

News Release



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Contact: Deanne Amaden
Phone: (415) 975-4741

U.S. Labor Department Sues to Protect Over \$37,000 in 401(k) Assets For Employees of Defunct San Jose Company

SAN FRANCISCO – The U.S. Department of Labor has filed an adversary complaint in the U.S. Bankruptcy Court for the Central District of California at Santa Barbara, to protect over \$37,000 owed to the 401(k) profit sharing plan of now-closed Digital Reflection, Inc. in San Jose, Calif.

The complaint seeks to prevent F. Wayne Catlett – the founder, former owner and CEO of the company – from discharging debts owed to the plan in bankruptcy proceedings. The department alleges that Catlett, who also was a fiduciary of the company’s 401(k), failed to forward contributions and interest to the plan over a period of months before the company went bankrupt, in violation of federal employee benefits law. Catlett commingled the funds with the company’s general assets and used them to satisfy general corporate obligations.

“This sends a strong message to those responsible for employee benefit plans that they cannot misuse their employees’ funds or have their personal debts forgiven at the expense of the employees,” said R.C. Marshall, acting regional director of the Labor Department’s Employee Benefits Security Administration (EBSA) in San Francisco, which investigated the case.

Marshall said the company distributed funds previously deposited into plan accounts shortly after the plan was terminated in July 2001, but that some funds were never deposited into plan accounts. Digital Reflection, which closed its doors in July 2001, designed prototypes of high-definition projection devices. There were 31 employees participating in the plan when it was terminated.

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 worker and their families. Employers and workers with questions or concerns regarding their private-sector pension and health plans can contact the EBSA regional office in San Francisco at (415) 975-4600 or EBSA’s toll free number, 1-866-444-EBSA (3272). Information is also available from the agency’s web site at www.dol.gov/ebsa.

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(Chao v. Catlett)
Civil Action No. AD04-01129
(Bankruptcy Court)

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