

News Release



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Contact: Jane Norris
Phone: (202) 693-4675
Gloria Della
(202) 693-8664

U.S. Labor Department Obtains Judgment Restoring \$30,000 to Tennessee 401(k) Plan

GREENEVILLE, Tenn.—The U.S. Labor Department has obtained a consent order and judgment restoring \$30,000 to the 401(k) plan of Flour City Architectural Metals, Inc., in Kingsport, Tenn., for failure to remit employee contributions and loan repayments to the plan.

Under the judgment, the court also appointed Jeanne Barnes Bryant to serve as the plan's successor administrator and trustee to manage the plan and removed John W. Tang — the chief executive officer and chairman of the company's parent company — as a fiduciary to the 401(k). Tang also agreed to be barred from service to any plan for five years.

The department filed a lawsuit in federal district court in Greeneville, Tenn., alleging Tang violated the Employee Retirement Income Security Act (ERISA) by failing to forward employee contributions and loan repayments to the Flour City 401(k) plan for the period June through December 2001. Tang allegedly used the plan's assets to pay the day-to-day expenses of operating the company and its creditors. In addition, he failed to obtain a fidelity bond as required by law.

Flour City Architectural Metals, a subsidiary of Flour City International, Inc., designed, manufactured and installed curtain wall systems. The plan covered 60 participants and had \$764,212 in assets as of March 15, 2004.

“The department will aggressively enforce the law to protect the retirement funds of the hardworking men and women of this company,” said Howard Marsh, director of Employee Benefits Security Administration's Atlanta regional office. “Our legal action case restores money owed to the plan to pay future benefits to these workers.”

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.

The case was investigated by EBSA's Atlanta regional office. In fiscal year 2004, EBSA achieved record monetary results of \$3.1 billion related to the pension, 401(k), health and other benefits of millions of American workers and their families. Employers and workers can contact the district regional office at (404) 562-2156 or EBSA's toll-free number, **1-866-444-EBSA (3272)**, for help with problems relating to private-sector pension and health plans.

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(Chao v. Tang)
Civil Action No. 2:04-CV-353

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