
ABB ordered to post \$50m bond due to 401(k) violations

By Editor Test Thu, Nov 8, 2012

The company was ordered to post the bond within ten days while it appeals a \$50 million judgment against it and Fidelity Investments for ERISA violations in the management of its employee retirement plan, according to the attorney for the employees.

In the latest order involving Fidelity Investments and ABB's conduct in the ABB 401(k) Plan, U.S. District Court Judge Nanette Laughrey ordered ABB to post a \$50 million bond to protect ABB employees and retirees, the plaintiff's attorney said in a press release. According to the release:

The company was ordered to post the bond within ten (10) days while it appeals a \$50 million judgment against it and Fidelity Investments, which was previously entered. This judgment found ABB and Fidelity to have used employees' retirement assets for their own benefit, in violation of the Federal law which protects the safety of 401(k) retirement assets.

Jerome Schlichter, of the St. Louis law firm of Schlichter, Bogard, & Denton, LLP, said in a statement:

"The Court required a \$50 million bond to protect the retirement assets of ABB employees and retirees after Fidelity and ABB were ruled to have used them for their own corporate interests. These were assets of the employees and did not belong to Fidelity or ABB. The Court also made clear that Fidelity and ABB are liable for additional damages if they continue to use ABB employees' retirement assets for their own benefit."

ABB was also ordered previously to reform the 401(k) plan and to put out a request for proposals to replace Fidelity Investments as recordkeeper of the 401(k) plan; to monitor recordkeeping costs and negotiate for reasonable costs; to stop using Fidelity to provide its corporate services while using Fidelity as the employees' 401(k) plan recordkeeper; to choose investments with low expenses; and to manage the 401(k) plans solely for the benefit of employees and retirees, not for its own benefit. The Court also ordered Fidelity to avoid taking income earned by the employees' and retirees' assets for its own purposes.

The Court also stated that is "does not believe ABB is likely to succeed on appeal" and that any additional damages to the employees and retirees from violations "can be remedied with a monetary award and additional attorney's fees."