

Columbia CEO to Hand Over Notes in 401(k)-Fee Lawsuit

By Emile Hallez, *Ignites*, July 11, 2014 [subscription required]

Head of Columbia Management Ted Truscott must provide the plaintiffs in an excessive-fee case lawsuit against Ameriprise with a set of his notebooks, the existence of which was previously unknown to the court, a judge has recently ruled.

The case, which was filed in 2011, is based on allegations that Ameriprise's inclusion of its proprietary RiverSource funds on its 401(k) menu violated the company's fiduciary duty to its employee participants by failing to select less expensive, stronger-performing funds managed by outside firms.

During a deposition in late May, Truscott revealed that he had taken business-meeting notes in composition notebooks, documents that Ameriprise did not previously provide to the plaintiffs, according to an order issued earlier this week by U.S. magistrate judge Janie Mayeron, who is presiding over the case, *Krueger et al. v. Ameriprise Financial*.

Previously, Ameriprise had argued that Truscott had "absolutely no involvement with the administration of the plan or the selection of the plan's investment options," and should not be required to provide notes or other materials, court records show.

The event is uncommon, and it is not yet known what effect the new material will have on the outcome of the case, as the notes have not been reviewed, says the plaintiff's lawyer, Jerome Schlichter, founder of law firm Schlichter Bogard & Denton.

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"You don't see that very often," says Niels Holch, executive director of the Coalition of Mutual Fund Investors, adding that the judge's decision is "fairly significant." Also noteworthy is the fact that the case seems set for trial, he says. "Very few of these fee cases get beyond that initial phase into discovery."