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Pursuant to Local Court Rule CV-65, Defendant/Counter-Plaintiff Texas Retired Teachers Association (“TRTA” or “Counter-Plaintiff”) files this Application for Preliminary Injunction, and, in support thereof, TRTA respectfully shows:

I. INTRODUCTION

This action was removed from state court on August 6, 2021 by Counter-Defendant American Senior Benefits Association (“ASBA”). Interestingly, the removal came shortly before TRTA’s application for temporary injunction was set to be heard by the 459th District Court of Travis County, Texas. The removal has no impact on the merits of TRTA’s injunctive request, and TRTA is equally honored to present that application in this forum. ASBA’s removal may well have delayed the application, but it cannot preclude it.

At issue in this injunctive application is the need to obtain data relevant to group insurance policies that TRTA sponsors. TRTA is an association consisting of tens of thousands of retired Texas teachers. TRTA sponsors and provides group insurance benefits to these retired educators. Counter-Defendant, Association Member Benefits Advisors, Ltd. (“AMBA”), has served as TRTA’s agent and administrator of these benefits pursuant to a written agreement. TRTA notified AMBA that it was not renewing the agency agreement. TRTA requested that AMBA turn over certain policy data so that TRTA could transition to a new agent/administrator. AMBA is refusing to provide TRTA with the information it needs to ensure the continuity of these benefits. AMBA asserts that it has a *perpetual* agency relationship that TRTA cannot terminate and that TRTA has no standing to receive the policy data it seeks. These positions are truly remarkable.

The contract at issue (a 2004 contract, discussed below) was superseded and is indefinite in duration and therefore terminable at will. TRTA already made its at-will election of termination. TRTA is entitled to the policy data it requests. TRTA is the *plan sponsor* and *policy holder*. Under

the terms of the master policy, and pursuant to applicable federal regulations, TRTA is entitled to receive the policy data requested. AMBA has presented nothing to the contrary, nor could it.

Recognizing its positions are not sustainable, AMBA has embarked on another path to retain the TRTA business. AMBA has conspired with its affiliated entity, ASBA, on a scheme to market insurance products directly to TRTA members, and thus bypass TRTA. AMBA and ASBA are marketing their products under the acronym “TREA,” which is a mere one letter off from “TRTA.” They are using this confusingly close acronym to contact TRTA members whom they never would have known *but for* the confidential fiduciary relationship AMBA had with TRTA.

Unless enjoined, AMBA’s and ASBA’s ongoing actions will hinder TRTA’s ability to preserve its member’s best interests and their group benefits, and will create confusion as to the source of benefits offered. This has and will continue to cause irreparable harm to TRTA. Accordingly, TRTA seeks preliminary injunctive relief to protect it from further irreparable harm, and to protect the public from ongoing confusion.

II. STATEMENT OF FACTS

A. TRTA’s History and its Relationship with AMBA.

The Texas Retired Teachers Association (TRTA) is the largest association in the nation for retired teachers, with over 96,000 members. (Declaration of Tim Lee, Ex. A, ¶ 7). A principal purpose of TRTA is to provide its members with insurance at discounted rates. (*Id.*). In providing these benefits, TRTA had for many years contracted with Counter-Defendant Association Member Benefits Advisors, Ltd. (“AMBA”). (*Id.* at ¶ 8). TRTA served as the plan sponsor of various endorsed insurance benefits underwritten by insurance carriers, while AMBA served as TRTA’s agent of record and third-party administrator. (*Id.*).

B. TRTA’s Contractual Relationship with AMBA.

Effective July 1, 2011, TRTA’s relationship with AMBA was governed by a written agreement dated July 8, 2011, titled: “Agreement Between Association Member Benefits

Advisors, Ltd. and The Texas Retired Teachers Association” (the “2011 Agreement”). (Lee Decl., Ex. A, ¶ 9; Ex. A-1).¹ While the parties’ relationship involved other prior written agreements, the 2011 Agreement states that it serves as “the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes any prior written or oral understanding between the parties . . .” (Ex. A-1, at Art. V, K.).

The 2011 Agreement had a 10-year term—taking effect July 1, 2011 and remaining in effect through June 30, 2021. (*Id.*, at Art. IV, A.). By its terms, if either party gives 180-days written notice of its intention not to extend the contract, then the 2011 Agreement would not automatically be extended for a like 10-year period. (*Id.*).

C. TRTA’s Notice Not to Extend the 2011 Agreement.

Over the last year, TRTA’s trust in AMBA deteriorated on account of AMBA pushing insurance products that TRTA did not endorse for its members. (Lee Decl., Ex. A, ¶ 10). TRTA’s loss of trust in AMBA coincided with the end of the ten-year term on the 2011 Agreement. (*Id.*).

By letter dated October 28, 2020—*i.e.*, more than 180-days prior to the June 30, 2021 expiration of the 2011 Agreement—TRTA gave AMBA written notice of its intention not to extend the 2011 Agreement beyond June 30, 2021. (Lee Decl., Ex. A, ¶ 10; Ex. A-2). TRTA “invite[d] AMBA to put forth a proposal for services beginning July 1, 2021”. (*Id.*).

On February 26, 2021, AMBA responded with a new proposal. In that response, AMBA referenced the 2011 Agreement as “[t]he agreement that governed the past 10 years.” (Lee Decl., Ex. A, ¶ 11; Ex. A-3). AMBA noted that it was “present[ing] a formal term sheet to formalize a foundation for the future of the TRTA and AMBA relationship,” with a stated goal being to “[e]nsure continuity of the 40-year relationship.” (*Id.*). AMBA followed this communication with

¹ The 2011 Agreement contains a confidentiality clause. In respect of that clause, TRTA is not attaching the agreement in full, but rather is attaching a redacted version to preserve confidentiality of business terms. The un-redacted agreement will be submitted either *in camera* or filed under an appropriate sealing order.

an April 26, 2021 email from its Board Member, Billy Hill. (Lee Decl., Ex. A, ¶ 11; Ex. A-4). Mr. Hill acknowledged AMBA's receipt of TRTA's prior notice not-to-extend, and that, short of any renewal, the parties were "now about sixty days out from the end of our current relationship." (*Id.*).

Thus, AMBA's communications made clear that it was well aware of "[t]he agreement that governed the past 10 years" and that, "based on [TRTA's] communication earlier that TRTA would not renew the current agreement," the parties were "sixty days out from the end of [their] current relationship." (*Id.*).

A new agreement was never executed between TRTA and AMBA. (Lee Decl., Ex. A, ¶ 12). Accordingly, pursuant to TRTA's October 28, 2020 notice not-to-extend, the 2011 Agreement was set to terminate (*and did terminate*) on June 30, 2021.

D. To Transition to a New Agent of Record, TRTA Requests Certain Data from AMBA Related to its Group Policies; AMBA Refuses the Requests and Sues TRTA.

Following its October 28, 2020 notice not-to-extend, TRTA began requesting certain data from AMBA regarding the group policies sponsored by TRTA. (Lee Decl., Ex. A, ¶ 13). These group policies were to remain in place notwithstanding the decision not to extend with AMBA as agent and administrator. (*Id.*). TRTA's data requests were necessary to ensure a seamless transition from AMBA to a new agent/administrator, and to avoid any risk of policy lapse. (*Id.*). Regrettably, every request was either not responded to, or was denied. (*Id.*).

TRTA's counsel wrote AMBA a final time, on June 18, 2021, detailing the prior requests and the dire circumstance that AMBA was putting TRTA in. (Lee Decl., Ex. A, ¶ 14; Ex. A-5). AMBA again provided no policy data. (Lee Decl., Ex. A, ¶ 14). Instead, AMBA responded by suing TRTA in the 459th District Court of Travis County (the "State Court Action") to enforce what AMBA considers a *perpetual* agency and administrator relationship with respect to the TRTA group plans. (*Id.*; Ex. A-6). Remarkably, AMBA contends in its suit that TRTA—the plan sponsor

and policy holder—has no standing to terminate the relationship, and no standing to receive the group policy data it requests. (Ex. A-6 (AMBA’s Pet.) at 4-5).

E. AMBA Interferes with the Contractual Obligations of Others to Provide TRTA with the Data that TRTA Needs Concerning Its Group Plans.

Not only has AMBA refused to provide TRTA the requested data, AMBA has interfered with the contractual obligations of others to provide TRTA with this data.

TRTA members enjoy the benefits of a group dental insurance policy issued by Ameritas Life Insurance Corporation (“Ameritas”). (Lee Decl., Ex. A, ¶ 15; Ex. A-9). TRTA is the policyholder and plan sponsor for the Ameritas group dental insurance policy. (Ex. A-9 (Ameritas Policy excerpts) at pp. 1,6,8²). Pursuant to the Ameritas policy, Ameritas is to issue certificates to TRTA showing the coverage under the policy and provide information to TRTA regarding which TRTA members are enrolled in the policy. (*Id.*, at p. 4)³. TRTA has learned that AMBA is interfering with the dental and vision insurance provider’s ability to provide such information. (Lee Decl., Ex. A, ¶ 15; Exs. A-4 & A-8).

Despite AMBA’s claims to the contrary, the information sought by TRTA regarding the TRTA-sponsored insurance plans is expressly permitted to be provided to TRTA pursuant to 45 C.F.R. § 164.504(f)(ii-iii) as information that an insurance issuer may provide to a plan sponsor⁴.

F. To Protect and Preserve Its and Its Members’ Group Policy Interests, TRTA Counter-Sued for Immediate Declaratory and Injunctive Relief.

TRTA counter-sued in the State Court Action for (i) a declaration of the contractual relationship between the parties, and (ii) immediate injunctive relief that TRTA can obtain the requested information. (Lee Decl., Ex. A, ¶ 14, 25).

² Page numbers have been added to the right footer of the policy excerpts for ease of reference.

³ TRTA believes that the TRTA-sponsored vision plan places a similar obligation on the plan issuer to provide information to TRTA.

⁴ The relevant provisions of the regulation allow summary health information to be provided to the plan sponsor, as well as information on which individuals are participating in the plan and which individuals have enrolled or have disenrolled from the plan.

TRTA's counter-suit for declaratory relief was (and is) necessary to correct AMBA's misrepresentation of the contractual status among the parties. Never does AMBA's state court petition even reference the 2011 Agreement. Rather, AMBA points to a May 14, 2004 agreement titled "Association Dental Insurance Marketing and Administration Agreement" (the "2004 Agreement," attached as Exhibit A-7)⁵, which AMBA contends is the "binding contract" that "continues in force to the present day." (Ex. A-6 (AMBA's Pet.) at 4; Ex. A-7). This 2004 Agreement was superseded by the 2011 Agreement. As noted, the 2011 Agreement makes clear that it "supersedes any prior written or oral understanding between the parties . . ." (Ex. A-1, at Art. V, K.). AMBA knew exactly that, and operated precisely in that manner. For example, after TRTA issued its October 2020 written notice not-to-extend the 2011 Agreement, AMBA's Billy Hill wrote TRTA a lengthy correspondence attempting to "extend[] our 40 years plus relationship with TRTA." (Ex. A-4). He noted that "[i]n February, AMBA offered TRTA a comprehensive renewal proposal," and that "[w]e are now about sixty days out from the end of our current relationship (based on your communication earlier that TRTA would not renew the current agreement)." (*Id.*). Mr. Hill never referenced the 2004 Agreement (*there was no need to, because it was superseded 10 years prior*). Rather, Mr. Hill simply noted that the parties' relationship was soon coming to an end. (*Id.*) Mr. Hill is the same individual who has verified AMBA's pleadings in the State Court Action, and thus who now attests that the parties' relationship has in fact *not* ended because the 2004 Agreement "continues in force to the present day." (Ex. A-6 (AMBA's Pet.) at 4). Mr. Hill and AMBA are speaking out of both sides of their mouths.

The reason for AMBA's 180° shift has become clear. The 2004 Agreement, unlike the 2011 Agreement, is indefinite in duration. Seizing on that, AMBA ignores the contractual history

⁵ The 2004 Agreement was amended in April 2005 solely to add a provision appointing AMBA as the third party administrator and agent of record for the TRTA Group Vision Plan. All references to the 2004 Agreement by TRTA in this matter are to both the May 2004 Agreement *and* its April 2005 Amendment.

over the last ten years and contends that, per the (superseded) 2004 Agreement, AMBA is the “exclusive agent of record” for TRTA plan products and that “this designation continues for as long as the plans are in existence.” (Ex. A-6 (AMBA’s Pet.) at 4). AMBA is in effect asserting a perpetual contract, which brings about a second reason for TRTA’s declaratory judgment suit. Even if AMBA were correct in asserting the 2004 Agreement is the (still) binding agreement between the parties, Texas law does not favor perpetual contracts. Rather, a contract such as the 2004 Agreement—which is indisputably “indefinite in duration”—is terminable at will.

Importantly, AMBA admits in its lawsuit that it occupies a *fiduciary* role with respect to TRTA. (Ex. A-6 (AMBA’s Pet.) at 4). Such a role means the agent (AMBA) must place the welfare of the principal (TRTA) above that of the agent. Yet, by withholding policy data, AMBA is doing the opposite: it is seeking to preserve its profits at the expense of the principal’s interests. Thus, AMBA is breaching the self-proclaimed fiduciary role it occupies here.

G. AMBA and its Affiliate ASBA Begin Marketing to TRTA Members Using a Confusingly Similar Name and Logo to TRTA’s.

TRTA learned its members are receiving marketing material about insurance products from “Texas Retired Educators Alliance (TREA)” (hereafter, “TREA”). (Lee Decl., Ex. A, ¶ 17; Ex. A-10). Texas Secretary of State records show that TREA is an assumed name for ASBA, an entity controlled by Billy B. Hill. (Exs. A-11 and A-12). This is the same Billy Hill that represents AMBA. ASBA is now working with AMBA to offer the same insurance products that caused TRTA to lose trust in AMBA. (Ex. A-10).

The timing of ASBA’s assumed name certificate for TREA (filed in April 2021), and ASBA’s application for trademark protection of the name TREA (filed in June 2021), speak volumes. (Exs. A-11 and A-13). When TRTA notified AMBA that it was not extending its agreement, AMBA and its sister company ASBA devised a plan to bypass TRTA and market products directly to its members—individuals of whom they never would have known *but for*

AMBA’s fiduciary relationship with TRTA. This ill-conceived campaign uses a name and logo confusingly similar to TRTA’s.

In its marketing materials, Texas Retired Educators Alliance uses the acronym/abbreviation “TREA.” (Ex. A-10). This is confusingly similar to “TRTA,” indeed a mere one letter off. And the full names themselves are confusingly similar, both beginning with “Texas Retired,” and both referencing teachers or educators associations. Moreover, TREA, in its correspondence to TRTA members, links itself to the same agent (AMBA) that TRTA members for years associated with certain TRTA endorsed products:

Members of Texas Retired Educators Alliance (TREA) may be entitled to a home care and recovery care plan underwritten by Continental Life Insurance Company of Brentwood, Tennessee, an Aetna company. Designed as an affordable solution, these plans may give you the flexibility you need to determine what type of care is right for you and where you will receive it.

We care deeply about our members, so we want to refer you to our trusted partner, Association Member Benefits Advisors (AMBA). Their licensed agents can review these coverage options with you.

(Ex. A-10) Even TREA’s logo, with its use of the shape of the State of Texas centered within a circle border design, is confusingly similar to TRTA’s logo:



(Lee Decl., Ex. A, ¶ 20).

TREA sent these mailings to, apparently, all known TRTA members, inducing them to join TREA and apply for insurance products offered by AMBA and TREA (ASBA). (*Id.*, ¶ 17). TRTA members have been confused by the similarities of names (TRTA and TREA). (*Id.*, ¶¶ 17-24).

H. Through a Rule 11 Agreement in the State Court Action, the Parties Agreed to a “Standstill” Until the Court Could Hear Applications for Injunctive Relief—that Prior Agreement is Now Proving to Be Un-Workable.

In the State Court Action, rather than rush for a TRO, the parties agreed to a standstill while they coordinated a hearing for competing applications for temporary injunction. TRTA agreed to take no action in the interim to eliminate AMBA’s status as agent/administrator, and AMBA agreed to take no action adverse to TRTA members’ coverages remaining in place. This was intended to carry the parties to the agreed August 26, 2021 hearing date.

Unfortunately, that agreement has become un-workable. TRTA members are growing more confused by the day on issues such as billing cycles, premium adjustments and renewals. Adding to the confusion, AMBA (wrongly) continues to promote itself and its products as TRTA-endorsed and use the TREA (ASBA) confusion to compete unfairly. It is imperative that TRTA’s injunctive application be set, and heard, at this early stage of the proceedings.

III. ARGUMENT AND AUTHORITIES

A. Legal Standard for Preliminary Injunctive Relief.

An applicant for a preliminary injunction must show (1) a substantial likelihood that it will prevail on the merits; (2) a substantial threat that it will suffer irreparable injury if the injunction is not granted; (3) that the threatened injury to the applicant outweighs the threatened harm the injunction may do to the party the applicant seeks to enjoin; and (4) that granting the preliminary injunction will not disserve the public interest. *See Byrum v. Landreth*, 566 F.3d 442, 445 (5th Cir. 2009). Each of these grounds is proven here, entitling TRTA to a preliminary injunction.

B. TRTA is Likely to Prevail on the Merits of its Claims.

When seeking a preliminary injunction, “[a]ll courts agree that [the] plaintiff must present a prima facie case but need not show a certainty of winning.” *Planned Parenthood Ass’n of Utah v. Herbert*, 828 F.3d 1245, 1252 (10th Cir. 2016); *see also Janvey v. Alguire*, 647 F.3d 585, 595 (5th Cir. 2011) (a plaintiff is merely required to “present a prima facie case but need not show that

[it] is certain to win.”). “It will ordinarily be enough that the plaintiff raised questions going to the merits so serious, substantial, difficult and doubtful, as to make them a fair ground for litigation and thus for more deliberative investigation.” *Allied Home Mortg. Corp. v. Donovan*, 830 F.Supp.2d 223, 227 (S.D. Tex. 2011). TRTA has met this standard.

1. Declaratory Judgment

Upon removal, TRTA’s state-filed declaratory judgment action was converted into an action brought under the federal Declaratory Judgment Act. *See Turner v. AmericaHomeKey, Inc.*, 2011 WL 3606688, *5 n.11 (N.D. Tex. 2011) (when a state-filed declaratory judgment action is removed to federal court, it is converted into an action brought under the federal Declaratory Judgment Act). TRTA is likely to succeed on each of the grounds for declaratory relief asserted.

a. Request for Declaratory Judgment that the 2011 Agreement Between AMBA and TRTA Superseded the 2004 Agreement

TRTA seeks a declaratory judgment that the 2011 Agreement superseded the 2004 Agreement between TRTA and AMBA. The 2011 Agreement contains an “entireties” clause, stating: “This Agreement contains the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes any prior written or oral understanding between the parties with respect to the subject matter hereof.” (Ex. A-1, at Art. V, K). Both the 2004 and 2011 Agreements pertain to the subject matter of marketing insurance products to TRTA members. Therefore, the 2011 Agreement superseded the 2004 Agreement. TRTA is likely to succeed on this ground for declaratory relief.

b. Request for Declaratory Judgment that, in the Alternative, the 2004 Agreement between AMBA and TRTA is an Agreement of Indefinite Duration and Terminable at Will

Under Texas law, when a contract “contemplate[s] continuing performance (or successive performances) and ... [is] indefinite in duration,” it may be terminated at will. *Trient Partners I, Ltd. v. Blockbuster Entm’t Corp.*, 83 F.3d 704, 708 (5th Cir. 1996). Courts “do[] not favor

perpetual contracts” and “presume[] that [any such] contract is terminable at will.” *Id.*

The 2004 Agreement states, “[i]n the absence of a material breach of fiduciary duty or failure to adhere to the principals of the Insurance Marketplace Standards Association, AMBA shall remain the agent of record and third party administrator for the TRTA dental insurance plan, developed by AMBA, for the duration of its existence.” (Ex. A-7 at 2). These conditions “are not the kind of determinable events that transform a contract of indefinite duration into one of definite duration.” *Trient Partners*, 83 F.3d at 709. In other words, the 2004 Agreement’s “termination provisions” do not limit the duration of the 2004 Agreement or make its duration determinable in any real or concrete way. Thus, if the 2004 Agreement was not superseded by the 2011 Agreement, TRTA is likely to succeed in its request for a declaration that (i) the 2004 Agreement is indefinite in duration and terminable at will and (ii) TRTA’s notice to AMBA in October 2020 constituted TRTA’s at-will election of termination.⁶

Furthermore, “[t]he Texas Supreme Court has recognized that courts often imply a term of reasonable duration” *Trient Partners*, 83 F.3d at 711. Similar to *Trient Partners*, this Court need not determine what would be a “term of reasonable duration.” *Id.* As to the 2004 Agreement, a reasonable duration has long since been met and passed. As evidence of what a reasonable period of duration might be, the Court need look no further than the 2011 Agreement and its 10-year term. There is no reason why that 10-year period should not exemplify a “term of reasonable duration” for the 2004 Agreement. Thus, if the 2004 Agreement was not superseded by the 2011 Agreement, a reasonably implied 10-year duration period would have already passed. Accordingly, TRTA is

⁶ On each of TRTA’s terminable-at-will declaratory judgment claims herein, TRTA requests declarations that its October 2020 notice to AMBA constitutes TRTA’s at-will election of termination. For additional clarity and confirmation, TRTA wrote AMBA again, on July 14, 2021, informing that, to whatever extent AMBA contended it had not received TRTA’s at-will election of termination of the 2004 Agreement, then TRTA’s July 14, 2021 correspondence shall positively serve as such. (Lee Decl., Ex. A, ¶ 25; Ex. A-14). Thus, TRTA’s election of termination of the 2004 Agreement is effective, at the very latest, on July 14, 2021.

likely to succeed in its request for a declaration that the 2004 Agreement is of no further force or effect.

c. Request for Declaratory Judgment that, in the Alternative, AMBA's Breach of Fiduciary Duty Extinguished the 2004 Agreement between AMBA and TRTA

Alternatively, the 2004 Agreement was extinguished by AMBA's breach of fiduciary duty. The 2004 Agreement provides that, when AMBA has breached its fiduciary duty, AMBA's role is extinguished (in effect terminating the 2004 Agreement). (Ex. A-7 at 3).

