

News Release



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U.S. Labor Department Obtains Partial Judgment Restoring \$34,000 To N.Y. Retirement Plan

NEW YORK—The U.S. Department of Labor has obtained a partial consent judgment requiring a former trustee of the money purchase plan of Arch-Con Associates in Whitestone, N.Y., to restore \$34,000 to the plan as restitution for failure to collect employer contributions. Former trustee Paul Cohen, who was in bankruptcy, has agreed to restore additional amounts up to approximately \$183,000 in unpaid employer contributions and interest if his finances improve.

Cohen also agreed to be permanently barred from serving plans governed by the Employee Retirement Income Security Act in the future. In addition, the department obtained an order preventing Cohen from discharging any debts owed to the plan in bankruptcy proceedings.

The department sued trustees Joseph Bordonaro and Cohen on July 25, 2003, for violating the Employee Retirement Income Security Act (ERISA) when they failed to collect about \$160,000 in employer contributions owed to the plan by the company during 1997 to 1999, and abandoned the plan when Arch-Con became defunct. The suit was filed in federal district court in Central Islip, N.Y. In May 2003, the department also filed adversary complaints against the defendants in U.S. bankruptcy courts in Central Islip and Poughkeepsie, N.Y., to prevent them from avoiding payment of money owed to the plan.

Arch-Con employed construction workers on job sites covered by prevailing wage contracts with state and local governmental units in metropolitan New York.

“The law states that trustees have a fiduciary responsibility to manage the money set aside in retirement plans for the benefit of employees and their families,” said Francis Clisham, director of the department’s New York regional office of the Employee Benefits Security Administration (EBSA). “Our legal action begins to restore money to pay future benefits to these plan participants.”

The case resulted from an investigation conducted by the EBSA’s New York regional office. Employers and workers can contact the regional office at (212) 607-8600 or EBSA’s toll free number, **1-866-444-EBSA (3272)**, for help with problems relating to private-sector pension and health plans.

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(Chao v. Bordonaro)
Civil Action No. 03-3643
(In re: Cohen)
Bankruptcy Case No. 02-37069 (CGM)

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