

# News Release



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## **U.S. Labor Department Sues Defunct Richmond, Va., Company Over 401(k) Retirement Savings Plan Violations**

**PHILADELPHIA** – The Allan T. Shepherd Company, Richmond, Va., and its president were sued by the U. S. Department of Labor for failing to forward or timely remit employees’ contributions and loan repayments to the company’s 401(k) savings plan.

“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 and president, James T. Howell Jr., violated the Employee Retirement Income Security Act by failing to timely forward employee contributions and loan repayments, forwarding other contributions and payments late, and failing to pay interest on the delinquent contributions to the Allan T. Shepherd Company Thrift Savings Plan between 2000 and 2003. The suit also alleges Howell received distributions from the plan and failed to separate assets of the plan from those of the company.

The company filed for bankruptcy Nov. 8, 2002. The 401(k) plan covered 16 participants and had \$1,621,942 in assets as of Dec. 31, 2002.

The suit seeks a court order to require that the defendants restore all losses, including lost opportunity costs. It also asks that the defendants be removed from their positions with the plan and that Howell forfeit his right to benefits from the 401(k). In addition, the department asks that the company and Howell be permanently barred from serving as fiduciaries to any plan in the future.

The suit, filed in the federal district court in Richmond, 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). For more information, 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 regional 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. Howell))  
Civil Action No. 3:05cv282

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