

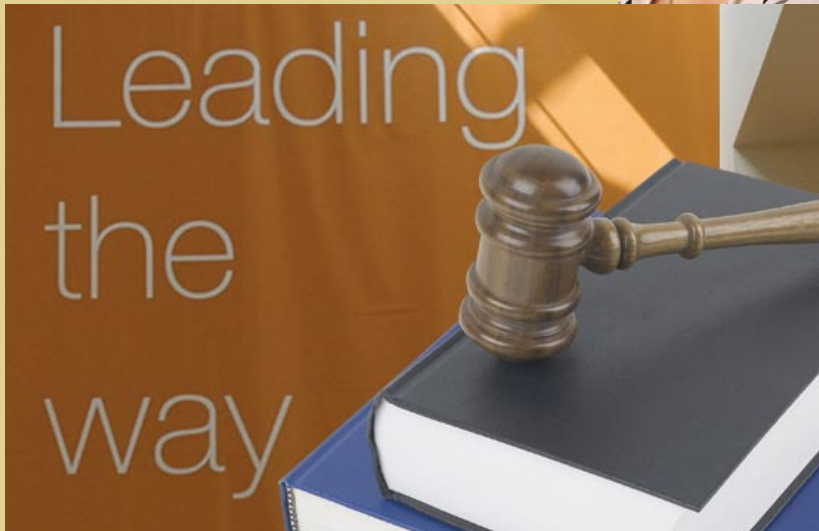
# THE ASPPA Journal

ASPPA's Bi-monthly Journal for Actuaries, Consultants, Administrators and Other Retirement Plan Professionals



## SPECIAL FEATURE

### Chris L. Stroud, MSPA, Elected 2006-2007 ASPPA President



by Troy L. Cornett

ASPPA's Board of Directors has elected Chris L. Stroud, MSPA, as ASPPA's President for the 2006-2007 term. Her term began at the close of the 2006 ASPPA Annual Conference.

Chris is president of Stroud Consulting Services, Inc., based in Marco Island, FL, where she specializes in services related to employee benefit plan design, administration, software, sales and marketing, relationship management and strategic planning. Chris has over 28 years of industry experience and her current client list includes industry leaders like SunGard. She has been Editor of ASPPA's publication, *The ASPPA Journal*, since 2000.

Chris graduated from the University of Texas at Austin with a degree in Mathematics. She began her pension career in 1978

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## Happy New “enews” Year!

by Chris L. Stroud, MSPA

As another year draws to a close, it is customary to look forward to the coming year. As we ring in 2007, we can look forward to the *ASPPA enews* publication—ASPPA’s new monthly e-newsletter that will be distributed electronically to all members beginning in January 2007.

### What type of information will *ASPPA enews* contain?

You can count on this electronic newsletter to bring you timely information on Capitol Hill activities, ASPPA’s Government Affairs Committee’s comment letters, educational opportunities, upcoming ASPPA events and much more. If you want to delve deeper into a subject, links will be provided to give you more information. ASPPA respects the fact that many of us in today’s environment face “e-mail overload.” *ASPPA enews* will allow ASPPA to consolidate the messages that it needs to distribute to members. You will be able to easily watch for information each month and retrieve that information in an extremely efficient manner. You can expect to receive each issue around the 20th of each month.

### How will *ASPPA enews* affect *The ASPPA Journal*?


In 2007, *The ASPPA Journal* will become a quarterly publication instead of a bimonthly publication. We will use the additional production time and reduced mailing fees to bring you more content and a more colorful format. Although each issue of *The ASPPA Journal* is expected to provide the same kind of content as in the past, we will be expanding

the number of featured technical articles. For those of you who rely on *The ASPPA Journal* continuing education (CE) quizzes to help satisfy ASPPA CE requirements, you will be happy to know that each quiz will provide three CE credits, resulting in the same 12 credits available annually that you currently enjoy.

As we work through the first year of offering both pieces of communication, it will become more apparent to us what types of information to include in each. As the

publications evolve, you will become more familiar with the information you can expect from each. In the meantime, please feel free to send your comments to [theasppajournal@asppa.org](mailto:theasppajournal@asppa.org) on what you’d like to see.

As we say goodbye to 2006, let’s take a

few moments to reflect on the past year. There are many people who deserve recognition for contributing to another successful year of *The ASPPA Journal*. First, I would like to thank the volunteers on The ASPPA Journal Committee who have made sure each issue is full of articles that our members find educational and interesting. Next, I’d like to thank the many ASPPA members and staff who contributed technical articles or articles about committee happenings. Without your help, our job would be impossible. I would also like to sincerely thank the vendors who have supported *The ASPPA Journal* over the past year with advertising. Your funding helps make it possible for us to continue to offer this valuable member benefit. Lastly, I would like to thank each member of the ASPPA staff who plays a role in creating, editing, producing and distributing *The ASPPA Journal*. It takes tremendous coordination and teamwork to produce each issue—thanks to all for a job well done! 



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## SPECIAL FEATURE

with FDP in Miami, FL, after two years of teaching middle school mathematics in Arlington, TX. During her tenure at FDP, Chris became an Enrolled Actuary and served in many roles, including Manager of Actuarial Services and Vice President of Sales and Marketing. After FDP was purchased by SunGard, Chris worked for SunGard as an employee and now continues to work part-time for SunGard as a consultant.

Over the years, Chris has volunteered in various areas to assist ASPPA and has chaired numerous committees and task forces. She is also a member of the ASPPA Benefits Council of South Florida and currently serves on the Board of Directors for the American Academy of Actuaries. Chris has published articles and has spoken locally and nationally on various topics related to retirement plans, actuarial science and employee benefits software systems. Her professional credentials include: Member, Society of Pension Actuaries (MSPA); Member of the American Academy of Actuaries (MAAA); and Enrolled Actuary (EA).

Chris and her husband, Ken, currently divide their time between Miami and Marco Island, FL. Her stepson, Greg, is a fireman in Ocala, FL. In her spare time, Chris enjoys cooking, entertaining, traveling, visiting with friends and family, writing poetry, boating and other activities on or around the ocean. ↗

The other members of ASPPA's 2006–2007 Executive Committee are:

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*Troy L. Cornett is the Office Manager for ASPPA and is the liaison to the ASPPA Executive Committee, Board of Directors and ASPPA Management Team. He also manages ASPPA's Data Services Department and is an Associate Editor of The ASPPA Journal.*

*Troy has been an ASPPA employee since July 2000. In his time away from the ASPPA office, Troy enjoys seeing the latest movie releases, driving his VW Beetle and sipping lattes with his friends at Starbucks. (tcornett@asppa.org)*

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## Renew Your ASPPA Membership Online

ASPPA members can renew their membership online when paying by credit card. The online renewal service is secure, easy to use and provides you with instant payment confirmation. The multi-member discount for businesses with more than one ASPPA credentialed member is automatically calculated based on the company's current renewal status.

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- Follow the renewal prompts.

The online system accepts Visa, MasterCard, Discover and American Express payments. After submitting your payment information, you will be instructed to select the Print Receipt icon to receive your payment confirmation. Only one renewal can be paid at a time to ensure that payments are posted to the correct accounts.

### Renewal Invoices

All members have been sent a personalized e-mail membership invoice in November that provided payment information, member login and password information and a link to the login page. Credentialed members who are eligible for a multi-member discount should see the appropriate discount noted when they log on to the ASPPA Web site to renew. Members have also been mailed a hard copy renewal invoice for those who prefer to pay by check.

**Don't forget—the 2007 membership renewal deadline is January 2, 2007. Renew online today!**

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The American Society of Pension Professionals & Actuaries (ASPPA), a national organization made up of approximately 6,000 retirement plan professionals, is dedicated to the preservation and enhancement of the private retirement plan system in the United States. ASPPA is the only organization comprised exclusively of pension professionals that actively advocates for legislative and regulatory changes to expand and improve the private pension system. In addition, ASPPA offers an extensive credentialing program with

a reputation for high quality training that is thorough and specialized. ASPPA credentials are bestowed on administrators, consultants, actuaries and other professionals associated with the retirement plan industry.

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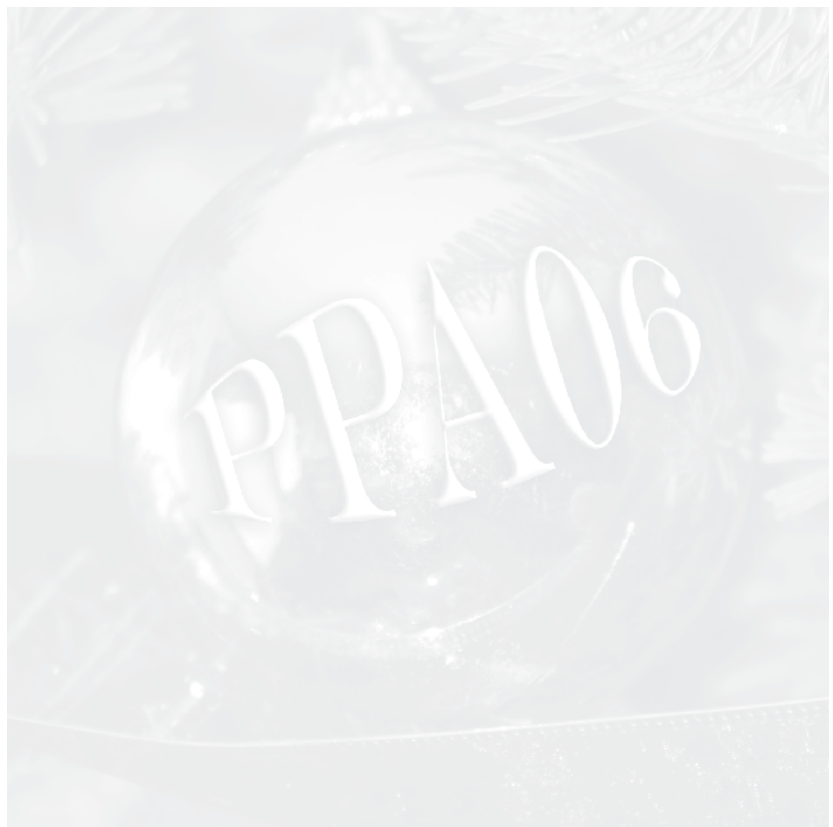
## Christmas in August

by Brian H. Graff, Esq., APM

The title of this article may surprise you. There are certainly aspects of the Pension Protection Act of 2006 (PPA), which was signed into law August 17, 2006, that we are not thrilled with. However, the importance of making the EGTRRA provisions permanent cannot be underestimated. EGTRRA's retirement savings provisions (and the Section 529 college savings provisions) are the only aspects to have yet been made permanent. As annual budget deficits continue to rise, it will be increasingly difficult to enact laws that are "scored" as losing revenue.<sup>1</sup>

**I** recognize that my following comment may shock many of you, but there is a cadre of Congressional members who are actually concerned about the size of the overall budget deficit. In particular, there is a group of moderate Democrat and Republican senators who are beginning to object to and successfully block legislation that loses revenue. Coupled with the fact that the Medicare Trust Fund is estimated to go into the red by the beginning of the next decade (when EGTRRA is scheduled to expire), permanently extending EGTRRA's retirement savings provisions otherwise would have had no guarantee. Further, who knows how the congressional and upcoming presidential election will impact the likelihood of a permanent extension. In fact, it is quite possible that the retirement (and college) savings provisions may be the only parts of EGTRRA to ever be made permanent. As this decade progresses, the last thing ASPPA as an organization wanted was for you to have to hedge your bets with clients as to what the future savings limits might be.

So, a bit of a miracle happened right before the August recess, and frankly, it was overdue. Since ERISA, the retirement plan system has certainly





taken its hits. Those of you who have been in this business a while know what I am talking about. TEFRA, DEFRA, REA, TRA 86—the retirement plan provisions in all of those laws were revenue raisers reducing the incentives for retirement plans. That climate finally began to change in the mid-90s with the passage of the Small Business Job Protection Act. But those incentives amounted to a revenue loss of merely \$2 billion over ten years.

We did better with EGTRRA in 2001, but that was part of a much more massive overall tax cut. PPA, by contrast, was for the most part a stand-alone pension bill.<sup>2</sup> The ten-year revenue cost of the pension provisions, including EGTRRA permanency, was a sizable \$66 billion. By comparison, the energy bill passed earlier this year, which included numerous tax incentives for both production and conservation, only had a revenue cost of about one-third that amount despite a great deal of recent media and congressional attention on energy issues.

So, why were we finally so lucky this time? It was a combination of fortunate circumstances and the elevation of our issues to greater prominence. Let's go over the fortunate part first. Toward the latter part of July, the Republican leadership decided to make a major push to enact estate tax reform and extend expiring corporate tax incentives. To no surprise, this position became contentious—with many Democrats vehemently objecting. At one point, the Republican leadership tried to pair up the estate tax reforms with the pension bill in hopes of garnering more democratic support. That effort, however, was rebuffed by the Republican chairmen of the committees working on the pension bill [Grassley (IA), Senate Committee on Finance; Enzi (WY), Senate Committee on Health, Education, Labor and Pensions; Thomas (CA), House Committee on Ways & Means; and McKeon (CA), House Committee on Education and the Workforce] who did not want to poison the generally bipartisan atmosphere surrounding the pension conference.


