



# CLAIM SCENARIOS

## FIDUCIARY LIABILITY

### Administrative Error

At the end of an employee's new hire probationary period she was given the option to participate in the company's 401K plan. The employee completed the necessary forms and submitted them to Human Resources. Human Resource personnel incorrectly communicated the wrong contribution percentage to the plan trustee. At the end of the year the employee claimed she lost out on investment gain and tax benefits. A settlement was reached for the difference in percentage amounts plus interest.

### Failure to Disclose

An employee sued her employer for unpaid medical bills as a result of the insured switching medical insurance carriers which offered reduced coverage. The insured did not notify the employee of the reduction or change in coverage. The settlement exceeded \$40,000.

### Failure to Enroll

Plaintiff alleged he purchased disability coverage at work and the premium was deducted from his paycheck. When the employee became disabled, he was told by the disability carrier that they had no record of his enrollment. He sued his employer and the disability carrier for breach of fiduciary duty and fraud seeking the cash equivalent of past and future disability benefit plus attorney fees. The claim settled for over \$100,000.

### Tax Violation

An insured received a notice from the IRS for an investigation into

violation of the tax code 502(i) which involves the insured's establishment and financing of new stock certificates for their Employee Stock Option Plan (ESOP). The IRS prohibited the transaction, assessed fines, and penalties against the company. The defense cost was in excess of \$25,000.

### Administrative Error

A large retail company recently appointed a new CFO who was listed as the plan administrator for the company's 401K retirement plan. The CFO eliminated the twelve prior investment options and replaced them with three particular mutual funds. It was later determined that his brother was the fund manager of the newly offered investments. The employees sued for breach of fiduciary duty and ERISA violations. A settlement over \$500,000 was reached.

*This document is provided for promotional and informational purposes only. For an actual description of coverages, terms and conditions refer to the insurance policy. Coverage may not be available in all states. Issuance of coverage is subject to underwriting by Philadelphia Insurance Companies.*

800.873.4552 | **PHLY.com**

The PHLY *Difference*

Philadelphia Insurance Companies is the marketing name for the insurance company subsidiaries of the Philadelphia Consolidated Holding Corp., a Member of the Tokio Marine Group. Your insurance policy, and not the information contained in this document, forms the contract between you and your insurance company. If there is a discrepancy or conflict between the information contained herein and your policy, your policy takes precedence. All coverages are not available in all states due to state insurance regulations. Certain coverage(s) may be provided by a surplus lines insurer. Surplus lines insurers do not generally participate in state guaranty funds and insureds are therefore not protected by such funds. | © 2023 Philadelphia Consolidated Holding, All Rights Reserved



TOKIO MARINE GROUP  
To Be a Good Company