

News Release



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Labor Department Obtains Court Judgment Restoring Assets to Wisconsin Company's SIMPLE IRA Plan

CHICAGO – The U. S. Department of Labor has obtained a consent judgment requiring the former president of Tri-County Heating and Air Inc., Arcadia, Wis., to restore \$1,780.11 to the company's SIMPLE IRA plan.

Following reimbursement of the plan, the consent judgment, filed in U.S. District Court for the Western District of Wisconsin in Madison, removes Thomas Kosinski as a fiduciary of the plan. The court also permanently enjoined him from serving or acting as a fiduciary or service provider in the future to any employee benefit plan subject to the Employee Retirement Income Security Act (ERISA).

“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 settlement resolves a lawsuit filed by the department alleging that Thomas Kosinski, president and fiduciary of Tri-County Heating and Air's SIMPLE IRA plan, violated ERISA by failing to remit employee contributions to the plan from January 1, 2001 through September 30, 2003 and retaining employee plan contributions in the company's general assets.

Tri-County Heating and Air's SIMPLE Plan was established in November 2000 to provide benefits to its employees upon retirement, death or disability. The company ceased operations and Thomas Kosinski filed for Chapter 7 bankruptcy on September 28, 2004.

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.

The lawsuit 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. Thomas Kosinski and Tri-County Heating and Air Simple Plan Civil Action No. 05-C-0220

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