

Taxpayers, 401(K)Investors Win Two Cases: Business of Law (1)

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(Updates with Bail Bond section on insider-trading case of Sean Stewart, the Perella Weinberg managing director. To receive this column daily click [SALT LAW BIZ](#).)

By Ellen Rosen

(Bloomberg) -- The [U.S. Supreme Court](#) said 401(k) plans have a duty to monitor the investment options they offer, a ruling that may help investors press lawsuits over both underperforming funds and excessive fees.

The justices unanimously revived claims that [Edison International's](#) 401(k) plan should have shifted investors to investments that carried lower fees.

The limited ruling didn't decide whether Edison should have jettisoned the funds or address the extent to which it needed to review those investments. The justices sent the case back to a lower court to consider those questions.

The case reached the Supreme Court amid intensified scrutiny of fees in retirement accounts, now the primary savings vehicle for old age. Americans held \$6.8 trillion in 401(k)-type plans as of Dec. 31, according to the Investment Company Institute.

The investor suit against Edison is one of more than a dozen that have been filed against companies since 2006. In February, Lockheed Martin Corp. settled for \$62 million a case that it faced.

Writing for the high court, Justice [Stephen Breyer](#) said plan trustees have "a continuing duty to monitor investments and remove imprudent ones."

[The case](#) is *Tibble v. Edison International*, 13-550.

For more, [click here](#).

Taxpayers Backed by U.S. High Court on Out-of-State Income

The U.S. Supreme Court ruled that Maryland must give a larger tax break to residents who earn money outside the state, a decision that may hamper tax-collection efforts across the country.

The justices, voting 5-4, said Maryland violated the Constitution by not letting a couple use the income taxes they paid elsewhere to reduce the amount they owe under a 3.2 percent county tax.

The ruling is likely to cut Maryland's tax receipts by tens of millions of dollars and perhaps mean reductions of hundreds of millions of dollars elsewhere. Among the jurisdictions that might be affected is New York, which was a focus of discussion during arguments in November.

The residents, Brian and Karen Wynne, say the Maryland law subjected them to thousands of dollars in double taxation. The high court said the Maryland tax system unconstitutionally discriminated against interstate commerce.

The case split the court along unusual lines. Justice [Samuel Alito](#) wrote the opinion for the majority, joined by Chief Justice [John Roberts](#) and Justices [Stephen Breyer](#), [Anthony Kennedy](#) and [Sonia Sotomayor](#).

Justices [Antonin Scalia](#), [Clarence Thomas](#), [Ruth Bader Ginsburg](#) and [Elena Kagan](#) dissented.

[The case is](#) Comptroller of Treasury v. Wynne, 13-485.

For more, [click here](#).

Bail Bond

Magistrate Says No Bail Necessary, But Federal Judge Disagrees

A U.S. magistrate judge in Manhattan surprised both prosecutors and the defense Monday by allowing a [Perella Weinberg Partners LP](#) managing director accused of insider trading to walk free even though both prosecutors and his lawyer had agreed to a \$1 million bond.

U.S. Magistrate Judge [Kevin Nathaniel Fox](#) on Monday stunned both sides by ruling [Sean Stewart](#), 34, deserved "the least restrictive oversight" available and could leave court without posting any bond.

Fox's ruling was short-lived.

Prosecutor Brooke Cucinella immediately challenged it to U.S. District Judge [Alison Nathan](#). Cucinella argued that a bond was necessary to ensure Stewart would return to court and not flee.

Even Stewart's lawyer, [Gerald Di Chiara](#), noting the "awkward position" he found himself in, acknowledged that he had "never seen this before."

Nathan, too, said the magistrate's ruling was unusual and reinstated the bail. "Given the facts and the parties' agreement, the bail package agreed upon will be granted," she told the lawyers.

Stewart is accused of giving his father, Robert Stewart, 60, secret tips in a scheme that reaped more than \$1 million in illicit profit. Robert Stewart told investigators during a regulatory review that he used some of the funds to pay his son's wedding expenses, the government says.

