# News Release

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## Norwich, Conn., Employee Benefit Plan Officials Agree to Resolve Claims of Over $800,000 in Prohibited Loans and Imprudent Investments in Federal Lawsuit

**BOSTON** – The trustees of a Norwich, Conn., company's profit sharing and pension plans have agreed to resolve over $800,000 in claims regarding prohibited loans and imprudent investments and to resolve a lawsuit filed against them by the U.S. Department of Labor.

The suit, filed June 28, 2002, in the U.S. District Court for Connecticut, charged Steven A. Becker, John F. Smith, Jr., Timothy Griffin, Phillip Warzecha, Kendland Company, Inc., Kendland Company, Inc. Profit Sharing Plan and Kendland Company, Inc. Money Purchase Plan with violations of the Employee Retirement Income Security Act (ERISA), the federal law that protects private sector employee benefit plans.

According to James Benages, Boston regional director for the Labor Department's Employee Benefits Security Administration (EBSA), the Kendland Company, Inc., now defunct, was a mechanical contractor (heating, ventilation, and air conditioning) based in Norwich, Conn. The company was the plan sponsor for both profit sharing and money purchase plans that were set up in 1979 to provide retirement and death benefits for employees. The defendants served as trustees of both plans at various times from 1979 to the present.

The department's suit alleged that in 1994 and 1995 the company and the trustees then in office caused the profit sharing plan to improperly loan $378,000 to the company and the money purchase plan to improperly loan $923,000, also to the company. While the principal amounts on these loans were partially repaid, only a limited amount of interest was paid on the loans. The suit also alleged other improper transactions involving both plans, including ill-advised investments in several limited partnerships.

With respect to the loan transactions Benages said: "The law specifically prohibits these types of transactions between employee benefit plans and plan sponsors. The funds in these plans are to be used strictly for the benefit of the plan participants and no one else." He noted that, at the end of 2002, the profit sharing plan had 107 participants and the money purchase plan had 97 participants.

The consent judgment, which resolves the lawsuit, was signed by U.S. District Judge Dominic J. Squatrito on July 15, 2003. It prohibits the individual defendants from future violations of ERISA, and permanently enjoins Steven A. Becker from ever serving as a fiduciary or service provider to any ERISA-covered plan. It requires the orderly termination of the plans and the timely distribution to each plan participant their respective shares of the plan's assets.

In addition, the consent judgment orders defendant Steven A. Becker to waive a large portion of his interest in both plans in order that non-trustee participants may receive their full vested benefits in the plans.

This case was investigated by the EBSA's Boston regional office. Employers and workers can contact the regional office at 617-565-9600 or the agency's toll-free number, 1-866-444-EBSA, for help with problems relating to private-sector pension and health plans. Additional information can be found at www.dol.gov.

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(Chao v. Steven A. Becker, et al; Civil Action No. 3:02-CV-01122-DJS)