Instead, the Republican leadership came up with the idea of adding a long sought-after democratic-supported increase in the minimum wage to estate tax reform. They further added the package of expiring corporate tax incentives that were very popular with both Republican and Democrat members of Congress. They hoped that this “trifecta bill” (estate tax, minimum wage increase and corporate tax incentives) would finally get the estate tax reforms enacted. This approach, however, greatly angered Chairman Grassley, who was hoping instead to get the expiring corporate

tax incentives added to the pension bill. As a result of that dispute, pension conference negotiations collapsed, even though the only issue left to negotiate was the extent of the airline funding relief.


On the day the House was going out for summer recess, it passed the trifecta bill. Then, in what can only be described as an “in your face” maneuver, the House passed a newly introduced pension bill that included all the provisions negotiated in the pension conference to date, even though these provisions had not yet been formally agreed upon. The members of the House then left for summer vacation leaving the Senate, which was staying an extra week before its recess, to sort out the mess. The situation hardly looked promising.

The Senate spent most of the week debating the trifecta bill. The debate was fiercely partisan and sometimes even nasty. ASPPA kept on pushing the senators, arguing that even if the trifecta bill fails, they do not want to go home for recess without passing anything (the “you don't want to be the do-nothing Congress” argument). We further pointed out that if they did not pass a pension bill now, they would potentially be stuck working on the bill next year (the “you really don't want to keep on working on this pension bill, do you?” argument). Notwithstanding, it just seemed that the senators could not get passed the partisan rancor.

After many hours of contentious debate, the trifecta bill failed, two votes shy of getting cloture (*i.e.*, shutting off debate under Senate rules and proceeding to a vote). In fact, some moderate Republicans voted in the negative because of the cost of the bill and concerns about the budget deficit.<sup>3</sup> It was already the evening, but there were still a few hours before the Senate recessed for the summer. Senate Majority Leader Frist (R-TN) announced that they would proceed to a vote on the pension bill just passed by the House, unless anyone objected (meaning that any single senator could have objected and stopped the vote on the pension bill on procedural grounds).



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*PPA is far from being the end of the story.*


That moment is when the miracle occurred. Whether it was exhaustion, frustration, fear of being accused of doing nothing or a combination of all of the above, not a single senator objected to proceeding to a vote, including the moderates who were concerned about the budget. After no more than 20 minutes of debate, PPA passed 93-5, with the objections coming mostly from senators of states where American and Continental airlines have large presences (those senators did not get all the funding relief for which they were hoping).

Now, despite the fortunate circumstances, all of these events would not have happened had pension issues not risen over the past two years to the forefront of congressional attention. Simply put, retirement savings is no longer a back-burner issue. This increased exposure is in large part due to the political weight of the aging baby boomer generation as well as the tremendous growth in pension assets over the last two decades. I still remember the days when we would almost have to beg members of Congress to talk to us about pension issues. Today, members of Congress often seek our assistance unsolicited.

PPA is far from being the end of the story. Literally days after enactment, we were asked by a bipartisan group of Senate Finance Committee members to help them develop new legislation focusing more on DC plan issues. Included in the proposed legislation would be a major policy

initiative to require employers above a certain size that do not maintain a qualified plan to offer a payroll-deduction IRA to their employees.<sup>4</sup> This bill will likely be the focus of future pension legislation and will be discussed in future issues of *The ASPPA Journal*.

I would be remiss if I failed to discuss the critical role ASPPA's Political Action Committee (ASPPA PAC) played in the development of this legislation. Thank you to the many of you who have supported ASPPA PAC over the years. Through your support, we were able to make contributions to the campaigns of key members of Congress who played an important role in negotiating the bill, including many members of the pension bill conference. ASPPA PAC gave us the opportunity to tell our side of the story regarding important issues. Because we had the chance to convey our concerns, numerous improvements to the bill were made to the benefit of ASPPA members. The evidence of ASPPA PAC's effectiveness is seen all over PPA provisions, most significantly EGTRRA permanency. Many thanks go out to those who have and continue to support ASPPA PAC, and I encourage those who have not to please consider doing so.

The congressional elections are now behind us. In the next issue, I will focus on the impact of the elections and what they mean for future retirement savings policy. 

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*Brian H. Graff, Esq., APM, is the Executive Director/CEO of ASPPA. Before joining ASPPA, he was pension and benefits counsel to the US Congress Joint Committee on Taxation. Brian is a nationally recognized leader in retirement policy, frequently speaking at pension conferences throughout the country. He has served as a delegate to the White House/Congressional Summit on Retirement Savings, and he serves on the employee benefits committee of the US Chamber of Commerce and the board of the Small Business Council of America. ([bgraff@asppa.org](mailto:bgraff@asppa.org))*

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- 1 For a discussion of why we think the current revenue scoring system that Congress uses for retirement savings provisions is flawed, see the Washington Update in the July-August 2006 issue of *The ASPPA Journal*.
  - 2 At the last minute, a package of tax-exempt foundation reform measures was added to the bill along with several miscellaneous trade and tariff relief measures. These days, it is fairly typical that extraneous measures are added to almost any piece of legislation that is likely to be enacted.
  - 3 While this debate was going on, we were lobbying these same senators arguing that the pension bill should be viewed differently. See footnote 1.
  - 4 This proposal was discussed in detail in the July-August 2006 issue of *The ASPPA Journal*.



# The Dawn of a New Era—Opportunities and Responsibilities for Pension Professionals

by John S. Agatston, MSPA

Now that the Pension Protection Act of 2006 (PPA) has passed, it is imperative that we—pension professionals, pension firms and ASPPA itself—take a fresh look at our industry from a long-term perspective. It is easy to get caught up in concerns related to funding for some large companies or to be overwhelmed with uncertainties brought about by the new legislation and miss the big picture.

**A**s you will see from this article, there are abundant new consulting opportunities in the small to medium size market. But with these new opportunities come new responsibilities as tens of millions of “baby boomers” get ready to retire in the next two decades.

## More Freedom—Fewer Limits

For too long we have been bogged down by the many restrictions of pension regulations and have become accustomed to being lost in the details. We can now apply actuarial skills to benefit our clients rather than merely comply with the Internal Revenue Code.

Many issues addressed in PPA have eased the restrictions that we have been coping with. The increased EGTRRA limits have been made permanent, reasonable advanced funding of defined benefit (DB) plans is permitted, funding methods have virtually been eliminated in lieu of minimum and maximum funding levels (in 2008) and combined plan deduction limits have been greatly eased or eliminated. The question now becomes “what *should* I fund” rather than “what *can* I fund,” which creates consulting opportunities for advising employers based on overall funding objectives. With the youngest of the baby boomers reaching age 43 this year, we can now say that every baby boomer at the \$220,000 compensation level can have contributions over \$100,000 [combining a DB with a 401(k)/profit sharing plan]. More and more of our clients will enjoy substantial accumulations without being near the Section 404 or Section 415 limits.



*Many issues addressed in PPA have eased the restrictions that we have been coping with.*

## Passing the Baton

We are entering a new era for our industry and the baton of carrying out the responsibilities of national pension policy has been passed, in part, to ASPPA and its members. Just a short time ago we saw various aspects of our profession threatened by various tax and pension reform proposals. Not long ago, we wore buttons fighting to keep 401(k) plans. There was the fear that in the near future we would be inviting career counselors to help us retool for new careers. Thankfully, the tide turned and this concern did not come to fruition.

The reason ASPPA is so well poised to take the baton and lead us into this new era is that it is the *only* pension organization with a strong presence in both the DB and defined contribution (DC) sides of the business. There is a growing realization in the industry that in many cases, neither a sole DB plan nor a sole DC plan can do the job by itself. Hence, we need pension professionals who, either individually or by networking with other ASPPA members, are well-trained in both DB and DC plans and can design and consult on combination DB/DC arrangements.

*PPA, along with the maturing of the 401(k) industry, the clarification of the anti-discrimination rules and improved correction programs with less severe corrections for honest mistakes, has made the qualified plan market more attractive to business owners and their accountants and other advisors.*

The baton can stay with ASPPA as long as its members are a catalyst to carry out the desire of Congress such that the private sector does its share to provide adequate benefits for retirees. If we take this responsibility seriously, we can avoid the hypothetical situation of a future congressional hearing where a congressional representative is talking about a small company in which the owner is retiring after having accumulated \$3,000,000 in qualified money and a long service secretary is retiring with only a \$250 monthly pension. What we need to avoid is giving that congressional representative ammunition by way of multiple examples from an industry in which practitioners were presenting plan designs that only favored the owner and ignored long service employees because they were not needed to pass discrimination testing.

### **Business Motivation: The Opportunity to Put Away More and Take Less Risk**

Now let us look at what business owners want in order to participate in the private pension system and how several provisions in PPA will encourage their participation.

For businesses to participate in qualified plans, there needs to be sufficient rewards and limits to the risks. In my 30 years of pension consulting, I have noticed that business owners are interested to varying degrees in:

- Maximizing the amount that can be deferred in a tax-advantaged manner, either expressed as a maximum benefit (*i.e.*, Section 415) or a deductible contribution (*i.e.*, Section 404);
- Controlling the allocation of benefits and contributions to the employees. This control might mean taking care of a key and/or a long service employee while limiting costs for the other employees;
- Maintaining flexibility in funding from one year to the next so that the qualified plan does not get in the way of efforts to grow or otherwise protect a business; and
- Having their employees, when administratively feasible, contribute toward their retirement in a 401(k) plan.

In the past, owners usually have had to make trade-offs among the above four goals to reach a reasonable but less than ideal solution. In many cases, they avoided a DB plan and settled for just a 401(k) or a 401(k)/Profit Sharing plan. With the passage of PPA, business owners are much closer to “having their cake and eating it too.” I believe realization of this fact will take time, but with that time, I believe we will see many new DB plans.

The business community needs to do more than sponsor plans that favor the key people and comply with all the rules and regulations. They only need to do their part so that employees that work for them, for a significant part of their careers, can accumulate an adequate retirement income. Unfortunately, the focus on anti-discrimination rules for more than the last decade has encouraged pension professionals to focus on younger employees to maximize benefits for the key people. The longer service, older employees are not usually needed to pass a test, and hence, can be ignored for testing. While Top Heavy, Gateway and “Meaningful Benefits” per 401(a)(26) rules attempt to take care of the longer service people, my observation is that there has been very limited focus on benefit adequacy, particularly in the small plan market. My hope is that our profession will make a concerted effort to look at benefit adequacy and encourage our clients to do likewise. While we cannot force a business owner to fund more for long service employees, we can accept the responsibility to show the effect and the costs of this type of funding as an alternative, whether or not we think the business owner is interested initially.

### **Two Plans Are Better Than One**

Now let us look at the cumulative effect of recent changes in the law and regulations, culminating in PPA, on businesses, on practitioners and on ASPPA from the viewpoint of both new opportunities and related responsibilities.

#### **Advantages for Business Owners**

PPA, along with the maturing of the 401(k) industry, the clarification of the anti-discrimination rules and improved correction programs with less severe corrections for honest mistakes, has made the qualified plan market more attractive to business owners and their accountants and other advisors. In particular, the small plan market has benefited from Congress trying to help the big companies to get on sound actuarial funding. These advantages include (but are not limited to):

#### ***The ability to over-fund DB plans in good years***

- For plans that have been in place for a few years, we may find that the maximum deductible contribution based on the new 50% plus buffer rules (with an initial phase-in of 150% of current liability in 2006) meets or exceeds most clients’ needs even in a very good year. For new plans, the two-year wait for over-funding on the highly compensated employee takes a little more strategizing.



***The greater freedom to design dual plans***

Currently, we have a very limited obstacle with the 25% dual plan limit. Starting in 2008, the IRC 404(a)(7) limit would be determined without regard to DB plans covered by the PBGC. In the meantime, some relief is given with the provision that only employer contributions to a DC plan that exceed 6% of participant compensation (excluding elective deferrals) would be subject to the current limit.