AMBA has materially breached its fiduciary duties by, among other things, refusing to provide data about which TRTA members are covered under the TRTA-sponsored plans and summary health information about those plans, interfering with other parties' obligations to provide such information, putting its financial interests above those of TRTA, and unfairly competing with TRTA.

TRTA is likely to succeed in its request for a declaration that the 2004 Agreement is extinguished due to AMBA's material breaches of fiduciary duty.

d. Request for Declaratory Judgment that the 2011 Agreement's "Agent of Record" provision at Article IV, B. is Terminable at Will

Article IV, B. of the 2011 Agreement says, "AMBA shall remain the agent of record for all policies or certificates of insurance issued to TRTA or its members. This provision shall survive the termination of this Agreement." (Ex. A-1 at Article IV, B.). This provision is not limited in duration, nor do its terms make its duration determinable in any concrete way. For the reasons outlined with the 2004 Agreement and its "termination provisions," this provision is also indefinite in duration and should be declared terminable at will.

Accordingly, TRTA is likely to succeed in its request for a declaration that the 2011 Agreement's "Agent of Record" provision at Article IV, B. is indefinite in duration and therefore terminable at the will of either party. The evidence further confirms that TRTA made its at-will

termination election via its October 2020 notice to AMBA, which took effect June 30, 2021.

2. Breach of Fiduciary Duty

To prevail on its breach of fiduciary duty claim, TRTA must demonstrate: (1) that it and AMBA had a fiduciary relationship; (2) AMBA breached its fiduciary duty to TRTA; and (3) AMBA's breach proximately caused injury to TRTA or resulted in a benefit to AMBA. *First United Pentecostal Ch. v. Parker*, 514 S.W.3d 214, 220 (Tex. 2017). These elements are satisfied.

AMBA served as the agent and third-party administrator for insurance products offered to TRTA. AMBA concedes it was a fiduciary to TRTA in this role. (Ex. A-6 (AMBA's Pet.) at 4). AMBA owed fiduciary duties to TRTA, including the duty of loyalty and utmost good faith,⁷ the duty of candor,⁸ the duty to refrain from self-dealing,⁹ the duty to act with integrity of the strictest kind,¹⁰ the duty of fair, honest dealing, and the duty of full disclosure.¹¹

Consistent with AMBA's admission of its fiduciary role, Texas law provides that “[a]n agency relationship imposes certain fiduciary duties on the parties.” *National Plan Adm'rs, Inc. v. National Health Ins. Co.*, 235 S.W.3d 695, 700 (Tex. 2007). “Unless otherwise agreed, an agent is subject to a duty to his principal to act solely for the benefit of the principal in all matters connected with his agency.” *Id.* (noting the Texas Supreme Court's prior approval of the Restatement (Second) of Agency in regard to the general duty of an agent). The duty of an agent to furnish its principal with pertinent information is beyond dispute: “An agent owes the principal a duty to provide information to the principal that the agent knows or has reason to know the principal would wish to have.” Restatement (Third) Of Agency § 8.11, Comment *b* (2006).

AMBA has materially breached these duties by refusing to provide the data requested by

⁷ *Kinzbach Tool Co. v. Corbett-Wallace Corp.*, 160 S.W.2d 509, 512 (Tex. 1942).

⁸ *Welder v. Green*, 985 S.W.2d 170, 175 (Tex. App.—Corpus Christi 1998, pet denied).

⁹ *Dearing, Inc. v. Spiller*, 824 S.W.2d 728, 733 (Tex. App.—Fort Worth 1992, writ denied).

¹⁰ *Armstrong v. Armstrong*, 570 S.W.3d 783, 790 (Tex. App.—El Paso 2018, pet. denied).

¹¹ *Kinzbach Tool*, 160 S.W.2d at 512; *Valdez v. Hollenbeck*, 465 S.W.3d 217, 230 (Tex. 2015).

TRTA, by interfering with other parties' obligations to provide such information, by placing AMBA's financial interests above the interests of TRTA, and by supplying TRTA group plan/member information to ASBA to compete with TRTA. (Lee Decl., Ex. A, ¶¶ 13-25).

TRTA has been harmed by AMBA's breaches by causing damage to TRTA's goodwill among its customers/members and the loss of existing and potential customers/members. (*Id.*).

3. Tortious Interference with Contract

On its tortious interference with contract claim, TRTA must show: (1) TRTA had a valid contract; (2) AMBA willfully and intentionally interfered with it; (3) the interference proximately caused TRTA's injury; and (4) TRTA incurred actual damage or loss. *Community Health Sys. Prof'l Servs. v. Hansen*, 525 S.W.3d 671, 689 (Tex. 2017).

TRTA has a valid and existing contract with Ameritas through which Ameritas was (and is) to provide information regarding dental insurance coverage for each insured TRTA member to TRTA along with a certificate showing coverage under the policy for each insured TRTA member. AMBA continues to willfully and intentionally interfere with the contract between Ameritas and TRTA by, among things, preventing Ameritas, through agreement or threat, from providing data about which TRTA members are covered under the TRTA-sponsored plans and summary health information about those plans. AMBA's interference has proximately caused TRTA injury and actual damage in the form of lost customer goodwill and clientele.

4. False Advertising (15 U.S.C. § 1125(a)) and Texas Common Law Unfair Competition

Section 1125(a) of the Lanham Act makes it unlawful "to use[] in commerce any word, term, name, symbol, or device, or any combination thereof, . . . which (A) is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person, or (B) in commercial advertising or

promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his or her or another person's goods, services, or commercial activities." 15 U.S.C. § 1125(a).

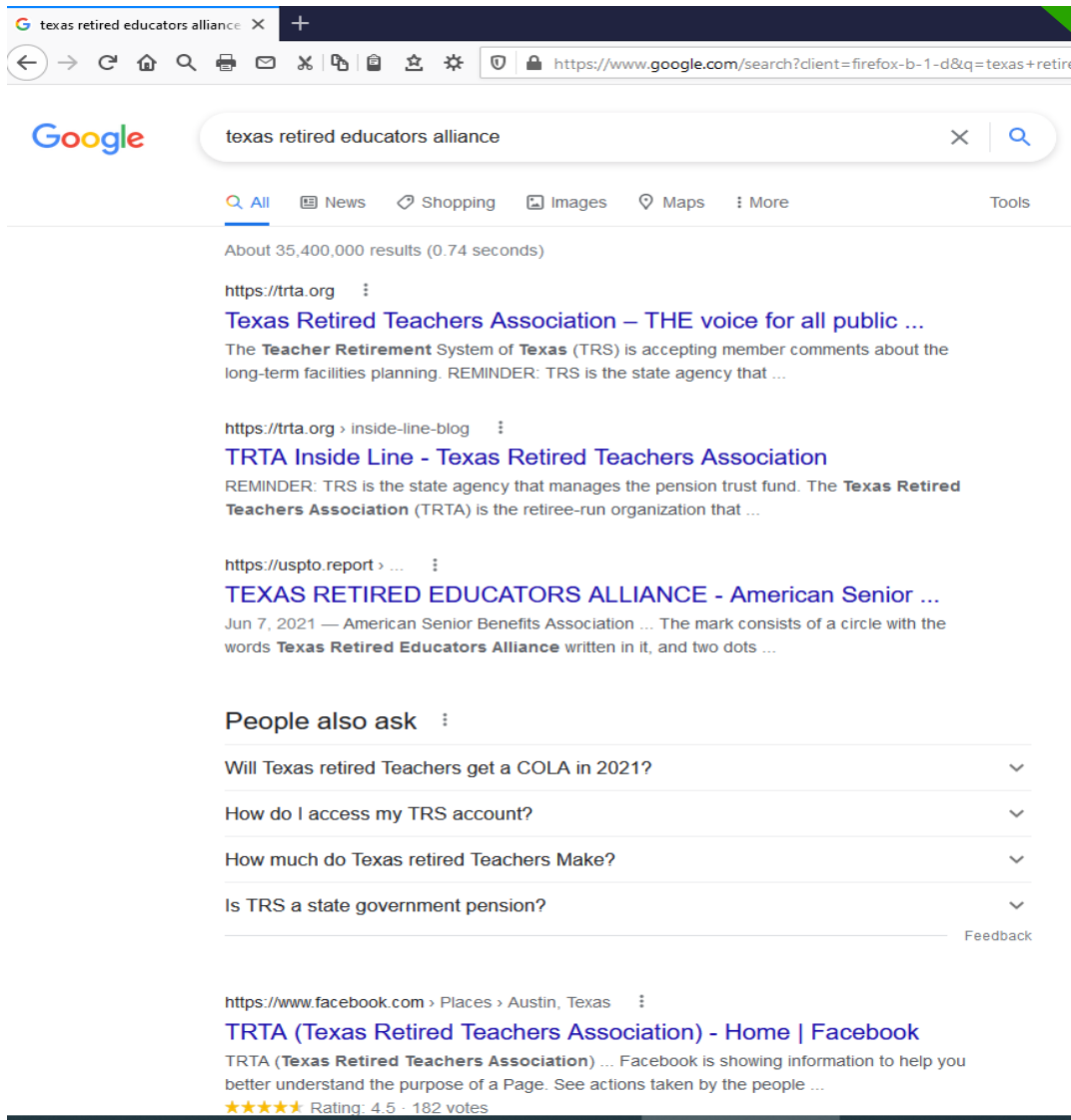
Under Texas common law, "[t]he law of unfair competition is the umbrella for all statutory and nonstatutory causes of action arising out of business conduct which is contrary to honest practice in industrial or commercial matters." *U.S. Sporting Prods., Inc. v. Johnny Stewart Game Calls, Inc.*, 865 S.W.2d 214, 217 (Tex. App.—Waco 1993, writ denied). "The category of unfair competition includes a number of types of objectionable trade practices, including trademark infringement, dilution of good will, misappropriation of business value, 'palming off,' and theft of trade secrets." *Healthpoint, Ltd. v. River's Edge Pharms., LLC*, 2005 WL 356839, at *3 (W.D. Tex. Feb. 14, 2005). "The tort requires that the plaintiff show an illegal act by the defendant which interfered with the plaintiff's ability to conduct its business." *Id.*

a. ASBA's use of the acronym/abbreviation "TREA" is likely to cause confusion

AMBA and its sister company ASBA have devised a plan to bypass TRTA and market insurance products directly to its members through a name and logo confusingly similar to TRTA's. (Lee Decl., Ex. A, ¶¶ 17-18). Using TRTA member contact information—which AMBA obtained through its role as a fiduciary to TRTA—AMBA's affiliate ASBA is marketing insurance products to TRTA members under the brand "Texas Retired Educators Alliance" which uses the acronym/abbreviation "TREA." (Exs. A-10 through A-13). The "TREA" acronym is a mere one letter off from "TRTA," the acronym/abbreviation that has long been used by the Texas Retired Teachers Association. (Lee Decl., Ex. A, ¶ 21). And the full name itself begins with "Texas Retired" and references an educators association, much the same as Texas Retired Teachers Association. (*Id.*). Also, in its correspondence to TRTA members, TREA links itself to the same agent (AMBA) that TRTA members have for years associated with certain TRTA-endorsed products. (Ex. A-10). TREA even uses a logo of the shape of the State of Texas centered within

a circle border design, much like TRTA’s logo. *See supra*.

Not surprisingly, even a simple Google search for “Texas Retired Educators Alliance” returns multiple results for TRTA *ahead of anything for TREA*—another sign of the confusion likely to ensue:



(*See Lee Decl., Ex. A, ¶ 19*).

ASBA is trying to deceive TRTA members into associating TREA’s products with those of TRTA. The likelihood of confusion is no coincidence. It is blatant false advertising in violation of the Lanham Act.

b. *ASBA and AMBA, through their TREA marketing scheme, are illegally interfering with TRTA's ability to conduct business.*

Unfair competition under Texas common law “includes a number of types of objectionable trade practices” and requires “that the plaintiff show an illegal act by the defendant which interfered with the plaintiff’s ability to conduct its business.” *Healthpoint*, 2005 WL 356839, at *3. Here, ASBA (using the name TREA) is marketing directly to TRTA members. ASBA could only have learned the identities of TRTA members through its affiliate AMBA. (Lee Decl., Ex. A, ¶ 22). AMBA held that information as a fiduciary to TRTA. Thus, the underlying illegal act, *i.e.*, AMBA’s breach of fiduciary duty and ASBA’s aiding and abetting of same, is plainly demonstrated. This “objectionable trade practice” is addressed by the common law of unfair competition.

C. TRTA Faces a Substantial Threat of Irreparable Injury If a Preliminary Injunction Is Not Granted.

To show irreparable injury, a party need only show a “significant threat of injury from the impending action, that the injury is imminent, and that money damages would not fully repair the harm.” *Humana, Inc. v. Avram A. Jacobson, M.D., P.A.*, 804 F.2d 1390, 1394 (5th Cir. 1986). An irreparable injury is one that cannot be undone by monetary damages or one for which monetary damages would be “especially difficult to calculate.” *Heil Trailer Int’l Co. v. Kula*, 542 Fed. Appx. 329, 335 (5th Cir. 2013) (per curiam) (not published) (internal quotes omitted). Moreover, injury to reputation or goodwill may constitute irreparable harm because it is not easily measureable in monetary terms. *Heil Trailer*, 542 Fed. Appx. at 335.

The purpose of a preliminary injunction is always to prevent irreparable injury. *See Canal Auth. of State of Fla. v. Callaway*, 489 F.2d 567, 576 (5th Cir. 1974). “If the currently existing status quo is causing one of the parties irreparable injury, it is necessary to alter the situation so as to prevent the injury, either by returning to the last uncontested status quo between the parties ...

by the issuance of a mandatory injunction, ... or by allowing the parties to take proposed action that the court finds will minimize the irreparable injury.” *Id.*

Here, the evidence establishes that TRTA faces a substantial threat of irreparable injury if injunctive relief is not granted. Without immediate access to the data sought, TRTA cannot ensure that its members’ benefits are being serviced. (Lee Decl., Ex. A, ¶ 27). These are services AMBA is failing to provide, and which AMBA is blocking TRTA from ensuring to its members. (*Id.*) TRTA stands to lose an immeasurable amount of goodwill *but for* the requested injunction. (*Id.*)

Moreover, the damages that TRTA would suffer if ASBA continues to unfairly compete and falsely advertise would be difficult or impossible to fully measure and account for, and would include damage to TRTA’s goodwill and the loss of customers/members that would be impossible to gauge. (*Id.*, ¶ 23) Without injunctive relief, TRTA will be subjected to imminent and irreparable injury.

D. The Threatened Injury to TRTA If the Injunction Is Denied Outweighs Any Potential Injury to AMBA and ASBA If the Injunction Is Granted.

To determine whether the injury to TRTA outweighs any injury to AMBA and ASBA, the Court engages in a “balancing of the conveniences and rights of the parties and a balancing of the possible injuries to them according to how they may be affected by the granting or withholding” of the injunction. *Congress of Racial Equality v. Douglas*, 318 F.2d 95, 97 (5th Cir. 1963).

TRTA will suffer irreparable harm if AMBA is allowed to refuse to provide relevant policy data, and if ASBA is allowed to continue its illicit scheme of marketing to TRTA members through a confusingly similar name. Conversely, AMBA and ASBA will suffer no injury if an injunction issues. The only interests AMBA has would arise from any written agency agreement with TRTA. As shown, no such written agreement remains in force or effect. AMBA has no rights and interests as an agent or administrator of TRTA, and therefore AMBA could suffer no injury.

The same is true for ASBA. ASBA is marketing directly to TRTA members under a

confusingly similar name and acronym. ASBA received TRTA member contacts illicitly through AMBA. An injunction preventing this illicit conduct will not cause harm to ASBA.

E. The Public Interest Supports Issuance of an Injunction.

The court must assess the impact of the preliminary injunction on the public interest. An injunction may be granted unless “the public interest will be disserved by the grant of an injunction.” *Cottonwood Fin. Ltd. v. Cash Store Fin. Servs., Inc.*, 778 F.Supp.2d 726, 760 (N.D. Tex. 2011); *see also Speaks v. Krause*, 445 F.3d 396, 400 (5th Cir. 2006); *Byrum*, 566 F.3d at 445; *Concerned Women for Am. Inc. v. Lafayette County*, 883 F.2d 32, 34 (5th Cir. 1989). “The focus of the district court’s public interest analysis should be whether there exists some critical public interest that would be injured by the grant of preliminary relief.” *Conceal City, LLC v. Looper Law Enforcement, LLC*, 2011 WL 5557421 at *8 (N.D. Tex. 2011).

An injunction here will not disserve the public interest. The public interest will be well-served by ensuring that insurance benefits for thousands of retired educators are preserved. An injunction will further serve the public interest by eliminating the confusion among TRTA membership as to the TREA insurance products.

F. No (or Minimal) Security Should be Required for Entry of Injunctive Relief.

“[T]he amount of security required pursuant to [Federal Rule of Civil Procedure 65(c)] is a matter for the discretion of the trial court.” *Kaepa, Inc. v. Achilles Corp.*, 76 F.3d 624, 628 (5th Cir. 1996). Accordingly, the Court may “dispense[] with the requirement of security” where “it appears unlikely that the defendant . . . would incur any significant cost or damages as a result of the injunction.” *Incubus Inv., LLC v. City of Garland*, 2003 WL 23095680 at *4 (N.D. Tex. 2003).

AMBA and ASBA will not incur any cost or damages as a result of this injunction. Accordingly, although TRTA is willing to post a bond as directed by the Court, TRTA respectfully submits that the Court should require no security, or, at the very most, a minimal bond.

IV. CONCLUSION AND PRAYER

AMBA's continuing actions irreparably harm TRTA's business, its brand, and its valuable goodwill among its members. Furthermore, without entry of the requested preliminary injunctive relief, ASBA's activities will continue to lead prospective purchasers and others to believe that ASBA's (TREA's) services are somehow endorsed, sponsored, or approved by TRTA, which they are not. TRTA has no adequate remedy at law for AMBA's and ASBA's actions.

For the foregoing reasons, TRTA respectfully requests that this Court grant its Application for Preliminary Injunction and enter a preliminary injunction that:

- a. Enjoins AMBA from refusing to provide TRTA with information from which it can identify every TRTA member who is enrolled and has been enrolled in the TRTA-sponsored dental and vision plans;
- b. Enjoins AMBA from refusing to provide TRTA with information, from which personally-identifying information about TRTA members has been deleted, that summarizes the claims history, claims expenses, and types of claims experienced by TRTA members who are and have been enrolled in TRTA-sponsored dental and vision plans;
- c. Enjoins AMBA from interfering with Ameritas, Visions Service Plan, and any other issuer of a TRTA-sponsored insurance plan in their efforts to provide information to TRTA about TRTA members enrolled in those TRTA-sponsored plans and information that summarizes the claims history, claims expenses, and types of claims experienced by TRTA members;
- d. Enjoins AMBA from interfering with any development, marketing and administration of TRTA-sponsored insurance plans, including but not limited to TRTA's efforts to work with the other Defendants in this case and any other person or entity to ensure TRTA members are properly serviced in existing plans and/or have the option to sign up for other TRTA-sponsored insurance plans; and
- e. Enjoins ASBA from communicating in writing and/or by telephone with TRTA members to market to them insurance products or benefits endorsed under the name "TREA."

Respectfully submitted,

/s/ J. Stephen Ravel

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**ATTORNEYS FOR DEFENDANT/
COUNTER-PLAINTIFF TEXAS RETIRED
TEACHERS ASSOCIATION**

CERTIFICATE OF CONFERENCE

I certify that on the 25th day of August, 2021, I conferred by email with Don Taylor (counsel for AMBA) and also James Ruiz (counsel for ASBA) in a good faith attempt to resolve the matter by agreement. Each counsel indicated that their client opposes the relief sought through TRTA's application for preliminary injunction. Therefore, agreement could not be reached on any grounds, and the application is presented for the Court's determination.

/s/ C. Andrew Weber _____

C. Andrew Weber

CERTIFICATE OF SERVICE

I certify that on the 26th day of August, 2021, a true copy of the foregoing was served upon all counsel of record via the Court's CMECF system.

/s/ J. Stephen Ravel _____

J. Stephen Ravel

4. In my role as Executive Director of TRTA, I am and have been responsible for and oversee TRTA's efforts to strengthen and promote the various insurance and other benefits TRTA makes available to its members. I also serve as a custodian over TRTA records pertaining to these matters.

5. I make this Declaration in support of TRTA's Application for Preliminary Injunction against Association Member Benefits Advisors, Ltd. ("AMBA") and American Senior Benefits Association ("ASBA").

6. I have personal knowledge of the facts stated in this Declaration and if called to do so, would testify competently thereto.

7. TRTA was founded in 1953 and has become the largest association in the nation for retired teachers, with over 96,000 members who consist of Texas residents and residents of other states. Among other purposes, TRTA exists to promote and advocate at the state and federal level for improved retirement benefits for all public school and higher education retirees. To this end, TRTA has, for decades, provided its members with insurance and other benefits, including group dental and vision insurance, at discounted rates.

8. TRTA has for many years contracted with AMBA in providing insurance products to its retired educator members. Throughout this arrangement, TRTA has served as the plan sponsor of various endorsed insurance products and benefits underwritten by insurance carriers, while AMBA has served as TRTA's agent of record and third-party administrator in developing, marketing and administering these products and benefits for TRTA members.

