

# News Release



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## **Trustee of Medford 401(k) Plan Agrees to Repay Over \$11,000 To Plan Participants Following Labor Department Legal Action**

**BOSTON** – The U.S. Department of Labor has obtained a consent judgment and order requiring the administrator of a Medford, Mass., 401(k) plan to pay \$11,287.48, plus interest, to plan participants as restitution for failing to forward employee contributions to the plan.

David Santos, of Lynnfield, Mass., president and owner of J.D. Graphics, Inc., (doing business as Jonathan David Printing), a printing business, served as trustee and named fiduciary of the company's retirement plan. According to a Labor Department lawsuit filed in the U.S. District Court for Massachusetts, Santos failed to forward employee contributions to the plan from June 2002 until October 2002, when J.D. Graphics ceased operations.

"Trustees of a 401(k) plan have a responsibility to ensure that the assets of the plan are used solely to benefit participants. One of the most important responsibilities is putting money withheld from workers' wages into their 401(k) accounts," said James Benages, Boston regional director of the Labor Department's Employee Benefits Security Administration (EBSA).

Under the consent judgment, Santos is prohibited from serving as trustee or administrator of any plan covered by the Employee Retirement Income Security Act (ERISA) in the future and ordered to restore the full amount of employee contributions (plus interest) to the plan according to a specified payment schedule. The restitution will be treated as a nondischargeable debt in Santos' bankruptcy proceeding. The amounts in Santos' own plan account will also be distributed to the other participants to partially satisfy the restitution order.

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](http://www.dol.gov/ebsa).

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. This case was investigated by the department's regional EBSA office in Boston. Employers and workers can contact the regional office at 617-565-9600 or call 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. Santos)  
Civil Action Number: 04-11580

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