Introduction about the Application of the Securities Acts and ERISA to Private Pension Plans

——International Brotherhood of Teamsters v. Daniel——

Yoshio Ushimaru (Osaka Prefecture Univ.)

As private pension plans have recently developed in Japan, there rises an opinion that the Congress should enact the comprehensive law regulating private pension plans to protect the rights of employees. We must reference foreign laws regulating private pension plans all over the world in enacting such a law. Especially, we must study ERISA (The Employees Retirement Income Security Act of 1974) of the United States.

In this article, I introduce about the problem of the applicability of the secuities acts and ERISA to private pension plans. The discussion about that problem has been done very much in the United States and has been begun by the case, International Brotherhood of Teamsters v. Daniel, 99 S. Ct. 790 (1979).

The Supreme Court held that employee's participation in an involuntary, noncontributory pension plans did not constitute a security, and was not subject to the anti-fraud provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934. But, the Seventh Circuit Court of Appeals and the District Court for the Northern District of Illinois held that the federal securities acts applied to that pension plan.

In this article, I analyze and introduce ① the holdings of the Daniel case, ② relevant provisions of federal securities acts, ERISA and common law and ③ opinions of many commentators. I think it is cleared by analyzing the Daniel case that ERISA has some defects in regulating pension plans and that the federal securities acts apply to the certain pension plans after the Dalel case.

Finally, I analyze the lessons of the Daniel case in the field of Japanese laws, a little.