

Enron litigation has implications for plan sponsors and management: from an interview with Cynthia Marcotte Stamer.(Q&A)(Interview)

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The U.S. Department of Labor (DOL) announced in November that it and former Enron executive Jeffrey K. Skilling (Skilling) have agreed to settlement terms for resolving the DOL's pending civil lawsuit. The DOL filed that lawsuit against Skilling in June 2003 to recover losses sustained by participants in Enron's retirement plans following the infamous collapse of Enron. This month we have asked attorney Cynthia Marcotte Stamer of Glast, Phillips & Murray, P.C., to discuss the implications of this settlement as it affects other plan sponsors. She can be reached at 972-419-7188.

Q What are the implications of the recent "Skilling" settlement?

A The proposed settlement with Skilling--as well as civil and criminal prosecutions against Skilling and other Enron officials--provides an important warning for plan sponsors and other individuals involved in the design or administration of any ERISA programs on the importance of properly understanding fiduciary implications of these programs. Businesses should not allow the notorious criminal prosecutions against Skilling and others, or the magnitude of participant and shareholder losses, to obscure their appreciation of this point. Rather, the Enron litigation makes clear that companies sponsoring benefit plans--as well as members of management and other parties involved in the administration, management, or oversight of these programs--may risk personal liability to participants and the DOL if they fail to take adequate steps to ensure that their employee benefit programs are administered in accordance with the fiduciary standards established by ERISA. Furthermore, the lengthy list of judgments and settlements obtained by private plaintiffs and the Labor Department in recent years makes clear that smaller plans--and the companies, officers, directors, or fiduciaries of these plans--should not expect to qualify for leniency when they fail to meet ERISA's standards based on their limited size or resources.

Q What were the terms of the settlement?

A Basically, private plaintiffs and the DOL, in separate lawsuits,...