

News Release



U.S. Department of Labor
Office of Public Affairs
Chicago, Ill.
Release Number 04-945-CHI

For Immediate Release
Date: May 24, 2004
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U.S. Labor Department Obtains Judgment to Restore Delinquent Employee Contributions to 401(k) Plans

CHICAGO -- The U.S. Department of Labor has obtained a default judgment requiring the trustee of the Belgium, Wis.-based Belgium Foundry Acquisition Company Inc. 401(k) plans to restore \$60,434 in delinquent employee contributions with interest to the union and non-union plans.

Under the judgment, James C. Medinger is permanently barred from serving as a plan fiduciary and must undo any transactions prohibited by the Employee Retirement Income Security Act (ERISA). The judgment also requires the appointment of an independent fiduciary to distribute the assets to participants and terminate the plans. Medinger is the trustee and owner of Belgium Foundry.

The judgment, entered in the federal district court in Milwaukee, Wis., resulted from a lawsuit filed by the department in October 2003. The suit alleged that Medinger failed to forward employee contributions to the plans from January 2000 to January 2003, retaining the funds in the company's general assets.

The department also filed an adversary complaint with the U.S. Bankruptcy Court in Milwaukee, Wis., to prevent Medinger from discharging the debt he owes to the plans. In March 2004, the Bankruptcy Court issued an order stating that the debt Medinger owes to the plans cannot be discharged in bankruptcy. Medinger filed for Chapter 7 bankruptcy in April 2003.

"The department will take all necessary steps to ensure that plan fiduciaries responsibly manage the 401(k) plans entrusted to them," said Kenneth Bazar, director of the Chicago regional office of the Employee Benefits Security Administration (EBSA), which investigated the case.

Belgium Foundry manufactured castings for agricultural and electronic equipment. The non-union plan had seven participants and \$272,802 in assets as of December 2001. The union plan had 33 active participants and \$762,543 in assets, according to the latest information available to the Labor Department.

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 applicable excise taxes. For more information about the VFCP see 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 EBSA's Chicago regional office at 312-352-0900 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. Medinger)
Civil Action No. 2003-2525

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