

News Release



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Labor Department Sues to Appoint Independent Fiduciary for Abandoned New York 401(k) Plan

NEW YORK – The U.S. Department of Labor has sued under the Employee Retirement Income Security Act (ERISA) to obtain court appointment of an independent fiduciary to manage the abandoned 401(k) plan of YOUpowered, Inc., a now defunct company formerly located at 90 William Street, Suite 105, New York, NY.

The department's suit, filed in the U.S. District Court for the Southern District of New York, also asks the court to authorize termination of the plan and the distribution of \$16,525 in plan assets to eligible participants.

“The department took legal action to ensure that the participants in the YOUpowered 401(k) plan receive their promised benefits,” said Jonathan Kay, acting director of the New York regional office of the department's Employee Benefits Security Administration (EBSA), which investigated the case.

The investigation revealed that YOUpowered went out of business several years ago, although the exact date of dissolution is unknown, and that the 401(k) plan has been left without management ever since. EBSA's investigation was based on a complaint from a plan participant who was unable to obtain a distribution from the plan. The plan has approximately 10 remaining participants.

Plans become “orphan plans” when they are abandoned by all fiduciaries designated to manage and operate them and their assets.

Citistreet is the plan's contracted service provider and the funds are held by Travelers Life & Annuity. Neither entity can allow distribution of the plan's remaining assets without a court order.

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. Employers and workers can contact the New York regional office at 212-607-8600. 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 YOUpowered 401(k) Plan)
Civil Action No. 05-CV-7814