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**From:** Jeff Wright [mailto:jeff@centerpointadvisors.com]

**Sent:** Monday, November 01, 2010 7:18 PM

**To:** EBSA, E-ORI - EBSA

**Subject:** ESOP appraisers as fiduciaries

Department of Labor:

I recently read that certain regulations currently in development would make the appraiser of ESOP stock a fiduciary. That seems to be a particularly bad idea, and a draconian step taken to deal with a much smaller problem.

I have been appraising ESOP stock for over 30 years. I have the highest professional designations in the field, including ASA (Accredited Senior Appraiser) from the American Society of Appraisers, and the CFA (Chartered Financial Analyst) from the Institute of Chartered Financial Analysts. I have served on many boards and governing committees for the American Society of Appraisers, including the Business Valuation Committee, and as Chair of its Standards Subcommittee for several years. I taught business valuation for ASA for many years and I have written on a variety of valuation topics in professional journals and appeared on expert panels, including the topic of ESOP valuation. I was elected to the College of Fellows of ASA because of my contributions to the field of business valuation, and professional appraisal. I have been a member of the ESOP Association, and the NCEO, for decades. So, I am not a newcomer to this area. I have never had a complaint or claim regarding one of my appraisals, either for ESOP stock or for any other purpose. I keep up with my professional education, and make sure that my understanding and knowledge in the field are on the leading edge. I have also made sure that my smallest clients can afford to have good work done by keeping my fees low for those companies that cannot afford to incur high ESOPS administration expenses. Some of my clients are billed for less time than we have put in the appraisal project because they are not large companies that can afford it. But they need good appraisal work and want to continue having employee owners.

If regulations are adopted that make me a fiduciary as an ESOP stock appraiser, I will quit doing that type of work. It will not bother me at all because we have far more demand for appraisal work than we can do. I will simply switch to other types of work and my practice will go right on. But many of my clients will be bothered, or devastated, and their employees will be the losers. Some companies will try to find another source of appraisal services, and they will see their annual appraisal fee double, or triple. Other clients will not be able to find

an appraiser who will do the work for a reasonable fee that they can afford. They are likely to terminate their Plan, and the employees will be the losers. In short, such a change would be devastating to many many small and medium-sized ESOP companies and possibly millions of employee owners.

As I understand the background for this potential change, it is because some ESOP stock appraisals have been done incompetently, or in a biased or fraudulent manner. Every profession has its bad apples. But there are other avenues to solve this type of problem without giving competent, independent appraisers fiduciary liability. Independent appraiser, and fiduciary, are incompatible concepts at their core. This is a particularly bad idea. I encourage you to seek alternative solutions to the problem of bad ESOP appraisals.

Jeff Wright

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