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Nevada Public Employees' Deferred Compensation Program

MEMO

To: Committee Members

From: Tara Hagan

CC: Carrie Parker, Deputy Attorney General

Robert Trenerry, Hartford

Date: 6/14/2012

Re: Hartford's Policies and Processing of Non-spousal Beneficiary Distributions

Background

Staff received a formal complaint on March 5, 2012 regarding Hartford's handling of a non-spousal beneficiary distribution. Staff's initial request for all correspondence relating to the participant's account was not provided by the requested date nor was an estimated date of receipt provided. Legal counsel sent a formal letter requesting all the necessary documentation citing the relevant contractual requirements.

Upon receipt of the information, it was apparent the beneficiary's repeated requests for a systematic distribution were not granted, including paperwork submitted in July 2006 for a partial lump sum distribution. Staff sent Hartford written questions regarding its failure to distribute the partial lump sum distribution, failure to provide information on systematic distributions, and failure to comply with the 2009 waiver (Section 401(a)(9)(H) of the Code) which exempts the year 2009 from consideration in the mandatory life expectancy distributions. Hartford provided vague and incomplete answers to Staff's questions. In addition, based on Hartford's response regarding the 2009 Waiver, it seemingly does not recognize federal regulations under Section 401(a)(9)(H).

Please see attached redacted documentation of the events described above.

Analysis

Internal Revenue Code Section 401(a)(9) and the NDC plan document state when a participant dies prior to starting a distribution on his or her account and has designated beneficiaries, the beneficiary must:

- Begin receiving payments over his/her life expectancy no later than December 31 of the calendar year following the calendar year in which the participant died.
- For years after the year of the participant's death, the distribution period is the remaining life expectancy of the designated beneficiary. The beneficiary's remaining life expectancy is calculated using the age of the beneficiary as of the beneficiary's birthday in the year following the year of the participant's death, reducing the life expectancy factor by one for each subsequent year.

Alternatively, the entire death benefit amount must be distributed by December 31 of the calendar year which contains the fifth anniversary of the participant's date of death. This provision is known as the 5-year Rule.

The 2009 Waiver allowed beneficiaries to exclude the year 2009 in the 5-year Rule calculation. For example, if a participant died in 2006 and the beneficiary chose the 5-year Rule calculation method, the 2009 waiver allowed the beneficiary to exclude the year 2009. This would extend the entire benefit distribution requirement to December 31, 2012 instead of 2011. Due to this, the beneficiary who brought the complaint should have been allowed to have the account remain in the Plan until December 31, 2012 and not 2011.

If a plan document, such as NDC's document, does not contain a provision which specifies the required non-spousal distribution method (life expectancy versus 5-year Rule), IRS regulations state a distribution must be paid in accordance with the life expectancy method. Therefore, record keepers will default non-spousal beneficiaries who fail to make a timely distribution election to the life expectancy distribution rather than the 5-year rule. The life expectancy method is more advantageous to the beneficiary and does not prevent him or her from increasing the distribution amount or frequency. The account remains in the plan and continues to experience tax-deferred growth, lower investment fees and prevents further plan leakage.

Current Service Provider's Policies

Information obtained by Staff regarding Hartford's non-spousal beneficiary distribution policy indicates a preference to default beneficiaries to the 5-year Rule rather than the life expectancy method. When a beneficiary has a sizable account, such as the beneficiary who brought the complaint, the cash distribution under the 5-year Rule presents a significant tax liability and prevents further tax-deferred growth. Hartford's current policy would be in violation of IRS regulations for NDC because the plan document is currently silent on the method of non-spousal beneficiary distributions; therefore, the life expectancy method must be the default.

When a timely decision is not made by the beneficiary, ING policies require it to default to the life expectancy method versus the 5- year Rule. ING automatically calculates and distributes the required amount prior to December 31 of the applicable year. This ensures beneficiaries have maximum flexibility in their distribution options and continue to receive all the advantages of the NDC plan and its tax-deferred status.

