Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

RAYMOND B. YATES, M. D., P. C. PROFIT SHARING PLAN ET AL. *v.* HENDON, TRUSTEE

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

No. 02–458. Argued January 13, 2004—Decided March 2, 2004

Enacted "to protect . . . the interests of participants in employee benefit plans and their beneficiaries," 29 U. S. C. §1001(b), the Employee Retirement Income Security Act of 1974 (ERISA) comprises four titles. Relevant here, Title I, 29 U. S. C. §1001 *et seq*., mandates minimum participation, vesting, and funding schedules for covered pension plans, and establishes fiduciary conduct standards for plan administrators. Title II, codified in 26 U. S. C., amended various Internal Revenue Code (IRC) provisions pertaining to qualification of pension plans for special tax treatment, in order, *inter alia*, to conform to Title I's standards. Title III, 29 U. S. C. §1201 *et seq.*, contains provisions designed to coordinate enforcement efforts of different federal departments. Title IV, 29 U. S. C. §1301 *et seq.*, created the Pension Benefit Guaranty Corporation and an insurance program to protect employees against the loss of "nonforfeitable" benefits upon termination of pension plans lacking sufficient funds to pay benefits in full. This case concerns Title I's definition and coverage provisions, though those provisions, indicating who may participate in an ERISA-sheltered plan, inform each of ERISA's four titles. Title I defines "employee benefit plan" as "an employee welfare benefit plan or an employee pension benefit plan or . . . both," §1002(3); "participant" to encompass "any employee . . . eligible to receive a benefit . . . from an employee benefit plan," §1002(7); "employee" as "any individual employed by an employer," §1002(6); and "employer" to include "any person acting . . . as an employer, or . . . in the interest of an employer," §1002(5).

Yates was sole shareholder and president of a professional corporation that maintained a profit sharing plan (Plan). From the Plan's inception, at least one person other than Yates or his wife was a Plan participant. The Plan qualified for favorable tax treatment under IRC §401. As required by the IRC, 26 U. S. C. §401(a)(13), and ERISA, 29 U. S. C. §1056(d), the Plan contained an anti-alienation provision. Entitled "Spendthrift Clause," the provision stated, in relevant part: "Except for . . . loans to Participants as [expressly provided for in the Plan], no benefit or interest available hereunder will be subject to assignment or alienation." In December 1989, Yates borrowed $20,000 from another of his corporation's pension plans (which later merged into the Plan), but failed to make any of the required monthly payments. In November 1996, however, Yates paid off the loan in full with the proceeds of the sale of his house. Three weeks later, Yates's creditors filed an involuntary petition against him under Chapter 7 of the Bankruptcy Code. Respondent Hendon, the Bankruptcy Trustee, filed a complaint against petitioners (the Plan and Yates, as Plan trustee), asking the Bankruptcy Court to avoid the loan repayment. Granting Hendon summary judgment, the Bankruptcy Court first determined that the repayment qualified as a preferential transfer under 11 U. S. C. §547(b). That finding was not challenged on appeal. The Bankruptcy Court then held that the Plan and Yates, as Plan trustee, could not rely on the Plan's anti-alienation provision to prevent Hendon from recovering the loan repayment for the bankruptcy estate. That holding was dictated by Sixth Circuit precedent, under which a self-employed owner of a pension plan's corporate sponsor could not "participate" as an "employee" under ERISA and therefore could not use ERISA's provisions to enforce the restriction on transfer of his beneficial interest in the plan. The District Court and the Sixth Circuit affirmed on the same ground. The Sixth Circuit's determination that Yates was not a "participant" in the Plan for ERISA purposes obviated the question whether, had Yates qualified as such a participant, his loan repayment would have been shielded from the Bankruptcy Trustee's reach.

Held: The working owner of a business (here, the sole shareholder and president of a professional corporation) may qualify as a "participant" in a pension plan covered by ERISA. If the plan covers one or more employees other than the business owner and his or her spouse, the working owner may participate on equal terms with other plan participants. Such a working owner, in common with other employees, qualifies for the protections ERISA affords plan participants and is governed by the rights and remedies ERISA specifies. Pp. 8–20.

(a) Congress intended working owners to qualify as plan participants. Because ERISA's definitions of "employee" and, in turn, "participant" are uninformative, the Court looks to other ERISA provisions for instruction. See *Nationwide Mut. Ins. Co.* v. *Darden,* 503

