

Client Alert: Risks When Bundling Qualified and Non-Qualified Plan Recordkeeping

A \$55 million settlement after 13 years in litigation in the case of *Tussey vs. ABB*, illustrates the dangers of bundling qualified and non-qualified plans with the same recordkeeper. In an effort to maximize cost efficiency, ABB hired the same recordkeeper to administer both its qualified and non-qualified retirement plans. The recordkeeper, eager to maintain both plans cost effectively, applied revenue from the qualified plan to non-qualified plan fees. The recordkeeper also went a step further by recommending its own mutual funds in the qualified plan in favor of lower cost, equally as effective funds – directly costing qualified plan participants money. The result was additional revenue for the plan recordkeeper and lower fees for the plan sponsor, but a breach in fiduciary responsibility and a form of “self-dealing” prohibited by ERISA, which led to the lawsuit.

Tussey vs. ABB is a reminder of the need to seek out the best vendor for qualified plans and non-qualified plans separately. In addition to finding specialized service, bifurcating the plans mitigates fiduciary risk.

To learn more about the Case of *Tussey vs. ABB* please use the link or contact your Mullin Barens Sanford Associate:

<https://www.plansponsor.com/12-years-litigation-deliver-final-settlement-tussey-vs-abb/>

Disclaimer: The materials are designed to convey accurate and authoritative information concerning the subject matter covered. However, they are provided with the understanding that Mullin Barens Sanford does not engage in the practice of law, or give tax, legal or accounting advice. For advice in these areas please consult your appropriate advisors.