This new freedom allows us to create dual plan designs such as:

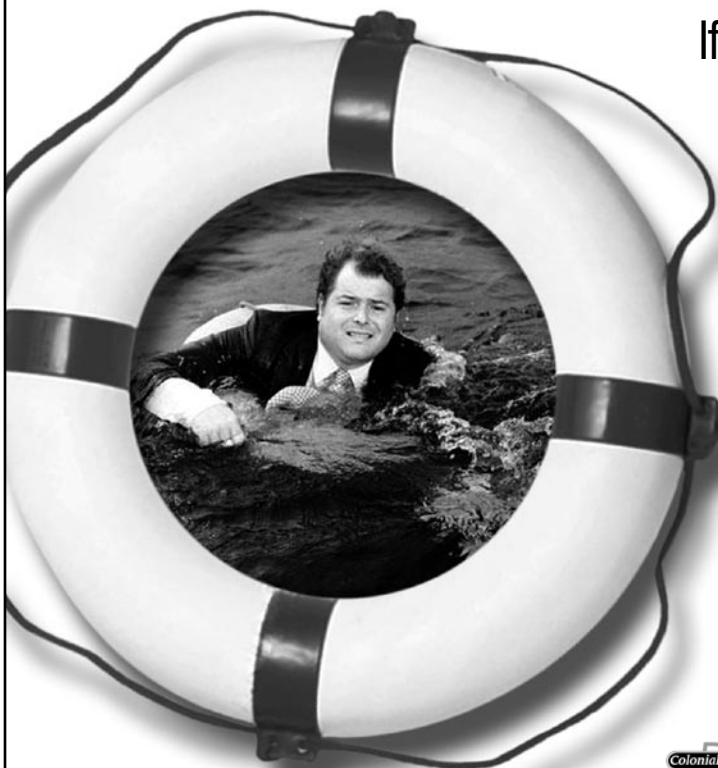
- Add a DB plan (usually Cash Balance) to a maximized Profit Sharing/401(k) without having to worry about a trade-off between maximizing contributions for a key person and reducing amounts for other employees. (There may need to be some shifting of contributions from the Profit Sharing to the Cash Balance plan to avoid exceeding the new 6% aggregate limit.)
- Add a Profit Sharing plan in the case where large contributions are made to a frozen DB plan so that employees can benefit currently while the sponsor funds the old plan.
- Reduce excessive employee costs from a final average pay DB plan by converting to a Cash Balance plan and then add a Profit Sharing plan along with, perhaps, a 401(k) feature. Aggregate Testing would then be used to optimize deductions and cost effective allocations.
- Add a Safe Harbor 401(k) plan to a DB plan where the contribution is already over 25% of eligible pay.

***The ability to comfortably add Cash Balance plans to our design routine***

The clarification on what constitutes age discrimination for hybrid plans such as Cash Balance plans, as well as clarification on the wearaway rules in the case of conversion to Cash Balance plans, allows these plans to be a serious part of the tools that can be used in plan design. (The favorable court rulings on Cash Balance coming within days of PPA also helped.) The three things I particularly like about Cash Balance plans are:

- They are generally career average plans and so they have a reduced “run away” liability risk when compared with final average pay DB plans.
- The account balance aspects allows for them to be more easily understood by participants who are used to DC plans.
- Even though they are trustee-directed, they appear to participants to be fixed income, hence, encouraging the participants to allocate a higher portion of their 401(k) balances to equities. Also, they allow a way to provide for extra amounts for longer service, older employees without having to contribute more for shorter service older employees.

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### *The ability by statute to count pre-participation compensation in the determination of the 415 limit*

#### *The limit of the PBGC premium for plans with fewer than 25 lives*

With these new provisions, business owners can now:

- Both contribute and deduct higher amounts and have higher accumulations at retirement.
- Effectively use 401(k)/Profit Sharing plans along with DB plans to effectively favor long service and key employees while limiting costs for other employees. For example, the changes in Code Section 404(a)(7) make it possible to design safe harbor 401(k)s while still maximizing the contribution for even a very small business owner.
- “Fund First and Promise Later”—meaning they can use the new buffer rules to fund more than the promised benefits and then increase the benefits in later years when they know they can easily be afforded.

### Advantages for Actuaries Specifically and Pension Practitioners in General

If we can rise above a sole focus on compliance issues, there are many exciting new consulting opportunities. Here are some of the consulting issues to consider:

- DB plans
  1. At what level above the target liability should a company fund? Should the common level funding actuarial cost methods be used or should there be other strategies? Strategies can include open group valuations, funding as a level percent of projected revenues and/or profit or funding to a future year in which the owner is expected to retire.

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## The 5<sup>th</sup> Annual 412(i) Defined Benefit Pension Plan Summit

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- 401(k) and 412(i) plan combinations
- 412(i) v. Nonqualified Plans
- 412(i) v. Cash Balance Plans
- 412(i) v. Traditional Defined Benefit Plans
- Illegal 412(i) plans
- The Pension Protection Act and Small Business Retirement Planning

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2. Should a sponsor consider a lower level of promised pension benefits but with a higher level of funding and then increasing the benefit level as funding permits? As part of this strategy, you want to make sure the 415 limits will not be exceeded. Also, you might focus on who is going to retire in the short-term and increase their benefits to provide for an adequate level at retirement.
- DC plans
    1. Can new comparability type formulas be developed to provide for adequate benefits for long service employees? This approach can include coordinating with a frozen DB plan.
    2. Should a higher level of match be offered for longer service/older employees?
  - Dual plan strategies
    1. After maximizing for the key person(s) with an add-on DB plan, how should longer service employees be taken care of between the two plans?
    2. Realizing that missed profit sharing contributions cannot be “made up” in the future as they can with DB plans, how should contributions be allocated between these two plans when you are trying to maximize the accumulation for a key individual?
    3. How should “extra” contributions be allocated between the DB plan and the profit sharing plan? How is the answer to this question affected by where the company is in a business or spending cycle?
  - Benefit adequacy studies
    1. Adjust for possible reductions in Social Security.
    2. Take into account what happens when the owner retires long before some of the employees reach retirement age.
    3. Look at the effect of phased retirement on benefit adequacy.

The above list should not be considered a complete list. What is going to make this fun and challenging is that there are no single right answers for each question. Some of these questions will need software to be properly addressed, some will not. The software needed may or may not be currently provided by the various software vendors, so vendor opportunities may also exist.

## Opportunities for ASPPA—A New Focus on Adequate Benefits for Retiring “Baby Boomers”

While continuing to do its crucial work in the lobbying and compliance arena, ASPPA needs to be pro-active in encouraging its members to focus on the issue of retirement security. While we cannot control how our clients spend their money, we do have a job to educate them on the long-term effects of plan design on all their employees, particularly those that spend most of their career at the company. Here are some suggestions for ASPPA:

- At conferences
  1. Have sessions on performing benefit adequacy studies under different scenarios.
  2. In plan design sessions, do not just show techniques on maximizing for owner while limiting contributions for everyone else, but show creative ways to take care of long service employees, too. We have come across several designs for passing tests based on the few oldest, longest service employees as opposed to the few youngest employees.

3. Have cross-training sessions—DB and Cash Balance plans for 401(k) people and 401(k)/Profit Sharing plan issues for actuaries. Just because we have designed a DB/Profit Sharing plan to maximize the owner does not mean we should not include a 401(k) feature to encourage employees to contribute. And even if a plan has a safe harbor feature and the employer does not need to worry about passing 401(k)/(m) testing, we should still encourage employee contributions to the 401(k) plan.

- Take a pro-active role in developing new laws related to phased retirement. Understanding our place in the history of the American retirement industry and acting accordingly will help us to ensure that we ourselves will have a long-term future in this industry. There is no better place than ASPPA to network with peers to foster these new ideas and to meet the challenges and realize the opportunities of this new and exciting era in retirement planning. ↗



*John S. Agatston, MSPA, FSA, EA, has been a practicing actuary for 30 years. His firm, John S. Agatston Actuarial Services, was established in 1983. In addition to being a Member, Society of Pension Actuaries (MSPA) and a Fellow of the Society of Actuaries (FSA), John is also an Enrolled Actuary (EA). John serves as a member of both the Membership and the Marketing committees of ASPPA. While John has worked on different types and sizes of qualified plans over the years, in recent years he has focused on helping 401(k) specialists add cash balance and other types of DB plans to their clients' 401(k) and profit sharing plan offerings. ([johna@practicalactuary.com](mailto:johna@practicalactuary.com))*



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# Circular 230 and Pension Professionals

by David A. Pratt, APM

Pension professionals may be subject to several different sets of rules governing how they practice. First, there are the ethical rules governing the practice of their profession (e.g., law, accounting and actuarial science). Second, if the individual “practices before the IRS,” he or she must observe the standards of practice promulgated by the Treasury and the IRS. Third, the individual must observe the ethical rules issued by any professional organizations (such as ASPPA) to which he or she belongs.

**T**he term “Circular 230” refers to the Treasury and IRS regulations governing the standards of practice before the IRS. Controversial new regulations were issued in December 2004 [69 Fed. Reg. 75839] and May 2005 [70 Fed. Reg. 28824] (final regulations). There are also proposed regulations, issued in February 2006, which address disciplinary proceedings and contingent fees. [71 Fed. Reg. 6421] The IRS Office of Professional Responsibility (OPR) enforces the regulations.

## Who is Required to Comply With the Regulations?

The regulations apply to all “practitioners,” namely members of the professions specifically authorized to practice before the IRS: attorneys, CPAs, Enrolled Agents and Enrolled Actuaries. The Treasury and the IRS are soon likely to authorize a new designation, the Enrolled Retirement Plan Agent (ERPA), who would also be subject to the regulations.

Some of the rules apply to all “tax advisors,” a term that is not defined. Tax advisors are required to follow best practices regarding all “advice” (another undefined term), including oral advice and other relatively informal advice. These best practices are aspirational. An advisor who fails to comply with best practices will not be subject to discipline. Failure to comply, however, may, in practice, be used to support allegations of negligence or malpractice.

Tax advisors with responsibility for overseeing a firm’s tax practice must also take “reasonable steps” to ensure that the firm’s procedures for all members, associates and employees are consistent with these best practices.



## What Does “Practice before the IRS” Mean?

The final regulations define the term “practice before the IRS” broadly to include “all matters connected with a presentation to the Internal Revenue Service or any of its officers or employees relating to a taxpayer’s rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service.” [31 CFR §10.2(d)] The February 2006 proposed regulations would make the definition even broader, by adding the words “rendering written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement having a potential for tax avoidance or evasion” to clarify that giving tax advice is practice before the IRS, and thus subject to the requirements of Circular 230, when provided by a practitioner.

The regulations appear to assume that all written tax advice is within the scope of “practice before the IRS.” This assumption is questionable.

## General Requirements

Circular 230 includes some general requirements that have been in effect for many years and are non-controversial. For example, a practitioner may not

charge an unconscionable fee (and sometimes may not charge a contingent fee); a practitioner must return records to the client; and a practitioner must avoid conflicts of interest. [31 CFR §§10.27-10.29]

The most important of the general requirements, because of its broad application, is 31 CFR §10.22, which requires all those who practice before the IRS to exercise “due diligence” in: (1) preparing or assisting in the preparation of, approving and filing tax returns, documents, affidavits and other papers relating to IRS matters; (2) determining the correctness of oral or written representations made by the practitioner to the Treasury; and (3) determining the correctness of oral or written representations made by the practitioner to clients regarding any matter administered by the IRS. OPR is using §10.22 as an “investigatory tool” against tax professionals.

### Requirements Applicable to Tax Advice

The most detailed, stringent and controversial requirements of the new regulations apply to “covered opinions” and other written tax advice. The primary reason for the new regulations was to impose stricter standards for the form and content of tax shelter opinions. The scope of these new regulations, however, is much broader.

A covered opinion is written advice by a practitioner (as defined above) that concerns one or more federal tax issues arising from:

- A **listed transaction**: The IRS has identified seven transactions involving employee benefit plans as listed transactions. [See Notice 2004-67, 2004-2 CB 600];
- Any plan or arrangement, the **principal purpose** of which is the avoidance or evasion of any federal tax; or
- Any plan or arrangement, a **significant purpose** of which is the avoidance or evasion of any federal tax if the written advice is a reliance opinion, is a marketed opinion, is subject to conditions of confidentiality or is subject to contractual protection.

All of these terms are defined in the final regulations. As many comments to the IRS have pointed out, it is exceptionally difficult in practice to determine whether the “principal purpose” or a “significant purpose” of a plan is to avoid tax. According to the Internal Revenue Manual, “one who avoids tax does not conceal or misrepresent. He shapes events to reduce or eliminate tax liability and, upon the happening of the event, makes a complete disclosure.” [Internal Revenue Manual section 9.1.3.3.2.1] Under this definition, any transaction that results in a reduction of

tax liability could be viewed as having at least a significant purpose of tax avoidance.

Under the May 2005 revisions to the final regulations:

The *principal* purpose of a partnership or other entity, investment plan or arrangement, or other plan or arrangement is *not* to avoid or evade Federal tax if that partnership, entity, plan or arrangement has as its purpose the claiming of tax benefits *in a manner consistent with the statute and Congressional purpose*. A partnership, entity, plan or arrangement *may* have a significant purpose of avoidance or evasion even though it does *not* have the principal purpose of avoidance or evasion under this paragraph (b)(10). [31 CFR §10.35(b)(10), emphasis added]

While somewhat helpful, this clarification does not get us very far. A non-controversial application of the rules [*e.g.*, advising a client to use an integrated allocation formula under Code §401(l)] is clearly not a principal purpose transaction under this test, but it could still be a significant purpose transaction. And it is not clear that the new language applies at all where it is most needed (*e.g.*, more controversial plan designs such as a cash balance plan with wearaway or an aggressively cross-tested defined contribution plan).

