following:

“**Insured**” means the **Organization**, an **Employee Benefit Plan** and any **Fiduciary**.
 - H. “**Loss**” shall include damages and settlements which an **Insured** is legally obligated to pay as a result of a **Wrongful Fiduciary Act**, including a civil penalty of up to five percent (5%) imposed upon any **Fiduciary** under Section 502 (i) of **ERISA** and a civil penalty of up to twenty percent (20%) imposed upon an **Insured** under section 502 (l) of **ERISA**.
- “**Loss**” does not mean:
- a. That portion of any settlement or judgment which constitutes benefits due or to become due or which would be due, under the terms of an **Employee Benefit Plan**, including but not limited to attorney fees incurred by a beneficiary to recover benefits except to the extent that benefits and attorney fees are payable as a personal obligation of a **Fiduciary** because of a **Wrongful Fiduciary Act**; or
 - b. Any **Loss** which is based upon, arises out of or is in consequence of the failure of an **Insured** to collect or ensure the collection of contributions owed by the **Organization** to an **Employee Benefit Plan** unless the failure is because of the negligence of any **Fiduciary**; or
 - c. The return or reversion to the **Organization** of any **Employee’s** contribution to the **Insured** if such contribution is or could be chargeable to any **Employee Benefit Plan**;

provided that **Defense Costs** shall not be excluded from a., b. and c. above.

III. Section III. DEFINITIONS is amended to add the following:

P. “Administration” means: providing advice, counsel, notice or interpretation to **Employees**, participants or beneficiaries with respect to an **Employee Benefit Plan**; handling records in connection with an **Employee Benefit Plan**; or performing duties in connection with the enrollment, termination or cancellation of **Employees**, participants or beneficiaries under an **Employee Benefit Plan**.

Q. “ERISA” means the Employee Retirement Income Security Act of 1974.

R. “Fiduciary” means any past, present or future director, officer, trustee or **Employee** of the **Organization** who exercises discretionary authority or discretionary control respecting management of an **Employee Benefit Plan** or management or disposition of its assets, renders or has authority or responsibility to render investment advice for a fee, or has discretionary authority or responsibility in the administration of such plan.

S. “Fiduciary Claim” means:

(1) Any written notice received by any **Insured** that any person or entity intends to hold such **Insured** responsible for a **Wrongful Fiduciary Act**; or

(2) Any written demand for monetary or non-monetary relief received by any **Insured** seeking to hold such **Insured** responsible for a **Wrongful Fiduciary Act**; or

(3) Any judicial or administrative proceeding initiated against any **Insured** seeking to hold such **Insured** responsible for a **Wrongful Fiduciary Act**.

A **Fiduciary Claim** shall be considered first made when an **Insured** or its legal representative or agent first receives notice of such claim.

T. “Employee Benefit Plan” means any employee welfare benefit plan(s) or employee pension benefit plan(s) identified in the **Application** for this Policy as each are defined by **ERISA**, which is sponsored by the **Organization** solely for the benefit of **Employees** of the **Organization**. **Employee Benefit Plan** does not mean workers’ compensation, unemployment insurance, social security, or disability benefits or any similar benefits provided under any federal, state, or local law or common law.

U. “Wrongful Fiduciary Act” means:

(1) any actual or alleged breach of the responsibilities, obligations or duties imposed on a **Fiduciary** by **ERISA**.

(2) Negligent acts, errors or omissions of a **Fiduciary** in the **Administration** of an **Employee Benefit Plan**.

The same **Wrongful Fiduciary Act**, and interrelated series of **Wrongful Fiduciary Acts** or a series of similar or related **Wrongful Fiduciary Acts** by one or more **Insureds** shall be deemed to be one **Wrongful Fiduciary Act** and to have commenced at the time of the earliest **Wrongful Fiduciary Act**.

IV. Section IV, EXCLUSIONS, G. is deleted in its entirety.

V. Section IV, EXCLUSIONS is amended to add the following:

R. The **Company** shall not be liable to pay any **Loss** or **Defense Costs** in connection with any **Fiduciary Claim** made against the **Organization** or any **Fiduciary** based upon, directly or indirectly arising out of or in any way involving the **Organization's** or **Fiduciary's** failure to obtain or maintain adequate insurance or bonds covering **Employee Benefit Plan** property or assets.

VI. Section V, LIMITS OF LIABILITY AND RETENTION, is amended to add the following:

I. The maximum limit of liability of the **Company** for Fiduciary Liability under this endorsement shall be the lesser of the amount specified in the Policy Declarations as "IN THE AGGREGATE" or \$1,000,000. **Defense Costs** for any **Fiduciary Claim** are included in and not in addition to the maximum limit of liability as set forth herein.

VII. Section VII. PRESUMPTION OF INDEMNIFICATION/DELETION OF RETENTION shall not apply to any **Loss** resulting from any **Claim** for an actual or alleged **Wrongful Fiduciary Act**.

VIII. The following is added to COMMON POLICY CONDITIONS, XII. CHANGES IN EXPOSURE:

If after the inception date of this Policy:

- (1) an **Employee Benefit Plan** for which coverage is provided under this Policy is merged with an **Employee Benefit Plan** for which coverage is also provided under this Policy, this Policy shall continue in full force and effect as respects both plans; or
- (2) an **Employee Benefit Plan** for which coverage is provided under this Policy is merged with another **Employee Benefit Plan** for which coverage is not provided under this Policy, this Policy shall continue in full force and effect as respects the Covered Plan as to a **Wrongful Fiduciary Act** occurring prior to the date of such merger, but coverage will cease as respects any actual or alleged **Wrongful Fiduciary Act** occurring after the merger; or
- (3) an **Employee Benefit Plan** is sold or terminated, this Policy shall continue in full force and effect as respects a **Wrongful Fiduciary Act** occurring prior to the date of the sale or termination, but coverage will cease as respects any actual or alleged **Wrongful Fiduciary Act** occurring after the date of the sale or termination;

provided that the **Parent Organization** shall give the **Company** written notice of such merger, sale or termination as soon as practicable, but not later than 30 days after the effective date of the merger, sale or termination.

All other terms and conditions of this Policy remain unchanged. This endorsement is a part of your Policy and takes effect on the effective date of your Policy unless another effective date is shown.