

# News Release



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## **Fiduciaries Will Repay Haverhill, Mass., Restaurant's 401(k) Plan to Settle U.S. Labor Department Lawsuit**

**BOSTON** – R&B Foods Inc., Haverhill, Mass., and its owner agreed to repay \$31,527.38 to the company's 401(k) plan for distribution to 12 plan participants to settle a lawsuit filed by the U.S. Department of Labor. The suit alleged misuse of plan assets under the Employee Retirement Income Security Act (ERISA).

According to James Benages, Boston regional director for the Labor Department's Employee Benefits Security Administration (EBSA), R&B Foods did business in Haverhill as Benny's Food and Spirits. Benages noted that the department's lawsuit, filed in the U.S. District Court for the District of Massachusetts, alleged that the restaurant and Benjamin D. Brienza failed to forward employee contributions to the plan and diverted other plan assets for the company's own use.

"The law is very clear," said Benages. "It states that the assets of an employee benefit plan or pension plan must be used, without exception, for the benefit of the plan participants. Plan fiduciaries who are responsible for administering plan assets should know that we will use every avenue available to ensure they obey this requirement of the law."

In addition to ordering restitution of \$31,527.38 plus post-judgment interest, the consent judgment and order permanently prohibits the defendants from acting in a fiduciary capacity for any other employee benefit plan covered by ERISA.

This case was investigated by EBSA's Boston regional 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 can reach EBSA's Boston regional office at 617-565-9600. Help with problems relating to private-sector retirement and health plans can also be obtained through EBSA's toll-free number, 1-866-444-EBSA (3272).

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(Chao v. R&B Foods, Inc.)  
Civil Action Number: 05-11523-RWZ