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Labor Department Sues Plumbers' Union Benefit Trustees Over $36 Million Investment In Resort

WASHINGTON -- The U. S. Department of Labor sued current and former trustees, the plan administrator, and Local 38 of the United Association of Plumbers, Pipefitters and Journeymen for diverting more than $36 million in assets of five employee benefit plans to renovate and operate the Konocti Harbor Resort and Spa facilities on Clear Lake in Kelseyville, Calif.

"The Plumbers plan officials mismanaged the investments and placed the benefits of thousands of union workers at risk," said U. S. Secretary of Labor Elaine L. Chao. "This Administration is committed to protecting the employee benefits of America's workers, and we won't hesitate to act when plan officials are not managing their workers' benefits responsibly. This year, we achieved record monetary results, recovering and protecting $3.1 billion in retirement, 401(k), health and other benefits."

The lawsuit alleges trustees Lawrence J. Mazzola, business manager and financial secretary-treasurer of Local 38, Lawrence Mazzola, Jr., William B. Fazande, Larry Lee, James R. Shugrue, Vohon J. Kazarian, Tom Irvine, Robert E. Buckley, Robert Buckley Jr., Art Rud, Ron Fahy, and Robert Nurisso; plan administrator Frank Sullivan; and Local 38 violated the Employee Retirement Income Security (ERISA). The suit was filed in federal district court in San Francisco, Calif.

The retirement, health, scholarship, apprenticeship, and vacation and holiday funds cover more than 2,000 participants employed throughout northern California. According to the suit, Local 38 controls a non-ERISA "convalescent trust fund" that owns and operates the Konocti resort. Over time, Mazzola and Sullivan allegedly diverted approximately one-third of all pension assets--more than $36 million--to the convalescent fund. The trustees asserted they were unaware of the diversion even though it was reported on financial statements as a "receivable." Some or all of the diverted assets were used to build and improve Konocti's 5000-seat outdoor amphitheatre, 1000-seat concert hall, and other infrastructure.

The Labor Department suit alleges that the current and former trustees and the administrator maintained inadequate financial controls, violated plan documents, and imprudently spent millions to build and maintain facilities at Konocti despite the resort's continuing financial losses. According to the suit, the trustees did not require loan agreements or obtain a security interest in the resort. Local 38 also profited from a $6 million loan it made to the convalescent fund to prevent a bank foreclosure that would have forced the sale of the Konocti property in 2000.

In addition to an accounting of all plan assets, the suit seeks to restore all losses to the plans, correct transactions prohibited by law, give the plans a security interest in the convalescent fund and Konocti and return any illegal profits paid to the defendants. The suit also asks the court to remove the plan officials as fiduciaries and to permanently bar them from service to ERISA plans in the future.

The case was investigated by the San Francisco regional office of the Employee Benefits Security Administration (EBSA). Employers and workers can contact a regional EBSA office at its toll free number, **1-866-444-3272**, for help with any problems relating to private-sector pension and health plans.

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(Chao v. Mazzola) Civil Action No. C044949