

# News Release



U.S. Department of Labor  
Office of Public Affairs  
Atlanta, Ga.  
Release Number 04-993-ATL

For Immediate Release  
Date: June 2, 2004  
Contact: Gloria Della  
Phone: (202) 693-8664

## **U. S. Labor Department Sues Executive of North Carolina Imaging Firm over Delinquent 401(k) Employee Contributions**

**DURHAM**—The U.S. Department of Labor has sued the owner of Norwood Electronics Inc. of Durham, N.C., for failing to forward \$8,417 in employee contributions and interest to the Matlack Medical Imaging Inc. 401(k) Plan.

“This lawsuit underscores the Labor Department’s commitment to hold accountable those who are entrusted with the assets of workers’ retirement plans,” said Howard Marsh, director of the Employee Benefits Security Administration’s (EBSA) Atlanta regional office.

The suit alleges that James Matlack, Jr., and Matlack Medical Imaging violated the Employee Retirement Income Security Act (ERISA) at various times from July 30, 1999, to October 6, 2000, in connection with withholding of employee contributions owed to the 401(k) plan. The defendants allegedly failed to segregate and forward \$5,455.14 in employee contributions. The failure to remit contributions in a timely matter resulted in \$2,962.62 in lost earnings owed to the plan.

The suit, filed in federal district court in Durham, N.C., seeks to restore to the plan all losses with interest, to offset Matlack’s plan accounts to repay the losses and to permanently bar him from service to ERISA plans. The suit also asks the court to redistribute Matlack’s account to all remaining plan participants and to appoint an independent fiduciary to terminate the plan and distribute its assets to participants.

Norwood Electronics is named as a defendant in the lawsuit, as it is the successor company to Matlack Medical Imaging, which closed and filed for Chapter 7 bankruptcy on January 9, 2001. The plan covered six participants, according to the latest information available to the department. At the time of the improper actions, Matlack was the president of the company and trustee to the plan.

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](http://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. The case was investigated by EBSA’s Atlanta regional office. Employers and workers can contact the Atlanta regional office at (404) 562-2157 or EBSA’s toll free number, **1-866-444-3272**, for help with problems relating to private-sector pension and health plans.

###

(Chao v. Matlack)  
Civil Action No. 1:04-CV-429

---

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>.