

News Release



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U.S. Labor Department Sues to Protect 401(k) Assets For Employees of Bankrupt Portland Company

PORTLAND, Ore. - The U.S. Department of Labor has filed an adversary complaint in federal bankruptcy court in Portland, Ore., to protect more than \$18,600 owed to the 401(k) retirement plan of the defunct local company Redi-Fab Inc.

The complaint seeks to prevent Paul E. Davis, former owner of the company, from discharging in bankruptcy proceedings his debt of \$18,624 in employee contributions and lost interest owed to the plan. Davis, who also was a fiduciary of the company's 401(k) plan, allegedly violated the Employee Retirement Income Security Act by failing to forward contributions and interest to the plan during 2002 and 2003. He also commingled the funds with the company's general assets and used the money to satisfy general corporate obligations.

"Those responsible for employee benefit plans cannot misuse their employee's funds or have their personal debts forgiven at the expense of the employees," said Francis C. Clisham, regional director of the Labor Department's Employee Benefits Security Administration (EBSA) in San Francisco.

Clisham said while the company deposited some funds into plan accounts, a substantial amount of money was never deposited. Redi-Fab, which entered Chapter 7 bankruptcy Jan. 19, manufactured pre-fabricated industrial buildings. There were approximately 30 participants in the plan at the time of the company's bankruptcy.

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 correct ERISA violations but allows them to avoid EBSA enforcement actions, civil penalties and any applicable excise taxes. For more information, visit EBSA's Web site at www.dol.gov/ebsa.

The case was investigated by EBSA's Seattle district office. 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 with questions or concerns regarding their private-sector pension and health plans can contact the EBSA District Office in Seattle at (206) 553-4244 or EBSA's toll free number, 1-866-444-EBSA (3272). Information is also available from the agency's Web site.

(Chao v. Davis)
Adversary No. 05-30450
(Bankruptcy Court)

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