

# Fiduciary Liability Coverage for Non Profit Organizations

## PROVIDES COVERAGE FOR THE FOLLOWING:

- ▶ Assets of the **plans** offered by the insured
- ▶ Assets of the named insured
- ▶ Personal assets of **fiduciaries** of the insured's firm

**FIDUCIARIES** MEAN ANY OF THE DIRECTORS, OFFICERS OR TRUSTEES, OR ANY PAST, PRESENT OR FUTURE EMPLOYEES OF THE ORGANIZATION WHO ARE FIDUCIARIES AS DEFINED IN ERISA (EMPLOYMENT RETIREMENT INCOME SECURITY ACT) WITH RESPECT TO ANY PLAN.

## A **FIDUCIARY** IS ONE WHO:

- ▶ Exercises any discretionary authority or discretionary control in managing the plan or exercises any authority or control in managing or disposing of its assets
- ▶ Renders investment advice for a fee or other compensation, with respect to any monies or other property belonging to the plan

### **Plans subject to ERISA** include

Pension Plans (not an all-inclusive list)  
Profit Sharing  
Employee Stock Ownership Plan  
401K

### **Plans not subject to ERISA** include

Workers Compensation  
Unemployment Compensation  
Disability Insurance

### **Welfare Plans** (not an all-inclusive list)

Life Insurance  
Hospital, Medical, Dental, Accident Insurance  
Disability Income (not disability insurance)

## TYPES OF FIDUCIARY CLAIMS MAY INCLUDE:

- ▶ **Plan Mergers/Terminations** – when plans are terminated as a result of company mergers and in the process possible reduction in pension benefits may occur
- ▶ **Negligence** – If a pension fund is unable to pay promised benefits because it has been seriously under funded for a long time
- ▶ **Imprudent Investment** – When a high percentage of the pension fund's assets are invested in a single company's common stock, the plan may then suffer a severe loss when the stock is rendered worthless if that company files for bankruptcy

## **NOTE:** CONFUSION OFTEN ARISES BETWEEN THE NEED FOR FIDUCIARY LIABILITY AND EMPLOYEE BENEFITS LIABILITY

- ▶ Fiduciary Liability covers claims alleging breach of duties as specified by ERISA (e.g., failure to invest plan assets prudently)
- ▶ Employee Benefits Liability covers claims involving administrative errors pertaining to pension and benefits plans (e.g., failing to name an intended beneficiary on a life insurance policy)