

News Release



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Owner of Defunct Indiana Company Sued To Recover Employee Health Premium Payments

CHICAGO—The U.S. Department of Labor has sued the owner of defunct Western Rubber, Inc. of Goshen, Ind., to recover employee contributions that he failed to forward to the company's self-insured health plan.

"We filed this case to ensure that the plan participants recoup the money they contributed to pay for their health benefits," said Kenneth Bazar, director of the Employee Benefits Security Administration's (EBSA) Chicago regional office.

The suit alleges that the Steven Whiting violated the Employee Retirement Income Security Act (ERISA) when he failed to forward to the health plan contributions withheld from employees' paychecks from June 2001 to February 2002. The suit seeks to require that Whiting repay to the plan any losses with interest and to undo and transactions prohibited by ERISA. The department also asks the court to permanently bar Whiting from serving as a fiduciary to any plan governed by ERISA and to appoint an independent fiduciary to manage the Western Rubber health plan.

Western Rubber was one of several subsidiaries of Garrett Group, Inc., owned by Whiting. The company manufactured rubber seals, rings and plugs. The Western Rubber, Inc. Medical and Prescription Drug Plan covered as many as 50 participants as of July 2001.

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 make workers whole 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.

The suit, filed in the federal district court in Goshen, Ind., resulted from an investigation conducted by EBSA's Chicago regional office. In fiscal year 2003, EBSA achieved record monetary results totaling \$1.4 billion for retirement, 401(k), health and other programs. Employers and workers can reach the Chicago office at (312) 353-0900 or through 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. Whiting)
Civil Action No. 04-CV-599 RM

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