

Federal District Court Orders Owner to Disgorge His Cars

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A recent federal district court case demonstrates the risk to an ERISA fiduciary's personal assets when he commits a fiduciary breach. The court previously held that the former owner of a privately-held company engaged in a prohibited transaction and breached his fiduciary duties when he sold shares of company stock to his company's leveraged ESOP at prices in excess of its fair market value. The district court required the owner to provide assets, including several cars, as security in conjunction with his motion to stay enforcement of the judgment pending appeal, stipulating that if the judgment were upheld, the security would be transferred to the plaintiffs. When the U.S. Court of Appeals for the Fifth Circuit upheld the judgment, the owner refused to turn over the assets. The district court is now ordering the owner to turn over the assets despite any hardship that it may cause the owner. *Perez v. Bruister*, Civ. No. 3:13cv1001-DPJ-FKB (S.D. Miss. Jan. 4, 2017).