

NICHOLAS L. SAAKVITNE

A LAW CORPORATION

• 532 COLORADO AVE. SECOND FLOOR, SANTA MONICA, CA 90401-2408 •
• PHONE: (310) 451-3225 • • FAX: (310) 451-9089 •

ERISA FIDUCIARY PRACTICE

As a natural extension of Mr. Saakvitne's more than 30 years experience in pension law, almost all of his practice now consists of serving as Trustee, Plan Administrator, or Independent Fiduciary in plan terminations, ESOPs and other special ERISA plan situations, to assist in managing plan assets and overseeing the operation of ongoing plans. Often this involves close coordination with a governmental investigation of the plan by the U.S. Department of Labor, the Internal Revenue Service, or the Pension Benefit Guaranty Corporation (PBGC). Frequently his task is to accomplish the distribution of plan assets following the sale or dissolution of the plan sponsor. Coordinating plan terminations includes the responsibility to locate missing participants. Mr. Saakvitne has served as Special Trustee/Independent Fiduciary for purposes of obtaining Department of Labor Prohibited Transaction Exemptions. He acts as Trustee or Independent Fiduciary/Administrator of Rabbi Trusts, to oversee the provision of non-qualified plan benefits.

Plans with employer stock (such as ESOPs) present special fiduciary challenges. Mr. Saakvitne is serving as Trustee for a number of such plans, including several for which as independent fiduciary he negotiated the ESOP's sale of its stock or company assets, and the ESOPs are now liquidating. Following the sale, Mr. Saakvitne generally meets with plan participants to explain the timing and mechanics of ESOP distributions (particularly if an escrow or earn-out agreement results in staggered distributions to participants). He is a professional member of The ESOP Association.

Federal Bankruptcy Courts have approved Mr. Saakvitne's appointment by a Bankruptcy Trustee as Plan Trustee and Plan Administrator on numerous occasions to oversee the termination of bankrupt plan sponsors' retirement plans; on other occasions, he has been appointed by U.S. District Court order, state court order, or as part of a settlement agreement including the U.S. Department of Labor, or by a financial institution Trustee. Most frequently, however, he is appointed by Board of Directors' action, often at the time the plan sponsor ceases doing business.

Mr. Saakvitne has also served as Independent Fiduciary for Prohibited Transaction Class Exemption 2003-39 to evaluate the reasonableness of ERISA litigation settlements, and for other special ERISA-related projects and transactions.

In one significant ongoing appointment, a U.S. District Court appointed Mr. Saakvitne the Plan Administrator and independent named fiduciary of a large 501(c)(9) trust, and he engaged a preeminent Los Angeles law firm and a large bank's trust department to resolve the trust's problems. In the case of very large plans, he works with separate pension counsel; in smaller matters, the firm provides the plan with ERISA legal advice as well to control costs.

Mr. Saakvitne was appointed Trustee and Plan Administrator in 2000 for a multi-employer pension plan with several thousand participants; that plan has exhausted its assets and is continuing to operate with PBGC financial assistance. He recovered mass withdrawal liability assessments against a number of participating employers; and he supervised investment professionals and administrators as well as independent legal counsel in four states in addressing that plan's needs. In early 2005 he was appointed Trustee and Plan Administrator of another multi-employer pension plan, with 700 participants.

In another unique project, he served as Trustee for the retirement plans of a Hawaiian art gallery; the firm received a ship's container full of art work for the plans when the gallery closed its doors, and the firm's administrator, Steven E. Rosebaugh, coordinated the sale of that art work on behalf of the plans over an extended period of time (establishing a dba of "Pension Liquidators" for the purpose). In that case, the U.S. Department of Justice ultimately obtained criminal convictions against the plan's former fiduciaries for transferring most of the plan assets to the plan sponsor.

The firm established the Saakvitne ERISA Group Trust, a tax-exempt investment fund with a financial institution trustee and investment manager, to pool and invest under professional management the assets of smaller plans for which Nick serves as Trustee.