

# News Release



U.S. Department of Labor  
Office of Public Affairs  
Kansas City, Mo  
Release Number 04-2200-CHI

For Immediate Release  
Date: Oct. 26, 2004  
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## **U.S. Labor Department Judgment Appoints Independent Fiduciary To Manage Defunct Minnesota Company's 401(k) Plan**

**MINNEAPOLIS, Minn.** —The U.S. Department of Labor today obtained a consent judgment appointing Pension Plus, Inc. of Edina, Minn., as the independent fiduciary of the defunct utility contractor We Dig It, Inc. in Elk River, Minn. to manage the 401(k) plan and distribute more than \$22,000 to 17 participants. The judgment also removes the owner and trustee as plan fiduciaries.

We Dig It, Inc. owner, William R. Lundberg and trustee Betsey M. Chatham failed to appoint a successor trustee to terminate the plan and distribute its assets. The suit alleges that Lundberg failed to pay the costs of terminating the plan after trustee Chatham signed the termination agreement in November 2001. The company ceased operations in late 2001.

The defendants violated the Employee Retirement Income Security Act (ERISA) by failing to properly administer the plan, to furnish summary annual reports to participants for plan years 2001 and 2002, and to ensure the payment of administrative expenses of the plan. The suit seeks to remove Lundberg and Chatham as plan fiduciaries, permanently bar them from serving as fiduciaries to plans governed by ERISA, and to appoint an independent fiduciary to terminate the plan and distribute the assets to participants.

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

"Our action in the We Dig It case will ensure that the participants receive the benefits promised by the company," said Steven Eischen, regional director of the department's Employee Benefits Security Administration Kansas City 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 reach EBSA's Kansas City regional office at (816) 426-5131 or through its 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. Lundberg) Civil Action No. 04-CV-4565

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