U. S. 318, 323. ERISA's multiple textual indications that Congress intended working owners to qualify as plan participants provide, in combination, "specific guidance," *ibid.*, so there is no cause in this case to resort to common law. ERISA's enactment in 1974 did not change the existing backdrop of IRC provisions permitting corporate shareholders, partners, and sole proprietors to participate in tax-qualified pension plans. Rather, Congress' objective was to harmonize ERISA with these longstanding tax provisions. Title I of ERISA and related IRC provisions expressly contemplate the participation of working owners in covered benefit plans. Most notably, Title I frees certain plans in which working owners likely participate from all of ERISA's fiduciary responsibility requirements. See 29 U. S. C. §1101(a) and 26 U. S. C. §§414(q)(1)(A) and 416(i)(1)(B)(i). Title I also contains more limited exemptions from ERISA's fiduciary responsibility requirements for plans that ordinarily include working owners as participants. See 29 U. S. C. §§1103(a) and (b)(3)(A) and 26 U. S. C. §§401(c)(1) and (2)(A)(i), 1402(a) and (c). Further, Title I contains exemptions from ERISA's prohibited transaction exemptions, which, like the fiduciary responsibility exemptions, indicate that working owners may participate in ERISA-qualified plans. See 29 U. S. C. §§1108(b)(1)(B) and (d)(1) and 26 U. S. C. §401(c)(3). Exemptions of this order would be unnecessary if working owners could not qualify as participants in ERISA-protected plans in the first place. Provisions of Title IV of ERISA are corroborative. For example, Title IV does not apply to plans "established and maintained *exclusively* for substantial owners," §1321(b)(9) (emphasis added), a category that includes sole proprietors and shareholders and partners with a ten percent or greater ownership interest, §1322(b)(5)(A). But Title IV does cover plans in which substantial owners participate *along with* other employees. See §1322(b)(5)(B). Particularly instructive, Title IV and the IRC, as amended by Title II, clarify a key point missed by several lower courts: Under ERISA, a working owner may wear two hats, *i.e.,* he can be an employee entitled to participate in a plan and, at the same time, the employer who established the plan. See §1301(b)(1) and 26 U. S. C. §401(c)(4). Congress' aim to promote and facilitate employee benefit plans is advanced by the Court's reading of ERISA's text. The working employer's opportunity personally to participate and gain ERISA coverage serves as an incentive to the creation of plans that will benefit employer and nonowner employees alike. Treating the working owner as a participant in an ERISA-sheltered plan also avoids the anomaly that the same plan will be controlled by discrete regimes: federal-law governance for the nonowner employees; state-law governance for the working owner. Excepting working owners from ERISA's coverage is hardly consistent with the statutory goal of "uniform national treatment of pension benefits," *Patterson* v. *Shumate,* 504 U. S. 753, 765, and would generate administrative difficulties. A 1999 Department of Labor advisory opinion (hereinafter Advisory Opinion 99–04A) accords with the Court's comprehension of Title I's definition and coverage provisions. Concluding that working owners may qualify as participants in ERISA-protected plans, the Department's opinion reflects a "body of experience and informed judgment to which courts and litigants may properly resort for guidance." *Skidmore* v. *Swift & Co.,* 323 U. S. 134, 140. Pp. 8–14.

(b) This Court rejects the lower courts' position that a working owner may rank only as an "employer" and not also as an "employee" for purposes of ERISA-sheltered plan participation. The Sixth Circuit's leading decision in point relied, in large part, on an incorrect reading of a portion of a Department of Labor regulation, 29 CFR §2510.3–3, which states: "[T]he term 'employee benefit plan' [as used in Title I] shall not include any plan . . . under which no employees are participants"; *"[f]or purposes of this section,"* "an individual and his or her spouse shall not be deemed to be employees with respect to a . . . business" they own. (Emphasis added.) In common with other Courts of Appeals that have held working owners do not qualify as participants in ERISA-governed plans, the Sixth Circuit apparently understood the regulation to provide a generally applicable definition of "employee," controlling for all Title I purposes. The Labor Department's Advisory Opinion 99–04A, however, interprets the regulation to mean that the statutory term "employee benefit plan" does not include a plan whose *only* participants are the owner and his or her spouse, but does include a plan that covers as participants one or more common-law employees, in addition to the self-employed individuals. This agency view, overlooked by the Sixth Circuit, merits the Judiciary's respectful consideration. Cf. *Clackamas Gastroenterology Assoc., P. C.*, 538 U. S., at ___. Moreover, the Department's regulation itself reveals the definitional prescription's limited scope. The prescription describes "employees" only "[f]or purposes of this section," *i.e.*, the section defining "employee benefit plans." Accordingly, the regulation addresses only what plans qualify as "employee benefit plans" under ERISA's Title I. Plans that cover only sole owners or partners and their spouses, the regulation instructs, fall outside Title I's domain, while plans that cover working owners *and* their nonowner employees fall entirely within ERISA's compass. The Sixth Circuit's leading decision also mistakenly relied on ERISA's "anti-inurement" provision, 29 U. S. C. §1103(c)(1), which states that plan assets shall not inure to the benefit of employers. Correctly read, that provision does not preclude Title I coverage of working owners as plan participants. It demands only that plan assets be held to supply benefits to plan participants. Its purpose is to apply the law of trusts to discourage abuses such as self-dealing, imprudent investment, and misappropriation of plan assets, by employers and others. Those concerns are not implicated by paying benefits to working owners who participate on an equal basis with nonowner employees in ERISA-protected plans. This Court expresses no opinion as to whether Yates himself, in his handling of loan repayments, engaged in conduct inconsistent with the anti-inurement provision, an issue not yet reached by the courts below. Pp. 14–20.

(c) Given the undisputed fact that Yates failed to honor his loan's periodic repayment requirements, these questions should be addressed on remand: (1) Did the November 1996 close-to-bankruptcy repayments, despite the prior defaults, become a portion of Yates's interest in the Plan that is excluded from his bankruptcy estate and (2) if so, were the repayments beyond the reach of the Bankruptcy Trustee's power to avoid and recover preferential transfers? P. 20.

287 F. 3d 521, reversed and remanded.

GINSBURG, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and STEVENS, O'CONNOR, KENNEDY, SOUTER, and BREYER, JJ., joined. SCALIA, J., and THOMAS, J., each filed an opinion concurring in the judgment.