

News Release



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Labor Department Obtains Court Order Restoring Nearly \$20,000 to Eagan, Minn., 401(k) Plan

ST. PAUL, Minn. – Former trustees of Eagan, Minn.-based Online Data Incorporated 401(k) Profit Sharing Plan have been ordered to restore \$19,978.98 in delinquent employee contributions and lost earnings to the plan. The court order also provides for the resignation of the former trustees as fiduciaries for the plan, the U.S. Labor Department announced today.

In a lawsuit that resulted in a 2004 default judgment, the Labor Department alleged that former trustees Richard and Sally Benson violated the Employee Retirement Income Security Act by failing to remit the full amount of employee contributions owed the 401(k) plan from June 1999 to October 2001. The Bensons allegedly commingled the contributions with the assets of the company and used them for their own benefit.

Richard Benson was the owner of Online Data Inc., a marketing company, whose business operations were sold in December 2001, after which the Bensons failed to administer and terminate the plan, leaving participants without a means to collect their retirement benefits.

“The law requires that plan fiduciaries act responsibly in managing money set aside in retirement plans for the benefit of workers and their families,” said Steven Eischen, director of the department’s Kansas City regional office of the Employee Benefits Security Administration (EBSA), which investigated the case.

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 Compliance Program (VFCP). Participation in the program requires employers to reimburse plans and participants 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 of \$3.1 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 (816) 426-5131 or 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. Richard Benson and Sally Benson)
Civil Action No. 03-CV-3198

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