Perella Weinberg has suspended Stewart pending the outcome of the case and is cooperating with the U.S. attorney, a spokeswoman for the firm said.

Deals

Proskauer, Wachtell Advise on Ann Taylor's \$2.16 Billion Sale

[Wachtell, Lipton, Rosen & Katz](#) represented [Ann Inc.](#), owner of the Ann Taylor and Loft stores, in its sale to [Ascena Retail Group Inc.](#) for about \$2.16 billion. [Proskauer Rose LLP](#) advised Ascena, which owns Lane Bryant as well as other brands.

The Proskauer team was led by partners [Julie Allen](#) and [Steven Kirshenbaum](#). It included [Andrea Rattner](#) and [Paul Hamburger](#), employee benefits and executive compensation; [Andrew Bettwy](#), finance; [Amanda](#)

[Nussbaum](#), tax; [Daryn Grossman](#), technology, media and communications; [Perry Cacace](#), real estate; [Colin Kass](#) and special counsel John Ingrassia, antitrust; and [Gail Port](#) and special counsel Yelena Simonyuk, environmental.

The Wachtell team was led by corporate partner [Joshua Cammaker](#) and of counsel [Patricia Vlahakis](#). It included corporate partner [Karessa Cain](#), counsel Nancy Greenbaum, executive compensation and benefits partner [Adam Shapiro](#), finance partner [Joshua Feltman](#) and tax partner [Deborah Paul](#).

The deal combines the Ann Taylor and Loft brands with Ascena's Lane Bryant, Maurices and Justice chains, creating a company with more than 4,900 stores focused exclusively on women's clothing and accessories.

On the Move

Greenberg Traurig Hires Energy and Commodities Partner

[Gregory Lawrence](#) is joining Greenberg Traurig LLP as a senior member of its global energy and infrastructure practice in Washington and Boston. Lawrence, who was previously a partner at Cadwalader, Wickersham & Taft LLP, is an energy and commodities lawyer.

He focuses on the electricity and natural gas industries and advises financial institutions, investment and private equity funds, marketers, commodity traders, renewable and other project developers, municipal and investor-owned utilities, and large energy consumers.

He has experience representing clients before the Federal Energy Regulatory Commission and state utility commissions on regulatory and enforcement matters.

Fried Frank Expands Its Finance Practice in New York and London

Fried, Frank, Harris, Shriver & Jacobson LLP added two partners in its finance practice. [Stuart Brinkworth](#), previously a partner at Hogan Lovells, joined the firm's London office, while [Julian Chung](#), previously a partner at [Orrick Herrington & Sutcliffe LLP](#), joined in New York.

Brinkworth advises U.K. and international lenders, sponsors and bidding consortia on leveraged finance transactions. Chung focuses on representing financial institutions and borrowers in commercial lending transactions, with an emphasis on senior secured finance for leveraged acquisitions. She also represents financial institutions and debtors in connection with restructurings and refinancing existing credit facilities.

Reed Smith Hires Two Partners for Its Financial Industry Group

[Reed Smith LLP](#) added two partners to its financial industry group.

[Ilene Froom](#) is joining the firm in New York. She was previously a partner at [Jones Day](#), and from 2003 to 2012 she was an executive director and assistant general counsel at JPMorgan Chase Bank in New York. Froom represents buy-side and sell-side clients in derivative transactions.

[Michele Ross](#) is joining the same group as a partner and will split her time between New York and Washington. Ross, who was previously a partner at Emmet, Marvin & Martin LLP, represents issuers, underwriters, trustees and credit enhancement providers in all types of capital market debt.

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--With assistance from [Greg Stohr](#) in Washington, [Kevin Orland](#) in Chicago, [Craig Giammona](#) in New York and [Patricia Hurtado](#) in federal court in Manhattan.

To contact the reporter on this story: [Ellen Rosen](#) in New York at +1-914-833-1886 or erosen14@bloomberg.net. To contact the editors responsible for this story: Michael Hytha at +1-415-617-7137 or mhytha@bloomberg.net. David Glovin, Andrew Dunn

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