UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Delgrosso v. Spang and Co.; DiFrancesco and Racz v. Spang and Co.

776 F. Supp. 1065 (W.D. Pa. 1991) · No. Civ. A. Nos. 82-2672, 89-1680 · Decided August 19, 1991

SUMMARY

The United States District Court for the Western District of Pennsylvania considers plaintiffs' motion to distribute surplus assets from the Pension Plan of the Ferroslag Division of Spang and Company. The court holds that, pursuant to the Third Circuit's prior decision and ERISA, an independent plan administrator may terminate the plan despite Spang's objection, and directs that an independent administrator be appointed. The court also concludes that Spang must pay the administrator's expenses because of its contractual obligation and substantial breach of fiduciary duties.

CASE DETAILS

COURT	United States District Court for the Western District of Pennsylvania
WRITING FOR THE COURT	Judge Bloch
JURISDICTION	Pennsylvania
DECIDED	August 19, 1991
DOCKET	Civ. A. Nos. 82-2672, 89-1680
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved to distribute the surplus assets of the Pension Plan of the Ferroslag Division of Spang and Company. The district court determined that Spang could not continue as plan administrator and ordered that an independent administrator be appointed to determine whether to terminate the plan and distribute its surplus.
STANDARD OF REVIEW	The court applied the law-of-the-case doctrine and interpreted ERISA, the plan provisions, and related regulations; no appellate standard of review was stated.
PRECEDENTIAL VALUE	Published federal district court memorandum opinion; persuasive authority within the district and nonbinding elsewhere.
PARTIES	Matthew A. DelGrosso, et al., Franklin DiFrancesco, Barry K. Racz v. Spang and Company

TOPICS

employee benefits erisa trusts remedies statutory interpretation

PRACTICE AREAS

ERISA employee benefits trusts remedies

QUESTIONS PRESENTED

1. Whether an independent plan administrator may terminate an ERISA pension plan despite the plan sponsor's opposition and a plan provision granting the sponsor sole authority to terminate the plan.
2. Whether the 1986 amendments to ERISA section 1341 eliminated or restricted the plan administrator's authority to terminate a single-employer pension plan.
3. Whether Spang could remain plan administrator after substantially breaching its fiduciary duties by amending the plan to permit reversion of surplus assets to itself.
4. Whether Spang was required to pay the administrative expenses incurred by the independent plan administrator.

HOLDINGS

1. An independent plan administrator may terminate the pension plan despite Spang's opposition and despite the plan provision purporting to give Spang sole and absolute authority to terminate the plan.
2. The 1986 amendments to 29 U.S.C. § 1341 did not overturn or eliminate an independent plan administrator's authority to terminate a plan over the employer's objection.
3. Spang could not continue as plan administrator because its substantial breach of fiduciary duties justified replacing it with an independent administrator.
4. Spang was required to pay the administrative expenses incurred by the independent plan administrator.

KEY QUOTATIONS

> *"The Court of Appeals directed that "an independent administrator be appointed to determine whether to terminate the Plan, and to allocate the surplus assets among the appropriate participants."" (1066)*

> *"An independent administrator thus need not follow an inconsistent plan provision to the contrary."* (1067)

> *"By breaching its fiduciary obligations, defendant subjected itself to a severance of its control over the plan administrator's judgment regarding plan termination."* (1069)

> *"Therefore, imposing such expenses upon Spang is just and equitable."* (1070)

FACTUAL BACKGROUND

Spang sponsored and administered a pension plan covering employees of its Ferroslag Division. The covered plant locations had closed, and the plan contained provisions purporting to give Spang sole and absolute authority to terminate the plan while also permitting reversion of surplus assets to Spang. After the Third Circuit directed appointment of an independent administrator, Spang opposed termination and sought to retain control over the plan and its surplus. The district court found that Spang's amendment permitting reversion of surplus assets constituted a substantial breach of fiduciary duties.

PROCEDURAL HISTORY

The litigation had previously resulted in a Third Circuit decision directing appointment of an independent administrator to determine whether to terminate the plan and allocate surplus assets. Spang argued that the plan's termination provision, later ERISA amendments, and its asserted need to continue the plan prevented the district court or an independent administrator from ordering or effecting termination. The district court rejected those arguments, found Spang had substantially breached its fiduciary duties by amending the plan to permit reversion of surplus assets to itself, and ordered appointment of an independent administrator. The court also ordered Spang to pay the administrator's expenses.

DISPOSITION

other

REMAND INSTRUCTIONS

The court ordered appointment of an independent administrator. Dale B. Grant was to be given an opportunity to accept the appointment; if she declined, the court would solicit qualified actuarial firms from plaintiffs and allow Spang to object. If the independent administrator determined termination was warranted, the administrator was to terminate the plan under 29 U.S.C. § 1341 and 29 C.F.R. § 2616 and allocate the surplus under 29 U.S.C. §§ 1341 and 1344 and 29 C.F.R. §§ 2617.21-.23 and 2618.

CASES CITED

- DelGrosso v. Spang and Company, 769 F.2d 928, 938 (3d Cir. 1985)
- Murphy v. Heppenstall Co., 635 F.2d 233 (3d Cir. 1980)
- United States v. Butenko, 494 F.2d 593, 640 (3d Cir. 1974) (Gibbons, J., dissenting)
- Hozier v. Midwest Fasteners, Inc., 908 F.2d 1155, 1161-62 (3d Cir. 1990)
- Payonk v. HMW Industries, Inc., 883 F.2d 221, 229, 231 (3d Cir. 1989)
- PBGC v. Heppenstall Co., 633 F.2d 293, 296 n. 1 (3d Cir. 1980)