

News Release



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Contact: Gloria Della
Phone: (202) 693-8664

U.S. Labor Department Sues President of Defunct Pennsylvania Company Over Delinquent 401(k) Contributions

PHILADELPHIA – The former president of defunct NLOCI Corporation in West Chester, Pa., was sued by the U. S. Department of Labor for failure to forward employee contributions to the company’s 401(k) plan. The department is seeking over \$17,000 in missing employee contributions plus interest.

“The Department of Labor will aggressively enforce the law to protect the retirement funds of this nation’s hardworking men and women,” said Mabel Capolongo, director of the Philadelphia regional office of the Employee Benefits Security Administration (EBSA). “Our legal action will ensure that these workers receive the future benefits owed to them.”

The lawsuit alleges that Frank T. Fiascki violated the Employee Retirement Income Security Act (ERISA) by failing to forward to the Terminal Technologies, Inc. 401(k) Plan contributions deducted from employees’ paychecks between June 2002 and March 2003

Both the company and Fiascki filed for bankruptcy in 2003. The 401(k) plan covered eight participants and had no assets as of Oct. 15, 2003. Mr. Fiascki’s bankruptcy was dismissed Dec. 7, 2004.

The suit seeks a court order to require that the Fiascki restore all losses, including lost opportunity costs, waive his right to benefits from the plan, and be removed from his position with the 401(k). The department also asks that he be permanently barred from serving as a fiduciary capacity to any plan in the future.

The suit, filed in the federal district court in Philadelphia, resulted from an investigation conducted by EBSA’s Philadelphia regional office. 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 and civil penalties as well as any applicable excise taxes. For more information about the VFCP, see www.dol.gov/ebsa

In fiscal year 2004, EBSA achieved record monetary results totaling \$3.1 billion for retirement, 401(k), health and other programs. Employers and workers can reach the regional office at (215) 861-5300 or through EBSA’s toll-free number at **1-866-444-EBSA (3272)**, for help with problems relating to private-sector retirement and health plans.

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(Chao v. Fiascki)
Civil Action No. 04-CV-5699
Bankruptcy Case No. 03-38671

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