

News Release



U.S. Department of Labor
Office of Public Affairs
Chicago, Ill.
Release Number: 04-2276-CHI

For Immediate Release
Nov. 8, 2004
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U.S. Labor Department Obtains Judgment to Restore Delinquent Employee Contributions to 401(k) Plan

GRAND RAPIDS, Mich. -- The U.S. Department of Labor has obtained a default judgment requiring the fiduciary of the Van-Kal Truck Equipment 401(k) Plan to restore \$19,145 in delinquent employee contributions with interest to the plan.

Under the judgment, Steven P. Mullins is permanently barred from serving as a plan fiduciary to any Employee Retirement Income Security Act (ERISA)-covered employee benefit plan. Mullins was also ordered to secure a fidelity bond and keep it in effect until such time as the Van-Kal plan is terminated.

The judgment, entered in the federal district court in Grand Rapids, Mich., resulted from a lawsuit filed by the department on April 2, 2004. The suit alleged that Mullins failed to forward employee contributions to the plan from September 2001 to October 2002, retaining the funds in the company's general assets.

"The department will take all necessary steps to ensure that plan fiduciaries responsibly manage the 401(k) plans entrusted to them," said Joseph Menez, director of the Cincinnati regional office of the Employee Benefits Security Administration (EBSA), whose Detroit District Office investigated the case.

Van Kal Truck Equipment, Inc. produced and serviced custom commercial trucks from its sole location in Mattawan, Michigan. The Plan had thirteen active participants and approximately \$25,000 in assets as of December 2003.

In a related action, the federal bankruptcy court in Kalamazoo, Michigan issued a default judgment in the department's adversary complaint against Mullins which prevents Mullins from discharging the debt he owes the plan.

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 applicable excise taxes. For more information about the VFCP see www.dol.gov/ebsa.

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 Cincinnati regional office at 859-578-4680 or through EBSA's toll free number, 1-866-444-EBSA (3272), for help with problems relating to private-sector retirement and health plans.

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(Chao v. Mullins)
Civil Action No. 1:04cv0233

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