Written advice regarding a *significant* purpose plan or arrangement (as opposed to a listed transaction or principal purpose arrangement) is not a covered opinion if the advice concerns “the qualification of a qualified plan.” In comments to the IRS, professional groups have advocated a very broad interpretation of this exception. (See, for instance, the attorneys’ September 27, 2005, letter to the IRS and the American Academy of Actuaries’ October 28, 2005, comment letter to the IRS). The clear IRS position is that this exception does *not* protect *all* advice for a qualified plan. We have no guidance on where the line will be drawn.

During an August 16, 2005, teleconference, W. Thomas Reeder, who was then acting Treasury benefits tax counsel, said that the rules are not intended to apply to routine documents that would generally not be considered advice and where no further analysis is necessary. Speaking on his own behalf, he suggested that such documents would include: (i) a summary plan description (SPD) of a plan covered by ERISA or a summary of a nonqualified plan; (ii) distribution of prospectuses; (iii) plan enrollment materials; (iv) information on investment choices, benefit calculators and portfolio allocation tools; (v) notices of requests for determination letters; (vi) newsletters; (vii) comments submitted to Congress or regulatory

*The most detailed, stringent and controversial requirements of the new regulations apply to “covered opinions” and other written tax advice.*

officials; and (viii) articles in tax journals or conference materials. This list leaves room for a disturbingly large group of documents that *could* be covered.

He also said that, while he would like to exclude advice for employer-provided plans other than qualified plans [*e.g.*, 403(a), 403(b) and 457], it would be imprudent to assume that they are exempt. Nor would advice relating to IRAs be exempt under the exception.

There are several other exceptions. Even if written advice is *not* a covered opinion, it *is* subject to the standards for other written advice.

The final regulations contain strict requirements governing the form and content of covered opinions. These requirements require the practitioner to research the facts and the legal issues very thoroughly, so preparation of a covered opinion will be expensive and time-consuming. Most clients will not be prepared to pay the cost.

### Other Written Advice

The final regulations also include requirements for written advice that is *not* a covered opinion if it addresses *any* federal tax issue, “significant” or not. Many commentators view this as the most problematic feature of the regulations, as it potentially applies to almost any advice given by a benefits practitioner and deters practitioners from giving the kinds of written advice that is necessary and helpful to their clients. The rule operates as a perverse incentive to provide oral advice, which is less likely to be complete and to be adequately understood by the client. Very often, advice concerning an employee benefits issue is not simple and straightforward; it is nuanced, heavily dependent on the factual background and needs to be read carefully by the client. Oral advice generally cannot provide an adequate substitute for written notice.

### Sanctions

The Treasury, after notice and an opportunity for a hearing, may censure, impose a monetary penalty on, suspend or disbar any practitioner from practice before the IRS if the practitioner (1) is shown to be incompetent or disreputable; (2) *willfully* fails to comply with the final regulations; (3) *recklessly* or through *gross incompetence* violates the final regulations; or (4) with intent to defraud, willfully and knowingly misleads or threatens a client or prospective client.

### Recent Developments

Recent press reports indicate that Treasury and IRS officials have paid attention to the chorus of complaints, and there is reason to hope that the rules will be modified in the near future. On May 5, 2006, Michael Desmond, a Treasury tax legislative counsel, said that a Treasury and IRS working group is trying to correct a “scope problem and breadth problem” and the overuse of disclaimers. [Treasury Opposes Tax Return Disclosures; Circular 230 Debate Ongoing, Desmond Says, Pension & Benefits Reporter (BNA), May 16, 2006, at 1214.]

In a remarkable recent development, Cono Namorato, who resigned earlier this year as director of OPR, said that the covered opinion rules are unnecessary and should be repealed, that the rules should require employers to ensure compliance with all of the requirements of Circular 230, and that IRS should use the traditional provisions of Circular 230, including the due diligence provisions. [Covered Opinion Standards Should Be Repealed, Namorato Says, Tax Notes Today, May 9, 2006, 2006 TNT 89-3.] He added, however, that the government has nothing to apologize for, because the rules were “exactly what was needed at the time, and they succeeded in getting everyone’s attention.”

Finally, on June 2, 2006, IRS Chief Counsel Donald Korb said that the IRS would begin looking at the Circular 230 rules over the summer, with an eye toward amending them. [Circular 230 Rewrite Planned, Says Korb, Tax Notes Today, June 5, 2006, 2006 TNT 107-7.]

### Conclusion

For benefits practitioners, one of the major problems is that the rules were not written with pensions or benefit plans in mind, and rules designed to curb abusive tax shelters are difficult to apply to other types of practice. It has long been clear (to practitioners) that the rules should, and fairly easily could, be rewritten in a way that limits their application to tax shelters and other highly abusive transactions. The more general rules of Circular 230, particularly the due diligence rule, are more than adequate to deal with other areas of tax practice. The IRS should also issue guidance, ideally in the form of questions and answers, illustrating how the rules will actually be applied to different practice areas, including pension plans and other employee benefits.

Meanwhile, what should we do? Routine employee benefits practice is not the target, and I suggest that most pension advisors can comply sufficiently with Circular 230 by adopting and enforcing good quality control procedures, particularly with respect to any written advice that might constitute federal tax advice. Some aggressive planning techniques clearly involve much more risk: in this category, I would include VEBA and defined benefit plans funded with large amounts of life insurance, both of which are potentially listed transactions and thus are in the highest risk category. I would also include aggressively cross-tested plans and cash balance plans, particularly those that use wearaway. In these areas, any written advice that is arguably subject to the covered opinion or other written advice requirements should be reviewed carefully and, to the extent possible, designed to comply with the requirements. ↗



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# Recent Department of Labor Guidance on Voluntary Fiduciary Corrections and Abandoned Plans

by Kathryn J. Kennedy

The month of May was a busy time for both the Internal Revenue Service (IRS) and the Department of Labor (DOL) as their respective self-correction programs were updated and enhanced.

The IRS' update was described in a recent issue of *The ASPPA Journal* (July-August 2006). This article provides a summary of the DOL's Voluntary Fiduciary Correction Program (VFCP) and its final regulations affecting abandoned plans.

## VFCP Update

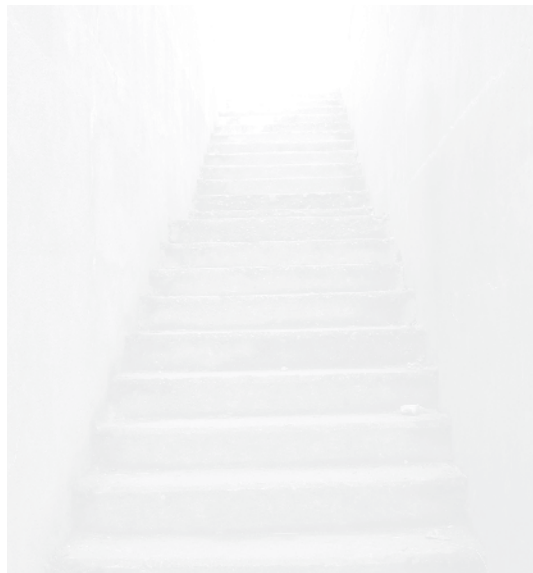
The VFCP was originally established so that plans in fiduciary breach could avoid the DOL's civil investigation and obtain a "no action" letter for the applicant involved in the breach. The DOL will waive excise penalties under ERISA §502(l) (*i.e.*, the 20% penalty for applicable recovered amounts in a civil action or DOL settlement) and the civil penalties under ERISA §502(i) for certain prohibited transactions. The recent update became effective as of May 19, 2006. Similar to the IRS, the DOL's purpose in revising the program is to simplify and expand its coverage.

Preconditions for utilizing the program include:

- Not being "under investigation" (with a revised definition) by the DOL;
- Not being involved in any criminal activity; and
- The correction must fall within one of the 19 eligible transactions.

Unlike the IRS' correction program, correction under VFCP does not require a user or application fee.

Under the VFCP, the four original prohibited transaction exemptions (*i.e.*, employee contributions and participant loans repayments, fair market loan to disqualified person, fair market sale/purchase with disqualified person and fair market sale/leaseback with employer) were retained and two new ones were announced. General conditions for use of these exemptions include: full compliance with VFCP, arm's length transactions, nonexistence of a scheme to benefit



*The new VFCP provides an optional application cover letter that has had a dramatic effect on streamlining the system.*

a disqualified person, the three-year rules and notice to interested participants. The two new exemptions are:

- If illiquid assets were sold from the plan to a disqualified person, an exemption to correct exists provided that less than 10% of the total plan assets were involved, no brokerage or commissions fees were paid and the original purchase price was accurate.
- If settlor expenses were paid from the plan, an exemption to correct exists provided such expenses involve no more than the lesser of 5% of the total of plan assets or \$10,000, and the plan document did not expressly prohibit the payment of settlor expenses.

The new VFCP provides an optional application cover letter that has had a dramatic effect on streamlining the system. This form was initially introduced through the Chicago Regional Office, and adopted by the National Office, providing an online calculator for determining loss calculations.

Other new features of the 2006 VFCP program include:

- Relief under ERISA §502(i) for welfare and nonqualified pension plans;
- Correction for participant loans;
- Alternate corrections for purchases between the plan and a party-in-interest;
- Definition of "under investigation" when using VFCP; and
- Notice relief.

When correcting participant loans, individuals may rely upon the IRS' EPCRS correction program and simply submit to the DOL a copy of the IRS' Compliance Statement and proof of payment. This process includes participant loans that exceeded the maximum limit of IRC §72(p), loans with repayment terms that exceeded IRC §72(p), loans that did not provide for level amortization payments and loans repayments that were not properly withheld from the participant's wages as required under the terms of the loan agreement.

For correcting purchases between the plan and a party-in-interest, VFCP now provides an alternate correction whereby the plan can keep an illiquid asset if an independent fiduciary determines that the plan receives a greater benefit and the plan has not lost any money.

Regarding what constitutes "under investigation," the definition was expanded to include:

- Investigation must involve the plan or a transaction involving the plan;
- EBSA involvement with the plan (P), plan sponsor (S) or applicant (A);
- IRS' TE/GE examination of the plan;
- Any criminal investigation of the P/S/A;
- PBGC investigation or exam of P/S/A unless disclosure of such was made;
- A state's attorney general's or insurance commissioner's investigation or exam unless disclosure of such was made; and
- Plan is unable to obtain a determination letter from the IRS.

There is new notice relief for delinquent employee contributions and participant loan repayments. If the IRC §4975 excise tax would be less than \$100, such tax may be paid and allocated as earnings to the plan participants in lieu of the IRS.

### DOL Abandoned Plan Regulations

The final regulations regarding abandoned plans (otherwise referred to as orphan plans) were issued effective May 22, 2006. EBSA estimates that there are 1,650 defined contribution pension plans that have been abandoned, either because the sponsor ceased operations or there has been a death, disappearance, lack of contact or refusal to perform by the plan fiduciary. As the financial institution holding plan assets is awaiting instructions and participants are requesting distributions, the DOL has been reviewing this issue and determining the best approach. Traditionally, there has been an investigation that results in a year to two-year examination and results in a court determination. Under the final regulations, the expectation is to accelerate the termination and wind-up of abandoned plans. The new rules determine when a plan is abandoned, how it is


terminated, who may terminate the plan and fiduciary liability.

Abandonment means that the plan has not engaged in any activity for a 12-month period or is determined as abandoned based on facts and circumstances (e.g., bankruptcy and liquidation of plan sponsor). Limited fiduciary relief has been provided to a "qualified termination administrator" (QTA), i.e., a custodian of the plan assets who has served as a trustee or issuer of individual retirement plans. The QTA must make a reasonable effort to locate the plan sponsor and the plan sponsor must not object to plan termination.

A model notice is provided in Appendix A of the regulations to notify the plan sponsor of the intent to terminate the plan, with similar notice to the DOL's EBSA. After the EBSA has acknowledged receipt of notice, the plan may be terminated within 90 days or earlier, if EBSA waives the 90-day period. Participants must be notified that the plan is winding up its affairs (a sample notice is provided in Appendix C of the regulations) and a final notice of such wind-up must be provided to EBSA (a sample notice is provided in Appendix D of the regulations). The QTA is permitted to engage with service providers and pay their expenses. A final Terminal Report must be issued (short of a complete Form 5500 filing). For missing or non-electing participants, alternative methods of handling such accounts are provided.

Under these regulations, the QTA has limited liability. It must prudently select service providers and monitor their activities. If there are delinquent plan contributions, the plan sponsor will remain liable for such contributions. If there are two asset custodians, the first QTA prevails. Custodians should check the EBSA Web site for a list of QTAs for abandoned plans.

The DOL has also provided a class exemption from the prohibited transaction rules if the QTA rolls distributions into its own IRAs, if it uses itself or affiliates as service providers and/or if it charges investment fees related to its proprietary investment products.

DOL officials have stated at various conferences, including the 2006 ASPPA/IRS Great Lakes Benefits Conference, that they will devote a portion of their Web site in the future to listing plans deemed to be orphaned and the associated QTA, so that a public record exists for all interested parties. 



