

News Release



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Labor Department Acts to Restore Funds to California Company Pension Plan

SAN FRANCISCO – The U.S. Department of Labor has sued a now-defunct Ontario, Calif., company and three of its former officers to recover lost interest for the company's 401(k) plan. A U.S. Department of Labor (DOL) investigation found that the defendants failed to remit employee payroll deductions and loan repayments in a timely fashion, resulting in losses to the Hunter Mold and Manufacturing, Inc., 401(k) Plan.

The department filed suit March 3 in U.S. District Court against David and Karen Bresson of Upland, and Thomas Marsh of La Jolla, seeking at least \$7,647 in interest on funds that should have been placed in the company's 401(k) plan. Marsh has agreed to provide \$4,500 in lost interest to the plan. Marsh succeeded David Bresson as president of the company in February 2001. The plan's insurance carrier has paid \$39,468 to cover the funds that were not remitted to the plan's account.

"Company officials used funds from the 401(k) plan for the company's general use," said Billy Beaver, regional director of the Los Angeles office of the Employee Benefits Security Administration (EBSA). "That money did not belong to the company. It belonged to the employees. We want to ensure that employees who participated in the plan receive all the money that is due to them."

Hunter Mold and Manufacturing produced plastic and die case molds until it closed in August 2001. The plan had 31 participating employees and nearly \$829,600 in assets, according to the latest information available to the department. As fiduciaries of the plan, under federal law the Bressons and Marsh were responsible for protecting the assets for the plan's participants.

The Labor Department is seeking appointment of an independent fiduciary to direct distributions of participant accounts and terminate the plan. The department also seeks to bar the Bressons from receiving any share of the distribution unless they have restored the losses to the plan. Thomas Marsh and the Bressons would also be permanently barred from serving as fiduciaries to any employee benefit plan subject to the department's oversight under the Employee Retirement Income Security Act.

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, civil penalties and any applicable excise taxes. For more information see www.dol.gov/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. For assistance with private sector pension and health plans, or to learn about the department's Voluntary Fiduciary Compliance Program, employers and workers may contact the EBSA office at (626) 229-1000 or EBSA's toll free number, **1-866-444-3272**.

(Chao v. Hunter Mold)
Civil Action No. CV04-1374 LGB (JTLx)

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