

News Release



U.S. Department of Labor
Office of Public Affairs
Chicago, Ill.
Release Number 05-1577-CHI

For Immediate Release
Date: Aug. 18, 2005
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Labor Department Sues Pension Plan Trustees on Behalf Of Ohio Sheet Metal Workers *Suit Seeks to Recover Losses on Investments with Oregon Investment Manager*

CLEVELAND, Ohio--The U.S. Department of Labor today sued the trustees of the Cleveland-based Sheet Metal Workers Local 33 pension plan for imprudently investing plan assets in risky private investments with Capital Consultants LLC (CCL) of Portland, Ore. The department's suit seeks to restore all losses on the investments.

"Hardworking men and women relied on the plan trustees to protect their union-sponsored pension benefits," said Secretary of Labor Elaine L. Chao. "We are going forward with civil action, on behalf of the workers and retirees, to recover as much as possible for their pension and health plans."

The Labor Department's lawsuit alleges that trustees Alan Chermak, Ken Castro, Donald Skala Jr., Richard Rohaley and Robert Finley violated the Employee Retirement Income Security Act by allowing imprudent and risky investment of plan assets. The pension plan covered 1,376 participants and had \$95,871,140 in assets as of April 30, 2003.

Between 1998 and 2000, the trustees allowed \$5,750,261 of the plan's assets to be used by CCL to make loans, even though the loans violated the plan's investment guidelines. They also allegedly allowed the plan to invest more than 10% of its total assets under management with CCL with a single borrower – Wilshire Credit Corporation – in violation of the plan's investment agreement with CCL. The suit seeks a court order to require that defendants restore to the plans any losses or forfeit any benefits owed to them under the plan and to institute new plan procedures and controls relating to plan investments.

Capital Consultants was a registered investment manager that provided investment services to more than 60 clients, including union-sponsored pension and health plans governed by federal employee benefits law. Since 2002, the department has obtained permanent bars against 32 trustees of 34 union plans in Arizona, California, Colorado, Idaho, Minnesota, Nevada, Ohio, Oregon, and Utah for authorizing imprudent investments through Capital Consultants. Through the efforts of the Labor Department, its court-appointed receiver and private settlements, more than \$290 million has been recovered for clients that invested with Capital Consultants.

The Cincinnati Regional Office of the Labor Department's Employee Benefits Security Administration (EBSA) investigated this case. The suits were filed in federal district court in Cleveland. Last year EBSA achieved record monetary results totaling \$3.1 billion in retirement, 401(k), health and other benefits for American workers. Employers and workers can contact the Cincinnati office at (859) 578-4680 or EBSA's toll-free number, **1-866-444-3272**, for help with problems relating to private-sector health and pension plans.

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(Chao v. Chermak)
Civil Action Docket No. 05cv1935

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