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DATAIR Employee Benefit Systems, Inc.	The 401(k) Company
Department of Labor	The Hartford
eFileCabinet	The Standard
Fidelity Investments	Transamerica Retirement Services
First Mercantile	Trucker Huss, APC
ftwilliam.com	Union Bank of California, NA
Great-West Retirement Services	US Bank Institutional Trust & Custody
Holland and Hart	Vanguard
ING	Vision Service Plan
Internal Revenue Service	Wells Fargo Retirement Plan Services
John Hancock Retirement Plan Services	Wolters Kluwer, Law & Business
Lincoln Financial Group	WP&BC
Lynchval Systems Worldwide, Inc	

## SPEAKERS

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Leslie J. Anderson	Roseanne Lerulli
Ralph J. Barry	W. Waldan Lloyd
Avaneesh K. Bhagat, QPA	Michael J. Malone, CPC
Phyllis C. Borzi	J. Thomas Maloney
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## Preparing for the Future— ASPPA's Opportunities and Challenges

by Chris L. Stroud, MSPA

**A**s we bask in the glow of ASPPA's 40th birthday and the Pension Protection Act of 2006 (PPA), it is important that we ponder the future of ASPPA and the retirement planning industry. What will the next 40 years bring? What will our own retirement look like? More importantly, what will retirement look like for our children? The retirement security of many individuals is affected by the legacy that we are building today. How we face the opportunities and challenges that lie ahead will help to shape that legacy.

*What are some of the opportunities for the short term?* PPA presents unique consulting opportunities for ASPPA members. For example, we might truly make a difference if we spend just a little more time educating business owners on the importance of benefit adequacy—not just for themselves, but also for their employees. Then, by taking advantage of some of the favorable dual plan incentives in the current legislation, we can offer various combinations of defined benefit, hybrid, defined contribution and 401(k) plans to satisfy our clients' objectives. ASPPA members are the experts best able to create these dual plan strategies. By drawing on your own personal knowledge and networking when needed to other ASPPA members with complementary expertise, you have the resources to capitalize on these consulting opportunities.

There are also opportunities in our Education and Examination program. This year, we saw a group of professionals achieve our newest credential, the Qualified Plan Financial Consultant (QPFC). We have a unique opportunity to continue to improve this new program and set the bar for investment professionals to distinguish themselves in the retirement planning industry. Also, a new Enrolled Retirement Plan Agent (ERPA) program was announced in Circular 230. ASPPA is in a unique position to vie for the opportunity to administer this new government education and examination program. Whether or not ASPPA is awarded the ERPA contract,

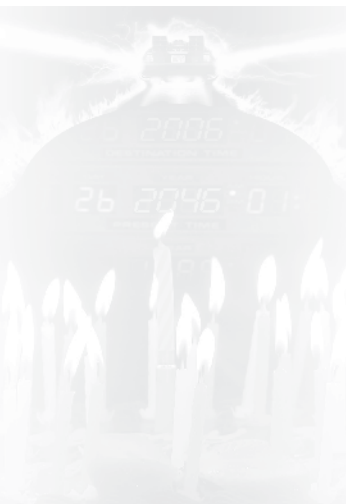
the ERPA program presents an opportunity for ASPPA to retool and refresh our current Education and Examination program and to support a new community of ERPA professionals.

ASPPA's leadership also recognizes that continuing education is critical and we are continuously seeking out new opportunities to deliver it. Our webcasts and conferences are thriving. You will see more webinars and webcasts in the coming year and more recorded educational sessions that you can access at your own convenience. In addition, we now have 16 ABCs (ASPPA Benefits Councils) to help deliver education locally and regionally. Our newest conferences—the DOL Speaks: The Employee Benefits Conference, Benefits Conference of the South and the Advanced Actuarial Conference, were all extremely well received.

Our commitment to the actuarial element of our membership remains strong, and our Actuarial Issues Committee has been very active this year. We will once again be hosting an Advanced Actuarial Conference in June 2007 in Boston. We have been and will continue working together with the other US actuarial organizations to provide joint webcasts on actuarial issues. We will also take advantage of other opportunities to coordinate efforts across various organizations to enhance the actuarial profession and the retirement planning profession in general.

ASPPA's effectiveness in the government affairs arena, coupled with the recent passage of PPA, provides us the opportunity to have direct input on technical corrections needed. More importantly, in this new climate we now have the momentum to continue to improve the legislative environment for qualified plans.

*With all these opportunities, do we really need to be concerned about challenges?* Interestingly enough, many of our future challenges are directly related to our opportunities. Our success will be determined by how well we manage those challenges. For example, will the tides of favorable






pension legislation change as Americans are forced to address the challenges of the Medicare and Social Security systems? ASPPA's GAC and PAC certainly have their work cut out for them. How will the ERPA program affect our current credentials and education programs? Our challenge will be to anticipate the impact of ERPA on our industry and to keep our education programs and credentials relevant and visible. You can rest assured that initiatives to address these issues are already in the works.

As we move into the future, ASPPA's primary challenge as an organization is to continue to serve our diverse membership effectively. To do so, we must be nimble and proactive in a rapidly changing world. We need to look for better ways to allow every member to have a voice and feel a sense of belonging as our organization continues to grow. ASPPA's leadership continues to seek new ways to keep in close contact with members by creating new volunteer opportunities and more effective communications. The esteemed Immediate Past President, Sarah E. Simoneaux, CPC, and her predecessors have set many of these wheels in motion. Our new bulletin board and monthly e-newsletter are just two of the ways we are

striving to meet these challenges. I welcome your comments and suggestions regarding other ways ASPPA could better serve your needs.

The final challenge I'd like to mention rests on all of our shoulders. As ASPPA members with varied backgrounds and our own individual interests, we must challenge ourselves to stay united as a group in order to further the mission of what is core to us all—and the primary reason we belong to ASPPA—to preserve and enhance the private retirement system. The sheer strength in our numbers speaks for itself. ASPPA as a whole is truly greater than the sum of its parts. Together—we *can* and *do* make a difference! 

.....

*Chris L. Stroud, MSPA, MAAA, EA, is president of Stroud Consulting Services, Inc., in Marco Island, FL. Chris has 28 years of experience in retirement planning, software and management consulting, sales and marketing. Prior to setting up her own consulting firm six years ago, she was employed by FDP for 22 years, a pension and insurance software firm that was purchased by SunGard. Chris now offers a variety of consulting services to several firms, including continued support to SunGard for all SunGard Relius products. Chris is the President of ASPPA and the Editor of The ASPPA Journal. (chris.stroud@relius.net)*

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# Welcome New Members and Recent Designees

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Michael Hara

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Kevin N. Brown  
Joseph A. Carolan  
Scott Matthew Cloud  
Beth Davies  
Richard L. Green  
Jay W. Kerschner  
Kimberly A. Rineer  
Kathleen M. Rotenberger  
William J. Roy  
Erin M. Russell  
Paul J. Shortier  
Rachel M. Stampfli  
Eric D. Swiggum  
James D. Wetzel

## ▲ QPA

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Bianca A. Ballachino  
Richard Cromwick  
Therese A. Darmody  
Aaron L. Habegger  
Jamie L. Miller  
Andrea Lynn Minton  
Sydney H. Nguyen  
Lisa M. Robertson  
Kathleen M. Rotenberger  
Rachel A. Scheiner  
Eric H. Steinhoff  
Sandra L. Taylor  
Shanon L. Torgerud

## ▲ QKA

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Kristen M. Alexander  
Nancy Anderson  
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Trish M. Barner  
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Karen Beckham  
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Theresa M. Bruno  
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Alyssa M. Chellew  
Frank G. Chen  
Marsha D. Chesnut  
Laurie L. Clark

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Elaine M. Cone  
Richard Cromwick  
Iva A. Dario  
Therese A. Darmody  
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Cheri Dore  
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Kara L. Humphrey  
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Ryan Lichtenstein  
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Jeffrey L. Maxwell  
Cyndi Bryanna McCrea  
Kerrie J. McKeegan  
Michael McLeod  
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Phillip K. Moore  
William D. Nichols  
Angela R. Nordstrom  
Denise Oates  
Lora Ottowa  
Brian Patterson  
Joel D. Patton  
Deanna L. Prochaska  
Janice L. Queiser  
Michael Riley  
Nicole E. Rodman  
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Jeff Saunders  
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Suzanne Wynn

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Sara Wygant

# GAC Activities through September 2006

by Teresa T. Bloom, APM

2006 has proven to be an eventful and busy year for the ASPPA Government Affairs Committee (GAC). GAC maintained a high level of activity from January through September of 2006 by developing and submitting a number of comment letters to various government agencies, along with congressional testimony.

**T**hese comments addressed a variety of technical issues relating to the administration of employer-sponsored pension plans. With the passage of the Pension Protection Act of 2006 (PPA), GAC will continue to address a myriad of regulatory guidance from the various government agencies over the next several years (some with congressionally-mandated due dates or imminent effective dates, others without). GAC remains in the forefront of pension policy and regulation by developing and promoting ASPPA's formal positions on current issues facing regulators and legislators via comment letters, position papers and expert testimony on proposed actions.

Comment letters on a variety of technical issues were submitted to the Internal Revenue Service (IRS), the Treasury Department (Treasury), the Pension Benefit Guaranty Corporation (PBGC), the Department of Labor (DOL), the Securities and Exchange Commission (SEC) and providing testimony for the record to the US Senate Committee on Finance (and several of its subcommittees). Nearly every one of these documents was created by one of GAC's many subcommittees, each of which is comprised of dedicated, hard-working and highly-valuable volunteers. In these submissions, GAC promoted ASPPA's formal policy positions on the following issues:

## Comments of ADP/ACP Safe Harbor Notices and Final 401(k)/401(m) Regulations

On September 26, ASPPA provided comments on the modification of the safe harbor notice requirements in the IRS and Treasury's final regulations under Internal Revenue Code (Code) §§401(k) and 401(m). ASPPA recommended the final regulations be amended to permit safe harbor notices to incorporate by reference the SPD's distributions and vesting provisions, and that the IRS extend the relief provided in Notice 2005-95 until the effective date of the amended regulation.

## Comments to Proposed Revision of Annual Information Return/Reports

On September 19, ASPPA filed comments with the IRS, Treasury, DOL and PBGC on their proposed revisions to the

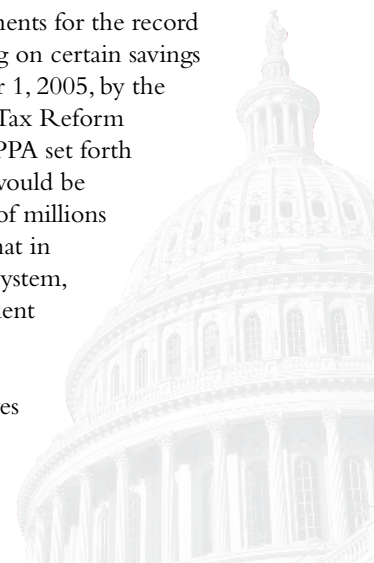
Form 5500 Annual Return/Report forms (effective 2008), including a proposed new Short Form 5500 (Form 5500-SF), filed for employee pension and welfare benefit plans under ERISA and the Code. ASPPA recommended, among other things, that the DOL relax its proposed eligibility conditions for plans to file Form 5500-SF; that more information be required on the forms and schedules, rather than attachments, to ensure uniform reporting by plan; and that the instructions under Schedule C be clarified.

## Comments to the DOL on its VFC Program and Online Calculator

On September 19, ASPPA commented to the DOL regarding the use of its Voluntary Fiduciary Correction Program (VFC Program) and recommended that the DOL expand the availability of its online calculator to the correction of late deposits of elective deferrals. In addition, ASPPA suggested that the DOL consider implementing several streamlined VFC reporting alternatives when there has been a late deposit of deferrals.

## Testimony Presented to the Senate Committee on Finance: "Kick-Off for Tax Reform: Tackling the Tax Code"

On August 3, ASPPA submitted comments for the record to a Senate Finance tax reform hearing on certain savings recommendations made on November 1, 2005, by the President's Advisory Panel on Federal Tax Reform (Advisory Panel). In its testimony, ASPPA set forth reasons why these recommendations would be devastating to the retirement security of millions of American workers. ASPPA asked that in considering reform to the federal tax system, Congress accommodate sound retirement policy, which suggests that the most efficient and effective tax system must continue to provide sufficient incentives to employers to establish and maintain plans for their workers.





### Testimony Presented to the Senate Committee on Finance, Subcommittee on Long-Term Growth and Debt Reduction: “Small Business Pension Plans: How Can We Increase Worker Coverage?”

On June 29, ASPPA submitted comments for the record to a Senate Finance subcommittee hearing on the issues facing small business retirement plan coverage and the challenges faced by women in saving for retirement. ASPPA expressed strong support for the efforts of Senators Gordon Smith (R-OR) and Kent Conrad (D-ND) in examining these important issues and set forth ASPPA’s recommendations on a number of legislative proposals to expand retirement plan coverage.

### Recommendations on the 2006-2007 Guidance Priority List

On May 24, ASPPA submitted comments to the IRS and Treasury on the 2006–2007 Guidance Priority List (Guidance List). Among other things, ASPPA recommended that the Guidance List include updating the model Code §402(f) notice and provide guidance regarding the tax, qualification and administrative issues resulting from the receipt of settlement proceeds from a terminated plan.

