

# News Release



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## **Labor Department Sues to Appoint Independent Fiduciary For Abandoned Illinois 401(k) Plan**

**CHICAGO** —The U.S. Department of Labor has sued to obtain court appointment of an independent fiduciary to administer an abandoned Oak Brook, Ill., 401(k) savings plan. The fiduciary will be authorized to distribute assets to participants upon termination of the plan.

“The department will act when plan fiduciaries fail to carry out their duty to protect the retirement plan assets held on behalf of participants,” said Kenneth Bazar, director of the department’s Chicago regional office of the Employee Benefits Security Administration (EBSA).

The department’s lawsuit alleges that Terry Psaltakis, fiduciary to the Lake & Lake Solutions L.L.C. Incentive Saving Plan, violated the Employee Retirement Income Security Act (ERISA) by failing to administer the plan since 2002. The company, a provider of computer and information technology services, ceased operations in 2002 but the 401(k) plan was not formally terminated. As a result, participants and beneficiaries have been unable to access or obtain distribution of their plan assets.

The suit seeks a judgment removing Psaltakis as fiduciary to the plan, permanently barring him from serving as a fiduciary to any ERISA-covered plan and appointing an independent fiduciary to terminate the plan and distribute its assets to eligible participants.

Plans become “orphan plans” when they are abandoned by all fiduciaries designated to manage and operate them and their assets.

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 Compliance Program (VFCP). Participation in the program requires employers to reimburse plans and participants 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](http://www.dol.gov/ebsa).

The lawsuit, filed in U.S. District Court, Northern District of Illinois, resulted from an investigation conducted by the Chicago regional office of EBSA. Employers and workers can reach the Chicago regional office at (312) 353-0900 or through EBSA’s toll-free number, 1-866-444-EBSA (3272), for help with problems relating to private-sector retirement and health plans. 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.

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(Chao v. Terry Psaltakis and the Lake & Lake Solutions L.L.C. Incentive Saving Plan)  
Civil action No. 05-C-3990

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