

Fiduciary Duty #2

As we continue our series of brief articles on the duties that present themselves to those who oversee a retirement plan on behalf of their participating employees, our next topic deals with

CARRYING OUT YOUR DUTIES WITH PRUDENCE

ERISA section 404(a)(1)(B) provides that a fiduciary must act “with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man, acting in like capacity, and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims.”

As the Dept. of Labor states in their publication entitled “Meeting Your Fiduciary Responsibilities”, the duty to act prudently is one of a fiduciary’s central responsibilities under ERISA. It requires expertise in a variety of areas, such as investments. Lacking that expertise, a fiduciary will want to hire someone with that professional knowledge to carry out the investment and other functions.

They go on to say that “prudence focuses on the process for making fiduciary decisions. Therefore, it is wise to document decisions and the basis for those decisions. For instance, in hiring any plan service provider, a fiduciary may want to survey a number of potential providers, asking for the same information and providing the same requirements. By doing so, a fiduciary can document the process and make a meaningful comparison.”

Bottom line: seek out the services of others if you feel ill equipped to fulfill any aspect of your duties. Additionally, document, document, document the steps that you have taken and the procedures you have utilized in the course of fulfilling your responsibilities. Doing so will assist you in your efforts to meet the standards of prudence.

We hope you find this information of benefit.

Don’t hesitate to call us if we can answer any questions that you may have.

Mike & Matt

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