### Comments on the Proposed Regulations for Designated Roth Contributions under Tax Code §402A

On April 27, ASPPA filed comments with the IRS and Treasury on the proposed regulations for the taxation and distribution of designated Roth accounts under Code §402A. In its comment letter, ASPPA recommended, among other things, that the final regulations permit rollovers of Roth account distributions between §401(k) plans and §403(b) arrangements; the rule permitting a designated Roth account to be treated as a separate plan under Code §401(a)(31)(A) (eligible rollover distributions) should also be applied under Code §401(a)(31)(B) (mandatory IRA rollover provisions); and the final regulations provide that a Roth account distribution described in Treasury Regulation §1.402(c)-2 A-4 be treated for tax purposes in the same manner as an actual distribution from such account.

### Comments on Mutual Fund Redemption Fees

On April 10, ASPPA provided comments on the proposal by the Securities and Exchange Commission (SEC) to amend the recently adopted Rule 22c-2. ASPPA recommended, among other things, that the SEC establish *de minimis* requirements for imposing redemption fees and reporting transaction information; restrict redemption fees and information sharing to participant-initiated transactions in the case of participant-directed plans; and require funds to clearly disclose trading restrictions.

### Joint Comments to the Senate Committee on Finance, Subcommittee on Long-Term Growth and Debt Reduction: “Savings for the 21st Century: Is America Savings Enough to be Competitive in the Global Marketplace?”

On April 6, ASPPA, along with the ACLI, AALU, NAILBA and NAIFA, submitted testimony for the record to a Senate Committee on Finance subcommittee emphasizing the importance of personal financial protection. The organizations encouraged Congress to adopt a sound public policy that provides efficient ways for working families not only to save, but to manage financial risks and take responsibility for their lifetime financial security.

## Comments to the Revised Regulations Concerning §403(b) Tax-Sheltered Annuity Contracts

On March 14, ASPPA provided comments to the DOL regarding the temporary and proposed regulations issued by the IRS and Treasury under Code §403(b) and related Code provisions. ASPPA's comments addressed the interaction of Code §403(b) and Title I of ERISA and recommended, among other things, confirmation from the DOL that a §403(b) plan will not be subject to Title I solely because the sponsoring employer complies with the proposed regulations; and asked for more specific guidance about the degree of employer involvement in selecting investment vendors.

## Testimony Presented to the Senate Committee on Finance: "Taking a Checkup on the Nation's Health Care Tax Policy: A Prognosis"

On March 8, ASPPA presented testimony for the record on the President's proposals regarding health savings accounts (HSAs). ASPPA's comments, developed by an ASPPA HSA Task Force, focused the HSA proposal's impact on employer-provided health care coverage [emphasizing whether the proposals will make the HSA/HDHP (high deductible health plan) option more attractive to employers]; and addressed the impact the proposals might have on retirement plan savings.

## Comments on Multiple Annuity Starting Dates Under Proposed Code §415 Regulations

On February 1, ASPPA submitted a supplemental comment letter to ASPPA's prior comment letters submitted on July 25, August 10 and October 12, 2005 on the proposed Code §415 regulations. This comment letter was also a follow-up to ASPPA meetings with Treasury and IRS representatives on January 9, 2006. Among other things, ASPPA provided additional analysis on the application of the maximum benefit limitations in situations involving multiple annuity starting dates (MASDs) previously raised in the August 10 and October 12 letters.



To view details of the wide range of comment letters issued by GAC since 1998, visit ASPPA's Web site under Government Affairs, ASPPA Comments at [www.asppa.org/government/gov\\_comment.htm](http://www.asppa.org/government/gov_comment.htm). 



*Teresa T. Bloom, Esq., APM, Chief of Government Affairs joined ASPPA in September 2004. Prior to ASPPA, Teresa was a pension law specialist in the Office of Policy and Research and the Office of Regulations and Interpretations at the DOL's Employee Benefits Security Administration, where she worked on a variety of policy and technical issues relating to Title I of ERISA. Teresa currently serves as a Government Affairs Committee Co-chair.*

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### An Overview of HR 4, the Pension Protection Act of 2006

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To register, visit

[www.asppa.org/webcast/web\\_sched.htm](http://www.asppa.org/webcast/web_sched.htm).

# ASPPA PAC Connects the Dots

by Scott Donnellan, CPC, QPA, QKA

Let's play a game of connect-the-dots. This version is a very serious adult game. It is so serious that our entire industry hangs in the balance without it. The dots I want us to connect start with something very simple—contributing to ASPPA's Political Action Committee (ASPPA PAC).

**P**AC contributions from ASPPA members are pooled together, enabling ASPPA PAC to contribute to candidates for federal elective office. Some ASPPA members give more to ASPPA PAC than others, but every contribution is important. Contributing is the first dot.

ASPPA's Government Affairs Committee (GAC) is constantly working with Congress, the Treasury, IRS, DOL and PBGC to make sure that proposed legislation and regulations make sense. The laws and regulations that control what we do every day are developed inside the Beltway. ASPPA has developed a good working relationship with the regulatory agencies and has worked successfully with them over the past several years to *our* benefit.

But before the regulations can be worked on by ASPPA, the legislation must be made in Congress. When it comes to working with Congress, you need to have a knowledgeable person with access. That contact is a very important dot. We have a knowledgeable person in ASPPA's Executive Director/CEO and ASPPA PAC Treasurer, Brian H. Graff, Esq., APM. Brian knows both the technical side of our issues and how to get things done in Washington, where he works to achieve the goal of all ASPPA members—advancing the employer-sponsored retirement system and, by doing so, protecting our professional livelihood. Getting access is where ASPPA PAC comes in. Dot two.

Let's face it. It is expensive to run for Congress in America. Members of

Congress need to spend many non-legislative hours raising money. These efforts are a key place where ASPPA PAC can help. It takes attending—and therefore contributing to—political fundraisers to get more access to the members of Congress we need. ASPPA PAC enables ASPPA to keep talking pension legislative issues during these campaign hours. You might be surprised to find that the amount of money needed to participate in this type of campaign is not huge. In fact, PACs are limited by law to a maximum of \$10,000 per congressional prospect/member per election cycle.

The trick is to connect the next dot—contributing strategically so that ASPPA will have the greatest impact for the dollar contributed (*i.e.*, getting the right amount of funds to the right people). The “right” people for ASPPA are congressional members of the:

- House Committee on Ways & Means,
- House Committee on Education and the Workforce,
- Senate Committee on Finance and
- Senate Committee on Health, Education Labor and Pensions.

Those committee representatives are some big dots. These dots are so important that 92% of the funds that ASPPA PAC contributed during the 2005-2006 election cycle went to congressional members that sit on these four committees. The members on these committees influence the laws and regulations that are the foundation of our jobs. The remaining 8% of ASPPA PAC funds were given to those in leadership (*i.e.*, those who influence the legislation that goes forward) and other key senators and representatives that make a big difference. ASPPA PAC reaches out to members of both parties and to both the House




and the Senate. Thanks to ASPPA PAC, ASPPA has been very successful in protecting and advancing the interests of all ASPPA members.

The next dot is the most important of all—the result. This dot shows how ASPPA PAC money—your money—really counts. ASPPA PAC played a significant role in increased access to key members of Congress as they negotiated the Pension Protection Act of 2006 (PPA). Many features of this legislation were the culmination of hard work on the part of many ASPPA members and staff working behind the scenes over several years for our benefit.

ASPPA's success on behalf of our industry is reflected in the growth of our PAC. Just take a look at ASPPA PAC historically. It has been steadily growing since it was founded in 1998. Naturally, members of ASPPA are intelligent people and know that their contributions to ASPPA PAC can have a great impact on their businesses. As Gwen S. O'Connell, CPC, QPA, stated in the July–August 2006 issue of *The ASPPA Journal*, “My ASPPA PAC contribution ... is my ‘stay-in-business’ insurance.” As ASPPA PAC has grown, the influence of ASPPA PAC in Washington has grown as well.

The chart below shows exactly how much has been contributed by ASPPA PAC over the years. Notice how ASPPA PAC has grown since EGTRRA (June 2001), Enron's collapse (December 2001) and the subsequent series of pension legislation that was developed, enabling more funds to be disbursed to those directly developing PPA.

Although Brian Graff identifies where he believes ASPPA PAC's limited resources can be used to the greatest benefit, all political contributions must be approved by the ASPPA PAC's Candidate Selection Committee, which in 2006 was comprised of Larry C. Starr, CPC, QPFC, ASPPA PAC Co-chair; David M. Lipkin, MSPA, GAC Co-chair; and myself, ASPPA PAC member-at-large.

There's still one more dot. Pension issues will continue to be on the front burner in Washington for many years to come. With the baby boom generation retiring, the impact of enhanced life expectancy on the Social Security system and the continuing decline in the popularity of defined benefit plans, ASPPA PAC will be busy indeed. ASPPA PAC needs your help to grow stronger—thus, the last dot. Help ASPPA PAC look out for the interests of our profession and the employer-sponsored retirement system. This action is nothing more than enlightened self-interest. Connect the dots for yourself. 

## Join ASPPA PAC today.

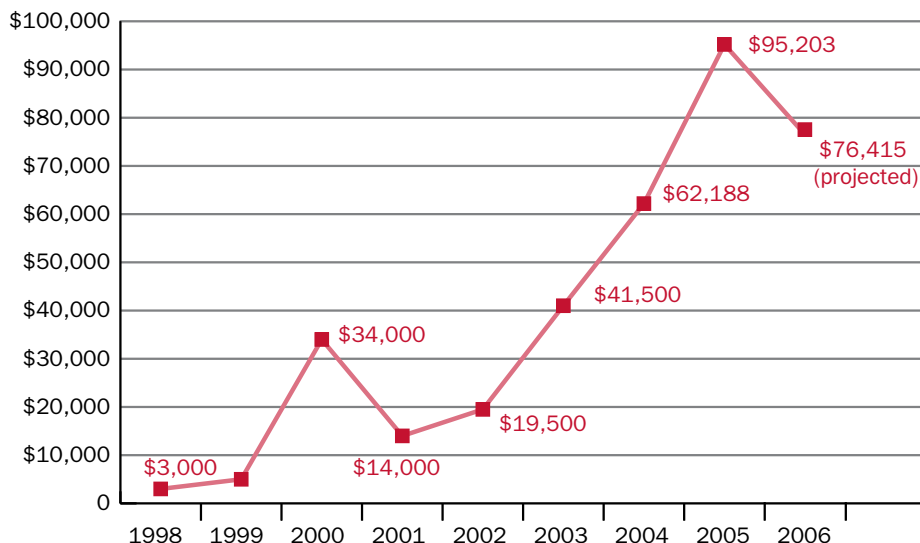
For more information, contact Jolynne M. Flores, ASPPA PAC Manager, at [jflores@asppa.org](mailto:jflores@asppa.org).



*Daniel Scott Donnellan, CPC, QPA, QKA, is a pension consultant with Jack B. Turner & Associates in Clarksville, TN. Scott had worked in the pension industry since 1980 and has been a member of ASPPA*

*since 1992. Scott currently serves as a member of the ASPPA PAC leadership committee and on ASPPA PAC's Candidate Selection Committee. He also holds the CLU and ChFC designations, is a registered representative and registered principal, is a registered Investment Advisory Representative and is a licensed insurance agent. ([scott@jackturner.com](mailto:scott@jackturner.com))*

### ASPPA PAC Contributions to Candidates for Federal Elective Office



## 2006 Harry T. Eidson Founders Award

by Susan Lynn Hajek, QKA

In 2005, ASPPA's Board of Directors, on a recommendation from the ASPPA Membership Committee, decided to allow ASPPA's most prestigious award, the Harry T. Eidson Founders Award, to be presented to up to two individuals a year. 2006 marks the first year that the award was presented to two individuals.

**B**ased on the new provision, if two awards are bestowed in a single year, one of the awards will be given to an ASPPA member who has made significant contributions to ASPPA as well as the industry, and the other will be given to a non-member who made significant contributions to the industry as a whole. ASPPA is pleased to announce Janice M. Wegesin, CPC, QPA, and Carol D. Gold, APM, as the 2006 Harry T. Eidson Founders Award recipients.

### Janice M. Wegesin, CPC, QPA

The ability to balance a professional career, advocate for the pension profession on many levels and lead multiple ASPPA volunteer projects over the past 24 years has given Janice a direct hand in touching virtually every ASPPA member. Just prior to Janice's award presentation she stated "receiving this award is a true honor as I recognize that it is bestowed upon only one member a year, but I did not get here by myself. This award belongs to my friends, colleagues and peers who worked with me on all the projects and committees to make it all come together for ASPPA."

Initially recruited by Alan J. Stonewall, FSPA, to be on the Education and Examination (E&E) Committee, Janice recalled her first committee meeting in Dallas, TX. "There was an ice storm in Dallas and I was late getting to the meeting due to flight delays. When I finally arrived, nervous as this was my first ASPPA committee meeting and I was late, I realized I was the only woman in the room. A basic concept was conceived on that cold Dallas day and the committee decided to run with it. The outcome was the Pension Administrator course, a true accomplishment."

