Syllabus

SUPREME COURT OF THE UNITED STATES

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HARRIS TRUST AND SAVINGS BANK, AS TRUSTEE FOR THE AMERITECH PENSION TRUST, ET AL. *v.* SALOMON SMITH BARNEY INC. ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

No. 99–579. Argued April 17, 2000– Decided June 12, 2000

The Employee Retirement Income Security Act of 1974 (ERISA) bars a fiduciary of an employee benefit plan from causing the plan to engage in certain prohibited transactions with a "party in interest," §406(a), defined to encompass entities that a fiduciary might be inclined to favor at the expense of the plan's beneficiaries, see §3(14). Section 406's prohibitions are subject to both statutory and regulatory exemptions. See §§408(a), (b). The Ameritech Pension Trust (APT), an ERISA pension plan, allegedly entered into a transaction prohibited by §406(a) and not exempted by §408 with respondent Salomon Smith Barney Inc. (Salomon), a nonfiduciary party in interest. APT's fiduciaries– its trustee, petitioner Harris Trust and Savings Bank, and its administrator, petitioner Ameritech Corporation– sued Salomon under §502(a)(3), which authorizes a fiduciary, *inter alios*, to bring a civil action to obtain "appropriate equitable relief" to redress violations of ERISA Title I. Salomon moved for summary judgment, arguing that §502(a)(3), when used to remedy a transaction prohibited by §406(a), authorizes a suit only against the party expressly constrained by §406(a)– the fiduciary who caused the plan to enter the transaction– and not against the counterparty to the transaction. The District Court denied the motion, holding that ERISA provides a private cause of action against nonfiduciaries who participate in a prohibited transaction, but granted Salomon's motion for certification of the issue for interlocutory appeal. The Seventh Circuit reversed, holding that the authority to sue under §502(a)(3) does not extend to a suit against a nonfiduciary "party in interest" to a transaction barred by §406(a).

Held: Section 502(a)(3)'s authorization to a plan "participant, beneficiary, or fiduciary" to bring a civil action for "appropriate equitable relief" extends to a suit against a nonfiduciary "party in interest" to a prohibited transaction barred by §406(a). Pp. 5–15.

(a) In providing that "[a] *fiduciary* . . . shall not cause the plan to engage in a [prohibited] transaction" (emphasis added), §406(a)(1) imposes a duty only on the fiduciary that causes the plan to engage in the transaction. However, this Court rejects the Seventh Circuit's and Salomon's conclusion that, absent a substantive ERISA provision expressly imposing a duty on a nonfiduciary party in interest, the nonfiduciary party may not be held liable under §502(a)(3), one of ERISA's remedial provisions. Because §502(a)(3) itself imposes certain duties, liability under that provision does not depend on whether ERISA's substantive provisions impose a specific duty on the party being sued. While §502(a)(3) does not authorize "appropriate equitable relief" *at large*, but only for the purpose of "redress[ing any] violations or . . . enforc[ing] any provisions" of ERISA or an ERISA plan, *e.g., Peacock* v. *Thomas*, 516 U. S. 349, 353, the section admits of no limit (aside from the "appropriate equitable relief" caveat) on the universe of possible defendants. Indeed, §502(a)(3) makes no mention at all of which parties may be proper defendants– the focus, instead, is on redressing the "*act or practice* which violates any provision of [ERISA Title I]." (Emphasis added.) Other provisions of ERISA, by contrast, expressly address who may be a defendant. See, *e.g.*, §409(a). And, in providing that a "civil action may be brought *by a participant, beneficiary, or fiduciary*" (emphasis added), §502(a) itself demonstrates Congress' care in delineating the universe of *plaintiffs* who may bring certain civil actions. The matter is conclusively resolved by §502(*l*), which provides for assessment by the Secretary of Labor of a civil penalty against a fiduciary or "other person" who knowingly participates in a fiduciary's ERISA violation, defining the amount of such penalty by reference to the amount "ordered by a court to be paid by such . . . other person . . . in a judicial proceeding . . . by the Secretary under subsection . . . *(a)(5).*" (Emphasis added.) The plain implication is that the Secretary may bring a civil action under §502(a)(5) against an "other person" who "knowing[ly] participat[es]" in a fiduciary's violation, notwithstanding the absence of any ERISA provision explicitly imposing a duty upon an "other person" not to engage in such knowing participation. It thus follows that a participant, beneficiary, or fiduciary may bring suit against an "other person" under the similarly worded subsection (a)(3). See *Mertens* v. *Hewitt Associates*, 508 U. S. 248, 260. *Id.*, at 261, distinguished. Section 502(*l*), therefore, refutes the notion that §502(a)(3) (or (a)(5)) liability hinges on whether the particular defendant labors under a duty expressly imposed by ERISA Title I's substantive provisions. Pp. 5–10.

(b) The Court rejects Salomon's argument that it would contravene common sense for Congress to impose civil liability on a party, such as a nonfiduciary party in interest to a §406(a) transaction, that is not a "wrongdoer" in the sense of violating a duty expressly imposed by ERISA Title I's substantive provisions. This argument ignores the limiting principle explicit in §502(a)(3): that the retrospective relief sought be "appropriate equitable relief." The common law of trusts, which offers a starting point for ERISA analysis, *Hughes Aircraft Co.* v. *Jacobson*, 525 U. S. 432, 447, plainly countenances the sort of relief sought by petitioners against Salomon here, see *Moore* v. *Crawford*, 130 U. S. 122, 128. It also sets limits on restitution actions against defendants other than the principal "wrongdoer." Translated to the instant context, a transferee of ill-gotten plan assets may be held liable, if the transferee (assuming he has purchased for value) knew or should have known of the circumstances that rendered the transaction prohibited. Those circumstances, in turn, involve a showing that the *plan fiduciary*, with actual or constructive knowledge of the facts satisfying the elements of a §406(a) transaction, caused the plan to engage in the transaction. *Lockheed Corp.* v. *Spink*, 517 U. S. 882, 888–889. The common law additionally prompts rejection of Salomon's complaint that the Court's view of §502(a)(3) would incongruously allow not only the harmed beneficiaries, but also the culpable fiduciary, to seek restitution from the arguably less culpable counterparty-transferee. The common law sees no incongruity in such a rule: Although the fiduciary bases his cause of action upon his own wrongdoing, he may maintain the action because its purpose is to recover money for the plan. And while Salomon correctly observes that the antecedent violation of §406(a)'s *per se* prohibitions on transacting with a party in interest was unknown at common law, the Court rejects as unsupported Salomon's suggestion that common-law liability should not attach to an act that does not violate a common-law duty. Thus, an action for restitution against a transferee of tainted plan assets satisfies §502(a)(3)'s "appropriate[ness]" criterion. Such relief is also "equitable." See *Mertens, supra,* at 260. Pp. 10–14.

(c) The Court declines to depart from §502(a)(3)'s text on the basis of two nontextual matters: (1) that the congressional Conference Committee rejected language that would have expressly imposed a duty on nonfiduciary parties to §406(a) transactions, and (2) that the policy consequences of recognizing a §502(a)(3) action in this case could be devastating because counterparties, faced with the prospect of liability for dealing with a plan, may charge higher rates or, worse, refuse altogether to transact with plans. In ERISA cases, the Court's analysis begins with the statutory language and, where that language is clear, it ends there as well. *Hughes Aircraft Co.* v. *Jacobson*, 525 U. S. 432, 438. Section 502(a)(3), as informed by §502(*l*), satisfies this standard. Pp. 14–15.

184 F. 3d 646, reversed and remanded.

THOMAS, J., delivered the opinion for a unanimous Court.