

Article - Insurance

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§8-321.

(a) With respect to a plan, an administrator who breaches a responsibility imposed on the administrator by this subtitle:

(1) is personally liable for the restitution of money, property, or other assets to a person aggrieved by the violation and for the restoration to the plan of any profits realized by the administrator that have been made through use of assets of the plan by the administrator; and

(2) is subject to any other equitable or remedial relief that a court considers appropriate, including removal of the administrator.

(b) In addition to any liability that an administrator may have under subsection (a) of this section, the administrator is liable for a breach of responsibility under this subtitle by another administrator with respect to the same plan if the administrator:

(1) knowingly participates in or knowingly attempts to conceal an act or omission of the other administrator involved in the administration of the same plan, knowing that the act or omission of the other administrator would be a violation of this subtitle;

(2) by the administrator's failure to comply with § 8-310 of this subtitle, has enabled the other administrator to violate this subtitle; or

(3) knows of a violation of this subtitle by the other administrator, unless the administrator makes reasonable efforts under the circumstances to remedy the violation.

(c) (1) An administrator is not liable under this subtitle, by reason of a breach of responsibility, for a loss to a participant's or beneficiary's account if:

(i) the plan provides for individual accounts and allows a participant or beneficiary to exercise investment control over assets in the participant's or beneficiary's account;

(ii) the participant or beneficiary exercises that control; and

(iii) the loss or breach results from the participant's or beneficiary's exercise of that investment control.

(2) An administrator is not liable for a violation of this subtitle if the violation was committed before the administrator became an administrator or after the administrator ceased to be an administrator.

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