

News Release



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Labor Department Obtains Court Order Appointing Independent Fiduciary

NEW YORK, N. Y. -- The U.S. Department of Labor obtained a judgment and order appointing independent fiduciary Jacqueline Carmichael to manage the 401(k) plan of defunct Hayden Wegman, Inc. in New York. The order requires Carmichael to distribute plan assets to its participants and beneficiaries and terminate the plan.

“The law states that plans must be managed and operated by employers or plan fiduciaries,” said Francis Clisham, director of the New York Regional Office of the Employee Benefits Security Administration, which investigated the case. “Our case ensures that workers and their families have someone with authority to transact plan business and distribute plan assets to eligible participants.”

This court action resulted from a suit filed by the department on Dec. 23, 2002, alleging that the plan’s sole trustee, Robert Harvey, the president and chief executive officer of the company, failed to ensure that a replacement trustee was appointed when he resigned as trustee on Oct. 29, 1999. Abandonment of a plan violates the Employee Retirement Income Security Act.

Hayden Wegman, Inc. was an engineering firm that sponsored the plan and served as the plan’s administrator. The 401(k) plan covers 45 employees and has approximately \$730,000 in assets.

The judgment was entered on March 20 in federal district court in New York. Employers and workers can contact the New York regional office at (212) 607-8600 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. The Hayden Wegman, Inc. 401(k) Pension Plan
Civil Action No. 02CV10163)