

News Release



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Contact: Gloria Della
Phone: (202) 693-8666

Labor Department Obtains \$4.3 Million Settlement for Plans Invested With Oregon Investment Manager

WASHINGTON—The U. S. Department of Labor has obtained settlement agreements providing for restitution of \$4,312,063 to 10 pension and health plans in Arizona, Colorado, Minnesota and Ohio that invested plan assets in risky private placement schemes with Capital Consultants, LLC. The consent orders also require payment of \$862,413 in civil penalties to the government.

"Capital Consultants and plan fiduciaries betrayed the men and women whose benefit plans they were entrusted with," said U.S. Secretary of Labor Elaine L. Chao. "The department's legal actions in these cases will restore more than \$4.3 million in lost assets to pay benefits to thousands of union workers. This Administration has a strong track record in protecting the benefits promised to America's workers, and last year we achieved record monetary results totaling \$3.1 billion for retirement, 401(k), health and other programs."

Capital Consultants was a registered investment manager that provided investment services to more than 60 primarily union-sponsored pension and health plan clients governed by federal employee benefits law. Since April 2002, the department has sued trustees of 33 union plans in Arizona, California, Colorado, Idaho, Minnesota, Nevada, Ohio, Oregon, and Utah for authorizing imprudent investments through Capital Consultants. Based on the efforts of the Labor Department, its court-appointed receiver, and private settlements, more than \$250 million has been recovered for clients, including plans, investing with Capital Consultants.

The consent orders in the present case bar, for a period of years, two trustees, who allegedly took gratuities from Capital Consultants, from serving as fiduciaries or service providers to plans governed by the Employee Retirement Income Security Act (ERISA). An investment advisor to one plan agreed to be barred for life. In addition, the orders impose reforms in the controls and procedures related to investments by the plans. These changes include specific requirements for selecting and contracting with investment managers, implementing written investment guidelines and communicating with plan fiduciaries. The Arizona Sheet Metal pension plan will receive an additional \$575,524 through settlement of a private lawsuit.

The settlements resolve eight lawsuits alleging that the trustees violated ERISA by imprudently authorizing plan assets to be invested in a series of risky private placement investments managed by Capital Consultants. The suits contend the trustees failed to adequately investigate the merits of making the investments on behalf of the plans. In addition, the trustees did not monitor the investments, and certain trustees failed to follow their plans' investment guidelines.

The settlements cover more than 25,000 participants and beneficiaries of the: Electrical Workers Local No. 292 Annuity and Pension Plans of St. Louis Park, Minn. in *Chao v. Shafranski*; Sheet Metal Workers Local Pension Fund of Akron, Ohio in *Chao v. Derreberry*; International Brotherhood of Electrical Workers Local 212 Pension Trust Fund of Cincinnati, Ohio in *Chao v. Bolling*; Tri-County Building Trades Health Fund of Austintown, Ohio in *Chao v. Talbott*; Sheet Metal Workers Local 9 Health and Welfare Fund of Denver, Colo. in *Chao v. Keating*; Arizona Sheet Metal Trade Trust Fund of Phoenix, Ariz. in *Chao v. Chacon*; the International Brotherhood of Electrical Workers Local 38 Pension and Health and Welfare Funds of Valley View, Ohio in *Chao v. Chilia*; and Operating Engineers Health and Welfare Trust Fund of Denver, Colo. in *Chao v. Brown*. These cases were consolidated in Ohio for pre-trial proceedings in *In re: Capital Consultants, LLC "ERISA" Litigation*. The 10 plans had approximately \$811 million in assets as of 2002.

The Cincinnati, Kansas City and Los Angeles regional offices of the department's Employee Benefits Security Administration conducted the investigations in these cases. Employers and workers can reach the Cincinnati office at (859) 578-4680, the Kansas City office at (816) 426-5131 and the Los Angeles office at (626) 229-1000, or call EBSA's toll-free number, **1-866-444-3272**, for help with problems relating to private-sector health and pension plans.

(In re: Capital Consultants, LLC "ERISA" Litigation) Civil Action No. 1:04 CV 35000

(Chao v. Shafranski) Civil Action 1:04 CV 35001

(Chao v. Chilia) Civil Action 1:04 CV 35002

(Chao v. Talbott) Civil Action 1:04 CV 35003

(Chao v. Derreberry) Civil Action 1:04 CV 35004

(Chao v. Bolling) Civil Action 1:04 CV 35005

(Chao v. Keating) Civil Action 1:04 CV 35006

(Chao v. Brown) Civil Action 1:04 CV 35007

(Chao v. Chacon) Civil Action 1:05 CV 35008