9. Effective July 1, 2011, TRTA entered a written agreement with AMBA dated July 8, 2011, and titled: "Agreement Between Association Member Benefits Advisors, Ltd. and The Texas Retired Teachers Association" ("2011 Agreement"). Attached hereto as Exhibit 1 is a true

and correct copy of the 2011 Agreement (which is in redacted form to preserve the confidentiality of business terms on account of a confidentiality clause within the agreement). On behalf of TRTA, I undertook to negotiate and execute the 2011 Agreement. While the parties' relationship involved other prior written agreements, my understanding was that, when the 2011 Agreement was entered, it would serve as the only agreement between TRTA and AMBA pertaining to the marketing of insurance products to TRTA members. While I have been Executive Director of TRTA and since the entry of the 2011 Agreement, TRTA has operated and conducted business in the manner that the 2011 Agreement was, in fact, the only such agreement in place with AMBA as to that subject matter.

10. The working relationship between TRTA and AMBA over the years had involved TRTA endorsing certain insurance products developed by AMBA and allowing AMBA to contact TRTA members to market those TRTA-endorsed and AMBA-developed products. Over approximately the last year, TRTA's trust in AMBA had deteriorated for the reason that TRTA felt AMBA was pushing insurance products on TRTA members that TRTA leadership believed were not in the best interests of TRTA members and for which TRTA never provided an endorsement. TRTA's loss of trust in AMBA coincided with the end of the ten-year term on the 2011 Agreement under which AMBA and TRTA were working together on the development, marketing, and administering of insurance products to TRTA members. By letter dated October 28, 2020, TRTA gave AMBA written notice of its intention not to extend the 2011 Agreement beyond June 30, 2021. A true and correct copy of that notice is attached hereto as Exhibit 2. This notice was sent pursuant to Article IV, Paragraph A. of the 2011 Agreement. In that same notice, TRTA "invite[d] AMBA to put forth a proposal for services beginning July 1, 2021" should it wish to do so.

11. On February 26, 2021, AMBA responded with a letter and new proposal; a true and correct copy of AMBA's February 26, 2021 correspondence is attached as Exhibit 3. AMBA followed this communication with an April 26, 2021 email from its Board Member, Billy Hill, a true and correct copy of which is attached as Exhibit 4.

12. Despite AMBA's efforts to put forth a new proposal, TRTA remained committed to its October 28, 2020 notice not-to-extend with AMBA and its decision to select a new agent and administrator of its group plans for July 1, 2021 and forward. Accordingly, a new agreement was never executed between TRTA and AMBA.

13. Following its October 28, 2020 notice not-to-extend, TRTA began requesting certain data from AMBA regarding the group policies sponsored by TRTA. These group policies were to remain in place notwithstanding the decision not to extend with AMBA as agent and administrator. To that end, TRTA's data requests were necessary to ensure a seamless transition from AMBA to a new agent of record and benefits administrator, and to avoid any risk of a group policy lapsing. The data TRTA requested from AMBA was essential in that effort. Regrettably, every request was either not responded to, or was denied.

14. TRTA's legal counsel wrote AMBA a final time, on June 18, 2021, detailing the prior requests and emphasizing the dire circumstance that AMBA's delay was putting TRTA and its members in. Attached as Exhibit 5 is a true and correct copy of the June 18, 2021 letter. AMBA again provided no policy data in response. Instead, AMBA sued TRTA in state court in Travis County, Texas. A true and correct copy of AMBA's Petition is attached hereto as Exhibit 6. In its state court lawsuit, AMBA asserted that a May 14, 2004 agreement titled "Association Dental Insurance Marketing and Administration Agreement" (the "2004 Agreement") is the "binding contract" that "continues in force to the present day" by and

between TRTA and AMBA. Yet, since the execution of the 2011 Agreement referenced above, TRTA never had any dealings with AMBA concerning the 2004 Agreement asserted in AMBA's state court lawsuit, nor did AMBA's February and April 2021 correspondence ever reference this 2004 Agreement when AMBA was proposing a renewal to the 2011 Agreement. (The 2004 Agreement was attached to AMBA's state court Petition as Exhibit 1 to same, and a copy of same is being attached hereto for reference as Exhibit 7.) AMBA further contended in its state court lawsuit that TRTA has no ability to terminate AMBA's agency/administrator relationship and that TRTA has no right to be afforded any of the group policy data it requests. TRTA believes AMBA's positions to be totally unfounded, and, as discussed below, filed a counter-suit of its own in that respect.

15. In the process of transitioning to a new agent and administrator, and particularly because it was not receiving pertinent policy data from AMBA, TRTA also contacted the dental and vision insurance carriers directly to obtain information about the TRTA-sponsored dental and vision plans. Regrettably, TRTA learned that AMBA was interfering with the dental and vision insurance provider's ability to provide such information. First, TRTA received Mr. Hill's April 26, 2021 email vaguely stating that "I am further aware that you contacted both Ameritas and VSP directly . . ." (see Exhibit 4 hereto), and then later, on June 21, 2021, TRTA received a response letter directly from VSP (which is Vision Service Plan, the company that provides vision benefits to TRTA members) informing that, as a result of contractual arrangements between it and AMBA, it would not be providing the requested information. Attached as Exhibit 8 hereto is a true and correct copy of VSP's letter dated June 21, 2021. TRTA's group dental insurance policy is issued by Ameritas Life Insurance Corporation ("Ameritas"). Ameritas responded in similar fashion. TRTA believes both VSP and Ameritas are

misconstruing TRTA's requests for information, and TRTA believes this is being aided by AMBA.

16. TRTA, as the plan sponsor, has requested summary health information, as well as information on which individuals are participating in the plans and which individuals have enrolled or have dis-enrolled from the plans. TRTA requests this information on account of being the *plan sponsor* and *policy holder*, and needs the same to properly and smoothly transition to a new agent and administrator of the plans. TRTA's status as the plan sponsor and policy holder has never been disputed and is plainly stated within the relevant policies. For example, attached hereto as Exhibit 9 are true and correct copies of excerpts of the Ameritas policy, where, at pp. 1, 6 and 8¹ TRTA is listed as the policyholder and plan sponsor for the Ameritas group dental insurance policy. Pursuant to the same Ameritas policy excerpts at p. 4, Ameritas is to issue certificates to TRTA showing the coverage under the policy, provide information to TRTA regarding which TRTA members are enrolled in the policy, and provide a certificate for each TRTA member enrolled in the policy. TRTA's requests to Ameritas include the same types of information that Ameritas is already obligated to issue to TRTA via policy certificates.

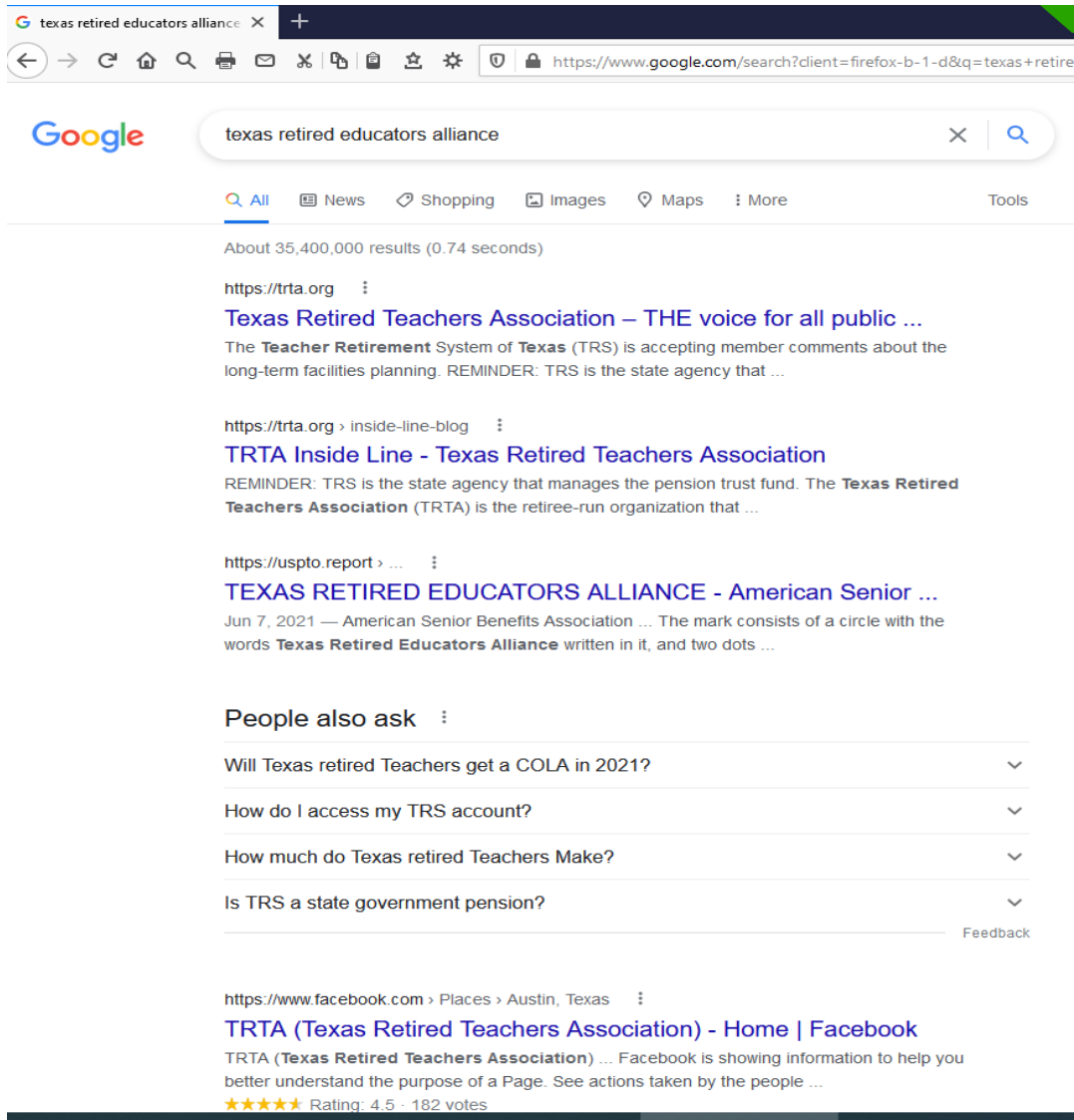
17. On July 1, 2021, TRTA learned that its members began receiving marketing material about insurance products from an entity identified as "Texas Retired Educators Alliance (TREA)" (hereafter, "TREA"). Attached hereto as Exhibit 10 is a true and correct copy of materials forwarded to me on July 1, 2021, by TRTA member, Shirley Boyd, pertaining to information received by Ms. Boyd from TREA. TRTA believes all known TRTA members were contacted by TREA in this same manner on or about July 1, 2021.

18. As part of investigating Ms. Boyd's complaint, TRTA had various public searches performed on its behalf concerning TREA, including at the Texas Secretary of State level and

¹ Page numbers have been added to the right footer of the policy excerpts for ease of reference.

through the U.S. Patent and Trademark Office's ("USPTO's") online database. Attached hereto as Exhibits 11 and 12 are true and correct copies of public records obtained from the Texas Secretary of State concerning TREA. Attached hereto as Exhibit 13 are true and correct copies of public records obtained from the USPTO regarding TREA. Each of these records purport to link TREA to ASBA, which in turn is linked to the individual "Bill B. Hill, Sr." per the Texas Secretary of State records attached as Exhibit 12. TRTA believes this to be the same Billy Hill referenced above (who represents AMBA). This belief is further supported by the fact that ASBA (TREA) links itself to AMBA within the materials now being delivered to TRTA members.

19. In its marketing materials to TRTA members, the Texas Retired Educators Alliance uses the abbreviation/acronym "TREA," which is just one letter off from the abbreviation/acronym "TRTA," which has been continually used by the Texas Retired Teachers Association to identify itself and its products/services to its members since approximately 1953. TRTA believes the abbreviation/acronym "TREA" is confusingly similar to TRTA. TRTA has received numerous calls and inquiries from its members to that same effect. TRTA immediately undertook to explain to its members that it has no affiliation with TREA; however, TRTA is very concerned that its members and potential members have mistaken TREA for TRTA and opted to change coverages or memberships as a result. In fact, if a member were to be confused and looked up TREA through an internet "google" search, they might be led to think it was affiliated with TRTA because the first 3 out of 4 search results point to TRTA. The following is a true and correct copy of a screenshot of the first page of a search result for "texas retired educators alliance" using a google search at www.google.com:



20. TREA also uses the following logo on its marketing materials, as reflected in Exhibit 10:



The following is an image of one of TRTA's logos that has long been used in materials provided to its members:



TRTA is concerned that the logo used by TREA is confusingly similar to TRTA's logo, which also uses a double circle border/barrier (with its full name within the circle border) and the shape of the State of Texas in the center.

21. I first became aware of TREA and its marketing materials when Ms. Boyd forwarded the material as part of her complaint. I was shocked when I saw it because it immediately struck me as very similar to TRTA's name and logo. I believe that many consumers (members and prospective members) would be confused by and/or potentially misled by these similarities because: the abbreviated names (the trade names themselves) are merely one letter off and sound similarly when pronounced; both of the full names begin with "Texas Retired" and both then reference teachers or educators associations; and TREA's logo mimics TRTA's in the sense of a double circle border with "Texas Retired" displayed within, all circling an outline shape of the State of Texas.

22. TRTA is also highly concerned that its members are being targeted in this respect only because ASBA (who uses the trade name TREA) is affiliated with AMBA vis-à-vis the common ownership or control of Mr. Hill as noted above. ASBA itself (or anyone else for that

matter) would not otherwise know the identities of TRTA members in order to market directly to them. TRTA's member list is not publicized in any way, and not known to the general public. TRTA believes the only way ASBA could have identified any TRTA member (in order to send TREA materials to them directly) was because AMBA supplied that information to ASBA. AMBA had (and has) access to this information by virtue of its role as agent and third-party administrator for TRTA's group dental and vision plans. TRTA believes AMBA has wrongly and unlawfully supplied TRTA's member contact information to AMBA's affiliate, ASBA, in order to compete directly with TRTA in the manner depicted above.

23. Allowing ASBA to use TRTA's member information in this manner potentially lets ASBA freeride on the good will and reputation TRTA has with its member customers. TRTA has spent years creating member/customer loyalty to the TRTA brand. Our customers use TRTA's programs because they get a superior product/benefit from TRTA and continued benefits from their loyalty. This loyalty is key to our continued business as well as our continued ability to provide our customers with the best loyalty program in the industry.

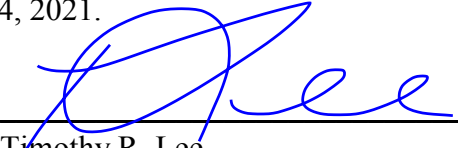
24. TRTA denotes a trustworthy brand, and allowing entities such as AMBA and ASBA to benefit from the goodwill and reputation that TRTA has spent years building significantly harms TRTA.

25. As noted above, in response to AMBA's state court lawsuit, TRTA counter-sued in its own right to, among other things, seek a declaration that the 2004 Agreement asserted by AMBA is terminable at the will of either party. TRTA feels it previously provided AMBA with adequate notice of its election to terminate the 2004 Agreement, but to be abundantly clear, TRTA's legal counsel issued a confirming notice on July 14, 2021. Attached as Exhibit 14 is a true and correct copy of TRTA's confirming notice.

26. Exhibits 1-5, Exhibits 8-10, and Exhibit 14 attached hereto are maintained as records of TRTA's regularly conducted activities and which (i) were made at or near the time by—or from information transmitted by—someone with knowledge; (ii) were kept in the course of TRTA's regularly conducted activities; and (iii) the making of which records was a regular practice of TRTA's activities.

27. After this litigation ensued in state court, TRTA and AMBA agreed to a “standstill” while they coordinated a mutually acceptable hearing date for competing applications for temporary injunctions filed in the state court proceedings. TRTA agreed it would take no unilateral action in the interim to eliminate AMBA's status as agent/administrator until the court could hear the matter, and AMBA meanwhile agreed to take no action adverse to TRTA members' group coverages remaining in place. This was intended to carry the parties to August 26, 2021, the agreed hearing date set between TRTA and AMBA. Unfortunately, that agreement has become un-workable in recent days. TRTA members are growing more and more confused by the day on issues such as billing cycles, premium adjustments and renewals. Adding to the confusion and the frustration of TRTA and its members, AMBA continues to promote itself and its products as TRTA-endorsed. TRTA staff are being flooded with these types on inquiries and complaints from confused members. TRTA feels that it is imperative to have its preliminary injunction application heard by the Court at the earliest possible setting to prevent any further confusion and resulting harm to its members. Without immediate access to the data sought, TRTA cannot ensure that its members' benefits are being serviced. These are services AMBA is failing to provide, and which AMBA is blocking TRTA from ensuring to its members. Without the requested injunction, TRTA feels it stands to lose a vast, and likely immeasurable, amount of goodwill.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on August 24, 2021.

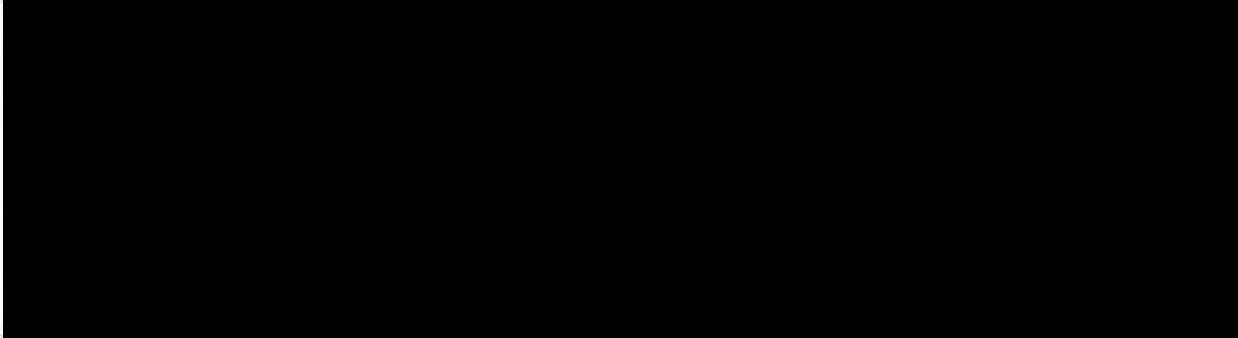


Timothy R. Lee
Executive Director, Texas Retired
Teachers Association

Exhibit A-1

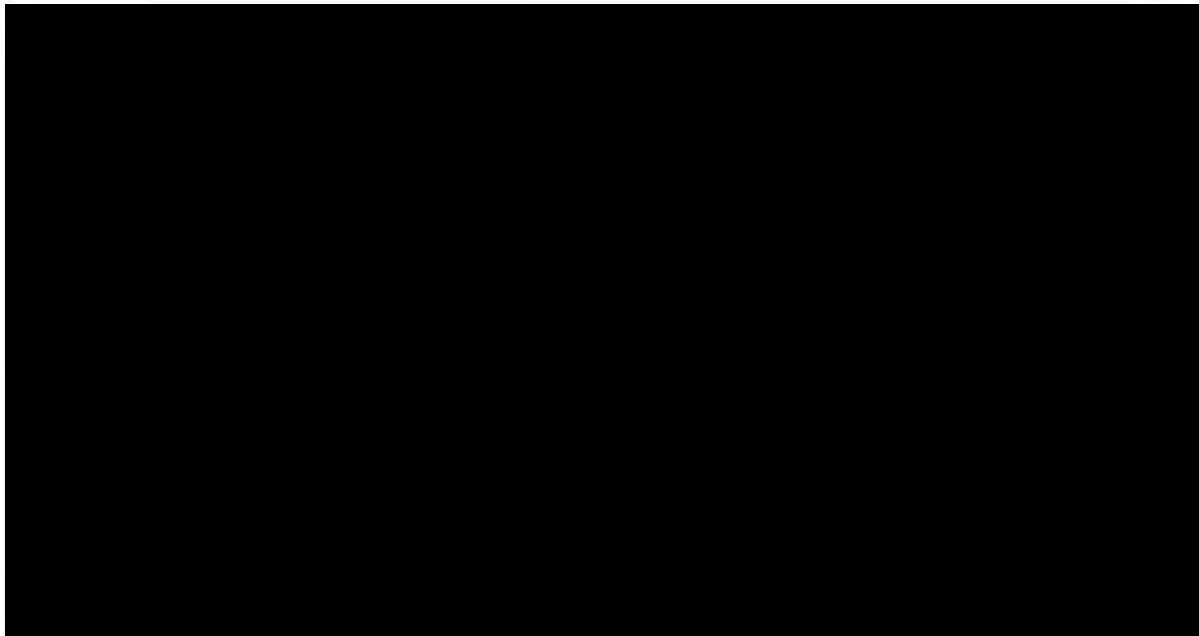
**Agreement Between
Association Member Benefits Advisors, Ltd. and
The Texas Retired Teachers Association**

This Agreement is entered on this 8th day of July, 2011, by and between Association Member Benefits Advisors, Ltd. ("AMBA") and the Texas Retired Teachers Association ("TRTA") and is effective as of July 1, 2011.