Staff Recommendations

Staff recommends amending the Plan Document and Scope of Work with Hartford to require all designated non-spousal beneficiaries who fail to choose a timely distribution method must be automatically defaulted to the life expectancy option versus the 5-year payout Rule. The record-keepers will automatically calculate and distribute the correct amount under the applicable Code Section prior to the applicable deadline. This will help to ensure the Plan's record-keepers remain in compliance with IRS regulations concerning non-spousal beneficiaries.

Staff recommends the amended Plan Document and Scope of Work be brought forth to the Committee for its consideration at the August meeting.

Tara Hagan

From: [redacted]
Sent: Monday, March 05, 2012 3:57 PM
To: Tara Hagan
Subject: Help with def. comp. payout.

Dear Ms Hagen,

My name is [redacted] and I am hoping you can help me with something.

I am the sole beneficiary of a deferred comp. plan (held by the Hartford) owned by [redacted]. My [redacted] died in March o 2006.

I allowed the money to sit in the account paying attention to the "5 year rule." Knowing that 2011 was the end of the 5th year, I sought to make a total withdrawl of the account.

In December 2011, I submitted the paperwork. I submitted it by fax.

Today I called the Hartford to find out when I would receive my 1099 for the payout. Today I was informed that while the payment was processed on 12/30/11, the check was cut on 1/3/12, therefore, I held the account past the allowable 5 years.

If I understand this correctly, I am now subject to IRS penalties for holding the account longer than allowed.

I am in desperate need of help with this. I specifically told Hartford to close the account prior to the end of the 2011 year. I did everything I thought I was supposed to do to avoid this, yet, here I am.

Is there anything you can do to help me with this???

I would appreciate any help you may be able to offer.

I look forward to hearing from you,

[redacted]

Tara Hagan

From: Tara Hagan
Sent: Wednesday, March 07, 2012 11:45 AM
To: Brittell, Diane M. (Wealth Management Operations)
Cc: 'Trenerry, Robert C. (Retirement Plans)'
Subject: Participant/Beny Complaint

Diane:

We have been in contact with a beneficiary, [redacted] regarding information provided by Hartford since the death of her [redacted]. [redacted] is also very concerned about the timing of her distribution.

According to [redacted], upon her [redacted] death in March 2006, she was advised by Hartford that no monies could be rolled into an IRA and she must have all monies distributed within 5 years (IRS 5-year rule). Please note the following IRS regulations regarding beneficiary accounts (when participant dies prior to his/her required beginning date (70.5)):

- Non-spousal beneficiaries must begin receiving payments over his/her life expectancy no later than December 31 of the calendar year following the calendar year in which the participant died. Furthermore, for years after the year of the participant's death, the distribution period is the remaining life expectancy of the designated beneficiary. The beneficiary's life expectancy is calculated using the age of the beneficiary as of the beneficiary's birthday in the year following the year of the participant's death, reducing the life expectancy factor by one for each subsequent year.

- If the beneficiary does not begin distribution of the account by December 31 of the calendar year following the calendar year in which the participant died, then the entire benefit must be distributed by December 31 of the calendar year which contains the fifth anniversary of the participant's death.

- A non-spousal beneficiary who receives a death benefit under 401(k)/(a), 403(b) or governmental 457(b) plan may rollover eligible amounts to an 'inherited' IRA, subject to the applicable minimum distribution rules.

[redacted] contacted Hartford in the beginning of December to ensure she receives the distribution in 2011, as to avoid the 50% penalty. She was told by the customer service rep. that the process is quick and she does not need to worry. She submitted the paperwork via fax to Hartford on December 21 and received a confirmation from Hartford that 100% of the account was distributed as of 12.30.11. Then in early 2012, she inquired with customer service regarding her 1099R and was told her distribution was in 2012 and she would not be receiving a 1099R for 2011.

Per our service agreement with Hartford distribution requests are processed as of the date received in good order and payment is mailed or made available electronically within 3 business days of processing. Please advise.