Having served on the E&E Committee,

Government Affairs Committee and numerous conferences committees, many from a chair position, Janice was instrumental in creating the Pension Administrator's course and spearheading the Daily Valuation course, which became the cornerstone of the QKA credential. In 1998 she received the Educator's Award and she also served on ASPPA's Board of Directors from 1995 to 1998.

Janice has worked tirelessly to bring reform and much needed assistance to the practitioners' arena with respect to the Form 5500 filing. She actively participates in discussions with the IRS, DOL and the PBGC in formulating future policies regarding that form, and she was appointed to the IRS Information Reporting Program Advisory Committee in December 2004 and continues to serve in that capacity.

As one of the pension industry's highly rated national speakers, Janice appears at ASPPA, NIPA and actuarial conferences across the country in addition to maintaining her private consulting practice located in Petoskey, MI. In her spare time, Janice enjoys her new home off Lake Michigan. "I feel like I am on vacation 24/7 here." Her home has been featured in travel magazines for the state of Michigan, a trend that perhaps may be the beginning of a "non-pension" related avenue Janice has yet to explore.

### Carol D. Gold, APM

The second award recipient was Carol D. Gold, APM, former Director of the Employee Plans Division of the IRS. Carol was chosen to receive this award to honor her outstanding contributions to the industry as a whole throughout her career. (At the time Carol was selected, she was not an ASPPA member; however, she has subsequently joined ASPPA as an APM—a credential ASPPA is proud to bestow upon her.) Upon receiving the Harry T. Eidson Founders Award, Carol stated, "I am truly honored to receive this esteemed award, but it really belongs to so many people who have worked for so long to foster the relationship and partnership the IRS and ASPPA now have."

Carol received her Bachelor of Arts degree from Duke University, her Juris Doctor from Boston University School of Law and an LLM in Tax from Georgetown University



Janice M. Wegesin, CPC, QPA, proudly accepts the 2006 Eidson Founders Award from Joan A. Gucciardi, MSPA, CPC.



Brian H. Graff, Esq., APM, presents the 2006 Eidson Founders Award to Carol D. Gold, APM.

Law Center. Arriving at the Washington law firm of Wilkes & Artis in 1974, Carol was asked to take over the items that fell under a newly passed law—ERISA. “I had the lowest seniority and therefore had no one else to pass the work on to.”

Some say timing is everything, and for Carol it truly was. In 1976 she was hired at the IRS by Alan Lebowitz, who is now the Department of Labor’s Deputy Assistant Secretary for Programs Operations at the Employee Benefits Security Administration.

For the next 30 years, Carol would be instrumental in overseeing the development of the Employee Plans program of the IRS, now called the TE/GE Division. Other projects Carol was involved in include developing the IRS/ASPPA co-sponsored conferences, which are now offered in seven regional cities across the United States, developing and expanding the IRS’ voluntary compliance programs and many other changes that have had an enormous positive impact on the pension industry as a whole. ASPPA members have benefited greatly from these and many other positive initiatives Carol has worked to foster and maintain between the two organizations.

Eventually rising to the position of Director of the Employee Plan Division, Carol’s career has truly been expansive and plan sensitive. Her retirement from the IRS this fall marked a change in focus, not a true retirement. Carol plans on staying very involved in the pension industry.

Carol is a charter fellow of the American College of Employee Benefits Counsel, for which she serves on the Board of Governors. She will also join the faculty of the Federal Executives Institute, a program to develop new government leaders. “I have been the recipient of the value of this program and still have relationships with those I have met through the process.”



Previous winners include: G. Patrick Byrnes, MSPA, in 2005; Fred Reish, APM, in 2004; Robert D. Levenson, MSPA, in 2003; Curtis D. Hamilton, MSPA, CPC, in 2002; Ruth F. Frew, FSPA, CPC, in 2001; Leslie S. Shapiro, JD, in 2000; Howard J. Johnson, MSPA, in 1999; Andrew J. Fair, APM, in 1998; Chester J. Salkind in 1997; John N. Erlenborn in 1996; and Edward E. Burrows, MSPA, in 1995. ↗



Susan Lynn Hajek, QKA, is the Chief Sales & Marketing Officer of ASPPA. Prior to joining ASPPA she was a regional territory sales representative for SunGard and their Relius Administration product line based in Jacksonville, FL. Susan has been a member of ASPPA for several years and has served on The ASPPA 401(k) SUMMIT Steering Committee, the Marketing Committee and as president, secretary and treasurer of the ABC of North Florida.

## Wrap up RPF in 2006



Complete your 2006 RPF Exams before December 31!  
Learn and Earn ASPPA CE in the process.

**2006 Retirement Plan Fundamentals (RPF)** examinations must be completed this calendar year by midnight, ET, December 31, 2006. RPF 1 & 2 exams serve as the foundation for most ASPPA credentials, and you earn an RPF certificate upon passing both exams.

### RPF Examinations

- Register online at [www.asppa.org](http://www.asppa.org)
- Registration Fee: \$140 per exam
- ASPPA CE Credit: successfully completed RPF exams can earn you 7.5 ASPPA CE credits

### RPF Study Guides

- Order online at <http://store.asppa.org>
- List price: \$149 per study guide or \$290 for the set
- Study guides are only available for purchase until December 15, 2006

### RPF Webcourses

- Two webcourses, RPF-1 and RPF-2 are available to help you prepare for the RPF exams
- Register online at [www.asppa.org/education/2k6rpfwc.htm](http://www.asppa.org/education/2k6rpfwc.htm)
- Registration Fee: \$110
- Access to the webcourses will be available until December 31, 2006, for registered participants
- ASPPA CE Credit: 6 ASPPA CE credits for RPF-1 and 5 ASPPA CE credits for RPF-2

REGISTRATION & FEES

For more information or to register, visit [www.asppa.org](http://www.asppa.org). Questions? [educasppa@asppa.org](mailto:educasppa@asppa.org)



# Educator's Award Presented to S. Derrin Watson, APM

by Thea Stewart

**T**he Co-chairs of the ASPPA Education and Examination (E&E) Committee are pleased to recognize S. Derrin Watson, APM, as the recipient of the Educator's Award for 2006. The Educator's Award was presented to Derrin during the luncheon and awards presentation at the 2006 ASPPA Annual Conference.

The Educator's Award has been presented to outstanding educators in the pension field since 1997. Presented annually at the ASPPA Annual Conference, the award recognizes and honors an ASPPA member who has made a significant contribution to retirement plan education.

Derrin has more than 30 years of pension industry experience. He has been involved with qualified plans since 1977 and has maintained a strong focus in the controlled group/affiliated service group arena. He is the leading authority on controlled group, affiliated service group and leased employee issues. In his current position as a consultant and educator for SunGard, LLC, Derrin spends approximately 35 weeks out of the year teaching seminars around the country.


In addition to teaching seminars, Derrin frequently speaks at ASPPA and other conferences. His contribution to ASPPA education also includes writing extensively for *The ASPPA Journal*. Derrin serves as an editorial advisor for the *Journal of Pension Benefits* and writes the popular *Who's the Employer* column for BenefitsLink. Derrin is also the managing partner of the Pension Information eXchange (PIX).

Derrin earned his Bachelor's degree in Accounting from Brigham Young University. After receiving his Bachelor's, he went on to graduate from UCLA Law School, fifth in his class.

Derrin's wife Julene, sons Derrill and Stephen and their five cats are proud of Derrin's accomplishments.



S. Derrin Watson, APM, ASPPA's 2006 Educator's Award recipient.

• • •  
Derrin joins past Educator's Award recipients: Carol R. Sears, FSPA, CPC in 2005; Lawrence C. Starr, CPC, QPFC in 2004; Gwen S. O'Connell, CPC, QPA in 2003; Joan A. Gucciardi, MSPA, CPC in 2002; Sal L. Tripodi, APM in 2001; Charles J. Klose, FSPA, CPC in 2000; Janice M. Wegesin, CPC, QPA in 1999; David B. Farber, MSPA in 1998; and Cheryl L. Morgan, CPC, QKA in 1997, as a recognized leader in furthering ASPPA's educational goals. 



*Thea Stewart is the Education Services Coordinator for ASPPA. She recently received her Master's in Public Administration from Cornell University. Thea lives with her five year old daughter, Amari, in Washington, DC. (tstewart@asppa.org)*

## ASPPA's Continuing Education Filing Deadline is January 10, 2007

Don't forget to log onto ASPPA's Members Only Web site and submit your continuing education reporting by January 10. Need a few more credits? Check out *The ASPPA Journal* quizzes—a quick and cost effective way to earn last minute CE credits. Visit [www.asppa.org/education/ed\\_conted\\_quiz.htm](http://www.asppa.org/education/ed_conted_quiz.htm).

# ASPPA Celebrates the First QPFC Credentialed Members

by Bunny Wing Fernhall

ASPPA and the Education and Examination (E&E) Committee are pleased to announce that the first group of QPFC credentialed members has been approved by the Board of Directors (see page 24). QPFC is the credential designed for the sales and investment professional who specializes in retirement plans. It tests critical knowledge, enhances credibility and offers network opportunities for building business.


**A**pproved as a new ASPPA credential in spring 2005, QPFC was developed by a special task force of E&E volunteers and investment specialists who worked diligently throughout the year to create a quality education program that fits the needs of the investment professional. Core competencies and relevant topics were identified, followed by development of detailed learning objectives. The textbook, *Financial Professional's Guide to Qualified Plans*, by Stephen Abramson, CPC, was modified to fit the QPFC education program and the *PFC-2 Supplemental Readings* guide was completed. Exam questions were written and discussed at length and subsequently tested by independent volunteers who were not part of the development team. A focused advertising and marketing plan kicked off in late fall 2005 and continues to spread the word about ASPPA's QPFC credential.

The first Plan Financial Consulting (PFC) exams, PFC-1 and PFC-2, were offered in spring 2006, providing the first opportunity for candidates to sit for the advanced QPFC exams. Another exam window opened this fall, and two exam windows are planned for 2007.

ASPPA members who participated in the Ambassador contest for QPFC prospects, for which there are three prizes, provided new QPFC prospective candidate names to expand the QPFC outreach. For the random drawing prize, the contributing member's name was placed into a pool for every prospect name they sent in. The odds of winning increased with the number of prospects submitted by a particular member. Michelle Marsh, QKA, Tamara L. Bowman, CPC, QPA, and Craig A. Garner, QPA, are the three winners in the drawing.

## QPFC exam requirements

- I. **On-demand online open-book exams:**  
Retirement Plan Fundamental exams (RPF 1 & 2) or credit for former Pension Administrator exams (PA 1, 2 & 3). (See [www.asppa.org/credentials/cred\\_apply\\_waivers.htm](http://www.asppa.org/credentials/cred_apply_waivers.htm) for waiver options.)
- II. **Online proctored exams:**  
Plan Financial Consulting exams (PFC 1 & 2)

They will each receive a complimentary registration for a 2007 ASPPA conference of their choice. Michelle clearly set out to also win the prize for the greatest number of QPFC prospect names submitted. Resulting from her list of 193 new contact names for the program, Michelle will also receive a single user CD-ROM of *The ERISA Outline Book, 2007 Edition*. The final Ambassador contest prize will be awarded after the fall 2006 registration window is closed. 



*Bunny Wing Fernhall is the Chief of Education and Professional Development for ASPPA. She is an employee of the University of Michigan through an arrangement with the ASPPA Pension Education and Research Foundation. She has served as the director of strategic planning and administration at George Washington University. Most recently she served as a credential specialist for a national trade association, where she engaged in marketing and building their association credentialing program. ([bfernhall@asppa.org](mailto:bfernhall@asppa.org))*

# ABC Delaware Valley Overflows with Educational Opportunities

by David M. Burns, MSPA, CPC, QPA

Heavy storms caused the Delaware River to overflow its banks several times during the past few years. Coincidentally, the ASPPA Benefits Council Delaware Valley (ABCDV) has flooded the area with outstanding opportunities for local benefits professionals to earn continuing professional education credits.

**F**ounded in 1997, the ABCDV is now well into its tenth year of service to the local retirement plan community. The ABCDV owes its success to the efforts of a small group of dedicated professionals who have contributed their time and energy to make sure that the programs provided to our members are plentiful, relevant, varied and timely. The current leadership team consists of our president, John Van Buren, MSPA; president-elect and program chair, Kenneth Marblestone; immediate past president, JoAnn Massanova, CPC; vice president, membership and government relations chair, Robert A. Bilderssee; treasurer, R. Dennis Vogt; and secretary, David M. Burns, MSPA, CPC, QPA. In addition, we are fortunate to benefit from the invaluable insights and experiences of the following board members: Arthur Bachman; John Bernard; Anthony Dello Russo; Marcia L. Hoover, QPA; Joseph J. Leube, FSPA, CPC; Miram G. Matrangola, QPA, QKA; Stephen H. Rosen, MSPA, CPC; and Sandy Uzdavinis.

