

Participant Awarded \$3.8 Million as Disgorgement of Profits Made on Unpaid Benefit

January 13, 2014

A former employee sued for denied benefits and breach of fiduciary duty when his employer-provided long-term disability insurance benefits were denied. The U.S. Court of Appeals for the Sixth Circuit affirmed the district court's award of the denied benefits. The Sixth Circuit also affirmed disgorgement of \$3.8 million of the insurer-defendant's profits on the unpaid disability amount. The disgorgement was appropriate as "equitable relief" for breach of fiduciary duty to prevent defendant's unjust enrichment. The \$3.8 million was calculated based on defendant's return on average equity, as opposed to returns on investment income, because the defendant held the unpaid benefits in its general account where it could be used for any business purpose, as opposed to a segregated investment account. *Rochow v. Life Insurance Co. of North America*, No. 12-2074 (6th Cir. Dec. 6, 2013).