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May 31, 2007

Gabriel Brazier

Re: UPS Health & Welfare Package

Dear Ms. Brazier:

This letter is in response to your correspondence of April 21, where you asked for an explanation as to why you were not allowed to add your civil union partner, Heather Aurand, as a spouse eligible for healthcare benefits under the UPS Health & Welfare Package ("the Plan").

The state of New Jersey recognizes the concept of "Civil Unions" but does not currently recognize same-sex marriages. New Jersey provided legal recognition to same-sex civil unions in December 2006, in response to an October 2006 New Jersey Supreme Court ruling that same-sex couples must be given equal rights. The civil unions law became effective Feb 19, 2007.

The New Jersey Domestic Partnership Act ("the DPA") was enacted to grant same-sex couples and unmarried opposite-sex couples legal status and many, but not all, of the same rights as legally married couples. The DPA accomplishes this by expressly amending several state statutes to include domestic partners within their coverage. The DPA requires that same sex domestic partners be treated like married couples for purposes of health and retirement plans sponsored by the state of New Jersey. However, the Act does not require New Jersey based private employers to provide domestic partners of employees with healthcare benefits. It merely requires all insurance companies and HMOs in New Jersey to issue policies that offer dependent coverage for same sex domestic partners if such coverage is otherwise available under the policy. Private employers, though not required to do so, may choose to cover domestic partners as dependents under their group health plans for business-related issues. In the event an employer chooses to provide coverage, it may require an employee to pay all or part of the cost of dependent coverage for the employee's domestic partner.

The UPS Health & Welfare Package is an ERISA plan and is governed by federal law. ERISA pre-empts the application of any state law provisions purporting to regulate employee benefits. The UPS Health & Welfare Package does provide benefits for an

employee's legal spouse as defined by state law. In the event New Jersey or any other state legalizes same sex marriage (e.g. Massachusetts), same sex spouses would be eligible dependents under the Plan.

The terms of the Plan are subject to collective bargaining, and UPS cannot unilaterally change Plan provisions outside of the collective bargaining process. The Plan states on page 4 of the Summary Plan Description: "You may enroll your dependents for coverage if the dependent is: your legal spouse as defined by applicable state law..." The New Jersey Legislature, in enacting the state's Civil Union Law, did not go as far as Massachusetts and afford same sex couples the ability to marry. Had the New Jersey Legislature done that, you could have added Ms. Aurand as a spouse under the Plan. In fact, the Plan does allow same sex spouses in Massachusetts to be enrolled as eligible dependents.

In summary, you cannot add Ms. Aurand as a spouse because New Jersey law does not treat civil unions the same as marriages, and the Plan requires a dependent spouse to be a spouse as defined under applicable state law.

Sincerely,

Plan Administrator  
UPS Health & Welfare Package