## Recent Programs

The past year has been a busy for the ABCDV. In October 2005, ASPPA Executive Director/CEO, Brian H. Graff, Esq., APM, joined us for a lively and informative Washington Update. For this meeting, we reached out to another professional organization in our area, the PENJERDEL Employee Benefits & Compensation Association (PEBA) to jointly sponsor the event. Both PEBA and ASPPA members were duly impressed with Brian's insights and his in-depth knowledge of the inner workings of the Washington bureaucracy.

In November 2005, attorney Stephen W. Forbes from SunGard delivered an informative presentation regarding the new IRS Determination Letter program and other government processes. Steve did a great job in laying out the new procedures for the audience.

After a short break for the holidays, our program resumed in January with a very interesting presentation



by Richard A. Hochman, APM, from McKay Hochman Co., Inc., entitled "What the IRS Said (and What it Didn't)—2005 Year-end IRS Guidance." This program was a terrific summary of important guidance issued by the IRS along with practical suggestions on how to deal with areas where guidance is still pending—a great way to get organized for the new calendar year.

In early March, a team of experts from The Vanguard Group presented an information-packed overview of issues in "Creating and Communicating a DC Plan Investment Menu." Speakers included: Darryl Taylor, a senior investment analyst, who covered the nuts-and-bolts of designing a flexible investment program and evaluating your investment provider; Gregory Spears, a senior editor in Vanguard's Participant Education group, who covered the Behavioral Finance and participant communication aspects; and David A. Burns, MSPA, CPC, QPA, a senior ERISA consultant, who addressed the fiduciary considerations involved in this process.

Our April program had a decidedly defined benefit focus as Thomas J. Finnegan, MSPA, CPC, QPA, a principal with The Savitz Organization in Philadelphia, delivered a very entertaining presentation on "Hybrid Plans—Advantages and Disadvantages."

In June, we were excited to welcome Craig P. Hoffman, APM, from SunGard for a timely and helpful



presentation entitled "Putting the Final 401(k) Regulations Into Practice." This session was very well attended and received.


We took a summer hiatus and then hit the ground running with a full-day seminar featuring Sal L. Tripodi, APM, who provided an excellent overview of coverage and nondiscrimination testing as well as a current developments segment focused on the Pension Protection Act.

All in all, our members had the opportunity to pick up 22 hours of continuing education credit just by attending our program meetings over the past 12 months. We are planning an equally aggressive schedule for the coming year and encourage all benefits professionals in the Delaware Valley to take advantage of the outstanding educational opportunities we offer.

### Promoting Careers in Pensions

As part of our continuing effort to promote careers in the retirement plan industry, the ABCDV has a long-standing practice of awarding scholarships to deserving students who are pursuing a course of study in actuarial science at Temple University's Fox School of Business and Management. We are pleased to announce that earlier this year we awarded two \$1,000 scholarships as part of this program.

### Other New Developments

Under the direction of our president, John Van Buren, MSPA, ABCDV developed and launched a new Web site last year. Using this site, our members and other interested benefits professionals can find out more about us, join and pay dues, learn about our programs and can even register to attend programs while online. If you have not visited our site yet, please do so at: [www.asppa-abc-delval.org](http://www.asppa-abc-delval.org). 



*David M. Burns, MSPA, CPC, QPA, is an Enrolled Actuary and senior ERISA consultant at the Vanguard Group in Valley Forge, PA, with over 30 years of experience in the design and administration of qualified retirement plans. Dave currently serves as a board member and secretary of the ABCDV. (david\_burns@vanguard.com)*

# 2006 Martin Rosenberg Academic Achievement Award


by Thea Stewart

ASPPA is proud to recognize Miyeon Lee as the recipient of the Martin Rosenberg Academic Achievement Award for outstanding performance on the spring 2006 Defined Contribution Administrative Issues—Basic Concepts (DC-1) examination.

Miyeon is an aspiring consultant employed at Great Lakes Pension Associates, Inc., in Farmington Hills, MI, an independent firm that has provided administration

Computer Information Systems from Golden Gate University. Miyeon recently moved to Michigan in 2005 with her husband and began working for Great Lakes Pension Associates, Inc., in January of 2006. She is pursuing an ASPPA QPA credential and attributes her success on the DC-1 exam to ASPPA's spring webinar course in which she participated.

The award is presented in honor of the late Martin Rosenberg, a Fellow of ASPPA. Mr. Rosenberg served as an Education and Examination Committee member from 1979 to 1985 and as General Chair from 1985 until his death in 1987. The award is designed to recognize the top-performing candidate (certain minimum performance criteria are applied) on the DC-1, DC-2, DC-3, DB, C-3, C-4, PFC-1, PFC-2 and A-4 examinations.

The Martin Rosenberg Academic Achievement Award was presented to Miyeon on Tuesday, October 24, 2006, during the Luncheon and Awards presentation at the 2006 ASPPA Annual Conference. Congratulations, Miyeon! 



*Miyeon Lee proudly accepts the 2006 Rosenberg Award from Robert L. Long, APM, Co-chair of ASPPA's Education and Examination Committee.*

and consulting services for over 20 years. All of the consultants at Great Lakes Pension Associates, Inc., have a minimum of ten years of pension industry experience and hold ASPPA credentials.

Originally from South Korea, Miyeon moved to San Francisco to complete her Bachelors Degree in



*Thea Stewart is the Education Services Coordinator for ASPPA. She recently received her Master's in Public Administration from Cornell University. Thea lives with her five year old daughter, Amari, in Washington, DC. (tstewart@asppa.org)*

# The ABC of Detroit is Alive and Kicking

by Marylis A. Wozniacki, QPA, QKA, QPFC

Our region is replete with pension practitioners of all disciplines and, therefore, we are very excited to have an ASPPA Benefits Council (ABC) in the Detroit area.

**A**s the 16th ABC in the country, we received our official approval from the ASPPA Executive Committee on June 5, 2006, and we already have 76 members. We were confident there would be enough interest here, but the response has exceeded our expectations. We are also pleased to announce that we recently expanded our membership offering to the Toledo, OH, area because of its close proximity to Detroit.

Our mission for the ABC of Detroit is to serve the needs of the retirement professionals in our area. Our membership includes administrators, recordkeepers, actuaries, attorneys, CPAs, brokers, investment advisors, insurance agents and even the trustee for a county division retirement plan. With such diversity, we decided to have the members provide the board with their feedback of what they would like the ABC to offer in order to meet the objectives of the various groups. Their input has been invaluable, and we are analyzing and implementing their suggestions. In addition, a significant number of our members have indicated an interest in getting directly involved by serving on a committee, which is vitally important for our continued success.

Our kick-off meeting, held on September 20, was co-sponsored by Plante & Moran, LLP, and not surprisingly, having Brian H. Graff, Esq., APM, as our guest speaker made it an overwhelming success. There were 70 individuals in attendance. Our November 16, meeting was with David B. Walters as our guest speaker. Dave is a prominent local attorney who spoke on "So You Want to be a Fiduciary." Our goal is to have at least four meetings a year and we are in the process of filling open speaker opportunities. Upcoming speakers for 2007 include Craig P. Hoffman, APM, on January 18 and Janice M. Wegesin, CPC, QPA, on March 22. Also, our ABC has been invited by the Michigan Bar Association (MBA) to co-sponsor

The current officers of the ASPPA Benefits Council of Detroit are:

**President**

Marylis A. Wozniacki, QPA, QKA, QPFC

**Vice President**

Carol A. Tracey, CPC

**Secretary**

Susan A. Shoemaker

**Treasurer**

Marlene M. DeBrosse, QKA

an all-day meeting September 20, 2007, with Sal L. Tripodi, APM. The MBA has huge exposure and, therefore, joining forces with them for this event is a real benefit not only for our ABC but for ASPPA as well. Finally, for 2007 we have a tentative meeting scheduled in May on plan audit issues and in July on the topic of 403(b) and non-qualified plans.

We would like to take this opportunity to thank ASPPA for the tremendous support they provided in assisting us with the establishment of the ABC of Detroit. We are especially grateful to Becky Gurzo, ASPPA ABC/Marketing Coordinator, for her enduring patience with our seemingly endless questions, and to Denise Calvert, ASPPA Director of Membership, for her valuable input. In addition, Adam C. Pozek, QKA, QPFC, of the ABC of Atlanta and a Co-chair of ASPPA's ABC Committee, was a wonderful mentor. He made himself available whenever we needed his guidance, and his great suggestions and templates saved us untold hours of work. Thank you, Adam.

For more information on the ABC of Detroit, including membership registration, please contact us at [ABCDetroit@creben.com](mailto:ABCDetroit@creben.com).



*Marylis A. Wozniacki, QPA, QKA, QPFC, has been in the retirement benefits field for 22 years and is the vice president and co-owner of Creative Benefit Strategies, Inc. Her firm provides plan design, administration, consulting and actuarial services for both DC and DB plans, with an emphasis on cross-tested and combination DC/DB plans. She is also co-owner of CBS Funding, Inc., which provides investment advisory services for both qualified plan clients as well as personal clients. ([marylis@creben.com](mailto:marylis@creben.com))*

# ASPPA Calendar of Events

Date	Description	CE Credits
Dec 31	RPF 1 & 2 examination deadline for 2006 online submission (midnight, EST)	
<b>2007</b>		
Jan 25 - 26	Los Angeles Benefits Conference • Universal City, CA	15
Feb 25 - 27	The ASPPA 401(k) SUMMIT 2007 • San Diego, CA	15
Apr 13	Early registration deadline for spring examinations	
Apr 26 - 27	Mid-Atlantic Benefits Conference • Philadelphia, PA	15
May 3 - 4	Great Lakes Benefits Conference • Chicago, IL	15
* May 13	Final registration deadline for spring examinations	
May 14 - Jun 29	Spring 2007 examination window (DB, DC-1, DC-2, DC-3, PFC-1 and PFC-2)	
May 24 - 25	DOL Speaks: 2007 Employee Benefits Conference • Washington, DC	15
May 22	C-3 examination	
Jun 5-6	Advanced Actuarial Conference • Boston, MA	15
Jun 7	Northeast Area Benefits Conference • Boston, MA	8
Jun 8	Northeast Area Benefits Conference • New York, NY	8
July 22 - 25	Western Benefits Conference • San Francisco, CA	20
Sep 14	Early registration deadline for fall examinations	
Sep 20 - 21	Benefits Conference of the South • Atlanta, GA	15
Oct 19	Final registration deadline for fall examinations	
Oct 21 - 24	ASPPA Annual Conference • Washington, DC	20
Nov 1 - Dec 14	Fall 2007 examination window (DB, DC-1, DC-2, DC-3, PFC-1 and PFC-2)	
Nov 15	C-4 examination	
Dec 31	RPF 1 & 2 examination deadline for 2007 online submission (midnight, EST)	

\* Please note that when a deadline date falls on a weekend, the official date shall be the first business day following the weekend.

## ABC Meetings Calendar

### 2006

#### December 12

**ABC of Cleveland**  
Independence Luncheon  
Meeting  
TBD

#### December 14

**ABC of Atlanta**  
Washington Legislative Update  
Brian H. Graff, Esq., APM

### 2007

#### January 18

**ABC of Detroit**  
TBD  
Craig P. Hoffman, APM

#### February 6

**ABC of Cleveland**  
TBD

#### March 22

**ABC of Detroit**  
Form 5500 Issues  
Janice M. Wegesin, CPC, QPA

#### April 19

**ABC of South Florida**  
Full-day ERISA Seminar  
Sal L. Tripodi, APM

#### April 25

**ABC of New England**  
Full-day ERISA Seminar  
Sal L. Tripodi, APM

#### September 20

**ABC of Detroit**  
Full-day ERISA Seminar  
Sal L. Tripodi, APM



For a current listing of ABC meetings, visit  
[www.asppa.org/membership/member\\_local.htm](http://www.asppa.org/membership/member_local.htm).

# Fun-da-Mentals

## Sudoku Fun

Every digit from 1 to 9 must appear:

- In each of the columns,
- in each of the rows,
- and in each of the nine mini-boxes

			4		9			
	7							8
	9			1		5	7	
1				5		2	3	
								6
	3							4
3			5		6			
		7		2				
	1	6	3				9	5

Answers will be posted on ASPPA's Web site in the Members Only section. Log in, scroll down to "Check out the last issue of *The ASPPA Journal*" and click on the latest issue. Scroll down to "Answers to Fun-da-Mentals."

## MCHUMOR by T. McCracken



"I was considered a part time employee since I only worked one night a year and thus wasn't eligible for the pension plan, so here I am in my golden years."

## Word Scramble

Unscramble these four puzzles—one letter to each space—to reveal four pension-related words.

TIME LID    

ECO RVS    

UT STEERS    

CLUED IN    

**BONUS:** Arrange the boxed letters to form the Mystery Answer as suggested by the cartoon.

Mystery Answer:

Because the " \_\_\_\_\_ " \_\_\_\_\_ was cancelled.

Answers will be posted on ASPPA's Web site in the Members Only section. Log in and select the link under "Check out the latest issue of *The ASPPA Journal*." Scroll down to "Answers to Fun-da-Mentals."



Why the pension consultant changed his evening boating plans.



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by BPA-HARBRIDGE





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