

News Release



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U.S. Labor Department Sues Dallas Corporation and Owner to Restore Employee Contributions to SIMPLE IRA Plan

DALLAS--The U.S. Department of Labor has sued Mallscapes Inc. of Dallas and its owner for failing to timely remit and forward to the corporation's SIMPLE IRA plan contributions withheld from employees' paychecks.

"This action demonstrates our commitment to protect the hard-earned benefits of American workers," said Steve Eischen, director of the department's Dallas regional office of the Employee Benefits Security Administration (EBSA), which investigated the case.

The suit, filed in the federal district court in Dallas, alleges that Mallscapes Inc. and John D. Rowland III failed to either timely remit or forward contributions to the plan from 1999 to 2001, and used the money to benefit the corporation, in violation of the Employee Retirement Income Security Act (ERISA). Rowland is the company's owner and plan fiduciary.

The suit seeks to require Mallscapes and Rowland to restore all losses to the plan with interest, offset any personal benefits from the plan against the losses, and permanently bar Rowland from serving as a fiduciary to any employee benefit plan governed by ERISA.

Mallscapes Inc., established in 1986, is a commercial landscaping business that designs and maintains landscaping at retail malls and other larger establishments. It has operated in Texas, Oklahoma, Arizona, Nevada, California, Kansas, Missouri, Louisiana and Florida. The plan had 14 participants, as of March 2001, and assets totaling \$7,726, as of December 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.

In fiscal year 2003, EBSA achieved record monetary results of \$1.4 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 Dallas regional office at (214) 767-6831 or through its 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. Mallscapes, Inc.)
Civil Action No. 304-CV-183-M