ARTICLE I
Definitions

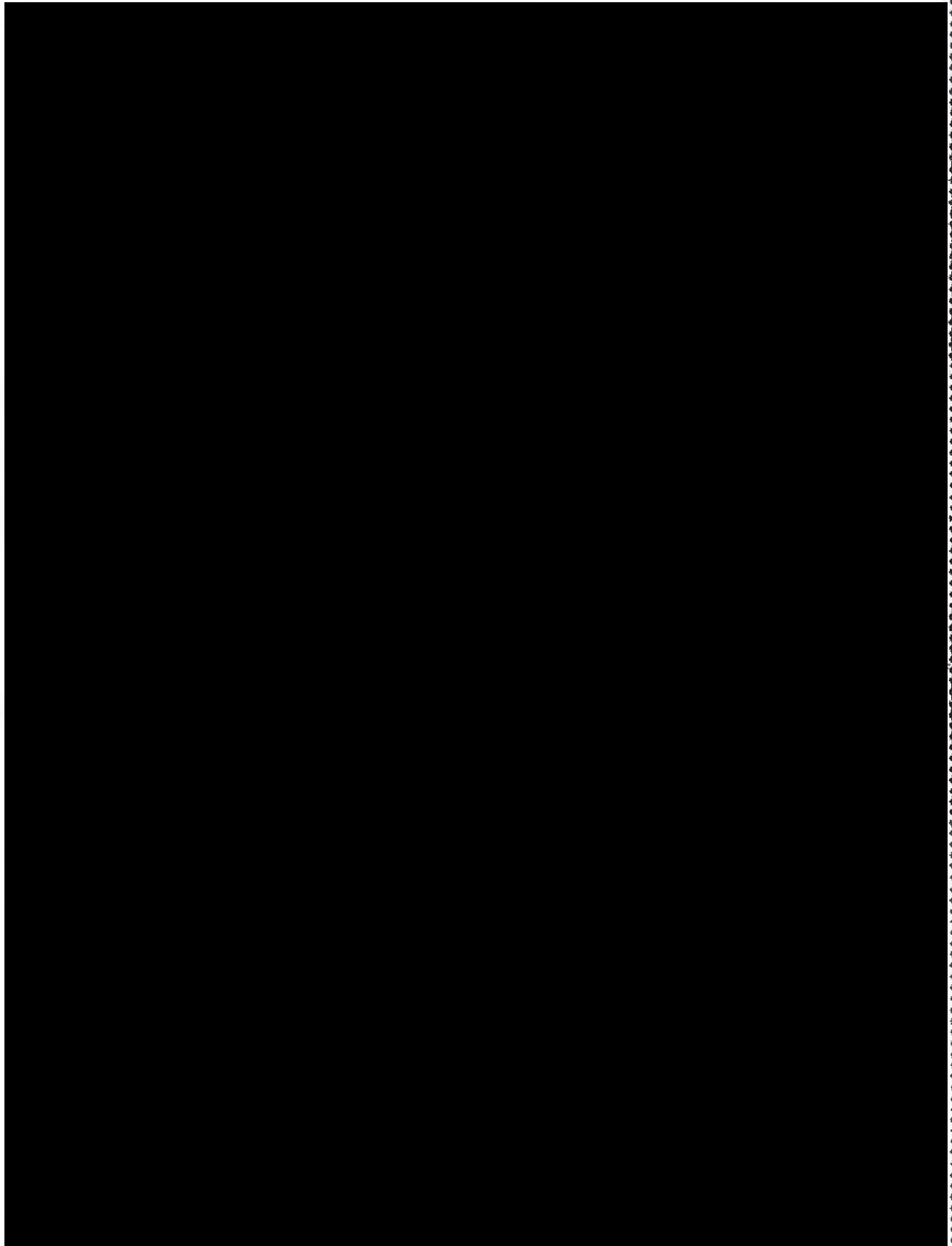
In this agreement, the following terms mean:



ARTICLE II

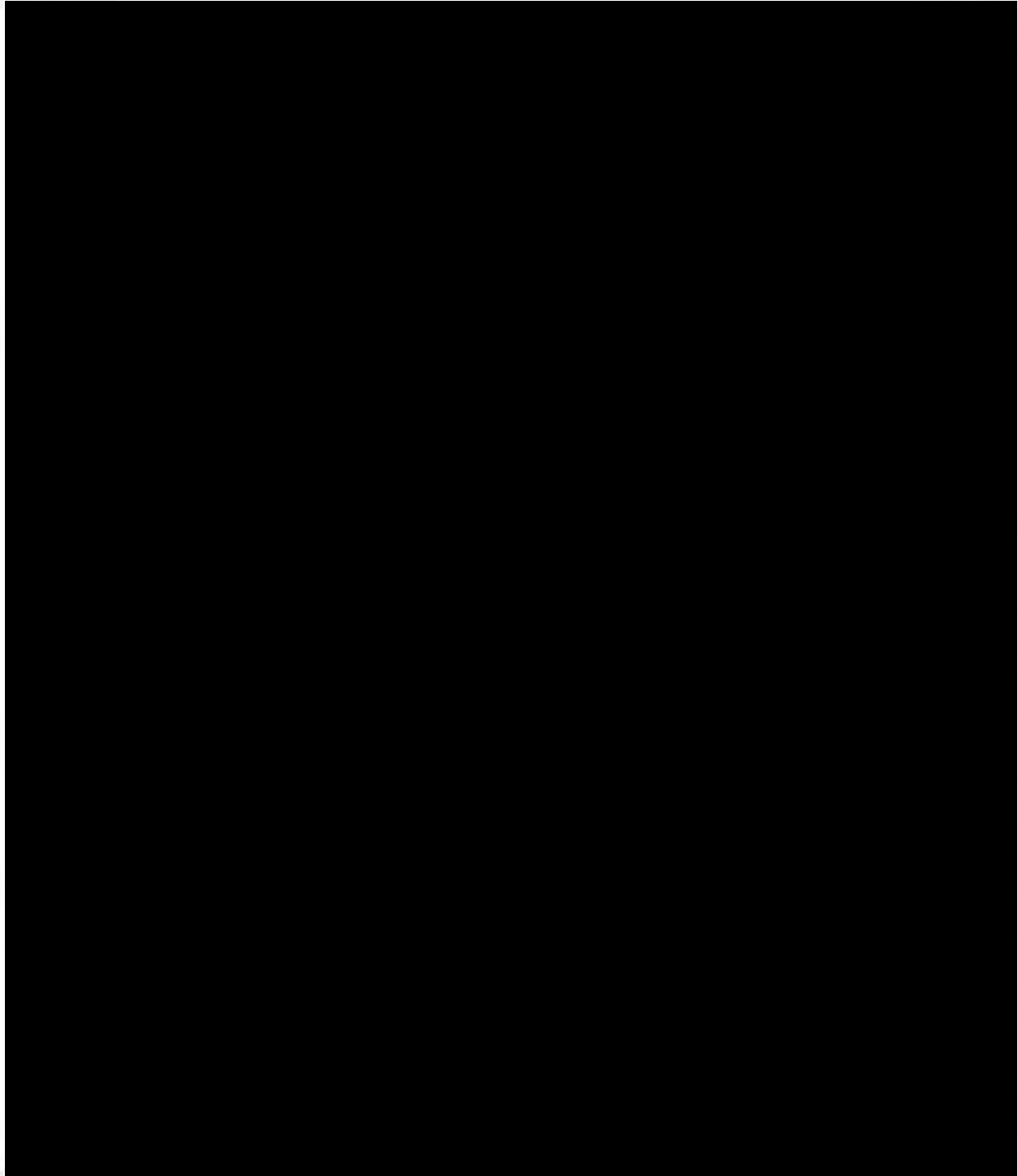
Endorsement and Provision of Services

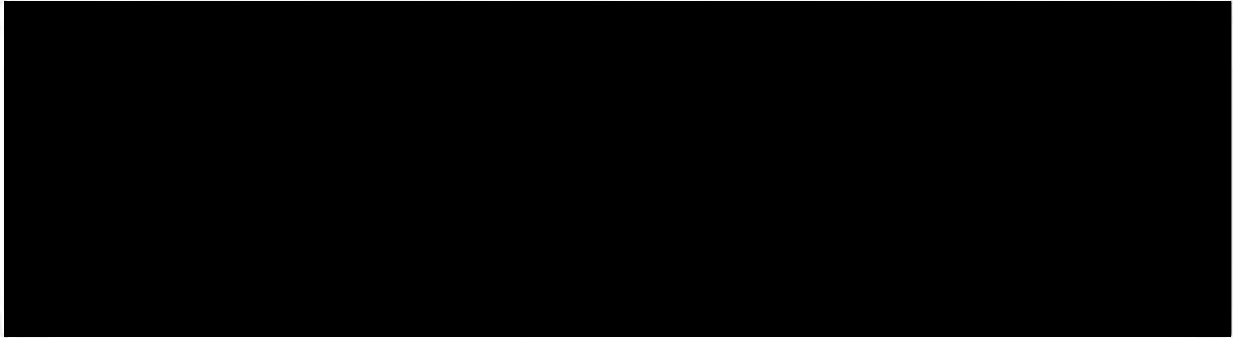
- A. Contracted Services. AMBA shall make available to Members the Endorsed Products which meet the requirements stated in this Agreement, the Texas Insurance Code, and other applicable federal and Texas laws, rules, regulations and standards.
- B. Endorsement.
1. During the term of this Agreement, TRTA agrees that the endorsement by TRTA of an Endorsed Product developed by AMBA under Section II(A) of this Agreement shall be an exclusive endorsement and TRTA agrees to allow AMBA to market the Endorsed Products developed under Section II(A) of this Agreement using the TRTA endorsement of the Endorsed Products to the Members of TRTA. TRTA agrees that it will not endorse products issued or marketed by another company or provider which are the same or similar to the Endorsed Products during the term of this Agreement. Only AMBA and its legally authorized representatives may use the TRTA endorsement for the purposes stated in this Agreement.
 2. TRTA agrees to grant AMBA the right of first refusal for any other insurance or related products to be offered to TRTA members.
 3. AMBA acknowledges that TRTA is not a licensed insurer, third-party administrator, or insurance agent under the laws of the State of Texas and, therefore, cannot act in any such capacity under the laws of the State of Texas. Also, AMBA agrees and acknowledges that TRTA shall not be involved in or required to be involved in any activity relations to the Endorsed Products either through its endorsement or promotion which would require a license for TRTA to act as an insurer, third-party administrator, or insurance agent in this state, including, but not limited to, processing applications for insurance, providing proposals or quotations of rates, counter-signing or delivering policies, examining or evaluating risks, receiving, collecting or transmitting premiums, soliciting or advertising any Endorsed Product or accepting and resolving complaints relating to the Endorsed Products.





ARTICLE III
Obligations of TRTA

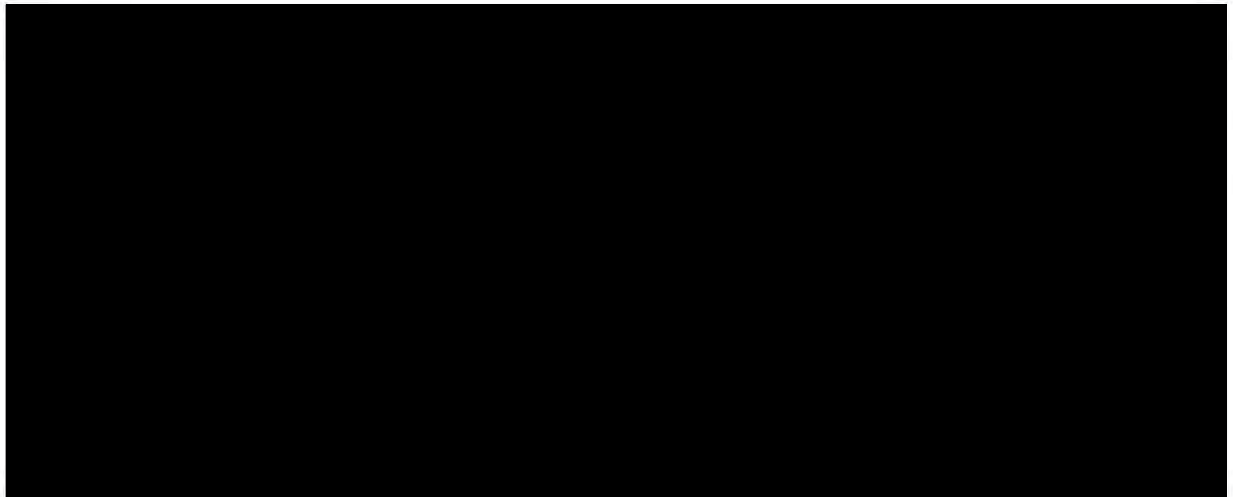


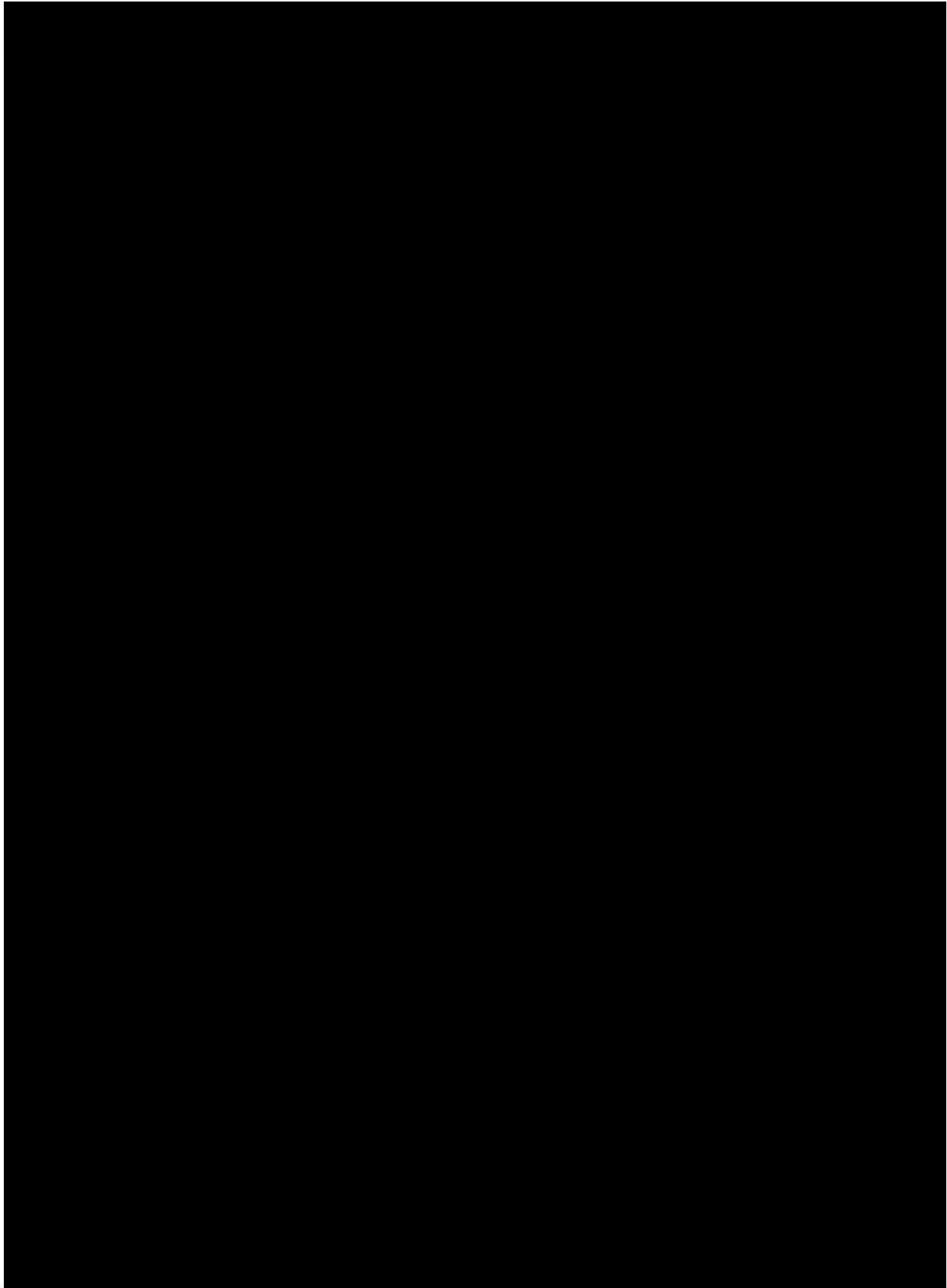


ARTICLE IV
Term and Termination

- A. Term of Agreement. This Agreement takes effect on July 1, 2011 (“Effective Date”) and shall remain in effect through June 30, 2021. It is understood that unless either party gives written notice of its intention not to extend this contract, at one-hundred and eighty (180) days prior to the expiration date, that the contract will automatically be extended for a like period.
- B. Agent of Record. It is understood and agreed that AMBA shall remain the agent of record for all policies or certificates of insurance issued to TRTA or its members. This provision shall survive the termination of this Agreement.
- C. Insolvency. This Agreement may be terminated immediately by either party by giving written notice of termination to the other party if the other party is adjudicated bankrupt or insolvent, becomes insolvent, has a receiver of its, his or her assets or property appointed, or makes a general assignment for the benefit of creditors, or institutes or causes to be instituted any insolvency or bankruptcy.

ARTICLE V
Miscellaneous







K. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes any prior written or oral understanding between the parties with respect to the subject matter hereof.

L. Confidentiality. TRTA and AMBA agree that the terms and conditions of this Agreement are confidential and shall be kept in the strictest confidence and shall not be disclosed or disseminated to any third parties, except as expressly authorized.

The parties acknowledge that they have entered into this Agreement on the 8th day of JULY, 2011.

**ASSOCIATION MEMBER BENEFITS
ADVISORS, LTD.**

By: [Signature]

Jenny Morgan
Printed Name

Title: PRESIDENT

**TEXAS RETIRED TEACHERS
ASSOCIATION**

By: [Signature]

Timothy R Lee
Printed Name

Title: Executive Director

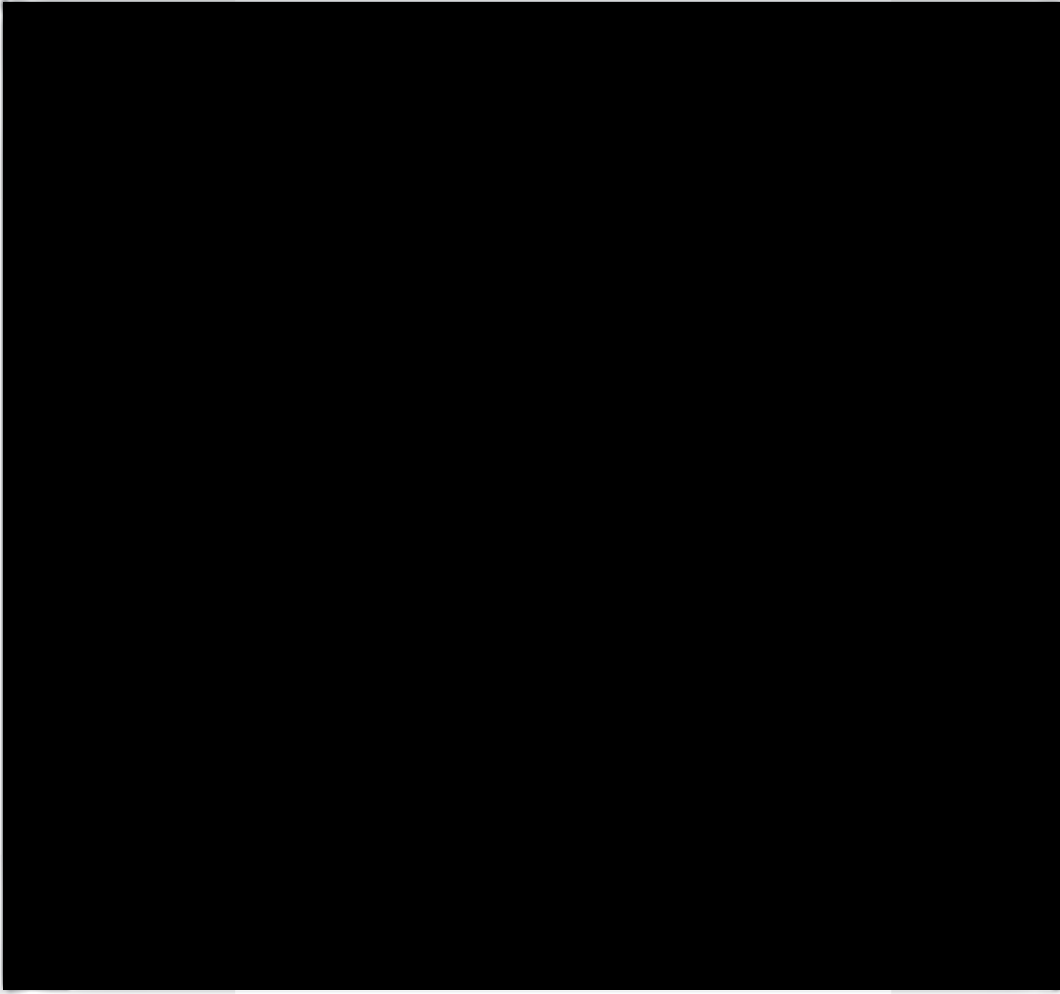


Exhibit A-2



Texas Retired Teachers Association

313 E. 12th Street, Suite 200 | Austin, TX 78701-1957
800.880.1650 | 512.476.1622 | fax 512.476.1003

The Voice For All Public Education Retirees

www.trta.org

October 28, 2020

Mr. Cardinal
President
Association Member Benefits Advisors
6034 W. Courtyard Drive, Suite 300
Austin, Texas 78730

Re: Agreement Between Association Member Benefits Advisors, Ltd. and Texas Retired Teachers Association

Dear Mr. Cardinal,

I write to inform you that pursuant to Article IV, Section A of the above-referenced agreement, Texas Retired Teachers Association (TRTA) hereby provides to Association Member Benefits Advisors, Ltd. (AMBA) timely notice that the agreement (contract) will not be automatically extended beyond June 30, 2021.

That said, TRTA invites AMBA to put forth a proposal for services beginning July 1, 2021. Finally, as you know, I have spoken with you, Billy Hill, and others at AMBA over the recent past about TRTA's concerns regarding short term care policies sold to TRTA members/putative members. This notice is not and should not be read or construed to resolve or allay any of those concerns. Those issues remain outstanding.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Lee".

Tim Lee
Executive Director
Texas Retired Teachers Association

Exhibit A-3

February 26, 2021

To: Texas Retired Teacher Association
Attention: Tim Lee, Executive Director
Regarding: AMBA and TRTA Relationship and new proposal

We are proud to present a formal term sheet to formalize a foundation for the future of the TRTA and AMBA relationship. Our goal with the proposal is designed to ensure the future success and growth of TRTA while addressing several points of discussion we have had over the past several months.

