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**COMPLIANCE****Wachovia 401(k) Plan Under Investigation***Ellie Behling and Rebecca Moore – 06/06/2008*

**A law firm investigates whether conduct of fiduciaries to the Wachovia Savings Plan violated ERISA by not disclosing the risk of company stocks in light of the sub-prime mortgage risks.**

The law firm of Stember Feinstein Doyle & Payne, LLC, is looking into whether fiduciaries to Wachovia's 401(k) plan violated their obligations to the Employee Retirement Income Security Act (ERISA) by offering Wachovia stock as an investment option when it was imprudent to do so. The firm is also investigating if fiduciaries failed to take action to sell Wachovia stock or otherwise to protect the assets in light of the company's deteriorating financial situation, according to a release from the law firm.

The firm said the investigation relates to whether the fiduciaries of the plan knew or should have known that information relating to Wachovia's financial problems had not been disclosed.

The firm elaborates on Wachovia's financial situation that is now under investigation by the Securities Exchange Commission (SEC). Wachovia was giving non-conforming real estate mortgages to borrowers without consideration of their credit scores, verification of their assets, or verification of their employment status. The company failed to adjust its methodology for loss provisions in order to take into account known changes in the credit landscape. Wachovia did not properly disclose to investors about the risks of auction rate securities, which resulted in losses to the bank.

Wachovia has heavy exposure in bank-owned life insurance policies, and as a consequence, was forced to report a \$315 million loss for the first quarter of 2008. Stember Feinstein says there were insufficient management controls in place to timely address problems likely to affect the company's reputation.

Stember Feinstein also announced investigations this year of fiduciary breaches relating to retirement plans at Marshall & Ilsley and Bear Stearns (see [Law Firm Investigates Possible M&I Fiduciary Breach to Retirement Plan](#) and [Bear's Ills Draw Company Stock "Investigation"](#)).

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