

# First Bankers settles ESOP lawsuits for \$15.75 million

First Bankers Trust Services, a New York City firm that calls itself the “premier provider of fiduciary services” to clients nationwide, has settled three lawsuits with the U.S. Department of Labor’s Employee Benefits Security Administration over its handling of three employee stock ownership plans.

Under the settlement FBTS will pay \$15.75 million to the affected plans and change its procedures to prevent future violations.

The settlement closes the book on three lawsuits EBSA filed in 2012 alleging that FBTS failed to perform its due diligence when pricing its client companies’ stocks. Under the Employee Retirement Income Security Act, or ERISA, as fiduciary for the plans, FBTS is required to ensure employees pay a fair market value for company stock.

EBSA alleges FBTS allowed ESOPs for its clients—Maran, Rembar Co. and SJP Group—to purchase stock at inflated prices.

Under the settlement, FBTS will pay \$8 million to the SJP ESOP, \$6,642,857 to the Maran ESOP and \$1,107,143 to the Rembar ESOP.

FBTS began discussions to settle the cases after a jury returned a verdict in favor of the SJP ESOP. Proceedings in the other two cases were halted to allow settlement discussions to move forward.

**Advice:** When choosing a fiduciary for an ESOP, perform due diligence. Find out whether EBSA has ever sued the fiduciary. Get references from other companies.