The goals with our proposal are threefold:

- Ensure continuity of the 40-year relationship
- Establish a new framework for how the organizations work together
- Guarantee success for TRTA through growth of membership
- Directly address programs to build on success

AMBA and TRTA have a 40-year long and storied relationship. We have created great synergies through our partnership to benefit the retired school employees in Texas. The agreement that governed the past 10 years generated significant growth of membership for TRTA, provided many members with valuable benefits, and helped ensure that TRTA remains relevant, even during these years where the annual convention was cancelled, local unit meetings migrated to virtual, and the walk on the capital could not take place. Over the past 10 years, alongside the growth of members, TRTA has benefited by a significant rise of revenues from the growth of membership dues, royalty payments, and services from AMBA. the Royalty Payments. Even given the success over the prior 10 years, we aim to improve the partnership by addressing key areas we have discussed over the past 18 months. We wish to address those in this proposal.

Goals

- Financial consideration
- Membership guarantee
- Access to services
- Defining new governance protocols

The core tenets of this amendment proposal include a continuation of some programs that were in the prior program, access to additional services from AMBA, additional governance and

partnership programs, and, for the first time, a guarantee from AMBA that TRTA will grow membership to record heights. Our goal is to accelerate the growth of membership at TRTA in order to continue the great work you do advocating for the retired school employees in Texas.

As we have discussed over the past several months, the storied relationship between TRTA and AMBA has endured over decades and has been a mutually beneficial relationship. The timing is right for us to rethink our relationship, embrace more aggressive goals, and align our teams in new and exciting ways in order to support TRTA and the retired school employees of Texas.

AMBA Today

AMBA has a 40-year history of working with Retired Teacher Associations (RTAs) and associations representing other retired public employees. Over the past few years, AMBA has evolved to support retired school employees and their partner associations in new ways. AMBA is the largest national membership and benefits partner for RTAs across the country. We provide benefits and discounts to retired school employees, and support our association partners through membership growth, recruiting new members, membership retention, technology and database modernization support, and are a premier support for many associations similar in mission (though not in size!) to TRTA.

From a national standpoint, we are proud of working with over 70 various associations and are the single largest recruiter of association members for retired school employees in the country. We are proud of the 180k+ members we have recruited for our partner associations since we started measuring membership referrals in 2003. AMBA is an integral part of the RTA groups as we support a national network of associations and host a highly popular RoundUp event every other year. We are one of the largest benefit providers to retired school employees in the country. In the past 3 years, our national membership recruits have doubled, and we are recruiting over 20k members annually for our associations. Our expertise in reaching out to non-members to tell the great story of retired teacher associations, including TRTA, is unrivaled.

TRTA and AMBA Relationship

As for TRTA, we are honored to have a relationship with TRTA that has lasted for almost 40 years. AMBA is excited to partner with TRTA because we both have a mission is to support retired teachers and school employees. TRTA is the largest such RTA in the country, and AMBA

is proud to be a direct contributor to that growth, having recruited over 60k members for TRTA since 2005.

The reason why AMBA has been so successful in recruiting members is because of the passion our associates take in telling the TRTA story. TRTA utilizes some advanced communication techniques compared to other RTAs with your online presence on Facebook and the Inside Line, print media with the VOICE, and face-to-face (absent COVID!) meetings at local units, annual convention, and the state capital meeting with senators.

To support the efforts, AMBA has unmatched techniques in reaching prospective members to tell the TRTA story. AMBA today uses our direct mail, digital outreach, and our field representatives who meet with prospective members via phone, zoom, and historically, by inviting members to local meetings. AMBA also employs a proud team in our call center that speak with 1000s of prospective members every year to tell the TRTA story and encourage them to join. For TRTA, AMBA has recruited an average of over 6600 members per year over the past 4 years. Across the country, AMBA has learned new methods to successfully reach prospective members across the country in new ways. These include new digital marketing techniques via online, web, and social media communications. These are programs that TRTA has not participated in yet but will be clearly made available in the new agreement.

On our membership recruitment in Texas, TRTA made a request a few years ago to help enroll some younger prospective members – such as school employees who recently retired to join TRTA. AMBA has been successful in supporting this goal as the age of AMBA newly recruited members skews about 10 years younger than the TRTA membership on average.

AMBA today has improved our capabilities to better serve TRTA and directly engage with more retired school employees that have not yet joined. This provides AMBA with a unique opportunity to support TRTA by dramatically increasing the awareness of TRTA to non-members. AMBA programs include a direct marketing team that has expanded from only direct mail outreach to communicating with prospective members over the phone. In other markets, AMBA has become the single largest online and eCommerce player in the RTA membership space. In addition, AMBA has a proprietary system called RAMP that has proven to be super effective for many RTAs across the country. Access to the RAMP system will be included in the new proposal. AMBA has helped many RTAs increase the retention of members through this proprietary program and is confident we can help TRTA increase retention of members as well.

In addition, AMBA has worked with a subsidiary, Vilocity, over the past several years to improve our capabilities in digital marketing, website design, website hosting, email communication, content management, and dues payment systems for dozens of RTAs across the country. These programs are available to support TRTA in the proposal.

The AMBA field team, led by Art Dunham and Zach Sanches, have done an amazing job partnering with local units to help build TRTA membership and encourage member engagement with their local units. They are a great resource that provide valuable benefits and have

actively recruited 1000s of members over the past few years. The field representatives have strong reach and are some of the greatest promoters of TRTA anywhere!

From a benefit standpoint, we are also proud of the participation in the benefit programs from the TRTA members. Over the years, a meaningful percentage of members of TRTA have participated in the benefit programs. The programs have a high acceptance rate, high retention rate, and minimal complaints. We are proud of AMBA's ability to connect members with these benefits as it is another way to create value for members to join TRTA. The benefits are designed to address gaps in the benefit programs available to retired school employees. Our research suggests that the 2nd most common reason someone joins associations is because of the benefits offering. We are capable of bringing any number of additional benefits to the TRTA members as TRTA desires.

The Proposal

We have developed an amendment proposal to the existing agreement that we believe will create greater synergies and value than any agreement of its kind. There are a few components that are built into the attached term sheet:

- Royalty Payment for Endorsed Products
- Membership Guarantee
- AMBA Services
- Terms and conditions additions/updates

For the financial component, the proposal is designed to increase the amount of financial consideration in the Royalty Payment for Endorsed Products. The current agreement contains a royalty payment that grows by 3% per year, which is offset by members recruited by AMBA that fit certain criteria. That recruitment provision in the current agreement specifically states there is not a guarantee of recruiting a certain number of members. Given the strength of our model, we are including guarantee to TRTA to increase membership.

The new proposal will contain a Royalty Payment for Endorsed products that increases annually but does not include the offset provision. Instead, the new proposal includes something new: A Membership Guarantee. AMBA will guarantee that TRTA will increase membership to 150,000 members over the 10-year period or will step in and provide a payment to TRTA to ensure that TRTA revenues increase by approximately the amount that membership dues would increase between the combination of the Royalty Payment and the Membership Guarantee Payment. The financial commitment from AMBA to TRTA through this program is a significant growth over any of our previous agreements.

The goal with this provision is to ensure alignment of the growth goals for TRTA, while pushing to accelerate the growth of membership for TRTA. While AMBA do not know for certain how to achieve these goals, we are confident that by aligning our resources, trying new programs, and making significant new outreach programs that AMBA can help accelerate the growth of TRTA membership. This program will ensure that TRTA has growing revenues, but, more importantly, will have a new level of support, services, and focus from AMBA to accelerate the growth to new levels.

Additional AMBA services available to TRTA are described in the proposal. For instance, this proposal will include services of the marketing arm of AMBA, Vilocity, as well as our proprietary billing system called RAMP.

Also, you will notice some terms and conditions changes. These changes include language to address some programs that we have discussed as well as define the terms of the agreement. We have included language to spell out that we will work together to build a data management system for have stronger membership activity reporting, a defined benefit approval process to define how new endorsed benefits can be approved and will spell out that we would expect that the AETNA HHC product would be approved to avoid any confusion as we move forward. There is some language about TRTA continuing to focus on growing membership in order to help achieve the lofty membership goals, and the use of RAMP (or some alternative recurring payment system) in order to help us help TRTA achieve 150,000 members.

As we discussed last week, we included a response timeframe to try to keep us all on track from a timing perspective. However, feel free to reach out if you want to discuss any component of the proposal. I look forward to the next steps.

Best,

A handwritten signature in cursive script that reads "Stephen Cardinal".

Steve Cardinal
CEO
Association Member Benefit Advisors

CONFIDENTIAL DRAFT
February 26, 2021

Association Member Benefits Advisors LLC
Texas Retired Teachers Association
TERM SHEET FOR AMENDMENT TO ORIGINAL AGREEMENT

- The Parties** Association Member Benefits Advisors LLC (“*AMBA*”) and Texas Retired Teachers Association (“*TRTA*”) to amend the existing agreement between the parties effective as of July 1, 2011 (the “*Original Agreement*”). *AMBA* and *TRTA* are referred to herein individually as a “*Party*” and collectively as the “*Parties*”. Unless otherwise specifically referenced in this term sheet as being modified, it is the intent of the Parties that the terms of the Original Agreement will continue in full force and effect.
- Term** Initial term to remain in effect through June 30, 2031 with automatic renewals for successive ten-year terms unless either party provides written notice of its intention not to renew within 180 days prior to the expiration date.
- TRTA Endorsement** *TRTA* to exclusively endorse *AMBA* as its benefits provider, including with respect to the products that have been endorsed historically and are listed in the definition of “Endorsed Products” in Article I of the Original Agreement. In addition to the products *TRTA* has endorsed historically, in order to avoid doubt, *TRTA* shall allow *AMBA* to offer the Aetna HHC product to members.
- A new subsection 4 will be added to Article II(B) of the Original Agreement to establish an approval process for launching new products and benefits to the members of *TRTA*. *AMBA* shall continue to hold a right of first refusal with respect to any other insurance or related products offered to *TRTA* members, consistent with the Original Agreement.
- Royalty Payment for Endorsed Products** Article II (C) of the Original Agreement will be amended to provide for an annual royalty payment of \$300,000, commencing July 1, 2021. The annual royalty payment will still increase by 3% each year beginning July 1, 2022 and payments will be due at the end of each quarter consistent with the Original Agreement. Similar to the Original Agreement, the payment will be allocated as follows:
1. For the Long-Term Care policy endorsement, *AMBA* will pay *TRTA* a royalty of \$1.00 per member per year based upon the 2020 membership of 95,000.
 2. The balance of the royalty payment will be for the additional

Endorsed Products.

Membership Growth Guarantee

Article II (D) of the Original Agreement will be amended to provide that AMBA will guarantee the following membership goals for TRTA by the dates indicated below provided that TRTA continues to provide its support as provided in sections entitled ‘TRTA Support’ and ‘Membership Payment’. Any shortfall will result in AMBA remitting \$35 per shortfall member to TRTA (“**Membership Growth Payment**” or “**MGP**”); though the following calculation: the MGP minus Royalty Payment made in such referenced year. Under this July 2021 – June 2031 agreement, presuming TRTA is at 95,000 members at YE 2020, the target membership levels for TRTA will be guaranteed as follows:

- June 30, 2022: 105,000 members
- June 30, 2023: 110,000 members
- June 30, 2024: 115,000 members
- June 30, 2025: 120,000 members
- June 30, 2026: 125,000 members
- June 30, 2027: 130,000 members
- June 30, 2028: 135,000 members
- June 30, 2029: 140,000 members
- June 30, 2030: 145,000 members
- June 30, 2031: 150,000 members

TRTA Support

Article III of the Original Agreement will be supplemented to provide that TRTA shall use its own commercially reasonable efforts to help achieve the membership goals and shall provide such reasonable assistance and support as needed for AMBA to perform its services, including promoting its partnership with AMBA in TRTA communications.

Data Management

A new Section G of Article II will be added to the Original Agreement to state that the Parties shall work together in good faith to implement a mutually beneficial and legally compliant reporting and data management paradigm with respect to benefits and membership activity reporting.

Marketing

A new Section H of Article II will be added to the Original Agreement to state that AMBA shall make the services of its wholly owned subsidiary and marketing arm, Vilocity Interactive Inc. (“**Vilocity**”), available to TRTA to, among other matters mutually agreed between the Parties, redesign the website and logo of TRTA and undertake digital and publicity initiatives. AMBA and Vilocity to also establish and execute on an overall marketing plan that includes field agents, call

centers and outreach.

- Membership Payment** Article III of the Original Agreement will be supplemented to state that TRTA will plan to utilize AMBA’s RAMP dues payment system (or upon mutual agreement of the Parties, an alternative credit card recurring payment option).
- Confidentiality** AMBA’s making of this term sheet and the terms of this term sheet are provided to TRTA on the condition that TRTA not disclose to any person the existence or terms of this term sheet or that AMBA has entered into discussions with TRTA regarding a possible extension of their relationship.
- Expenses** Each Party shall bear its own costs and expenses in connection with evaluating, negotiating and consummating the transactions contemplated hereby.
- Termination** This Term Sheet shall terminate on the earlier to occur of: (1) the date of the execution and delivery of the definitive amendment described herein; or (2) 5:00pm C.S.T., March 10th, 2021.
- Governing Law** This Term Sheet shall be governed by and construed in accordance with the internal laws of the State of Texas, without giving effect to conflicts of laws rules or principles that would require the application of the laws or rules of any other jurisdiction.

This Term Sheet is intended to establish a basis for the ultimate negotiation of the proposed amendment. This Term Sheet does not constitute any formal agreement of the Parties relative to the proposed amendment or otherwise. This Term Sheet should not be construed as a formal offer to enter into the proposed amendment or any other or similar transaction; it being the Parties’ intention that any such formal commitment does not and will not exist unless and until the definitive amendment has been negotiated, executed, and mutually delivered, the applicable approvals have been obtained, and any other contingencies or conditions have been fulfilled. In consideration of the time and expense devoted and to be devoted by the Parties with respect to the transactions contemplated hereby, the following provisions are fully binding on the Parties and shall survive a termination of this Term Sheet: “Confidentiality,” “Exclusivity,” “Expenses,” “Termination” and “Governing Law.” No other legally binding obligations will be created until a definitive amendment is executed and delivered by all parties.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Letter of Intent as of the date first above written.

Association Member Benefits Advisors, LLC

By: Stephen Cardinal

Name: Stephen Cardinal

Title: CEO

Date: 2.26.2021

Acknowledged, Accepted and Agreed:

Texas Retired Teachers Association

By: _____

Name:

Title:

Date:

Exhibit A-4

From: Billy Hill <billyhill@gmail.com>
Sent: Monday, April 26, 2021 11:38 AM
To: Tim Lee
Cc: Steve Cardinal; Andrew Weber

Tim, I am in receipt of your emails sent last week pertaining to the information regarding some of the benefit programs and requesting a meeting to go over some information. I am further aware that you contacted both Ameritas and VSP directly and were told by both that you should be working directly with AMBA.

Since AMBA is committed to extending our 40 years plus relationship with TRTA, I thought it essential to put some of this in perspective as someone who wants the best outcome for both TRTA and AMBA.

For many months, Steve Cardinal, AMBA CEO, has taken a lead role in achieving a win-win renewal of the AMBA/TRTA agreements. In February, AMBA offered TRTA a comprehensive renewal proposal that committed to increasing TRTA membership by over 50% during the term of our next renewal. This proposal contemplates significant investment by AMBA of money and resources in this effort and further provides substantial financial penalties to AMBA if membership goals are not met.

Although you told Steve and me that we would receive a response to this proposal by mid-April and although we had a positive meeting in March to discuss this, to date, we have received no formal response to our proposal. We are now about sixty days out from the end of our current relationship (based on your communication earlier that TRTA would not renew the current agreement).

On April 14th, we received a copy of an RFP that TRTA has sent to a number of parties seeking a proposal to replace AMBA with respect to many aspects of our relationship. We assume that this transmittal was, in fact, a response to our proposal that had long been on the table and that you have decided to move in a different direction.

Given the nature and tone of the RFP, including a prohibition of discussing the matter with TRTA Board members, and given the agreements already in place, we are still contemplating a response to your letter and the RFP process in general.

We remain willing to discuss your response to our February renewal proposal and a possible path forward to continue our long and mutually beneficial relationship. It would also be helpful to know whether or not the TRTA Board has received and reviewed our proposal.

As you know, I have been involved in these discussions really as a friend of both parties, and I remain hopeful that we can quickly come to a satisfactory agreement to renew our relationship. At this point, however, we must have input from you and the TRTA Board concerning our proposal for renewal before deeper discussions on different topics.

I apologize for the length of this email, but I wanted to address all pertinent facts and issues. Of course, both Steve Cardinal and I remain available to have a productive discussion about moving toward renewal.

Best to you as the legislative session heads towards its final month.

Billy

--

Billy Hill
4117 Canoas
Austin TX 78730
(512) 791-5792

Exhibit A-5



ANDREW WEBER
andrew.weber@kellyhart.com

TELEPHONE: (512) 495-6451
FAX: (512) 495-6401

June 18, 2021

VIA EMAIL AND CERTIFIED, RRR

Email: steve.cardinal@amba.info
Steve Cardinal
Chief Executive Officer
Association Member Benefits Advisors, LLC
6034 West Courtyard Drive, Suite 300
Austin, TX 78730

RE: Member data

Dear Mr. Cardinal:

I or my client (Texas Retired Teachers Association (TRTA)) have requested repeatedly, over a three-month period, certain data related to the dental and vision group policies that AMBA has marketed and sold to TRTA's members. AMBA has either not responded or has denied those requests.

The data includes all covered members on the TRTA sponsored Ameritas dental policy and the VSP vision policy. At a minimum this data file should include members' name, type of coverage, certificate number, address, DOB, social security number and issue date of coverage. All covered dependent information should also be included on this file.

Initially, you refused to provide data based on alleged HIPAA concerns. More recently, I informed you on April 22, 2021, that Ameritas, the dental policy carrier, had 1) refused to provide the data to TRTA directly, and 2) informed TRTA that Ameritas had provided the data to you. I also requested that data from you. Importantly, Ameritas informed TRTA that it was unable to provide the requested data to TRTA because a contract with AMBA prevented that transmission.

You have not responded to that data request--despite repeated requests from TRTA that you provide the data or release Ameritas from that preclusion (which is arguably voidable as unconscionable or against public policy).

Steve Cardinal
June 18, 2021
Page 2

I now demand you provide this data to me on or before 5 p.m. central time, Tuesday, June 22, 2021. I also demand that you provide any contact between AMBA (or any AMBA predecessor) and Ameritas by that same deadline.

AMBA's delay in providing the data to date, and its contact with TRTA's insurance carrier precluding the carrier from providing that data, has already caused tangible and intangible harm to TRTA's members. Every day TRTA is denied the information, the harm, and risk to TRTA's members escalates. Particularly, it is critically important that the transition from AMBA to TRTA's new agent of record and benefits administrator be as seamless as possible, especially avoiding all risk of a group policy lapsing. The data we have been seeking is essential in that effort. Your ongoing refusal to provide the data is increasingly harmful to TRTA and its members.

If we do not receive the information as and when requested, we will seek all due regulatory and judicial recourse.

Sincerely,

Andrew Weber, Partner

Exhibit A-6

the Association Dental Insurance Marketing and Administration Agreement (amended to include Vision benefits) dated May 14, 2004, the “Agreement,” between AMBA and TRTA, which continues in force. **Exhibit 1**. The Agreement designates AMBA as the exclusive agent of record and third party administrator for the dental and vision plan products AMBA developed for TRTA. By the terms of the Agreement, this designation continues for as long as the TRTA dental and vision plans are in existence. AMBA has reason to believe that Defendants have been, and are currently, working in concert to breach AMBA’s exclusive agent of record and third party administrator status for the dental and vision plan products that AMBA has developed for TRTA, which are insured by Ameritas and VSP Vision Care, respectively, in direct violation of the Agreement. Defendants’ conduct also constitutes a serious and material interference with AMBA’s business relationships, including contracts entirely unrelated to this matter. For the foregoing reasons, AMBA seeks a temporary restraining order and temporary injunctive relief from this Court in accordance with the Agreement between AMBA and TRTA and Tex. Civ. Prac. & Rem. Code § 65.011.

II. DISCOVERY CONTROL PLAN

1. Plaintiff intends discovery to be conducted under Level 3 of the Texas Rules of Civil Procedure. Tex. R. Civ. P. 190.4.

III. PARTIES AND PROCESS OF SERVICE

2. Plaintiff Association Member Benefits Advisors, Ltd. is a Texas limited liability company with its principal place of business in Travis County, Texas.

3. Defendant Texas Retired Teachers Association is a Texas nonprofit corporation with its principal place of business in Travis County, Texas. It can be served by serving its registered agent, Timothy R. Lee, at 313 East 12th Street, Suite #200, Austin, Texas 78701.

4. Defendant Trident Benefits and Consulting, LLC is a Texas limited liability company with its principal place of business in Harris County, Texas. It is located at 17000 Katy Frwy; Suite 200, Houston, TX 77094, and can be served by serving its registered agent, Marcos Vela, at 11102 Savannah Woods Lane, Houston, Texas 77043-1000.

5. Defendant Marcos Jose Vela is an individual who may be served at his residence, 11102 Savannah Woods Lane, Houston, Texas 77043-1000.

6. Defendant Cas M. Sharp is an individual who may be served at his residence, 28510 Wild Mustang Lane, Fulshear, Texas 77441.

7. Defendant Entrust, LLC d/b/a 90 Degree Benefits is a Texas limited liability company with its principal place of business in Katy, Fort Bend County, Texas. It can be served by serving its registered agent, C T Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas 75201.