Best Regards,

Tara Hagan
Executive Officer
Nevada Deferred Compensation Program (NDC)

Tara Hagan

From: Tara Hagan
Sent: Thursday, March 08, 2012 11:35 AM
To: Brittell, Diane M. (Wealth Management Operations)
Cc: 'Trenerry, Robert C. (Retirement Plans)'
Subject: Document Request for [redacted]

Diane:

Please provide all documentation associated with the beneficiary account for [redacted]. We would also appreciate access to customer service calls on this account.

Thank you for your assistance with this request.

Best Regards,

Tara Hagan
Executive Officer
Nevada Deferred Compensation Program (NDC)
Nevada Library & Archives Bldg.
100 N. Stewart Street, Suite 210
Carson City, NV 89701
(775) 684-3397 Office (775) 230-3717 Mobile
(775) 684-3399 Fax

Tara Hagan

From: Brittell, Diane M. (Wealth Management Operations) [diane.brittell@thehartford.com]
Sent: Monday, March 12, 2012 10:26 AM
To: Tara Hagan
Cc: Trenerry, Robert C. (Retirement Plans); Carrie L. Parker
Subject: RE: Document Request for [redacted]

Tara,

We are working on this, I do not have an ETA at this time. I am researching with our legal department and will advise as soon as I have an update.

Thank you,

Diane M. Brittell
Plan Manager, Retirement Plan Services
Phone: (800) 637-6444 extension 47094, Option 1
Fax: (860) 843-6100
diane.brittell@thehartford.com

HOW'S MY SERVICE?
Communication is critical to any successful relationship, and we want to ensure that you receive quality, timely service. If you have any service concerns or suggestions for improvement, please contact my Manager at Colby.Custer@thehartford.com or 800-637-6444 extension 41627.

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Securities Offered Through Hartford Securities Distribution Company, Inc.
200 Hopmeadow Street, Simsbury, CT 06089 1-800-637-6444

From: Tara Hagan [mailto:tarahagan@defcomp.nv.gov]
Sent: Friday, March 09, 2012 12:24 PM
To: Brittell, Diane M. (Wealth Management Operations)
Cc: Trenerry, Robert C. (Retirement Plans); 'Carrie L. Parker'
Subject: RE: Document Request for [redacted]

Diane:

Do you have an ETA for this request? I received another call today from the participant requesting an update. The participant is exploring all options and is anxious for additional information.

Thank you for your consideration of this request.

Tara

Best Regards,

Tara Hagan

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
100 North Carson Street
Carson City, Nevada 89701-4717

CATHERINE CORTEZ MASTO
Attorney General

KEITH MUNRO
Assistant Attorney General

GREGORY M. SMITH
Chief of Staff

March 12, 2012

VIA U. S. Mail and Email

Diane M. Brittell
Plan Manager, Retirement Plan Services
The Hartford Financial Services Group, Inc.
1 Griffin Road North
Windsor, CT 06095
diane.brittell@thehartford.com

Re: [redacted]

Dear Ms. Brittell:

I am the Deputy Attorney General who represents Nevada Deferred Compensation ("NDC"), and I am writing in regards to Tara Hagan's March 8, 2012 written request for all documentation associated with the beneficiary account for [redacted] as well as documentation of customer service calls on that account.

The records which are associated with that account are owned by NDC. Pursuant to Hartford's contract with NDC, Hartford does not own the requested documents and it is required to provide NDC with access to them within a reasonable time of a reasonable request.

Independent Contractor Contract, Section 9, (b) Inspection and Audit provides the following: "Contractor agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Contractor or its subcontractors, financial statements and

supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of the Contractor where such records may be found, with or without notice by the State Auditor..." Additionally, section 11.4 of the Hartford Administrative Services Agreement ("ASA") provides the following: "Upon reasonable written request and during normal business hours, Hartford Life shall allow the Plan Sponsor full and complete access to all records required to be retained by Hartford Life."

