From: Scott Perryman [mailto:Scott@pmi.ac]
Sent: Wednesday, February 02, 2011 6:54 PM
To: EBSA, E-ORI - EBSA
Cc: Sally Estey
Subject: Definition of Fiduciary Proposed Rule

Mr. Fred J. Wong
Employee Benefits Security Administration
U.S. Department of Labor
Office of Regulations and Interpretations Room N-5655
200 Constitution Avenue, NW
Washington, DC 20210

SUBJECT: Comments on the DOL Proposed Regulation – Definition of the Term "Fiduciary" (Federal Register, Volume 75, Number 204, Pages 65263-6578, October 22, 2010, Proposed Regulation)

Dear Mr. Wong:

My wife and I previously owned a business that was converted to a 100% ESOP on October 1, 2009. We as trustees and the ESOP Communication Committee are against requiring firms that provide ESOP appraisals be fiduciaries.

Reasons to remove the requirement that ESOP appraisers are fiduciaries from the proposed DOL Regulations are as follows:

1. Increased cost because firms performing appraisals would need to obtain additional and more expensive insurance, take additional measures to comply and manage increased risk. All associated costs would be passed on to the ESOP.
2. Higher cost due to reduced number of qualified appraisers. Many will simply opt out and the remaining appraisers will be in position to take advantage of a more restrictive market.
3. Trustees are already subject to fiduciary responsibilities and as such must take extra care in presenting information to the appraiser. This would create a gray area of who's responsible for what and to what degree. Don't allow insertion of yet another layer that will result in finger pointing and watered down responsibility all while reducing quality at increased cost.
4. Employees will maintain a higher level of trust and respect for the actions of trustees because the trustees will be held to a higher lever of accountability. Again no gray area, no finger pointing.
5. Where does it end? Will appraisers respond by requiring all council, consultants, statisticians, etc. be obligated to fiduciary responsibility as well? Guess who will pick up the tab.
6. Increased cost results in reduced pension funds for the employees. The very last dollars left at the end of any year after all other expenses have been paid

go to the pension benefit of the employee, the ESOP. Increased fiduciary responsibility takes yet another serving out of that pot.

7. Trustees are aware of associated fiduciary responsibilities and as such are compelled to hire qualified and reputable third party appraisers. Trustees are also compelled to provide complete and accurate information to the appraiser. I would hate to se a “didn’t ask, didn’t tell” mentality arise because of the diminished responsibility of the trustee.

Sincerely,

Scott Perryman
President

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