IV. JURISDICTION AND VENUE

8. This suit arises out of Defendant TRTA's breach of its contractual obligations under its Agreement with Plaintiff, and Defendants Trident Benefits Consulting, LLC, Marcus Jose Villa and Cas M. Sharp, and Entrust, LLC's tortious interference with a contractual relationship and material interference with AMBA's business relationships. This Court has subject matter jurisdiction over this controversy because Plaintiff seeks injunctive relief and because the damages sought are within the jurisdictional limits of this Court.

9. This Court is the proper venue pursuant to Texas Civil Practices & Remedies Code § 15.002(a)(1). Travis County is the county in which all or a substantial part of the events or omissions giving rise to the claims occurred, and venue is proper here.

10. Plaintiff seeks injunctive relief and monetary relief over \$1,000,000.00. Tex. R.

Civ. P. 47(c)(4).

V. FACTS

11. Plaintiff AMBA and Defendant TRTA entered into a binding contract on May 14, 2004, being the Association Dental Insurance Marketing and Administration Agreement (amended to include Vision benefits), the “Agreement,” which continues in force to the present day.

12. The Agreement designates AMBA as the exclusive agent of record and third party administrator for the dental and vision plan products AMBA developed for TRTA. By the terms of the Agreement, this designation continues for as long as the plans are in existence.

13. Exhibit B of the Agreement contains a clause dictating the duration of the Contract:

5. Designate AMBA as the exclusive agent of record and third party administrator for any and all dental insurance programs developed for TRTA by AMBA. In the absence of a material breach of fiduciary duty or failure to adhere to the principals of the Insurance Marketplace Standards Association, AMBA shall remain the agent of record and third party administrator for the TRTA dental insurance plan, developed by AMBA, for the duration of its existence.

*See **Exhibit 1*** (Agreement) at Exhibit B, Paragraph 5.

14. In executing and performing its duties under the Agreement, AMBA has not committed any material breaches of fiduciary duty or failed to adhere to the principles of the Insurance Marketplace Standards Association.

15. Defendant TRTA has not notified AMBA or otherwise asserted that Plaintiff has committed a material breach of fiduciary duty or failed to adhere to the aforementioned principles while administering the contract.

16. Despite the clear language of Paragraph 5 of the Agreement, TRTA has unilaterally decided to terminate its longstanding, contractual relationship with AMBA and replace Plaintiff with a different agent and third party administrator.

17. In addition, TRTA has demanded that AMBA immediately provide its proprietary

and confidential information comprised of its business information and the individual insureds for which AMBA acts as agent, the disclosure of which would also potentially violate HIPAA and render AMBA potentially liable for the release of its insureds' private insurance information.

18. Contrary to TRTA's demands, AMBA has no contractual or other obligation to provide any data related to the dental and vision group policies that AMBA has marketed and sold to TRTA's members.

19. TRTA's attempt at a one-sided termination of the Agreement and to confiscate this block of insurance business constitutes a clear breach of its Agreement with AMBA and a violation of AMBA's contractual rights despite its earlier written admission that it was bound by the Agreement.

20. Furthermore, Defendants Trident, Vela, Sharp and Entrust are knowingly assisting TRTA in this breach and they have tortiously interfered with the Agreement by conducting negotiations with TRTA and participating in concrete steps to replace AMBA as the exclusive agent of record and third party administrator for TRTA's members, disregarding the terms of the Agreement that require AMBA to remain in that role for the dental and vision products AMBA designed to be available to TRTA members.

21. In addition, Defendants have tortiously interfered with Plaintiff's prospective business relationships. If Defendants successfully execute their plan to interfere with AMBA's contractual rights and "book of business" in the instant case, this action will also negatively impact AMBA's ability to offer competitive insurance rates to its other associations and/or members and irreparably damage AMBA's reputation. In fact, Trident is already advertising for new agents to raid this block of AMBA's business (its "already established client base") and "roll over" the AMBA clients to a new company or plan. See **Exhibit 4**.

22. AMBA has administered dental, vision and other insurance products offered to TRTA members for the past 14 years. During that time, AMBA has expended significant resources in the design, development, and marketing of these insurance products to TRTA members. There are thousands of TRTA members currently insured under these plans. Allowing TRTA and the other Defendants to disrupt this arrangement would be a huge change of the status quo and cause irreparable injury to AMBA. It is likely to have the effect of destabilizing a very stable block of business that has been managed by AMBA with a very high degree of insured satisfaction. Few if any complaints have been received by AMBA regarding this block of business from TRTA member insureds. TRTA and Defendant Trident clearly intend to confiscate the block of insured and change the insureds to another company or plan. *See* **Exhibit 2** (the “rolling of business” notice received from counsel for TRTA); **Exhibit 3** (June 15, 2021 TRTA letter to Ameritas).

23. If TRTA is allowed to proceed it will have a devastating impact on AMBA’s relationship to these insureds that cannot be measured in dollars. However, if TRTA is denied the right to change the agent of record and third party administrator with regard to the books of business that are the subject of the Agreement, there is no harm to TRTA. Moreover, TRTA is a non-profit association and likely could not pay a significant award of damages.

24. Thus in weighing the relative harm between AMBA and TRTA, AMBA would suffer a massive loss of goodwill as well as commissions, and the insureds’ disruption caused by this change. AMBA’s irreparable harm vastly exceeds that complete lack of damage to TRTA or any other Defendant. TRTA and the other Defendants can fully afford to wait for a trial on the merits, without damage.

VI. PRECEDENT

25. All conditions precedent have been performed or have occurred, entitling AMBA

to the relief requested herein.

VII. CAUSES OF ACTION

26. The preceding paragraphs are hereby incorporated by reference into each Count below.

COUNT 1 — Breach of Contract

27. Plaintiff AMBA and Defendant TRTA have a valid and enforceable contract that designates AMBA as the exclusive agent of record and third party administrator for any and all dental (and vision, as amended) insurance programs developed for TRTA by AMBA. The Agreement is binding on the parties, still in effect and cannot be unilaterally terminated without cause, as delineated in Exhibit B, Paragraph 5 of the Agreement, where the limited scope of termination for cause is also delineated. See Exhibit 1 (the Agreement).

28. Plaintiff AMBA is a proper party to sue for breach of contract, as AMBA is a party to the Agreement underlying this suit.

29. Plaintiff has performed, and continues to perform, all of its obligations under the Agreement.

30. Defendant TRTA has breached the Agreement by its blatant solicitation of other Defendants to “take over” AMBA’s position under the Agreement. TRTA has not hidden its motives or plans and has verbally and in writing expressed its intention to immediately repudiate the Agreement with AMBA.

31. TRTA’s breach of the Agreement has caused, and will continue to cause, AMBA great injury. AMBA stands to lose tens of thousands of insurance subscribers and an incalculable amount of profits. AMBA’s long-term relationships with its insurance providers (Ameritas and VSP Vision Care “VSP”) are in jeopardy as well. In addition, favorable rates that AMBA has

negotiated with its insurance providers stand to be lost, which will foreclose possibilities of AMBA obtaining replacement associations or memberships as insurance clients. The potential damage to AMBA's reputation and coffers if TRTA repudiates the Agreement is massive.

32. AMBA is likely to succeed on the merits of its claims. As a result of Defendant TRTA's actions, Plaintiff has suffered and continues to suffer irreparable harm for which there is no adequate remedy at law. The value of Plaintiff's TRTA members' business subject to the Agreement and lost to AMBA, the value of AMBA's reputation and AMBA's lost future business opportunities harmed by Defendant's actions cannot be restored by money damages. Unless Defendant TRTA is restrained from breaching the Agreement, Plaintiff will suffer irreparable harm in the loss of customers and revenue for which it cannot be adequately compensated in damages.

COUNT 2 — Tortious Interference with Existing Contract

33. Plaintiff AMBA has a valid contract with Defendant TRTA that has been in effect since 2004. *See* **Exhibit 1** (the Agreement).

34. Defendants Trident, Vela, Sharp and Entrust have willfully and intentionally interfered with the Agreement by engaging in discussions and negotiations with TRTA in order to replace AMBA as the exclusive agent of record and third party administrator for the vision and dental plans offered to TRTA's members. Furthermore, these Defendants have sought out confidential and proprietary information on Plaintiffs' products, accounts and insureds, information to which Defendants are not entitled.

35. The interference by Defendants directed toward the Agreement between AMBA and TRTA has proximately caused the Plaintiff's injury, as Plaintiff stands to lose all of TRTA's members' business, as well as future business based on the inevitable damage AMBA will suffer to its reputation and its ability to continue to offer competitive insurance rates. In addition, TRTA

and Trident have tortiously interfered with Plaintiff's contracts with the dental and vision insurers that underwrite the subject business.

36. AMBA has incurred actual damage or loss, as TRTA has made clear that it is repudiating the Agreement and taking a huge portion of AMBA's business to reassign to the other Defendants. AMBA will sustain massive economic loss, loss of reputation and loss of future business opportunities as a result of Defendants' interference with the Agreement.

37. As a result of Defendants' actions, Plaintiff has suffered and continues to suffer irreparable harm for which there is no adequate remedy at law. The value of Plaintiff's TRTA members' business, reputation and lost future business opportunities harmed by Defendants' actions cannot be restored by monetary damages. Unless Defendants are restrained from tortiously interfering with the Agreement, Plaintiff will suffer irreparable harm in the loss of present and future customers and revenue for which it cannot be adequately compensated in damages.

COUNT 3 — Tortious Interference with Prospective Relations

38. Defendants are also liable for tortiously interfering with future and prospective relationships with AMBA's insurers and insureds.

39. Based on AMBA's history and reputation, there was a reasonable probability before the tortious interference that Plaintiff would have entered into business relationships with additional associations, insureds and/or insurance companies.

40. Defendants have intentionally interfered with AMBA's ability to develop new business, maintain competitive insurance rates and its stellar reputation.

41. Defendants' conduct was independently tortious, and there has been no improper or illegal conduct on the part of AMBA in executing its duties under the Agreement.

42. The interference by Defendants with AMBA's business and insured relationships

and Agreement have proximately caused the Plaintiff injury.

43. AMBA has sustained actual damage or loss, as they are on the cusp of losing an entire group of insureds, as well as future business opportunities, unless Defendants are enjoined as requested below.

VIII. DAMAGES

44. As a direct and proximate result of Defendant TRTA's breach of contract and all Defendants' tortious interference as set forth above, AMBA has suffered actual damages which are difficult, if not impossible, to determine. AMBA seeks recovery of all actual damages suffered as a result of Defendants' breaches and/or tortious conduct.

45. Because Defendants' tortious interference has been willful and malicious, AMBA is entitled to recover exemplary damages.

IX. ATTORNEYS' FEES

46. AMBA seeks recovery of its attorneys' fees from Defendant TRTA for breach of contract, as provided by Chapter 38 of the Texas Civil Practice and Remedies Code.

X. APPLICATION FOR TEMPORARY RESTRAINING ORDER AND INJUNCTIVE RELIEF

47. Plaintiff has no adequate remedy at law or otherwise for the harm or damage it will incur as a result of Defendants' breach of the Agreement, and this activity, along with Defendants' tortious interference with the Agreement and other prospective relationships, cannot later be retracted, and the resulting pecuniary damage cannot be quantified. Accordingly, Plaintiff is entitled to injunctive relief under Tex. Civ. Prac. & Rem. Code § 65.011(1), (2), (3) and (5). To warrant injunctive relief, the applicant need only show a probable right to permanent relief and a probable injury while the action is pending unless the injunction is issued. *See Rugen v. Interactive Business Systems*, 864 S.W. 2d 548, 551 (Tex. App.-Dallas 1993, no writ) (*citing Sun Oil Co. v.*

Whitaker, 424 S.W. 2d 216, 218 (Tex. 1968)).

48. Irreparable injury is an injury that cannot be compensated in damages or an injury that results in damages that cannot be measured by any pecuniary standard. *See Assoc. Gen. Contract v. City of El Paso*, 932 S.W. 2d 124, 126 (Tex. App.-El Paso 1996, no writ); *Canteen Corp. v. Republic of Texas Properties, Inc.*, 113 S.W. 2d 398, 401 (Tex. App.-Dallas 1989, no writ); *Liberty Mutual Tractor & Equip. Co.*, 812 S.W. 2d 663, 666 (Tex. App.-Houston [14th Dist.] 1991, no writ) (disruption of business can be irreparable harm); *Cho v. Itco, Inc.*, 782 F. Supp. 1183, 1185 (E.D. Tex. 1991) (finding threat of losing customer goodwill may constitute irreparable harm); A remedy at law is not adequate unless it gives the injured party complete, final, and equal relief. *See Henderson v. KRTS, Inc.*, 822 S.W. 2d 769, 772 (Tex. App.-Houston [1st Dist.] 1992, no writ). If damages cannot be calculated for the harm complained of, or if the defendant will be unable to pay damages, there is no adequate remedy at law. *See Texas Indus. Gas v. Phoenix Metallurgical Corp.*, 828 S.W. 2d 529, 533 (Tex. App.-Houston [1st Dist.] 1992, no writ).

49. Plaintiff will suffer irreparable harm, damage, and injury unless the acts and conduct of Defendants complained of above are enjoined because the ongoing activities of Defendant TRTA in violation of its contractual obligations, along with TRTA's and the other Defendants' potential interference with AMBA's prospective business relationships, will lead to the immediate loss of massive revenue, a staggering loss of AMBA's current and future customer base, and immeasurable damage to AMBA's stellar business reputation. If not enjoined, the dollar value impact defendants' misconduct will have on AMBA and its business operations is difficult, if not impossible, to ascertain. AMBA has suffered and will continue to suffer injuries to its operations and goodwill that cannot be calculated in monetary damages or measured by pecuniary

standards. AMBA has no adequate remedy at law for the damage already caused, and threatened to be caused, by Defendants' unlawful conduct. There is no remedy at law that would give AMBA complete relief from Defendants' past actions and threatened future action. The damages Defendants have caused and threatened to cause to AMBA's business base, reputation and client and insurer relations is extremely difficult to calculate, making damages as a sole remedy inadequate. Furthermore, the losses are also likely to exceed Defendants' net worth so as to prevent any adequate compensation to AMBA, even if money damages were a sufficient remedy.

50. It is essential that Defendants be restrained from doing and performing the acts described above, immediately and without notice hereof and hearing, because Defendants are actively taking steps to gravely jeopardize AMBA's contractual rights by replacing AMBA with different agents and a different third party administrator in clear violation of the Agreement's termination provision. Issuing a Temporary Restraining Order and Temporary Injunction is the only way to maintain the status quo between the parties and the thousands of insureds that depend on this insurance coverage.

XI. NOTICE

51. Pursuant to Texas Rule of Civil Procedure 193.7, Plaintiff hereby gives notice to Defendants that any and all documents produced may be used against the Defendants producing the documents at any pre-trial proceeding and/or trial of this matter without the necessity of authenticating the documents.

XII. PRAYER

Pursuant to Tex. Civ. Prac. & Rem. Code § 65.001 and general principles of equity, AMBA requests a temporary restraining order, and temporary and permanent injunctive relief to restrain acts prejudicial to AMBA, irrespective of any remedy at law. WHEREFORE, PREMISES

CONSIDERED, AMBA respectfully prays that:

- a. a temporary restraining order be issued, to continue in force until a day is set for hearing on application for temporary injunction, or until further order of this Court, restraining Defendant TRTA from terminating its Agreement with AMBA;
- b. Defendant TRTA be ordered to cease all efforts to replace AMBA as the exclusive agent of record and third party administrator for the AMBA-developed dental and vision plan products for the benefit and use of TRTA;
- c. Defendants Trident, Vela, Sharp and Entrust be ordered to cease all communications with TRTA and efforts with regard to replacing AMBA as the exclusive agent of record and third party administrator for the dental and vision plan products;
- d. Defendants be ordered to cease any and all interference with the Agreement and other business relationships of AMBA;
- e. on this hearing, a temporary injunction be granted and a writ of injunction issued commanding Defendants to cease and desist and refrain from breaching or facilitating the breach of the agreement between AMBA and TRTA and upon trial, that a permanent injunction be granted in those particulars;
- f. for specific performance of the Agreement;
- g. for actual damages;
- h. for exemplary and punitive damages;
- i. attorneys' fees and costs of suit; and
- j. all such other and further relief, whether at law or in equity, to which Plaintiff may show itself justly entitled.

Respectfully submitted,

TAYLOR THUSS PLLC
603 West 9th Street
Austin, Texas 78701
512.368.9186 (Telephone)
512.368.9014 (Fax)

By: /s/ Donald R. Taylor
Donald R. Taylor
State Bar No. 19688800

don@taylorthuss.com

Natalie Taylor

State Bar No. 24056412

natalie@taylorthuss.com

ATTORNEYS FOR PLAINTIFF

Exhibit A-7

**ASSOCIATION DENTAL INSURANCE MARKETING AND
ADMINISTRATION AGREEMENT**

THIS AGREEMENT made and entered into this 14th day of May, 2004, by and between the Texas Retired Teachers Association, hereinafter referred to as the “**TRTA**”, acting for the benefit of its membership, and **Association Member Benefits Advisors, LTD.** hereinafter referred to as “**AMBA.**”

WITNESSETH:

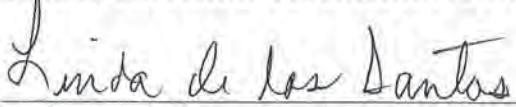
IN CONSIDERATION OF the appointment of **AMBA** by **TRTA** as its agent of record and third party administrator for dental insurance programs, developed by **AMBA**, to be offered to members of **TRTA**, **AMBA** hereby agrees to furnish individual members of **TRTA** the items and/or services listed in Exhibit A attached hereto and made a part hereof and on the terms and conditions included therein. **TRTA** agrees to the provisions therein and both parties agree to the terms included in Exhibit B attached hereto and made a part hereof.

It is expressly understood by both parties hereto that the terms of this Agreement shall be on an exclusive basis.

1. **AMBA** acknowledges that **TRTA** is not licensed as, and therefore cannot act as, an insurance agent or third party administrator in the state of Texas. Consequently, **AMBA** acknowledges that **TRTA** shall not be involved in any insurance agent-type activity including, but not limited to, the following: processing of applications; providing proposals or quotations of rates; countersigning or delivering policies; examining or inspecting risks; receiving, collecting or transmitting premiums; or soliciting insurance. **AMBA** agrees to indemnify and hold harmless all **TRTA** officers and staff for any of its actions under this Agreement, including but not limited to ALL lawsuits under state or federal laws or arbitrations regarding its omissions, negligence, failure to act in good faith and fair dealing. Should a lawsuit be filed against **TRTA** as a result of this agreement, **AMBA** shall be responsible for any and all attorney fees and any/all other costs associated with said action.

Acknowledged and agreed to this 14th day of May, 2004.

TEXAS RETIRED TEACHERS ASSOCIATION


Linda de los Santos, Interim Executive Director

ASSOCIATION MEMBER BENEFITS ADVISORS, Ltd.

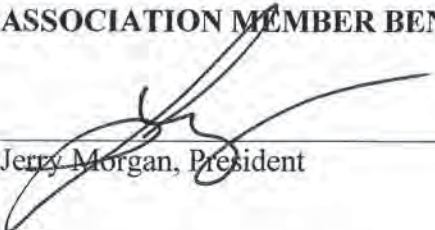

Jerry Morgan, President

EXHIBIT A

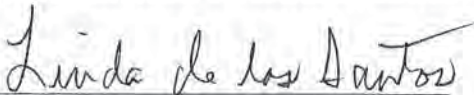
AMBA AGREES TO:

1. Market and administer a TRTA "Members Only" Dental insurance policy to TRTA members and potential members.
2. Conduct an initial open enrollment for all TRTA members. Also, AMBA will conduct subsequent annual open enrollments for TRTA members who are not participating in the dental insurance program.
3. Provide individual dental insurance to all TRTA employees at an annual cost of \$5.00 per TRTA employee.
4. Periodically, and not less often than every 36 months, AMBA will request proposals from other dental insurance carriers to insure that TRTA members are receiving the most benefit rich plans available.
5. Create custom materials and distribute to all school business officials state-wide in an effort to brand TRTA with the benefits staff at Texas school districts.
6. AMBA shall not mail any materials/communications associated with this plan/program without first receiving written approval from TRTA and will coordinate its enrollment activities with TRTA.
7. Promote TRTA memberships by marketing the "Members Only" dental plan. Memberships will be forwarded to TRTA within 10 days of receipt.
8. Resolve any member complaints within 72 hours and provide a written response to TRTA. Establish an arbitration committee to handle any non-resolved complaints.

Acknowledged and agreed to this 14th day of May, 2004.

TEXAS RETIRED TEACHERS ASSOC.

ASSOC. MEMBER BENEFITS ADVISORS, Ltd


Linda de los Santos, Interim Exec. Director

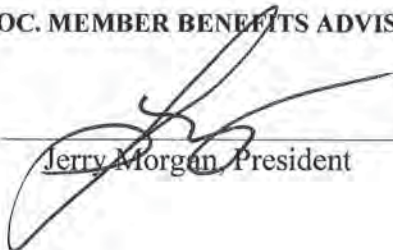

Jerry Morgan, President

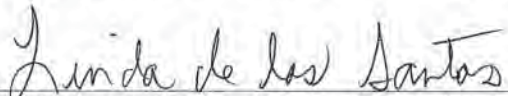
EXHIBIT B

TRTA AGREES TO:

1. Provide AMBA with annual endorsement letters signed by the President and/or Executive Director.
2. Provide AMBA with a double exhibit booth space at the TRTA Annual Convention at no charge.
3. Provide AMBA with the TRTA membership list and any potential member list for the mailings of announcements and promotion of the endorsed policies allowing TRTA reasonable time to prepare such list(s).
4. Include information regarding the endorsement in each TRTA Newsletter.
5. Designate AMBA as the exclusive agent of record and third party administrator for any and all dental insurance programs developed for TRTA by AMBA. In the absence of a material breach of fiduciary duty or failure to adhere to the principals of the Insurance Marketplace Standards Association, AMBA shall remain the agent of record and third party administrator for the TRTA dental insurance plan, developed by AMBA, for the duration of its existence.
6. Upon AMBA's request, furnish notifications to carriers of AMBA's designation as TRTA's permanent agent of record and/or third party administrator for dental insurance programs developed by AMBA for members of TRTA.

