



# Department of Justice

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## **COLUMBUS BUSINESSMAN SENTENCED TO PRISON FOR STEALING EMPLOYEE RETIREMENT FUNDS**

### PRESS RELEASE

Timothy M. Morrison, United States Attorney for the Southern District of Indiana, announced that JOHN L. BRUBAKER, 52, Columbus, Indiana, was sentenced to 16 months in federal prison today by U.S. District Judge Larry J. McKinney, following a guilty plea to theft from an employee benefit plan. This case was the result of a two year investigation by the U.S. Department of Labor.

Prior to the investigation in this case, BRUBAKER was owner and president of the now-defunct Central Indiana Contracting, Inc., an excavating contractor located in Columbus, Indiana. One of the benefits that BRUBAKER offered to his employees was the ability to participate in simple IRA retirement plan. Under the terms of that plan, employees could defer salary from their weekly paycheck for deposit into individual IRA accounts held at Scudder Investments. Withholding of funds from employee paychecks became automatic once the employee enrolled in the plan, but, as the owner and president of the company, BRUBAKER had sole responsibility and authority to transfer those employee contributions from company accounts to Scudder Investments. The IRA plan also provided that the company would make additional or matching contributions to the Plan on behalf of individual plan participants.

The Department of Labor investigation revealed that between April 1, 2001, and March 31, 2003, \$48,084.85 was withheld from the paychecks of 12 of BRUBAKER's employees for transfer and investment in their individual IRA accounts, but that money was left in the company's bank accounts and never sent to Scudder Investments as required. Over that same time period, Central Indiana Contracting also failed to make employer contributions to the individual IRA accounts as required under the plan. For purposes of federal law, the employee contributions became a part of the IRA plan assets as soon as the funds were withheld from the employee paychecks.

Central Indiana Contracting ceased operations in April of 2004. On October 15, 2005, BRUBAKER filed for individual Chapter 7 bankruptcy protection in federal court in Indianapolis. On February 20, 2008, following the lengthy Department of Labor investigation, BRUBAKER was named in a 22 count federal indictment charging him with the theft of \$48,084.85 from his employees' IRA plans.

According to Assistant U. S. Attorney Matthew Rinka, who prosecuted the case for the government, Judge McKinney also imposed 3 years supervised release following BRUBAKER's release from imprisonment. BRUBAKER was also ordered to pay \$48,084.85 in restitution to the victims identified during the Department of Labor investigation.

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