



Employee Ownership Conference Denver, Colorado / April 13-15, 2011

WHO SHOULD ACT AS YOUR TRUSTEE? *INTERNAL VS. EXTERNAL*

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Today's Objectives

- ◇ To provide sufficient information to aid the Plan Fiduciary in determining who should act as the trustee of the ESOP
- ◇ Provide general information as to the Trustee's Duties
- ◇ Discussion from the Internal Trustee perspective
- ◇ Discussion from the External Trustee perspective



All Trustees must act:

- ◇ Solely in the interest of participants and beneficiaries:
- ◇ For the exclusive purpose of providing benefits and defraying the expenses of administering the plan;
- ◇ With the care, skill, prudence and due diligence, which under the circumstances, a prudent man would act in similar circumstances; and
- ◇ In accordance with the plan, as long as the plan and trust are consistent with ERISA



Prudence Duty

- ◇ Procedural diligence
- ◇ Trustee must be familiar with plan documents and applicable legal standards
- ◇ Trustee must document their diligence, reasoning and decisions



General Duties of the Trustee

- ◇ Valuation
- ◇ Proposed transactions
- ◇ Voting employer securities
- ◇ Diversification
- ◇ Trust Accounting



Who Should Act as Trustee

- ◇ Internal
 - ◇ Selling Shareholder
 - ◇ Management
 - ◇ Employees
- ◇ External
 - ◇ Institutional ESOP Trustee (Bank)
 - ◇ Independent ESOP Fiduciary or Individual ESOP Trustee (RIA)
 - ◇ Other



Internal vs. External Trustees

- ◇ Managing the level of risk
- ◇ Managing cost and the number of professionals
- ◇ Engaging the right legal and financial professionals
- ◇ Employees comfort level of trust
- ◇ Board involvement
- ◇ Intimate knowledge
- ◇ Regulatory environment



Questions?

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