The documents requested are covered by Independent Contractor Contract, Section 9, (b) and section 11.4 of the Hartford ASA. Ms. Hagan's request was reasonable and in writing. Hartford's responsibility to produce the requested documents, which belong to NDC, is not subject to authorization from Hartford's legal department. Accordingly, please provide all documentation associated with the beneficiary account for [redacted] as well as documentation of customer service calls on that account by close of business this Friday, March 16.

Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

CATHERINE CORTEZ MASTO
Attorney General

By: _____
Carrie L. Parker
Deputy Attorney General
Bureau of Government Affairs
Government & Natural Resources
775.684.1229

CLP/cb
cc: Tara Hagan, NDC Executive Director (via email)
Robert Trenerry, Hartford Regional Manager

Tara Hagan

From: Tara Hagan
Sent: Monday, April 09, 2012 10:44 AM
To: 'Brittell, Diane M. (Wealth Management Operations)'
Cc: 'Carrie L. Parker'; Trenerry, Robert C. (Retirement Plans); 'Theroux, Todd Andrew (Retirement Plans)'; Cavanaugh, Cathleen H (Wealth Management Operations)
Subject: NDC - [redacted] and Non Spousal Beneficiary Distributions

Diane:

Thank you for the information regarding [redacted] non-spousal beneficiary distribution. After careful review, we have several questions regarding the processing of her request and Hartford's policies regarding non-spousal beneficiary distributions.

1. In a letter dated March 22, 2006, [redacted] specifically requests information regarding a systematic distribution from her account. In addition, during conversations with Hartford representatives [redacted] repeatedly requests information on distribution options beyond the five-year rule. What information was provided to [redacted]?

2. Did Hartford distribute $50,000 to [redacted] per the requested paperwork dated May 12, 2006? If not, why?

3. Did Hartford inform [redacted] regarding the 2009 waiver of required minimum distributions? If not, why?

4. Please provide the following information for all non-spousal beneficiary distributions in 2011
   a. Name (Participant)
   b. Name (Beneficiary)
   c. Account Balance as of date of participant's death
   d. Distribution Amounts

5. Please provide Hartford's policies regarding non-spousal beneficiary distributions.

Please provide requested information by Wednesday, April 18. We appreciate your assistance with this request.

Best Regards,

Tara Hagan
Executive Officer
Nevada Deferred Compensation Program (NDC)
Nevada Library & Archives Bldg.
100 N. Stewart Street, Suite 210
Carson City, NV 89701
(775) 684-3397 Office (775) 230-3717 Mobile
(775) 684-3399 Fax

Tara Hagan

Subject: FW: Hartford Response

--- On **Thu, 4/19/12, Tara Hagan** <*tarahagan@defcomp.nv.gov*> wrote:

From: Tara Hagan <tarahagan@defcomp.nv.gov>
Subject: Hartford Response
To: "[redacted]
Date: Thursday, April 19, 2012, 4:01 PM

Q: In a letter dated March 22, 2006, [redacted] specifically requests information regarding a systematic distribution from her account. In addition, during conversations with Hartford representatives
[redacted] repeatedly requests information on distribution options beyond the five-year rule. What information was provided to [redacted]?

A: I have researched by the documentation on file and the process that was in place at that time. The notes associated with the 04/16/2006 call stated that a benefit illustration for monthly, quarterly and annually over a 5 year period would be generated for [redacted]

Q: [redacted] was also referred to our Regional office for forms. I have checked with Tracey and Anita and neither would have a record of what was mailed out in 2006 . Our procedure for
beneficiaries at that time was to send out a spousal or non spousal beneficiary package which included all forms for the options that were available and the death claims were signed by Brian Davie.

Q: Did Hartford distribute $50,000 to [redacted] per the requested paperwork dated May 12, 2006? If not, why?

A: [redacted] requested a distribution of [redacted] in May, 2006 and the request was not processed. The distribution was questioned and referred to the Plan Manager who spoke with [redacted] and advised her that the account should have been set up as the Estate of [redacted] because she was the primary beneficiary of [redacted], the participant for the [redacted]. The notes indicate that he would research further and that [redacted] would also research with her attorney.

