

# News Release



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## **U.S. Labor Department Obtains Court Order Restoring Benefits to Participants of Hillsborough, N.C., Company's 401(k) Plan**

**ATLANTA** – The U.S. Labor Department obtained a default judgment ordering the restoration of more than \$4,300 to the Matlack Medical Imaging 401(k) plan, Hillsborough, N.C.

“This case sends a clear message that the Labor Department will hold accountable those who are entrusted with employee contributions to benefit plans,” said Howard Marsh, Atlanta regional director of the Employee Benefits Security Administration (EBSA).

The Labor Department filed suit in May 2004 alleging that James Matlack Jr. and Matlack Medical Imaging Inc. violated provisions of the Employee Retirement Income Security Act (ERISA). The suit specifically charged that contributions withheld from employees' salaries were not remitted to the plan and that the contributions were used for purposes other than to provide benefits.

Entered in U.S. District Court in Durham, N.C., the default judgment orders Matlack and co-defendant Norwood Electronics Inc. -- the successor corporation to Matlack Medical Imaging -- to make restitution to the plan, from which distribution will be made to participants -- \$2,315.64 to Phillip Binkley and \$2,052.08 to James Gaston. The defendants are also ordered to pay post-judgment interest on any unpaid balances of these amounts, terminate the plan and distribute any remaining assets.

The court further barred the defendants from serving as fiduciaries, trustees, agents or representatives of any employee benefit plan covered by ERISA.

Employers with similar problems, who are not yet the subject of an investigation by EBSA, could be eligible to participate in the department's Voluntary Fiduciary Correction Program. Participation in the program requires employers to correct violations of the law but allows them to avoid EBSA enforcement actions and civil penalties, as well as excise taxes. For more information about the VFCP, see [www.dol.gov/ebsa](http://www.dol.gov/ebsa).

The suit followed an investigation by EBSA's Atlanta regional office. Employers and workers can contact the regional office at (404) 562-2156 or EBSA's toll-free number, **1-866-444-EBSA (3272)**, for help with problems relating to private-sector pension and health plans.

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.

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(Chao v. James Matlack, Jr. et al.)  
Civil Action No. 1:04-cv00429

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