

News Release



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U.S. Labor Department Settlement with President of Utica, Michigan Corporation to Restore Workers' 401(k) Assets

DETROIT --The U.S. Department of Labor has obtained a settlement requiring that \$24,679.65 be restored to the Beninati Contracting, Inc. 401(k) plan and permanently barring the president of Utica, Michigan based Beninati Contracting, Inc., from serving as a fiduciary or service provider to any employee benefit plans governed by the Employee Retirement Income Security Act (ERISA). The settlement also provides that an independent fiduciary be appointed to administer 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 Joseph Menez, director of the department's Cincinnati regional office of the Employee Benefits Security Administration (EBSA).

The settlement resolves a Labor Department lawsuit that alleged the company's president, Mark Beninati, failed to remit all employee contributions and loan repayments to the 401(k) plan at various times between 1999 and 2001.

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.

The suit, filed in federal district court in Detroit, resulted from an investigation conducted by the Detroit district of EBSA's Cincinnati regional office. Employers and workers can reach the Cincinnati regional office at (859) 578-4680 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. Beninati
Civil Action No.: 04-74542

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