356A.10 COFIDUCIARY RESPONSIBILITY AND LIABILITY.

Subdivision 1. **Cofiduciary responsibility in general.** A cofiduciary has a general responsibility to oversee the fiduciary activities of all other fiduciaries unless the activity has been allocated or delegated in accordance with subdivision 3. A cofiduciary also has a general responsibility to correct or alleviate a fiduciary breach of which the cofiduciary had or ought to have had knowledge.

Subd. 2. **Cofiduciary liability.** A cofiduciary is liable for a fiduciary breach committed by another fiduciary when the cofiduciary has a responsibility to oversee the fiduciary activities of the other fiduciary or to correct or alleviate a breach by that fiduciary.

Subd. 3. **Limitation on cofiduciary responsibility.** A cofiduciary may limit cofiduciary responsibility and liability through the allocation or delegation of fiduciary activities if the allocation or delegation:

(1) follows appropriate procedures;

(2) is made to an appropriate person or persons; and

(3) is subject to continued monitoring of performance.

Subd. 4. **Bar to liability in certain instances.** A properly made delegation or allocation of a fiduciary activity is a bar to liability on the part of a fiduciary making the delegation or allocation unless the fiduciary has or ought to have knowledge of the breach and takes part in the breach, conceals it, or fails to take reasonable steps to remedy it.

Subd. 5. **Extent of cofiduciary liability.** Unless liability is barred under subdivision 4, cofiduciary liability is joint and several, but a cofiduciary has the right to recover from the responsible fiduciary for any damages paid by the cofiduciary.

History: *1989 c 319 art 7 s 10*