

News Release



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Trustee of Defunct Providence, R. I., Company 401(k) Plan To Restore Over \$12,000 to Settle U.S. Labor Department Lawsuit

BOSTON – Raymond Paolo, trustee of the Log On America Inc.'s 401(k) plan, has agreed to restore \$12,664 to settle a U.S. Department of Labor lawsuit alleging violations of the Employee Retirement Income Security Act (ERISA). The Providence, R.I.-based company filed for bankruptcy in summer 2002 and went into liquidation around the end of that year.

In a consent judgment and order, filed simultaneously with the department's suit in the U.S. District Court for the District of Rhode Island, Paolo agreed to restore the money from his own account to compensate the other participants of the 401(k) plan.

According to James Benages, Boston regional director of the Labor Department's Employee Benefits Security Administration (EBSA), the suit alleged that Paolo had breached his fiduciary duty by failing to make sure that employee contributions to the 401(k) plan were forwarded to the plan during the period Jan. 1, 2000 through Dec. 31, 2002. Instead, contributions withheld from employees' paychecks were used by the company for other purposes.

"It is a clear requirement of the law," said Benages, "that plan assets, including all employee paycheck withholding contributions, must be used and invested only for the benefit of the plan's participants and beneficiaries. Any other use is strictly prohibited by ERISA."

The consent judgment and order also permanently prohibits Paolo from future violations of ERISA and from serving as a trustee or administrator of any other ERISA-covered employee benefit plan in the future. He must make restitution to the plan within 20 days of the signing of the order, distribute the plan's assets to participants and beneficiaries within 40 days, and properly terminate the plan.

In fiscal year 2004, EBSA achieved record monetary results of \$3.1 billion related to pension, 401(k), health and other benefits of millions of American workers and their families. EBSA's Boston regional office, which investigated the case, can be reached at 617-565-9600. Help with problems relating to private-sector retirement and health plans can also be obtained by calling EBSA's toll free number at 1-866-444-EBSA (3272).

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(Chao v Raymond Paolo)
Civil Action No. 05-344-T