CONTACT US

Dave Perkins, RPLU
(508) 848-4263
dave.perkins@igpspecialty.com

Fiduciary Liability Insurance: Real-World Claim Scenarios

Fiduciary liability insurance protects organizations and their leadership from claims arising out of the management of employee benefit plans, such as 401(k)s, pensions, and ESOPs. The following are common real-world examples.

1. Excessive Fees in a 401(k) Plan

What happened:

Employees alleged the company allowed the retirement plan to charge higher-than-necessary investment and administrative fees.

Why it matters:

Plan fiduciaries are required to ensure fees are reasonable and in participants' best interests.

Potential impact:

- Class action litigation
- Multi-million dollar settlements
- Significant legal defense costs

2. Poor Investment Oversight

What happened:

Participants claimed the company failed to monitor underperforming investment options within the plan.

Why it matters:

Fiduciaries must regularly review and replace imprudent investments.

Potential impact:

- Claims for investment losses
- Legal expenses and settlements
- Required changes to plan governance

3. Company Stock Losses (Stock Drop Claim)

What happened:

Employees invested heavily in company stock through their retirement plan, which later declined significantly in value.

Why it matters:

Fiduciaries must prudently manage investment options—even employer stock.

Potential impact:

- Large-scale participant lawsuits
- High-severity financial exposure
- Complex litigation involving multiple policies

4. Late Deposit of Employee Contributions

What happened:

Employee retirement contributions were not deposited into plan accounts on time.

Why it matters:

These funds are considered plan assets and must be handled promptly.

Potential impact:

- Department of Labor (DOL) investigation
- Financial penalties and required corrections
- Restoration of lost investment earnings

5. ESOP (Employee Stock Ownership Plan) Valuation Issues

What happened:

An ESOP purchased company stock at an allegedly inflated price.

Why it matters:

Fiduciaries must ensure valuations are fair and independently determined.

Potential impact:

- Large regulatory and participant claims
- Multi-million dollar settlements
- Personal liability exposure for fiduciaries

6. Misleading Employee Communications

What happened:

Employees claimed they were given inaccurate information about their benefits or retirement options.

Why it matters:

Fiduciaries must provide clear, accurate, and complete plan information.

Potential impact:

- Lawsuits alleging misrepresentation
- Increased benefit obligations
- Legal defense costs

7. Improper Denial of Benefits

What happened:

A participant's claim for benefits (e.g., disability or pension) was denied and later challenged.

Why it matters:

Benefit determinations must follow plan terms and be applied consistently.

Potential impact:

- Court-ordered payment of benefits
- Legal costs and administrative review

8. Cyber Theft of Retirement Accounts

What happened:

Cybercriminals accessed participant accounts and withdrew funds.

Why it matters:

Fiduciaries are responsible for safeguarding plan assets, including digital security.

Potential impact:

- Financial loss to participants
- Reimbursement obligations
- Overlapping insurance claims (fiduciary and cyber)

9. Failure to Follow Plan Terms

What happened:

The company incorrectly administered eligibility or contribution rules.

Why it matters:

Plans must be operated in strict accordance with their governing documents.

Potential impact:

- Required corrections and penalties
- Participant claims
- Compliance costs

10. Conflicts of Interest / Self-Dealing

What happened:

A fiduciary used plan assets in a way that benefited themselves or a related party.

Why it matters:

Fiduciaries must act solely in the interest of plan participants.

Potential impact:

- Regulatory enforcement
- Repayment of losses or profits
- Personal liability exposure

Key Takeaways

- **Fiduciary responsibility is highly regulated** and closely scrutinized
- **Claims are common,** even for well-managed plans
- **Defense costs alone can be substantial,** regardless of fault
- Many claims stem from **process failures rather than intentional wrongdoing**
- Fiduciary liability insurance plays a critical role in protecting both the organization and individual decision-makers