
Lockheed Martin pays \$62 million to settle 401(k) fee suit

By Thomas E. Clark, Jr. *Wed, Feb 25, 2015*

In this post from Fiduciary Matters Blog, ERISA attorney Thomas E. Clark, Jr., writes that "this will not be the last settlement and I would imagine we could even see a higher settlement amount."

The last of the first wave of excessive fee lawsuits filed on September 11, 2006 in what many dubbed the "[Schlichter Blitzkrieg](#)" has been settled. On the eve of trial in December, the parties in *Abbot v. Lockheed Martin* agreed to the [settlement](#) in principle to avoid trial and now the terms of the settlement have finally been made public.

Lockheed Martin has agreed to pay \$62 million and implement extensive affirmative relief. According to the settlement agreement, Schlichter, Bogard & Denton will request up to \$20,666,666 in attorneys' fees and reimbursement of up to \$1,850,000 in costs, all to come out of the settlement amount above. The plaintiffs had alleged that the fiduciaries to the Lockheed Martin 401(k) plans cause the plans to pay excessive administrative fees and that the fiduciaries had imprudently managed the money market fund and company stock fund.

The affirmative relief agreed to is as follows:

- (1) to publicly file with the Court the annual Department of Labor filing that discloses fees paid by the Plans (known as Schedule C to Form 5500) as well as information about the assets held in, and performance of, the Stable Value Fund and the Company Stock Funds;
- (2) to confirm current limitations on the amount of cash equivalents held in the Company Stock Funds and the amount of money market equivalent assets held in the Stable Value Fund, and to file a notice with the Court if those limitations are changed;
- (3) to initiate a competitive bidding process for the Plans' recordkeeping services for the Plans, and to publicly file with the Court a notice identifying the entities that submitted bids and the selected recordkeeper;
- (4) to offer participants the share class of investments that has the lowest expense ratio, provided that the share class is available and consistent with the needs and obligations of the Plans; and
- (5) The terms of the Settlement will be reviewed by an independent Fiduciary.

Our Thoughts

This is the single largest settlement of an excessive fee case against one employer to date. As we've written about before, the substantive decisions have been swinging in favor of plan participants in recent years. If that continues, this will not be the last settlement and I would imagine we could even see a higher settlement amount.

The [post](#) Lockheed Martin Settles Excessive Fee Lawsuit for \$62 million appeared first on Fiduciary Matters Blog.

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