

News Release



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U.S. Labor Department Sues to Restore Assets to Worcester Pension Plan

BOSTON – The U.S. Department of Labor sued the plan sponsor and the trustee of the Northeast Display Inc. 401(k) Savings and Investment Plan of Worcester, Mass., for failing to forward over \$65,000 in employee contributions to the plan.

James Benages, Boston regional director of the Labor Department's Employee Benefits Security Administration (EBSA), says the alleged violations of the federal Employee Retirement Income Security Act (ERISA) took place between April 1, 1998, and Sept. 30, 2003. Named in the suit are plan sponsor and administrator NDI International, Inc. (also known by Northeast Display, Inc.) and plan trustee Brian M. Anger, the president and chief executive officer of NDI.

“The law states that trustees of employee benefit plans have a fiduciary responsibility to manage money set aside in retirement plans for the benefit of employees and their beneficiaries,” said Benages. “Our suit alleges that these defendants withheld plan contributions from employees' paychecks and then used the money to meet company expenses instead of forwarding it to the plan as required by law. Such a misuse of employee plan assets is a serious violation of the law and will not be tolerated.”

The suit seeks to have the defendants restore to the plan all losses related to their fiduciary breaches, permanently prohibit Brian M. Anger from future violations of ERISA and permanently prohibit Anger from serving as a fiduciary to this or any other employee benefit plan covered by ERISA. If the losses are not otherwise restored to the plan by the defendants, the suit also asks the court to offset those losses with the assets in Anger's own plan account.

Employers with similar problems, who are not yet the subject of an investigation by EBSA, may be eligible to participate in the department's Voluntary Fiduciary Correction Program (VFCP). Participation in the VFCP requires employers to make workers whole but allows them to avoid EBSA enforcement actions, civil penalties and any applicable excise taxes. For more information go to www.dol.gov/ebsa.

The Labor Department's suit was filed in the U.S. District Court for the District of Massachusetts. The case resulted from an investigation conducted by the Boston regional office of the department's Employee Benefits Security Administration.

In fiscal year 2003, EBSA achieved record monetary results of \$1.4 billion related to the pension, 401(k), health and other benefits of millions of American workers and their families. Employers and workers can contact the regional office at 617-565-9600 or EBSA's toll-free number, 1-866-444-EBSA (3272), for more information on the requirements of ERISA or for help with problems relating to private-sector pension and health plans.

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(Chao v. Brian M. Anger) Civil Action No. 04 40065-NMG

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