

Court: Fiduciary overpriced stock in ESOP transaction

A federal judge in New York, presiding over a U.S. Department of Labor lawsuit, has found that First Bankers Trust Services breached its duties of prudence and loyalty to the participants of an employee stock ownership plan sponsored by SJP Group, a New Jersey paving company.

The lawsuit, which followed an investigation by the DOL's Employee Benefits Security Administration, claimed First Bankers Trust caused the plan to pay \$9.4 million too much for shares of the company's stock.

In ESOPs employees buy stock in a closely held corporation as a way to fund retirement and provide cash to the employer.

The law requires fiduciaries to accurately price ESOP stock so employees received proper value for their ownership stake.

In this case, investigators concluded that the ESOP paid \$16 million for a 38% stake in the company. It should have cost just \$6.6 million.

The court entered a judgment against First Bankers Trust for \$9.4 million, to be paid to SJP Group's employees. SJP Group's owner agreed to pay an additional \$2.25 million in penalties.