

News Release



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Labor Department Settles With Houston Aircraft Manufacturer Over Misuse of Employee Pension Contributions

HOUSTON—The U. S. Department of Labor obtained a consent order barring Aeropanel Corporation of Houston, Texas, and its president from violating the Employee Retirement Income Security Act (ERISA) in the future and requiring them to provide financial information to the government to resolve a lawsuit alleging they failed to forward employee contributions to the company's 401(k) plan.

“Plan officials have a duty to assure that employee contributions are properly deposited into plans and used only to benefit employees,” said Steven Eischen, director of the Dallas regional office of the Employee Benefits Security Administration.

The suit, filed in federal district court on Jan. 31, 2002, alleged that Aeropanel Corporation and Ralph McElvenny, Jr. violated ERISA by failing to remit employee contributions to the plan trustee and failing to timely remit employee contributions to the plan trustee. At the time of the improper actions, McElvenny was the plan's administrator.

Aeropanel Corporation manufactures components for commercial and military aircrafts as well as the space shuttle. The company sponsored the 401(k) plan for 17 participants. As of Dec. 5, 2003, the plan had \$129,993.84 in assets.

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 make workers whole 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 case was investigated by department's regional EBSA office in Dallas. Employers and workers can contact the regional office at (214) 767-6831 or EBSA's toll free number, **1-866-444-3272**, for help with problems relating to private-sector pension and health plans.

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(Chao v Aeropanel Corp.)
Civil Action No. 03-0394