

News Release



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Labor Department Names Independent Fiduciary for Defunct N.Y. Corp.'s 401(k) Plan

NEW YORK — The U. S. Department of Labor obtained a consent judgment June 27 appointing an independent fiduciary to replace one of the two trustees of the 401(k) plan of defunct Pinay Flooring Products, Inc. of Brooklyn, New York. The trustee has refused to fulfill his responsibilities to administer the plan. The independent fiduciary named is Jacqueline M. Carmichael of JM Pension Advisory, Inc., who, with the plan's remaining trustee, will distribute the plan's assets and terminate the plan.

"Our goal is to protect employees' hard-earned benefits," said Francis Clisham, director of the New York Regional Office of the Labor Department's Employee Benefits Security Administration (EBSA). "When we find an abandoned plan, we take action to help participants obtain their account balances in the plan."

Employee benefit plans become "orphaned" when they are abandoned by fiduciaries designated to manage and operate the plans and their assets. Without plan fiduciaries, participants and beneficiaries are unable to receive pension distributions or to make inquiries about their benefits.

Walter Ruttgeizzer and Joseph Pavia were the sole trustees of the plan since 1994. The department's lawsuit alleged that since Aug. 9, 2001, Pavia, the company vice-president, refused to perform his duties under the plan. The plan requires joint administration by the two trustees. Company president Ruttgeizzer shut down the company on March 5, 2002. Without Pavia's cooperation, Ruttgeizzer was unable to distribute the plan's assets and terminate the plan.

The plan covers seven participants and held in excess of \$418,000 as of March 2002.

The suit, filed on March 24 in federal district court in Brooklyn, resulted from an investigation conducted by EBSA's New York regional office into alleged violations of the Employee Retirement Income Security Act (ERISA).

Employers and workers can contact the regional office at (212) 607-8600 or EBSA's toll free number, 1-866-444-EBSA (3272), for help with any problems relating to private-sector pension and health plans.

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(Chao v. Pinay Flooring Products, Inc. Profit Sharing Plan)
Civil Action No. 03-1409