Q: Did Hartford inform [redacted] regarding the 2009 waiver of required minimum distributions? If not, why?

A: No, our records indicate that neither [redacted] had reached the age of 70.5 in 2009. The following statement was included on the 1st Quarter 2009 participant statements.

New Law Suspends 2009 Required Minimum Distributions

Participants who are age 70 1/2 or older (including beneficiaries) will not be required to take their 2009 required minimum distribution (RMD) payments, based on recent legislation. This waiver is for 2009 only and is intended to help retirees preserve their retirement nest eggs.

Best Regards,

Tara Hagan

Executive Officer

Nevada Deferred Compensation Program (NDC)

Nevada Library & Archives Bldg.

100 N. Stewart Street, Suite 210

Carson City, NV 89701

(775) 684-3397 Office (775) 230-3717 Mobile

(775) 684-3399 Fax

July 6, 2012

State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4717

RE: [redacted]

Dear Ms. Parker:

I am writing in response to an inquiry from Rex Reed, NDC Chairman, at the July 3rd, 2012 NDC Meeting regarding a beneficiary issue that was directed to Mr. Robert Trenerry and Mr. Bill Abramowicz. My understanding of his comment was in regards to [redacted] and an outstanding issue regarding her beneficiary distribution that was awaiting resolution by The Hartford. If that is correct, I have not been made aware of any outstanding issues, nor has [redacted] contacted our Customer Service Center, since a response was received from Tara Hagan, on April 16th, stating that "[redacted] does NOT want Hartford to switch the 1099R to 2011 but rather keep the original 2012 tax filing." [redacted]'s original complaint was that she would be receiving a 2012 1099R and she wanted a 2011 1099R.

Please advise what issue is outstanding and I will be happy to contact [redacted] to resolve. I am providing a timeline of events for the benefit of the Committee as this is an agenda item for an upcoming meeting. I look forward to your response so that I may resolve the outstanding issue in a timely manner.

For the record, I would like to add that NDC was never told that we would not provide the requested information or that we would not be expedient, as was indicated in your March 12th letter. The assistance from our legal department was regarding the beneficiary issue, it was not asking for authorization to release documents, as you also stated.

Please contact me should you have any questions. Thank you.

Sincerely,

Diane M. Brittell
Plan Manger
Retirement Plan Services

The Hartford
1 Griffin Road North
Windsor, CT 06095-1512

Mailing Address: P. O. Box 1583
Hartford, CT 06144-1583

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Background

- The Beneficiary submitted distribution paperwork on 12/27/2011 with instructions to process on 12/30/2011. It was received in good order and it was processed as requested.

- On March 5th the beneficiary contacted our service center inquiring about a 1099R. The distribution, having been processed on the last business day of the month and year, as requested, generated a check the next business day, which was January 3, 2012 and the 1099R will be issued for 2012. She wanted the 1099R changed to 2011. The CSR referred her to her tax advisor.

- On March 5th the participant contacted NDC for this reason and NDC notified Hartford by e-mail on March 7th and a request for documentation was received on March 8th, which included a request for access to all calls to customer service on this account.

- The calls dating back to 2006 had been archived and it was not possible to provide an ETA to NDC until the service center management was able to provide an ETA to access the archived calls.

- March 15th, 2012, we received authorization to issue a manual 1099R for the tax year 2011, as was her initial request.

- On March 16th an e-mail was received from NDC advising us that the beneficiary did not want the 2011 1099R issued until she meets with her Certified Public Accountant (CPA).

- On April 16th, we were advised by our tax department that a decision was required due to the quarterly tax filing for CA and the decision would affect the filing. NDC responded that the beneficiary did not want the 1099R changed to 2011, but would keep the original 2012 1099R.

All e-mails, documentation, and a summary of the calls will be made available for the Committee's review at any time.