

News Release



U.S. Department of Labor
Office of Public Affairs
Chicago, Ill.
Release Number: 05-959-CHI

For Immediate Release
Date: June 21, 2005
Contact: Gloria Della
Phone: (202) 693-8664

Labor Department Obtains Court Judgment Restoring More Than \$12,900 to 401(k) Plan of Illinois Home Builder

CHICAGO -- The U. S. Department of Labor has obtained a court judgment requiring Lord & Essex Homes Inc., an Aurora, Ill., home builder, and the trustee of the company's 401(k) plan to restore \$12,907.33 as restitution for failure to forward employee contributions and loan repayments to the plan.

"We will take legal action to ensure that promised benefits are restored when employers fail to act in the best interest of their employees," said Kenneth Bazar, director of the department's Chicago regional office of the Employee Benefits Security Administration, which investigated the case.

Besides the restitution, the judgment requires John Popp Jr., the plan trustee, to obtain a bond as required by the Employee Retirement Income Security Act (ERISA) and to furnish appropriate tax statements relating to outstanding plan loans.

The Labor Department lawsuit, filed in the federal district court in Chicago, alleges that Lord & Essex, the plan's administrator, and Popp violated ERISA by failing to timely remit employee contributions owed to the 401(k) plan from January 2000 through November 2002, failing to remit loan repayments owed to the plan from May 2000 through November 2002, and using the money to benefit the corporation. The suit further alleges that the defendants failed to obtain a fidelity bond for the plan.

Lord & Essex established the 401(k) plan in January 1995. The plan had 33 participants and assets of \$377,753, according to the latest information available to the Labor Department.

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 correct violations of the law 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.

In fiscal year 2004, EBSA achieved record monetary results of \$3.1 billion related to the pension, 401(k), health and other benefits of millions of American workers and their families. Employers and workers can reach EBSA's Chicago Regional Office at (312) 353-0900 or through its toll-free number, 1-866-444-EBSA (3272), for help with problems relating to private-sector retirement and health plans.

###

(Chao v. Lord & Essex Homes, Inc.) Civil Action No. 04-06276

U.S. Labor Department releases are accessible on the Internet at www.dol.gov. The information in this news release will be made available in alternate format upon request (large print, Braille, audio tape or disc) from the COAST office. Please specify which news release when placing your request at (202) 693-7765 or TTY (202) 693-7755. The U.S. Department of Labor is committed to providing America's employers and employees with easy access to understandable information on how to comply with its laws and regulations. For more information, please visit www.dol.gov/compliance.