

News Release



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Former Minnesota CEO Ordered to Restore \$19,161 To 401(k) Plan

ST. PAUL, Minn. – The U. S. Department of Labor has obtained a consent judgment requiring the former chief executive officer of D.B. Welliver & Co. Inc., of St. Paul, Minn., to restore \$19,161 in assets that were illegally transferred from the company’s retirement savings plan to his personal bank account. The judgment also appoints an independent fiduciary to oversee management of the 401(k) plan.

“This action demonstrates the department’s commitment to protecting the retirement benefits promised to America’s workers,” said Steve Eischen, director of the Kansas City regional office of the department’s Employee Benefits Security Administration (EBSA), which investigated the case.

The judgment is the result of a lawsuit filed in federal district court by the Labor Department in May 2004, which alleges David B. Welliver – the plan trustee – authorized \$28,750 in wire transfers from the plan to his personal bank account on May 29, June 2 and June 15, 1998, in violation of the Employee Retirement Income Security Act (ERISA). The stipulation resulted from an adversary complaint filed by the department in federal bankruptcy court to prevent David B. Welliver from discharging any debt he owes to the plan.

In a related action, the department filed a stipulation and order in federal Bankruptcy Court stating that money he restores to the plan does not violate bankruptcy requirements. Welliver was sued in May 2004 by the Labor Department to prevent him from discharging any debts owed to the plan.

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 the Chicago office at (312) 353-0900 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. Welliver)
Civil Action No. 04-2762
Adversary Complaint No. 98-34454