

# WALSH

## Are You at Risk of Breaching Fiduciary Duties?



### Walsh Duffield Companies, Inc.

716.853.3820  
www.walshins.com

### For More Information

To learn more about  
Fiduciary Liability Insurance,  
please contact Beverly Zolnowski at:

**716.362.7324**

bzolnowski@walshins.com

*A manufacturer failed to submit the requisite forms for an employee's life insurance policy, but continued to deduct the premium from the employee's paycheck. When the employee died, the life insurer denied the claim. The employee's heirs sued the plan fiduciary, and recovered \$250,000.\**

Trustees of employee benefits plans are expected to act in the best interests of plan participants. Unfortunately, this doesn't always happen. And if fiduciary duty is compromised – either intentionally or unintentionally – trustees can be held liable under the Employee Retirement Income Security Act of 1974 (ERISA).

### Plans Subject to ERISA Include:

- Pension Plans
- Profit-sharing Plans
- Thrift & Savings Plans
- ESOPs
- Welfare Plans (such as life, health, and disability insurance)

In recent years, there has been an increase in the number of claims alleging violations of ERISA – and the potential liabilities are considerable:

- Fiduciaries may be held personally liable to restore losses.
- Failure to follow the plan document could cause the plan to lose its qualification for tax benefits.
- Courts can impose penalties of up to 20% of the recovered amount and bar individuals from serving as trustees and plan money managers.

The large majority of fiduciary claims are brought by past or present employees or their families. However, claims may also be brought by another fiduciary or by the Department of Labor (DOL), which enforces ERISA. When the DOL brings an action, fiduciaries can face civil penalties, as well.

The good news is with the right Fiduciary Liability Insurance, you can reduce your exposure. These policies provide coverage in two areas:

- **Breach of Fiduciary Duty:** Violations of the duties imposed upon fiduciaries by ERISA, federal, or state common or statutory law, or the law of any other jurisdiction.
- **Employee Benefits Liability:** Liability arising out of negligence, errors, or omissions in the administration of any employee benefit plan.

In today's litigious society, people who perceive they have been wronged may react with lawsuits that can cost companies millions. As a result, Fiduciary Liability Insurance should be an integral part of your employee benefits program.

\*Source: Traveler's.