

News Release



U.S. Department of Labor
Employee Benefits Security Administration
San Francisco, CA
Release Number: 50

For Immediate Release
May 21, 2003
Contact: Deanne Amaden
Phone: (415) 975-4741

Pasadena Employer Ordered To Restore 401(K) Plan Contributions *Labor Department Takes Action to Protect Employees' Benefits*

SAN FRANCISCO – The U.S. Department of Labor obtained a consent judgment May 16 ordering the owners of The Permanent Wiseguys, Inc., a now-defunct marketing and advertising firm, to repay \$39,000 to the company's 401(k) benefit plan for failing to remit contributions withheld from employees' paychecks.

The judgment permanently bars Elizabeth Wardley Kwong and Raymond Kwong, the company's owners and plan's trustees, from serving any employee benefit plan governed by the Employee Retirement Income Security Act. The judgment also ordered the Kwongs to forfeit their individual account balances in the 401(k) plan to repay the losses of other plan participants. An independent fiduciary was also appointed to distribute the plan's assets and proceed with an orderly termination of the 401(k) plan.

The Labor Department began investigating the case in July 2000 after receiving complaints from employees. The company filed for bankruptcy protection in September 2000. As of Dec. 31, 2000, the 401(k) plan had 21 participants and assets totaling \$147,153. The judgment was entered in U.S. District Court for the Central District of California

"We are pleased to be able to return this money to the employees who earned it," said Billy Beaver, regional director of the Los Angeles office of the Labor Department's Employee Benefits Security Administration (EBSA), which investigated the case. Beaver urges employees to carefully monitor their 401(k) plan contributions, and to ask questions when necessary. "When funds are not remitted to the plan, it can be a sign of trouble, and we want to get in and help protect those retirement savings for workers as soon as possible."

Beaver noted that 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 information about the VFCP see www.dol.gov/ebsa.

Employers and workers with questions or concerns regarding their private-sector pension and health plans can contact the EBSA regional office in Los Angeles at 626-229-1000 or EBSA's toll free number, 1-866-444-EBSA (3272).

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(Chao v. Kwong) Civil Action No. 02-6098

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