

News Release



U.S. Department of Labor
Office of Public Affairs
New York, N.Y.
Release No. 04-36-NEW

For Immediate Release
Date: Jan. 14, 2004
Contact: Rita Ford
Phone: (202) 693-8671

Labor Department Seeks Independent Fiduciary For Orphaned New York 401(k) Plan

NEW YORK -- The U. S. Department of Labor sued to remove the plan trustee and appoint an independent fiduciary for the Oven Digital, Inc. 401(k) plan of New York, N.Y. after the plan was abandoned by the plan's fiduciary. The independent fiduciary will be responsible for distributing plan assets to participants and terminating the plan.

"The department took legal action to ensure that the participants receive the benefits the company promised them," said Francis Clisham, director of the New York regional office of the department's Employee Benefits Security Administration, which investigated the case.

Plans become "orphan plans" when they are abandoned by all fiduciaries designated to manage and operate them and their assets.

The lawsuit alleges that Henry Bar-Lehav, the plan trustee and president of Oven Digital, Inc., violated the Employee Retirement Income Security Act by abandoning the plan in 2001 after the company ceased doing business and failing to distribute its assets. The suit also alleges that Bar-Lehav failed to take the necessary actions to distribute plan assets and terminate the plan. As a result, participants did not have a way to transact business and communicate with the plan. The suit was filed in federal district court in New York City.

Oven Digital, Inc. specialized in designing Web sites. The company's 401(k) plan had 64 participants and \$360,003 in assets as of Dec. 31, 2002.

Employers and workers can contact the New York regional office at (212) 607-8600 or EBSA's toll-free number, **1-866-444-EBSA (3272)**, for help with problems relating to private-sector retirement and health plans.

###

(Chao v. Oven Digital, Inc. 401(k) Plan)
Civil Action No. 04-00195