

News Release



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Labor Department Obtains Court Judgment To Restore Assets Of Cincinnati Profit Sharing Plan

CINCINNATI—The U.S. Department of Labor obtained a default judgment on March 8, 2004, ordering the president of defunct Mershon Metal Maintenance, Inc. in Cincinnati, Ohio, to restore \$36,094 owed to the plan. The department sued Joseph Mershon for failing to forward employee contributions to the plan.

Mershon, the plan's administrator, also is permanently barred from serving as a fiduciary to any plan governed by the Employee Retirement Income Security Act (ERISA).

The department sued Mershon on Oct. 7, 2002 in federal district court in Cincinnati for allegedly commingling plan assets with the general assets of the company. He also failed to remit the assets to the plan and did not provide accurate statements to participants about their plan accounts. In addition, Mershon allegedly failed to obtain a fidelity bond as required by law, to create written plan documents and to file annual financial reports with the federal government.

Joseph Menez, director of the Cincinnati regional office of the department's Employee Benefits Security Administration (EBSA) said, "To protect against the financial hardships of employers, the law provides that employee contributions must be timely forwarded to the plan."

At one time, the plan covered up to 15 participants. Mershon Metal ceased operating in February 1997.

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 the EBSA's Cincinnati regional office. 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 contact the Cincinnati regional office at (859) 578-4680 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. Mershon)
Civil Action No. CV-1-02-717

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