Acknowledged and agreed to this 14th day of May, 2004.

TEXAS RETIRED TEACHERS ASSOCIATION



Linda de los Santos, Interim Executive Director

ASSOCIATION MEMBER BENEFITS ADVISORS, Ltd.



Jerry Morgan, President

AMENDMENT NUMBER 1 to the Association Dental Insurance Marketing and Administration Agreement dated May 14th, 2004, by and between the Texas Retired Teachers Association and Association Member Benefits Advisors, Ltd

This Amendment Number 1 to the Agreement dated May 14th, 2004, by and between the Texas Retired Teachers Association (TRTA) and Association Member Benefits Advisors, Ltd (AMBA) is to be effective 19 of April 2005.

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, and with the intent to be legally bound hereby, the parties agree as follows:

This agreement is amended to read as follows:

- A. TRTA agrees to appoint AMBA as the third party administrator and agent of record for the TRTA Group Vision Plan.

Except as modified by this Amendment Number 1, the Agreement dated May 14th, 2004 shall continue in full force and effect according to its terms and conditions.

This Amendment Number 1 may be executed in multiple counterparts, each of which shall constitute the original. Executed on the 19 day of April 2005, to be effective on 4-1 2005.

Texas Retired Teachers Association

Association Member Benefits Advisors



Timothy Lee, Executive Director



Jerry Morgan, President

Exhibit A-8



June 21, 2021

Andrew Weber
Kelly, Hart & Hallman
303 COLORADO STREET, SUITE 2000
AUSTIN, TEXAS 78701
TELEPHONE (512) 495-6411
FAX (512) 495-6401
andrew.weber@kellyhart.com

Dear Mr. Weber,

This letter is in response to your request for information from Vision Service Plan ("VSP") regarding the Associated Member Benefits Association ("AMBA") Plan, specifically the data regarding members of the Texas Retired Teachers Association ("TRTA").

I regret to inform you that VSP cannot provide the information that has been requested. While TRTA members do receive VSP benefits, AMBA has entered into contract with VSP for the provision of these benefits. As part of its contractual obligations, VSP has agreed to keep confidential all information concerning the medical, personal, financial or business affairs of Covered Persons acquired by VSP in the course of providing Plan Benefits. The request in your letter of June 18 for data regarding members coverage, social security numbers, dependent information, etc., clearly falls under this category of protected information. Disclosure of this information is expressly prohibited under our agreement with AMBA.

Furthermore, the data requested in your letter is information that relates to the provision of healthcare and the payment for that healthcare and is considered Protected Health Information ("PHI") under HIPAA. As a Covered Entity under HIPAA, VSP bears the responsibility and liability for protection of the PHI that it receives from its clients. Disclosing the PHI transmitted to VSP by AMBA to a third party would not be permissible under the HIPAA privacy rule..

For the reasons herein, VSP declines to provide the data requested in your letter of June 18.

Thank you,
Jennie Johnson
Corporate Counsel
Vision Service Plan
3333 Quality Drive
Rancho Cordova, CA 95670
jennjo@vsp.com

Exhibit A-9



800-487-5553
ameritas.com

GROUP DENTAL INSURANCE POLICY

The Policyholder	TEXAS RETIRED TEACHERS ASSOCIATION		
		Policy Number	10-350489
State of Delivery	Texas	Plan Effective Date	August 1, 2006
		Plan Change Effective Date	October 1, 2018
Premium Due Date 1st of each month.		Renewal Date	August 1

Ameritas Life Insurance Corp. agrees to pay, with respect to each Insured Person, the group insurance benefits provided in this policy.

This policy is issued to the Policyholder in consideration of the Policyholder's application and the payment of premiums, as provided herein.

This policy is delivered in and governed by the laws of the state of delivery.

This is not a policy of workers' compensation insurance. The employer does not become a subscriber to the workers' compensation system by purchasing this policy, and if the employer is a non-subscriber, the employer loses those benefits, which would otherwise accrue under the workers' compensation laws. The employer must comply with the workers' compensation law as it pertains to non-subscribers and the required notification that must be filed and posted.

AMERITAS LIFE INSURANCE CORP.

Corporate Secretary

President

GENERAL PROVISIONS

NOTICE OF CLAIM. Written notice of a claim must be given to us within 90 days after the incurred date of the services provided for which benefits are payable.

Notice must be given to us at our Home Office, or to one of our agents. Notice should include the Policyholder's name, Insured's name, and policy number. If it was not reasonably possible to give written notice within the 90 day period stated above, we will not reduce or deny a claim for this reason if notice is filed as soon as is reasonably possible.

CLAIM FORMS. When we receive the notice of a claim, we will send the claimant forms for filing proof of loss. If these forms are not furnished within 15 days after the giving of such notice, the claimant will meet our proof of loss requirements by giving us a written statement of the nature and extent of loss within the time limit for filing proofs of loss.

PROOF OF LOSS. Written proof of loss must be given to us within 90 days after the incurred date of the services provided for which benefits are payable. If it is impossible to give written proof within the 90 day period, we will not reduce or deny a claim for this reason if the proof is filed as soon as is reasonably possible, and unless the claimant does not have the legal capacity to provide proof of loss, proof of loss is provided not later than the first anniversary of the date proof of loss is otherwise required.

TIME OF PAYMENT. We will pay all benefits no later than the 60th day after the date the Proof of Loss is received. Any balance remaining unpaid at the end of any period for which we are liable will be paid at that time.

PAYMENT OF BENEFITS. Contracting Providers have agreed to accept assignment of benefits for services and supplies performed or furnished by them. When a Non-Contracting Provider performs services, all benefits will be paid to the Insured unless otherwise indicated by the Insured's authorization to pay the Non-Contracting Provider directly.

Direct Payment of the Texas Department of Human Services

Other provisions of the policy notwithstanding, whenever we are notified that the Texas Department of Human Services has incurred expenses in connection with dental treatment for a person who is insured under this policy, benefits which would otherwise be payable to the Insured, if any, will be paid to the Texas Department of Human Services, but only to the extent of the actual costs incurred by such Department.

Benefit Payment to Parent of a Dependent Child

Regardless of any policy provision to the contrary, if:

1. a minor child is a dependent under this policy; and
2. such dependent child incurs expenses;

we will pay benefits to the parent of the dependent child who is not a Member of the group. Such parent must be legally designated the managing conservator of the child. We must receive evidence of this before we will pay benefits.

We will not pay benefits to the managing conservator in the following situations:

1. If the parent who is a Member of the group has legally assigned benefits to a provider, we will pay benefits to the provider.

2. If the parent who is a Member of the group has paid any portion of the expenses and those expenses are covered under the terms of the policy, we will pay benefits to the Member.

FACILITY OF PAYMENT. If an Insured or beneficiary is not capable of giving us a valid receipt for any payment or if benefits are payable to the estate of the Insured, then we may pay the benefit in an amount not to exceed \$5,000 to the insured or the insured's assignee.

Any equitable payment made in good faith will release us from liability to the extent of payment.

PROVIDER-PATIENT RELATIONSHIP. The Insured may choose any Provider who is licensed by the law of the state in which treatment is provided within the scope of their license. We will in no way disturb the provider-patient relationship.

LEGAL PROCEEDINGS. No legal action can be brought against us until 60 days after the Insured sends us the required proof of loss. No legal action against us can start more than three years after proof of loss is required.

INCONTESTABILITY. Any statement made by the Policyholder to obtain the Policy is a representation and not a warranty. No misrepresentation by the Policyholder will be used to deny a claim or to deny the validity of the Policy unless:

1. The Policy would not have been issued if we had known the truth; and
2. We have given the Policyholder a copy of a written instrument signed by the Policyholder that contains the misrepresentation.

The validity of the Policy will not be contested after it has been in force for one year, except for nonpayment of premiums or fraudulent misrepresentations.

MISSTATEMENT OF AGE. If the age of an Insured has been misstated, the amounts payable under this policy are the amounts the premium paid would have purchased at the correct age.

GENERAL PROVISIONS (CONTINUED)

CONFORMITY WITH LAW. Any policy provision that conflicts with the laws of the state in which the policy is issued, when the policy is issued, is automatically changed to meet the minimum requirements of those laws.

ENTIRE CONTRACT. The policy and the application of the Policyholder constitute the entire contract between the parties. A copy of the Policyholder's application is attached to the policy when issued. All statements made by the Policyholder or an Insured will, in the absence of fraud, be considered representations and not warranties. No statement made to obtain insurance will be used to void the insurance or reduce the benefits of this policy unless it is in a written application signed by the Policyholder or Insured. A copy of this must have been given to the Policyholder or Insured.

No change in this policy will be valid unless approved in writing by one of our officers and given to the Policyholder for attachment to the policy. No agent has the authority to change this policy or waive any of its provisions. Any change in this policy will be valid even though an Insured may not have agreed to it.

INSURANCE DATA. The Policyholder will furnish, data necessary to administer this policy. The data will include, but not be limited to data:

- i. necessary to calculate premiums;
- ii. necessary to determine a person's effective date or termination date of insurance;
- iii. necessary to determine the proper coverage level of insurance.

We shall have the right to inspect any of the Policyholder's records we find necessary to properly administer this policy. Any inspections will be at a time and place convenient to the Policyholder.

We will not refuse to insure a person who is eligible to be insured just because the Policyholder fails or errs in giving us the data necessary to include that person for coverage. An Insured's insurance will not stay in force nor an amount of insurance be continued after the termination date, according to the Conditions for Insurance, because the Policyholder fails or errors in giving us the necessary data concerning an Insured's termination.

CERTIFICATES. We will issue certificates to the Policyholder showing the coverage under the policy. The Policyholder will distribute a certificate to each insured Member. If the terms of the certificate differ from the policy, the terms stated in the policy will govern.

PARTICIPATION REQUIREMENTS. There are two requirements that must be met in order for the policy to be placed in force, and to remain in force:

- a. a certain percentage of all Members qualified for insurance must be insured at all times; and
- b. a certain number of Members must be insured at all times.

The Participation Requirements are as follows:

Percentage of Members-	20%
Number of Members-	5279

TERMINATION OF THE POLICY. The Policyholder may terminate this policy as of any Premium Due Date by giving us written notice before that date.

We may terminate this policy on the earlier of:

1. any Premium Due Date if the participation of Insureds and/or Dependents does not meet the requirements in "Conditions For Insurance." Written notice of termination of insurance must be given to the Policyholder at least 45 days before the date of termination.
2. any Premium Due Date on or after the first policy year, for reasons other than lack of participation. Written notice of termination of insurance must be given to the Policyholder at least 60 days before the date of termination.

If any premium is not paid when due, this policy will automatically be terminated as of the Premium Due Date, except as stated below.

GRACE PERIOD. This policy has a 60 day grace period. This means that if a renewal premium is not paid on or before the date it is due, it may be paid during the following 60 days. During the grace period, the policy will stay in force. If the Policyholder has not sent us a written request to terminate the policy and a premium is not paid by the end of the grace period, the policy will terminate at the end of the grace period. If the Policyholder gives us written notice of termination before the Premium Due Date, the policy will be terminated as of the date requested. The Policyholder will be liable for any unpaid premium for the time this policy was in force, including the grace period.

CONSIDERATION. This policy is issued to the Policyholder in consideration of the application and the payment of premiums specified in this policy.

TERMS AND CONDITIONS. Payment of any benefit under this policy is subject to the definitions and all other terms of this policy pertinent to the benefit.

**CLAIMS REVIEW PROCEDURES
APPLICABLE TO THE GROUP Dental INSURANCE PLAN
SPONSORED BY TEXAS RETIRED TEACHERS ASSOCIATION**

The following provides information regarding the claims review process and your rights to request a review of any part of a claim that is denied. Please note that certain state laws may also require specified claims payment procedures as well as internal appeal procedures and/or independent external review processes. Therefore, in addition to the review procedures defined below, you may also have additional rights provided to you under state law. If your state has specific grievance procedures, an additional notice specific to your state will also be included within the group policy and your certificate.

CLAIMS FOR BENEFITS

Claims may be submitted by mailing the completed claim form along with any requested information to:
Ameritas Life Insurance Corp.
PO Box 82520
Lincoln, NE 68501

NOTICE OF DECISION OF CLAIM

We will evaluate your claim promptly after we receive it.

Dental Utilization Review Program. Generally, utilization review means a set of criteria designed to monitor the use of, or evaluate the medical necessity, appropriateness, or efficiency of health care services. We have established a utilization review program to ensure that any guidelines and criteria used to evaluate the medical necessity of a health care service are clearly documented and include procedures for applying such criteria based on the needs of the individual patients. The program was developed in conjunction with licensed dentists and is reviewed at least annually to ensure that criteria are applied consistently and are current with dental technology, evidence-based research and any dental trends.

We will provide you written notice regarding the payment under the claim within 30 calendar days following receipt of the claim. This period may be extended for an additional 15 days, provided that we have determined that an extension is necessary due to matters beyond our control, and notify you, prior to the expiration of the initial 30-day period, of the circumstances requiring the extension of time and the date by which we expect to render a decision. If the extension is due to your failure to provide information necessary to decide the claim, the notice of extension shall specifically describe the required information we need to decide the claim.

If we request additional information, you will have 45 days to provide the information. If you do not provide the requested information within 45 days, we may decide your claim based on the information we have received.

If we deny any part of your claim, you will receive a written notice of denial containing:

- a. The reasons for our decision.
- b. Reference to the parts of the Group Policy on which our decision is based.
- c. Reference to any internal rule or guideline relied upon in making our decision, along with your right to receive a copy of these guidelines, free of charge, upon request.
- d. A statement that you may request an explanation of the scientific or clinical judgment we relied upon to exclude expenses that are experimental or investigational, or are not necessary or accepted according to generally accepted standards of Dental practice.
- e. A description of any additional information needed to support your claim and why such information is necessary.
- f. Information concerning your right to a review of our decision.

APPEAL PROCEDURE

If all or part of a claim is denied, you may request a review in writing within 180 days after receiving notice of the benefit denial.

You may send us written comments or other items to support your claim. You may review and receive copies of any non-privileged information that is relevant to your appeal. There will be no charge for such copies. You may request the names of the experts we consulted who provided advice to us about your claim.

We will conduct the appeal review provided the person conducting the review will be someone other than the person who denied the initial claim and will not be subordinate to that person. The person conducting the review will not give deference to the initial denial decision. If the denial was based in whole or in part on a medical judgment, including determinations with regard to whether a service was considered experimental, investigational, and/or not medically necessary, the person conducting the review will consult with a qualified health care professional. This health care professional will be someone other than the person who made the original judgment and will not be subordinate to that person. Our review will include any written comments or other items you submit to support your claim.

We will review your claim promptly after we receive your request.

If your appeal is about urgent care, you may call Toll Free at 877-897-4328, and an Expedited Review will be conducted. Verbal notification of our decision will be made within 72 hours, followed by written notice within 3 calendar days after that.

If your appeal is about benefit decisions related to clinical or medical necessity, a Standard Consultant Review will be conducted. A written decision will be provided within 30 calendar days of the receipt of the request for appeal.

If your appeal is about benefit decisions related to coverage, a Standard Administrative Review will be conducted. A written decision will be provided within 60 calendar days of the receipt of the request for appeal.

If we deny any part of your claim on review, you will receive a written notice of denial containing:

- a. The reasons for our decision.
- b. Reference to the parts of the Group Policy on which our decision is based.
- c. Reference to any internal rule or guideline relied upon in making our decision along with your right to receive a copy of these guidelines, free of charge, upon request.
- d. Information concerning your right to receive, free of charge, copies of non-privileged documents and records relevant to your claim.
- e. A statement that you may request an explanation of the scientific or clinical judgment we relied upon to exclude expenses that are experimental or investigational, or are not necessary or accepted according to generally accepted standards of Dental practice.

Certain state laws also require specified internal appeal procedures and/or external review processes. In addition to the review procedures defined above, you may also have additional rights provided to you under state law. Please review your certificate for such information, call us, or contact your state insurance regulatory agency for assistance.

Any request for appeal should be directed to:

Quality Control, P.O. Box 82657, Lincoln, NE 68501-2657.

Application is Hereby Made to

AMERITAS LIFE INSURANCE CORP.

by: TEXAS RETIRED TEACHERS ASSOCIATION

whose main office address is: %ASSOCIATION MEMBER BENEFITS ADVISORS
6034 W COURTYARD DR STE 300
AUSTIN, TX 78730-5035

for Group Policy No. 10-350489

This group policy is hereby approved. Its terms are hereby accepted.

This Acceptance Application is made in duplicate. One is attached to the policy. The other part has been returned to the Company.

It is agreed that this application supersedes any previous application for the group policy.

TEXAS RETIRED TEACHERS ASSOCIATION

(Full or Corporate Name of Applicant)

Dated at _____

By _____
(Signature and Title)

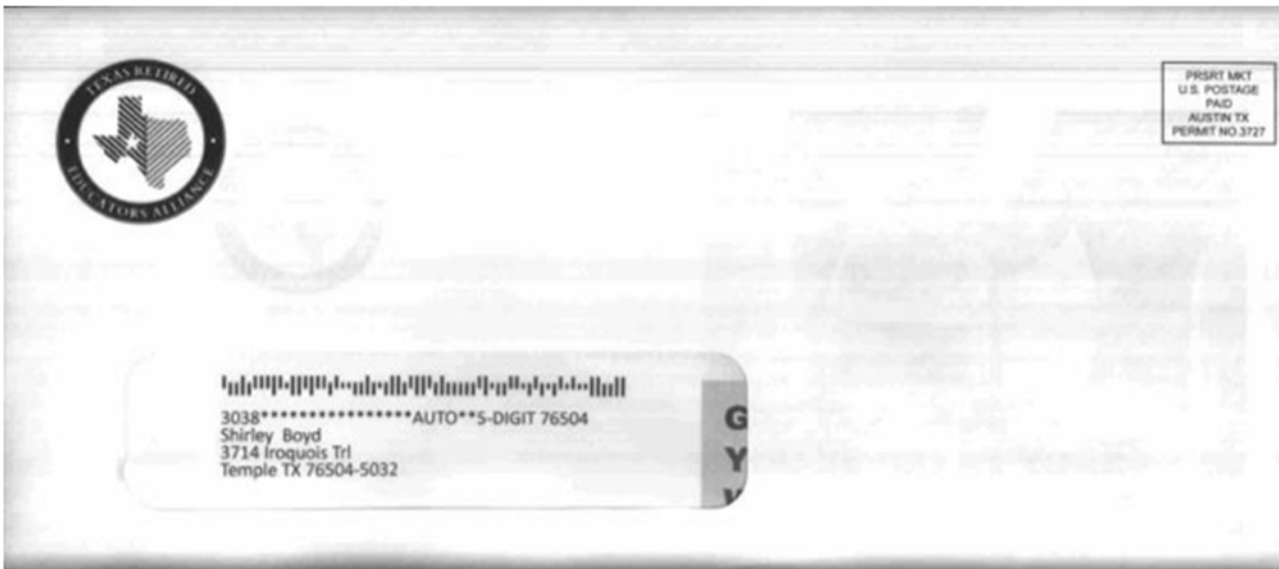
On _____, 20__

Witness _____
(To be signed by Resident Agent where required by law)

This copy is to remain Attached to the Policy

Exhibit A-10

From: [Shirley Boyd](#)
Sent: Thursday, July 1, 2021 2:59 PM
To: [Tim Lee](#); [Marcy](#); [Rosalind Johnson](#)
Subject: Texas Retired Educators Alliance - AMBA email!
Importance: High





**GET THE CARE
YOU'VE SPENT YOUR
WHOLE LIFE EARNING.**



3038*****AUTO**5-DIGIT 76504
Shirley Boyd
3714 Iroquois Trl
Temple TX 76504-5032

Dear Shirley,

We know how important it is to be able to decide where you'd like to receive care while in recovery. Whether you would rather recover at home, in an assisted living facility, or in a nursing home, you deserve the right to choose.

Members of Texas Retired Educators Alliance (TREA) may be entitled to a home care and recovery care plan underwritten by Continental Life Insurance Company of Brentwood, Tennessee, an Aetna company. Designed as an affordable solution, these plans may give you the flexibility you need to determine what type of care is right for you and where you will receive it.

Health care costs associated with hospital stays and at-home or nursing facility recovery can be steep, which is why you should consider all your options. This plan can:

- ✓ **Help manage your everyday expenses**
- ✓ **Pay benefits directly to you (or your designated medical provider)**
- ✓ **Pay in addition to any other health care coverage you may have**

We care deeply about our members, so we want to refer you to our trusted partner, Association Member Benefits Advisors (AMBA). Their licensed agents can review these coverage options with you.

Call AMBA today at (877)-698-2782 to see how affordable coverage can be!

Sincerely,

Eileen Philbin
TREA Executive Director

Continental Life Insurance Company of Brentwood, Tennessee is not affiliated with or endorsed by the U.S. Government, the Federal Medicare Program, or the Centers for Medicare and Medicaid Services. This is a solicitation insurance and an insurance agent or insurance company may contact you. Short-Term Care Nursing Facility Confinement Insurance is not Medicare Supplement insurance nor is it a substitute for Medicare Supplement insurance. If you are eligible for Medicare, please read the Guide to Health Insurance for People with Medicare available from the Company.

This is not a contract of insurance. For complete details of all provisions or benefits, please read the policy carefully. Policy Plans are underwritten by Continental Life Insurance Company of Brentwood, Tennessee. Limitations and Exclusions do apply; actual policy provisions will control. Rates are subject to change on a class basis and the information provided by you. Submission of an application to determine eligibility is required. Product availability, benefits, and rates may vary by state. An Outline of Coverage is available upon request. These supplemental policies do not provide comprehensive health (major medical) insurance. THIS IS A LIMITED BENEFIT POLICY.

