

News Release



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Labor Department Sues to Appoint Independent Fiduciary for Abandoned Massachusetts 401(k) Plan

BOSTON -- The U.S. Department of Labor has sued under the Employee Retirement Income Security Act (ERISA) to obtain court appointment of an independent fiduciary to manage the abandoned 401(k) plan of now-defunct Marcel French Salon. The company did business in Chestnut Hill, Mass., as Ambiance.

The department's suit, filed in the U.S. District Court for the District of Massachusetts, also asks the court to authorize termination of the plan and distribution of over \$54,000 in plan assets to approximately 16 eligible participants and beneficiaries.

"The department has taken this legal action to ensure that the participants in the Ambiance 401(k) plan receive their promised benefits," said James Benages, Boston regional director of the department's Employee Benefits Security Administration (EBSA), which investigated the case.

The investigation revealed that, in 2000, the Ambiance business was destroyed by fire. The principal of the company, Karen Vail, who was also the plan administrator, died in 2002 without appointing a replacement to administer the plan. As a result, the plan's participants and beneficiaries have been unable to access their accounts.

Court appointment of an independent fiduciary will allow for the orderly termination of the plan and the proper distribution of plan assets to the participants and beneficiaries. Plans become "orphan plans" when they are abandoned by all fiduciaries designated to manage and operate them and their assets.

The assets of the Ambiance 401(k) Plan and Trust are currently being held by American Funds of Indianapolis, Indiana, and are invested in a variety of mutual funds.

In fiscal year 2004, EBSA achieved record monetary results of \$3.1 billion related to pension, 401(k), health and other benefits of millions of American workers and their families. Employers and workers can contact the Boston regional office at 617-565-9600. Help with problems relating to private-sector retirement and health plans can also be obtained by calling EBSA's toll free number at 1-866-444-EBSA (3272).

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(Chao v Ambiance 401(k) Plan & Trust)
Civil Action No. 1:05-cv-11076-GAO