

# News Release



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## **U.S. Labor Department Obtains Judgment Removing New Mexico 401(k) Plan Fiduciary**

**ALBUQUERQUE, N.M.** – The U.S. Department of Labor has obtained a consent judgment and order removing the owner of Albuquerque-based J.R. Hale Contracting Company Inc. as fiduciary of the corporation's 401(k) profit sharing plan.

"This action demonstrates the Labor Department's commitment to hold accountable those responsible for managing the retirement plan and its assets," said Roger Hilburn, acting director of the Dallas regional office of the department's Employee Benefits Security Administration (EBSA), which investigated the case.

Under the judgment, Hale must provide the department with quarterly reports certifying that the plan has received employee contributions and loan repayments for the period June 1, 2004, through June 1, 2006, in a timely manner, and to pay the department \$3,532 in civil penalties. He also is permanently barred from serving as a fiduciary to any employee benefits plan covered by the Employee Retirement Income Security Act (ERISA). The judgment was entered in federal district court in Albuquerque.

The judgment resolves a May 29, 2004, lawsuit alleging that the company and owner Bruce W. Hale violated ERISA. The defendants allegedly failed to remit employee contributions and participant loan repayments to the plan at various times between September 1999 and June 2000 in a timely manner.

J.R. Hale is a privately held contracting business specializing in highway, concrete, sewer and water utilities and subdivision development. As of Dec. 31, 2002, the 401(k) plan held \$2,378,096 in assets and had 103 participants. Hale and J.R. Hale Contracting Company have returned \$17,659 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, civil penalties and any applicable excise taxes. For more information 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. Employers and workers can reach the Dallas regional office at (214) 767-6831 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. Bruce W. Hale) Civil Action No. 04-CV-00549

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