

News Release



U.S. Department of Labor
Office of Public Affairs
Kansas City, Mo.
Release Number 04-2036-KAN

For Immediate Release
Date: Oct. 18, 2004
Contact: Gloria Della
Phone: (202) 693-8664

U.S. Labor Department Sues Owners of Defunct Kansas Company Over Delinquent Employee Contributions and Loan Repayments

KANSAS CITY, Kan.—The U.S. Department of Labor has sued the owners of defunct Gazlay Marketing Group, Inc. of Kansas City, Kan., for failure to forward \$23,205.96 in employee contributions and loan repayments to the company's 401(k) plan.

"Trustees of a 401(k) plan have a responsibility to ensure that the assets of the plan are used solely to benefit participants," said Steven Eischen, director of the department's Kansas City regional office of the Employee Benefits Security Administration (EBSA). "One of the most important responsibilities is putting money from workers' wages into their 401(k) accounts on time."

The department's lawsuit alleges that Raymond Flatt and his wife, Theresa Flatt, failed to forward employee withholdings and loan repayments to the plan's account from July 2002 to April 2003. The Flatts served as the 401(k) trustees at the time of the alleged violations of the Employee Retirement Income Security Act (ERISA).

As relief, the suit seeks to require that the defendants restore all losses with interest and undo any transactions prohibited by ERISA. The department also asks the court to permanently bar the defendants from service to any ERISA-covered plan in the future. The case, investigated by EBSA's Kansas City regional office, was filed in federal district court in Kansas City, Kan.

Gazlay Marketing, a printing company until it ceased business operations, sponsored the plan for 27 participants. The Flatts owned Gazlay Marketing and Direct Digital Design Inc., which filed for Chapter 7 bankruptcy on Nov. 12, 2003.

Employees 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 Kansas City regional office at (816) 426-5131, for help with problems relating to private-sector retirement and health plans.

###

(Chao v. Flatt)
Civil Action No. 2:04-cv-2512

U.S. Labor Department releases are accessible on the Internet at <http://www.dol.gov>. The information in this news release will be made available in alternate format upon request (large print, Braille, audio tape or disc) from the COAST office. Please specify which news release when placing your request at (202) 693-7765 or TTY (202) 693-7755. The U.S. Department of Labor is committed to providing America's employers and employees with easy access to understandable information on how to comply with its laws and regulations. For more information, please visit <http://www.dol.gov/compliance>.