

# News Release



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## **U.S. Labor Department Sues Trustees of West Virginia 401(k) Plan Over Delinquent Contributions**

**CHARLESTON, W.Va.** – Trustees of the defunct Gordon Gasket & Packing Co. 401(k) plan in Charleston, W. Va., were sued by the U. S. Department of Labor for failure to forward or timely remit employee contributions to the plan. The department also sued trustee Beverly Louise Bowman to prevent her from discharging \$34,108.11 in debts owed to the plan in bankruptcy proceedings.

“The Department of Labor will aggressively enforce the law to protect the retirement funds of this nation’s hardworking men and women,” said Mabel Capolongo, director of the Philadelphia regional office of the Employee Benefits Security Administration (EBSA). “Our legal action will ensure that these workers receive the future benefits owed to them.”

The lawsuit alleges that the company, Beverly Bowman and Kenneth Joe Bowman violated the Employee Retirement Income Security Act (ERISA) by failing to forward, and timely forward employee contributions deducted from employees’ paychecks from February 2000 through February 2004.

Beverly and Kenneth Bowman were vice president and president, respectively, of Gordon Gasket & Packing. The Bowmans and the company filed for Chapter 7 bankruptcy on Feb. 24, 2004. The 401(k) plan covered 16 participants and had \$117,060 in assets, according to the latest data available to the Labor Department.

The suit seeks a court order to require that the defendants restore all losses, including lost opportunity costs, to remove them from their positions with the plan and to appoint an independent fiduciary to manage the 401(k). The department also asks that the Bowmans be permanently barred from serving in a fiduciary capacity to any plan in the future.

The suit, filed in the federal district court in Charleston, W. Va., resulted from an investigation conducted by EBSA’s Washington district office. 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](http://www.dol.gov/ebsa).

In fiscal year 2004, EBSA achieved record monetary results totaling \$3.1 billion for retirement, 401(k), health and other programs. Employers and workers can reach the district office at (301-713-2000 or through EBSA’s toll-free number at **1-866-444-EBSA(3272)**, for help with problems relating to private-sector retirement and health plans.

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(Chao v. Bowman)  
Civil Action No. 2:05-0065.  
Bankruptcy Case No. 04-20506

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