

News Release



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Labor Department Sues Trustees of Indiana 401(k) Plan Over Delinquent Employee Contributions

INDIANAPOLIS -- The Labor Department has sued Leatherite/Nylorite Manufacturing and a successor company in Lebanon, Ind., along with their owners, for failure to segregate and remit contributions deducted from employees' paychecks to the defunct company's 401(k) and health plans. In a separate complaint, the department sued the owners in bankruptcy court to ensure that any debts owed to the plans are protected.

The department's civil lawsuit, filed in federal district court in Indianapolis, alleges that the companies, Roger Ward and Joan Ward violated the Employee Retirement Income Security Act (ERISA) by failing to segregate and forward employee 401(k) contributions and health plan premiums to the plans at various times between Jan. 4, 2001 and Feb. 12, 2004. At the time of the violations, the Wards were trustees of the 401(k) plan. The department alleges that the defendants used the plans' assets to pay the general operating expenses of Leatherite.

The suit seeks to require that the defendants repay any losses with interest owed to the plans, undo any transactions prohibited by law, and to return and illegal profits received by them. The suit also seeks to require the defendants to obtain a fidelity bond until the pension plan is terminated and to permanently bar the defendants from serving any employee benefit plan in the future. In addition, the department asks the court to offset the pension accounts of the Wards to repay any plan losses.

Leatherite was involuntarily dissolved by Indiana's Secretary of State. The Wards continue to operate a successor company, Manufacturer's Outlet of Pet Supplies, Inc. (MOOS). Leatherite manufactured pet supplies for customers in the United States and Greece and MOOS is a pet store. The plan covered 47 participants and had \$70,021.96 in assets as of Aug. 8, 2004.

"The department will aggressively enforce the law to protect the retirement funds of the hardworking men and women of this company," said Joseph Menez, director of Employee Benefits Security Administration's Chicago regional office. "Our legal actions are designed to restore money owed to the plan to pay future benefits to these workers."

The case was investigated by the Cincinnati regional office of EBSA. 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 district 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. Ward)
In Re: Roger Ward Bankruptcy Case No. 04-09636

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