

News Release



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New York Court Orders Former Executives of Bennett Funding Group To Reimburse Retirement Plans

NEW YORK – The U.S. Department of Labor has obtained an order from a federal court in Syracuse, N.Y., requiring the former principals of Bennett Funding Group Inc. to restore \$2.66 million plus interest to the company’s pension, profit sharing and 401(k) plans.

“The Labor Department’s legal actions in the Bennett Funding Group case will restore \$2.66 million plus interest in lost assets to these workers and make clear that those who manage retirement assets cannot ignore their fiduciary responsibilities,” said Secretary of Labor Elaine L. Chao. “This Administration has a strong track record of protection the benefits promised to America’s workers. Last year we achieved record monetary results totaling \$1.4 billion for retirement, 401(k), health and other programs.”

The department sued Edmund Bennett and his son, Patrick, for violating the Employee Retirement Income Security Act (ERISA) by diverting plan money to Bennett Funding Group and two other companies in which Patrick Bennett had ownership interests. The Bennetts also allegedly made unsecured loans totaling \$250,000 to Hemlock Associates, a firm unrelated to them. The Bennetts and the Bennett Funding Group were charged with failing to collect the money owed to the plans.

As plan fiduciaries under ERISA, the Bennetts are personally liable for losses caused by their actions. In its decision, the court found the Bennetts liable for plan money diverted to Bennett Funding Group. The court ruled Edmund Bennett’s “breach of his fiduciary duty enabled Patrick Bennett to commit his repeated breaches.”

In an earlier court judgment, Bennett Funding Group and its subsidiary, the Bennett Management & Development Corp., were ordered to disgorge \$2.4 million received from unlawful transfers and pay the plan an additional \$1.2 million in lost opportunity costs. The judgment against the corporate defendants was negotiated with Richard C. Breeden, the Chapter 11 bankruptcy trustee appointed by the U.S. Bankruptcy Court for the Northern District of New York. Any distribution of this restitution to participants will be subject to final proceedings of the bankruptcy court.

Edmund and Patrick Bennett were corporate officers and trustees of the plans at various times. Syracuse-based Bennett Funding Group was primarily engaged in the leasing of office equipment. The company sponsored the three plans for as many as 230 participants. The plans collectively had approximately \$3.6 million in assets, in addition to the money diverted by the Bennetts, according to the latest information available to the department.

Employers and workers can contact the Boston regional office of the Employee Benefits Security Administration at **1-866-275-7922** for help with any problems relating to private-sector pension and health plans.

(Chao v. Bennett Funding Group)
Civil Action # 97-CV-0148 (NAM)

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