

# House Committee on Education and Workforce Re-Issues Request to Investigate EBSA ‘Power Abuse’

The committee is again asking the Department of Labor’s Office of Inspector General to look into allegations that the Employee Benefits Security Administration shared confidential plan information with a plaintiff’s attorney.

Reported by [REMY SAMUELS](#)

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The U.S. House Committee on Education and the Workforce has re-issued a request that the Department of Labor’s Office of Inspector General investigate allegations that DOL personnel shared confidential information regarding pension benefit plans with a plaintiff’s attorney.

Committee Chair Tim Walberg, R-Michigan, [sent a letter](#) Thursday to Inspector General Larry Turner, requesting that he investigate an instance in which the DOL shared “confidential retirement plan information” involving at least six employee benefit pension plans with at least one law firm—Cohen Milstein Sellers & Toll PLLC.

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The request reiterates a similar request made when then-Chair Virginia Foxx, R-North Carolina, [wrote a letter last November](#) urging the OIG to investigate the DOL’s use of common interest agreements and relationships with plaintiffs’ law firms that affect employee benefit plans and their fiduciaries.

Walberg wrote in his letter, “As we saw in the first [President Donald] Trump administration, career bureaucrats have sought to undermine the goals of the President and his cabinet Secretaries. We know of cases where bureaucrats have leaked sensitive information or are working with plaintiffs’ attorneys to skew court cases against employers.”

Walberg said the committee’s oversight work brought to light how the Employee Benefits Security Administration is “abusing its authority to secretly share information with class action law firms.”

“This is a blatant abuse of the law, and our Committee will hold EBSA accountable,” Walberg wrote.

In response to Foxx’s letter, a spokesperson for Cohen Milstein Sellers & Toll told PLANSPONSOR in November that common interest agreements between the DOL and private sector are “common, legal and have been entered into by different administrations for decades.”

However, Walberg claimed the plan sponsor community was unaware that EBSA was commonly feeding employee benefit plan information gathered during investigations to plaintiff law firms.

Andrew Oringer, general counsel and partner in Wagner Law Group, says while he believes there has been a long history of DOL cooperation in private litigation, such as with friend-of-the-court filings, it seems that the use of common interest agreements by the DOL has been a more recent development.

Oringer says making legal arguments is one thing, but becoming a “de factor co-investigator” at an early stage of litigation could put the DOL on questionable ground.

“Putting aside the question of legal authority and legitimacy, there is a potential problem with perception,” Oringer says. “There are those who view the activity of plaintiffs’ firms as an element of a litigious society that allows settlements to be unfairly extracted in light of high litigation costs and risks, even where the cases might be meritless.”

The idea that the DOL might effectively become an active investigative ally of the plaintiffs' firm under these circumstances could feed into those kinds of objections."

The House committee has requested that the OIG investigate the practice, including whether the DOL shared information with other firms, and publish a public report.

The lawsuit in which confidential information was shared was *Harrison v. Envision Management Holding Inc. Board of Directors et al.*, filed in U.S. District Court for the District of Colorado in January 2021, in which Envision Management was accused of breaching its fiduciary duties for mismanaging its employee stock ownership plan.

According to Foxx's letter, the common interest agreement between the DOL and the law firm is dated April 21, 2023, but it does not disclose when the information was shared.

A DOL spokesperson did not immediately respond to a request for comment.

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[Department of Labor \(DOL\)](#), [EBSA](#), [Office of Inspector General](#)

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