

STATE OF INDIANA )  
 ) SS:  
COUNTY OF HAMILTON )

IN THE HAMILTON SUPERIOR COURT NO. 3  
CAUSE NUMBER 29D03-9810-CP-00568

PETER DOUGLAS, et al.,  
on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

AMERICAN UNITED LIFE  
INSURANCE COMPANY,

Defendant.

) Before Special Judge:  
) Honorable Kim Van Valer Shilts  
) Johnson Superior Court No. 3  
)  
)  
)  
)  
)  
)  
)  
)  
)

### ORDER

This matter came before the Court on the Motion for an Order Compelling Production of Financial Records and Depositions Necessary to Identify Any Illicit Payments or Related Misconduct in this Action filed by American United Life Insurance Company's ("AUL"). Having considered the matter and being duly advised in the premises, the Court now GRANTS the motion and ORDERS, ADJUDGES and DECREES that specific discovery proceedings shall ensue in this matter to determine whether (1) any illicit payments have been made or promised to Andrew Douglass, Peter Douglass, Mathew Douglass, or Sharon Phillips (individually and collectively, the "Named Plaintiffs") or those associated with them, and/or (2) any related misconduct has occurred in connection with this action. Said discovery shall occur in two phases:

#### Phase One:

1. The Named Plaintiffs shall produce to AUL all financial records for the years 1998 to present day within 30 days of the entry of this Order and shall file with the court an indication of such discovery compliance.

2. AUL shall have the right, in accord with applicable trial rules, to subpoena the financial records from counsel associated with Milberg Weiss (the "Associated Counsel") in the following cases:
  - a. *Mauldin v. Wal-Mart Stores, Inc.*, 2006 WL 739696 (N.D. Ga. March 21, 2006);
  - b. *In Re Oxford Health Plans Inc. Sec. Lit.*, 2003 U.S. Dist. LEXIS 26795 (S.D.N.Y. 2003); and
  - c. *Cooperman v. Individual Inc.*, 171 F.3d 43 (1st Cir. 1998).
3. Milberg Weiss and the Named Plaintiffs shall retain and not destroy any financial records from 1998 to the present.
4. AUL shall file a Report to the Court regarding the status of the discovery ordered in this Phase One no later than September 1, 2006. The Report shall include (1) the results of Phase One discovery supporting the necessity of proceeding to Phase Two, (2) the specific portions of Phase Two discovery that are necessary, and (3) legal argument in support.
5. Milberg Weiss Bershad & Shulman LLP ("Milberg Weiss") shall file a Reply argument to the report within 30 days of the filing of the report.
6. Parties shall communicate with one another regarding the Report and Reply after both are filed, and shall make necessary modifications to Phase Two discovery outlined below. Any agreed modifications shall be filed with the court. Parties shall arrange a phone conference with the court to set a hearing if necessary.

Phase Two:

1. The law firm of Milberg Weiss shall produce to AUL all of its financial records for the years 1998 to the present day.
2. AUL shall have the right to conduct depositions of the Named Plaintiffs and Andrew Douglass on the issues of whether any illicit payments were promised or delivered in connection with this case and on the issue of whether any related misconduct has occurred in relation to this matter.
3. AUL shall have the right to take depositions of Janine Pollack, Michael Spencer, Brian Kerr, Ron Uitz, Lee Weiss, and Sheldon Lustigman.
4. AUL shall be entitled to take the depositions of the Associated Counsel pursuant to the terms of this Order and after compliance with the applicable rules of trial procedure in the states in which the Associated Counsel are domiciled.
5. AUL shall file a Report to the Court regarding the status of this discovery no later than 60 days after completion of the Phase Two discovery.

IT IS SO ORDERED this Thursday, July 20, 2006.



---

Special Judge, Hamilton County Superior  
Court No. 3

Distribution attached

Robert D. MacGill  
Dennis P. Stolle  
BARNES & THORNBURG  
11 South Meridian Street  
Indianapolis, Indiana 46204

Stephen L. Huddleston  
98 West Jefferson Street  
Franklin, Indiana 46131

Michael C. Spencer  
Janine L. Pollack  
Lee A. Weiss  
Brian C. Kerr  
MILBERG WEISS BERSHAD & SCHULMAN LLP  
One Pennsylvania Plaza  
New York, New York 10119-0165

Sheldon S. Lustigman  
Andrew B. Lustigman  
THE LUSTIGMAN FIRM, P.C.  
149 Madison Avenue, Suite 805  
New York, New York 10016

Ronald A. Uitz  
UITZ & ASSOCIATES  
1717 K Street, N.W., Suite 600  
Washington, D.C. 20036

Jay P. Kennedy  
KROGER, GARDIS & REGAS, LLP  
111 Monument Circle, Suite 900  
Indianapolis, Indiana 46204