Continental Life Insurance Company of Brentwood, Tennessee * 1021 Reams Fleming Boulevard, Franklin, TN 37064 * (800) 264-4000

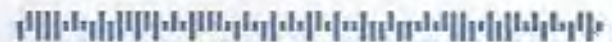


NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

BUSINESS REPLY MAIL
FIRST-CLASS MAIL PERMIT NO. 5435 AUSTIN TX

POSTAGE WILL BE PAID BY ADDRESSEE

ASSOCIATION MEMBER BENEFITS ADVISORS
6034 W COURTYARD DR STE 300
AUSTIN TX 78730-9905



**You may be contacted by a licensed insurance representative. Limitations and exclusions apply. Please refer to policy details upon further inquiry. Some benefits are not available in every state or to every association.*

Name _____
 Address _____
 City _____
 State _____ Zip _____
 County _____
 Phone (_____) _____
 Email _____

I would like to receive information on the following benefits:

- Review My Benefits
- Home Health Care
- Cancer, Heart & Stroke Policy
- Medicare Solutions
- Long-Term Care
- Tax Deferred Annuity
- MASA (Air & Ground Ambulance Plan)
- Dental & Vision Insurance
- Life Insurance

I WANT TO RECEIVE HOME HEALTH CARE INFORMATION

Exhibit A-11



Office of the Secretary of State
Corporations Section
P.O. Box 13697
Austin, Texas 78711-3697
(Form 503)

Filed in the Office of the
Secretary of State of Texas
Filing #: 101960301 4/22/2021
Document #: 1045166020002
Image Generated Electronically
for Web Filing

**ASSUMED NAME CERTIFICATE
FOR FILING WITH THE SECRETARY OF STATE**

1. The assumed name under which the business or professional service is or is to be conducted or rendered is:

Texas Retired Educators Alliance

2. The name of the entity as stated in its certificate of formation, application for registration, or comparable document is:

American Senior Benefits Association

3. The state, country, or other jurisdiction under the laws of which it was incorporated, organized or associated is **TEXAS**

4. The period, not to exceed 10 years, during which the assumed name will be used is :
04/22/2031

5. The entity is a : **Domestic Nonprofit Corporation**

6. The entity's principal office address is:
8770 W Bryn Mawr Suite 1300, Chicago, IL, USA 60631

7. The county or counties where business or professional services are being or are to be conducted or rendered under such assumed name are:

ALL COUNTIES

8. The undersigned, if acting in the capacity of an attorney-in-fact of the entity, certifies that the entity has duly authorized the attorney-in-fact in writing to execute this document. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

American Senior Benefits Association


Name of the entity

By: **Eileen Philbin**

**Signature of officer, general partner, manager,
representative or attorney-in-fact of the entity**

FILING OFFICE COPY

Exhibit A-12

<p>Form 802 (Revised 08/12)</p> <p>Submit in duplicate to: Secretary of State Reports Unit P.O. Box 12028 Austin, TX 78711-2028 Phone: (512) 475-2705 FAX: (512) 463-1423 Dial: 7-1-1 for Relay Services Filing Fee: See Instructions</p>	 <p>Periodic Report of a Nonprofit Corporation</p>	<p>Th</p> <p style="text-align: center;">FILED In the Office of the Secretary of State of Texas MAR 02 2015 Corporations Section</p>
---	---	---

File Number: 101960301

1. The name of the corporation is: *(A name change requires an amendment; see Instructions)*
American Senior Benefits Association

2. It is incorporated under the laws of: *(Set forth state or foreign country)* Texas

3. The name of the registered agent is:

A. The registered agent is a corporation (cannot be entity named above) by the name of:

OR

B. The registered agent is an individual resident of the state whose name is:

Ernest Giambra
First Name MI Last Name Suffix

4. The registered office address, which is identical to the business address of the registered agent in Texas, is:
(Only use street or building address; see Instructions)

10812 Enclave Vista Cove Austin TX 78730
Street Address City State Zip Code

5. If the corporation is a foreign corporation, the address of its principal office in the state or country under the laws of which it is incorporated is:

Street or Mailing Address City State Zip Code Country

6. The names and addresses of all directors of the corporation are: *(A minimum of three directors is required.)*
(If additional space is needed, include the information as an attachment to this form for item 6.)

<u>Bill</u>	<u>B</u>	<u>Hill</u>	<u>Sr</u>
<small>First Name</small>	<small>MI</small>	<small>Last Name</small>	<small>Suffix</small>
<u>8770 W Bryn Mawr Suite 1300</u>		<u>Chicago</u>	<u>IL 60631</u>
<small>Street or Mailing Address</small>		<small>City</small>	<small>State Zip Code</small>

<u>Olga</u>		<u>Benegas</u>	
<small>First Name</small>	<small>MI</small>	<small>Last Name</small>	<small>Suffix</small>
<u>8770 W Bryn Mawr Suite 1300</u>		<u>Chicago</u>	<u>IL 60631</u>
<small>Street or Mailing Address</small>		<small>City</small>	<small>State Zip Code</small>

<u>Eileen</u>		<u>Philbin</u>	
<small>First Name</small>	<small>MI</small>	<small>Last Name</small>	<small>Suffix</small>
<u>8770 W Bryn Mawr Suite 1300</u>		<u>Chicago</u>	<u>IL 60631</u>
<small>Street or Mailing Address</small>		<small>City</small>	<small>State Zip Code</small>

7. The names, addresses, and titles of all officers of the corporation are: (The offices of president and secretary must be filled, but both may not be held by the same officer.)

(If additional space is needed, include the information as an attachment to this form for item 7.)

Bill	B	Hill	Sr	Officer Title	
				President	
<i>First Name</i>	<i>MI</i>	<i>Last Name</i>	<i>Suffix</i>		
8770 W Bryn Mawr		Chicago	IL 60631	USA	
<i>Street or Mailing Address</i>		<i>City</i>	<i>State</i> <i>Zip Code</i>	<i>Country</i>	

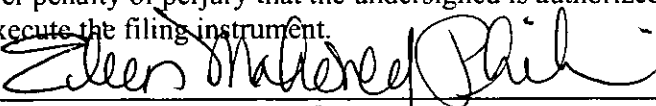
Eileen		Philbin		Officer Title	
				Secretary	
<i>First Name</i>	<i>MI</i>	<i>Last Name</i>	<i>Suffix</i>		
8770 W Bryn Mawr		Chicago	IL 60631	USA	
<i>Street or Mailing Address</i>		<i>City</i>	<i>State</i> <i>Zip Code</i>	<i>Country</i>	

				Officer Title	
<i>First Name</i>	<i>MI</i>	<i>Last Name</i>	<i>Suffix</i>		
<i>Street or Mailing Address</i>		<i>City</i>	<i>State</i> <i>Zip Code</i>	<i>Country</i>	

Execution:

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Date: February 24, 2015



 Signature of authorized officer

Exhibit A-13

TEXAS RETIRED EDUCATORS ALLIANCE

American Senior Benefits Association

USPTO Trademarks (<https://uspto.report/TM/>) ›
/ American Senior Benefits Association (<https://uspto.report/company/American-Senior-Benefits-Association>)
› / Texas Retired Educators Alliance Application #90758278 (<https://uspto.report/TM/90758278/>)

Application Filed: ~~2021-06-07~~ (2021-06-07)

Trademark Application Details



The mark consists of a circle with the words Texas Retired Educators Alliance written in it, and two dots at the left and right mid-points. Inside the circle is a map of the state of Texas, shaded with diagonal lines, and a star located in the left-half of the state.

Mark For: TEXAS RETIRED EDUCATORS ALLIANCE™ trademark registration is intended to cover the categories of administration of a discount program for enabling members of an association to obtain discounts on merchandise and air travel; Administration of a program for enabling participants to obtain discounts on products and services;

Show All

Status



LIVE APPLICATION Awaiting Examination

2021-06-10 UTC

[Refresh](#)

(/TM/90758278

/refresh)






View PDF

[View Here.](#)

frompdfdoc.com

OP

The trademark application has been accepted by the Office (has met the minimum filing requirements) and has not yet been assigned to an examiner.


Research	<p>  (https://en.wikipedia.org/w/index.php?search=%22TEXAS+RETIRED+EDUCATORS+ALLIANCE%22)  (https://twitter.com/search?q=%22TEXAS+RETIRED+EDUCATORS+ALLIANCE%22)  (https://nitter.domain.glass/search?f=tweets&q=%22TEXAS+RETIRED+EDUCATORS+ALLIANCE%22)  (https://translate.google.com/#view=home&op=translate&sl=auto&tl=en&text=TEXAS+RETIRED+EDUCATORS+ALLIANCE)  (https://www.wolframalpha.com/input/?i=TEXAS+RETIRED+EDUCATORS+ALLIANCE) OneLook (https://www.onelook.com/?w=TEXAS+RETIRED+EDUCATORS+ALLIANCE) Acronym Finder (https://www.acronymfinder.com/~search/af.aspx?Acronym=TEXAS+RETIRED+EDUCATORS+ALLIANCE&string=exact) </p>			
Serial Number	90758278			
Mark Literal Elements	TEXAS RETIRED EDUCATORS ALLIANCE			
Mark Drawing Type	-			
Mark Type	Service Mark			
Standard Character Claim	No			
Current Location	NEW APPLICATION PROCESSING 2021-06-10			
Basis	1(b)			
Class Status	ACTIVE			
Primary US Classes	<table border="1"> <tr> <td>100: Miscellaneous</td> </tr> <tr> <td>101: Advertising and Business</td> </tr> <tr> <td>102: Insurance and Financial</td> </tr> </table>	100: Miscellaneous	101: Advertising and Business	102: Insurance and Financial
100: Miscellaneous				
101: Advertising and Business				
102: Insurance and Financial				
Primary International Class	<table border="1"> <tr> <td>035 - Primary Class</td> </tr> <tr> <td>(Advertising and business) Advertising; business management; business administration; office functions.</td> </tr> </table>	035 - Primary Class	(Advertising and business) Advertising; business management; business administration; office functions.	
035 - Primary Class				
(Advertising and business) Advertising; business management; business administration; office functions.				
Filed Use	No			
Current Use	No			
Intent To Use	Yes			
Filed ITU	Yes			
44D Filed	No			
44E Current	No			
66A Current	No			
Current Basis	No			

No Basis	No
Attorney Name	Eric Adler
Timeline	
2021-06-07	Application Filed
2021-06-10	Location: NEW APPLICATION PROCESSING
2021-06-10	Status: Live/Pending
2021-06-10	Status: New application will be assigned to an examining attorney approximately 3 months after filing date.
2021-06-10	Transaction Date

View PDF
View Here.

frompdfdoc.com

OPEN


Trademark Parties (Applicants & Owners)	
Party:	 American Senior Benefits Association (/company/American-Senior-Benefits-Association)
Address	8770 W Bryn Mawr, Suite 1300 Chicago, ILLINOIS UNITED STATES 60631
Legal Entity Type	Non-profit Corporation
Legal Entity State	TEXAS

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Documents

	Application (/TM/90758278 /APP20210610095305/)	MULTI	2021-06-07
	Drawing (/TM/90758278 /DRW20210610095305/)	JPEG	2021-06-07
	(/TM/90758278/APP20210610095305#2)		
	(/TM/90758278/DRW20210610095305#1)		

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Attorney of Record

ERIC ADLER
 EGAN NELSON LLP
 221 W 6TH ST. STE 900
 AUSTIN, TX 78701

Good, Services, and Codes

International Codes:	35
U.S. Codes:	100,101,102
International Codes:	36
U.S. Codes:	100,101,102
International Codes:	41
U.S. Codes:	100,101,107

Type Code	Type
-----------	------

DM0000

The mark consists of a circle with the words Texas Retired Educators Alliance written in it, and two dots at the left and right mid-points. Inside the circle is a map of the state of Texas, shaded with diagonal lines, and a star located in the left-half of the state.

Beginner's Guide To Op

Learn To Trade Options & Avoid Common

Options Beginner's Guide

Trademark Filing History

Description	Date	Proceeding Number
NEW APPLICATION ENTERED IN TRAM	2021-06-10	

Similar Marks


Mark Image	Registration Serial	Company	Trademark Application Date
	90758278 not registered Live/Pending (/TM/90758278)	American Senior Benefits Association	2021-06-07 (/TM/90758278)
Texas Retired Educators Alliance	(/TM/90758267) 90758267 not registered Live/Pending	American Senior Benefits Association	2021-06-07 (/TM/90758267)

Exhibit A-14

From: Andrew Weber
Sent: Wednesday, July 14, 2021 10:08 AM
To: 'Don Taylor' <don@taylorthuss.com>; Nanette K. Beaird <nbeaird@foley.com>
Cc: Tamara Boston <tamara@taylorthuss.com>
Subject: RE: AMBA v. TRTA 2:00 pm call

Thanks

Andrew Weber
Partner in Charge, Austin Office
Co-chair, Public Law Section

303 Colorado St., Suite 2000
Austin, Texas 78701
(512) 495-6451 (phone)
(512) 495-6930 (fax)
andrew.weber@kellyhart.com www.kellyhart.com

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From: Don Taylor <don@taylorthuss.com>
Sent: Wednesday, July 14, 2021 9:25 AM
To: Andrew Weber <andrew.weber@kellyhart.com>; Nanette K. Beaird <nbeaird@foley.com>
Cc: Tamara Boston <tamara@taylorthuss.com>
Subject: RE: AMBA v. TRTA 2:00 pm call

Nan is back in town. Please use this dial in conference # for 2:00 pm call
Dial in #: (267) 930-4000
Participant code: 227-186-144

Donald Taylor
TAYLOR THUSS PLLC
603 W. 9th St.
Austin, Texas 78701
512.368.9186 (Telephone)
512.368.9014 (Facsimile)
don@taylorthuss.com

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From: Andrew Weber <andrew.weber@kellyhart.com>
Sent: Wednesday, July 14, 2021 9:01 AM
To: Don Taylor <don@taylorthuss.com>; Nanette K. Beaird <nbeaird@foley.com>
Cc: Tamara Boston <tamara@taylorthuss.com>
Subject: RE: AMBA v. TRTA

10-4.

Andrew Weber
Partner in Charge, Austin Office
Co-chair, Public Law Section

303 Colorado St., Suite 2000
Austin, Texas 78701
(512) 495-6451 (phone)
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From: Don Taylor <don@taylorthuss.com>
Sent: Wednesday, July 14, 2021 8:53 AM
To: Andrew Weber <andrew.weber@kellyhart.com>; Nanette K. Beard <nbeaird@foley.com>
Cc: Tamara Boston <tamara@taylorthuss.com>
Subject: RE: AMBA v. TRTA

Let's try 2:00 pm. I will call you. Nan is traveling so I don't know if she can participate.

Donald Taylor
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From: Andrew Weber <andrew.weber@kellyhart.com>
Sent: Wednesday, July 14, 2021 8:51 AM
To: Don Taylor <don@taylorthuss.com>
Cc: Tamara Boston <tamara@taylorthuss.com>
Subject: RE: AMBA v. TRTA

1? 2?

Andrew Weber
Partner in Charge, Austin Office
Co-chair, Public Law Section

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From: Don Taylor <don@taylorthuss.com>
Sent: Wednesday, July 14, 2021 8:42 AM
To: Andrew Weber <andrew.weber@kellyhart.com>

Cc: Tamara Boston <tamara@taylorthuss.com>

Subject: Re: AMBA v. TRTA

Will call you this afternoon

What is a good time

Sent from my iPhone

On Jul 14, 2021, at 8:36 AM, Andrew Weber <andrew.weber@kellyhart.com> wrote:

Good morning, Don. I pulled this old thread in the hope that I get everyone you want on your team on this email.

As you know, TRTA filed its Counterclaim Petition and Application for Injunctive Relief last Friday. TRTA has named ASBA as a third-party defendant. Will you be representing ASBA as well, and if so, will you agree to accept service on ASBA's behalf?

Also, as you will see in the Counterclaim Petition, TRTA seeks declaratory relief concerning the termination of the May 2004 Association Dental Insurance Marketing and Administration Agreement (the "2004 Agreement"). TRTA contends the 2004 Agreement was superseded by the July 2011 Agreement Between Association Member Benefits Advisors, Ltd. and The Texas Retired Teachers Association. To the extent, if any, that it was not superseded, TRTA asserts the 2004 Agreement is terminable at will and that it has, in fact, terminated for the reasons outlined in the Counterclaim Petition. We believe AMBA has already been afforded sufficient notice of termination of the 2004 Agreement – to the extent AMBA contends otherwise, please let this correspondence serve as TRTA's notice and election to terminate the 2004 Agreement effective immediately. This notice notwithstanding, we will continue to honor and abide by our Rule 11 agreement.

Lastly, we're thinking we should set some dates for exchanging witness names, exhibits, and the like. We can get you some proposed dates in the next few days, or feel free to propose some. I've added Diana Nichols, who I believe you know, and taken Steve Ravel off—he is underwater with some other preexisting litigation matters. So Diana is helping with some of these scheduling and procedural matters.

Thank you,

Andrew Weber
Partner in Charge, Austin Office
Co-chair, Public Law Section


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From: Don Taylor <don@taylorthuss.com>
Sent: Wednesday, June 23, 2021 2:31 PM
To: Andrew Weber <andrew.weber@kellyhart.com>
Cc: Beard, Nanette K. <nbeaird@foley.com>; Natalie Taylor <natalie@taylorthuss.com>; billyhill@gmail.com
Subject: RE: AMBA v. TRTA

Ok,
This confirms our Rule 11 agreement

Donald Taylor
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From: Andrew Weber <andrew.weber@kellyhart.com>
Sent: Wednesday, June 23, 2021 2:28 PM
To: Don Taylor <don@taylorthuss.com>
Cc: Beard, Nanette K. <nbeaird@foley.com>; Natalie Taylor <natalie@taylorthuss.com>; billyhill@gmail.com
Subject: RE: AMBA v. TRTA

Agree. Thank you.

Andrew Weber
Partner-in-Charge, Austin
Chair Public Law Section

On June 23, 2021 at 2:16:09 PM CDT, Don Taylor <don@taylorthuss.com> wrote:

Andrew,

Please confirm that you will agree to the following Rule 11 agreement:

1. This Rule 11 agreement is without prejudice to any parties rights with respect to any claim or defense.
2. The parties agree that pending a hearing on AMBA's application for TRO that the parties will maintain the status quo as follows:

TRTA will take no action to change AMBA's status as either agent of record or administrator of the dental and vision blocks of business which are the subject of this suit. AMBA will take no action adverse to TRTA's member's group coverage remaining in place.

3. This agreement terminates upon the court issuing an order granting or denying in whole or in part AMBA's pending request for a TRO. The parties will cooperate in setting the hearing at a mutually convenient time.

Donald Taylor
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From: Andrew Weber <andrew.weber@kellyhart.com>
Sent: Wednesday, June 23, 2021 12:34 PM
To: Don Taylor <don@taylorthuss.com>
Cc: Beaird, Nanette K. <nbeaird@foley.com>; Natalie Taylor <natalie@taylorthuss.com>
Subject: Re: Notification of Service for Case: , for filing Petition, Envelope Number: 54659794

I am optimistic I can get that confirmed with my client. Can you assure me AMBA will tak me no actions adverse to group coverage remaining in place for TRTA members?

I'll get back with you as soon as I can.

Thank you.

Andrew Weber
Partner-in-Charge, Austin
Chair Public Law Section

On June 23, 2021 at 12:29:03 PM CDT, Don Taylor <don@taylorthuss.com> wrote:

Andrew can you assure us that TRTA will not take any action to remove AMBA as administrator and agent of record until after our hearing next week
Sent from my iPhone

On Jun 23, 2021, at 12:17 PM, Andrew Weber
<andrew.weber@kellyhart.com> wrote:

Don, I am on a vacation in Galveston with my wife and grandson. At a water park. And my TRTA Exec Director is out of the state on a post-session vacation with family. I cannot arrange a call with him until late tonight. I believe neither of us will be back in Austin until the end of this weekend.

For those reasons, would you consider delaying presenting your Petition until Wednesday or Thursday next week?

Thank you for your professional courtesy in this matter.

Andrew

Andrew Weber
Partner-in-Charge, Austin
Chair Public Law Section
On June 23, 2021 at 9:49:59 AM CDT, Don Taylor
<don@taylorthuss.com> wrote:

Mr. Weber,

I am forwarding a copy of the Petition and Application for Injunctive relief that was filed last evening by AMBA against TRTA and others. Please advise if you will accept service for TRTA. We want to schedule a hearing on our TRO application ASAP and will be in touch with you as soon as the court gives us some available times. If you have any questions please call.

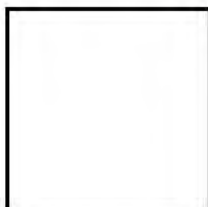
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immediately by replying to the message and deleting it from your computer.

From: No-Reply@eFileTexas.gov <No-Reply@eFileTexas.gov>
Sent: Tuesday, June 22, 2021 9:37 PM
To: Don Taylor <don@taylorthuss.com>
Subject: Notification of Service for Case: , for filing Petition, Envelope Number: 54659794



Notification of S

Envelope Number

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Filing Details	
Case Number	
Case Style	
Date/Time Submitted	6/22/2021 9:34 PM CST
Filing Type	Petition
Filing Description	Plaintiff's Verified Original Petition, Application for Temporary Restraining Order, Application for Temporary Injunction and Permanent Injunction
Filed By	Tamara Boston
Service Contacts	Association Member Benefits Advisors, Ltd.: Donald Taylor (don@taylorthuss.com) Natalie Taylor (natalie@taylorthuss.com) Other Service Contacts not associated with a party on the Tamara Boston (tamara@taylorthuss.com)

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