

# News Release



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## **Court Appoints Independent Fiduciary And Restores Assets to Retirement Plans of Maryland Companies**

**SILVER SPRING, Md.** - A federal court in Greenbelt, Md. on July 29, 2003 appointed an independent fiduciary to distribute all remaining plan assets of the profit sharing plans of Della Ratta, Inc. and Commercial Management Company in Silver Spring, Md. The court further ordered restoration of more than \$166,000 to the plans from assets held in a Della Ratta, Inc. corporate account and restitution to be paid by the plans' trustees.

"Corporations and executives who are designated retirement plan fiduciaries have a responsibility to protect the pension assets of its participants," said Secretary of Labor Elaine L. Chao. "These defendants used the plan assets for their personal gain. The department's action recovers pension assets taken illegally from the workers and their families."

Following a trial, the court ordered the appointment of Nell Hennessey of Washington, D.C. to be the independent fiduciary, with authority to distribute all remaining plan assets to plan participants and to conclude all business of the plans. The court also ordered defendants Joseph M. Della Ratta and Joseph E. Brimmer to restore assets owed to the plans, be removed as trustees of the plans and be permanently barred from serving any plans governed by the Employee Retirement Income Security Act (ERISA) in the future.

The court order resolves a lawsuit filed Dec. 1, 2000 against the defendants for transferring plan assets to a Della Ratta, Inc. account and for using plan assets to pay a sanction owed by Della Ratta, Inc. to the Internal Revenue Service. The suit also alleged that the trustees and the companies, which served as plan administrators failed to make distributions to all participants when the plans were terminated in 1999. The plans covered approximately 32 participants.

The department also obtained a temporary restraining order in December 2000 prohibiting the defendants from withdrawing assets from the corporate account to which plan assets had been transferred.

Della Ratta, Inc. is a construction company and Commercial Management is a real estate management firm that served as administrators of the plans. Della Ratta is an officer of both companies and Brimmer is an officer of Della Ratta, Inc.

This case was investigated by EBSA's Washington District Office. Employers and workers can contact the office at (301) 713-2000 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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