

# News Release



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## **U.S. Labor Department Obtains Judgment Restoring Assets To Participants of Tennessee 401(k) Plan**

**CHATTANOOGA, TENN.--** The U.S. Department of Labor has obtained a default judgment ordering the principal of Cleveland, Tenn.-based Supermarket Pharmacies, LLC to restore \$12,536 to the participants in the former Supermarket Pharmacies Profit Sharing 401(k) Plan.

“Those who hold positions of trust for employee benefit plans must act in the best interest of the plan and its participants,” said Howard Marsh, director of the department’s Atlanta regional office of the Employee Benefits Security Administration (EBSA). “Our legal action is designed to restore money to pay benefits owed to these plan participants.”

In addition to the restitution, Theresa D. Evans, a plan trustee, is permanently barred from service to plans governed by the Employee Retirement Income Security Act (ERISA) in the future.

The department alleged that Evans wrongfully removed assets from the 401(k) plan and failed to forward contributions deducted from employees’ paychecks between October 1999 and June 2000, to the plan.

Supermarket Pharmacies, LLC was a management company for seven pharmacies owned by Theresa D. Evans. The 401(k) plan covered 17 participants and had \$8,894.56 before it was terminated on July 16, 2000.

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](http://www.dol.gov/ebsa).

The case, filed in federal district court in Chattanooga, Tenn., resulted from an investigation conducted by the EBSA’s Atlanta regional office. 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 contact the regional office at (404) 562-2156 or EBSA’s toll free number, **1-866-444-EBSA (3272)**, for help with problems relating to private-sector pension and health plans.

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(Chao v. Evans)  
Civil Action No. 1:04 CV 00333

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