

# U.S. Dept. of Labor: Federal court holds Wisconsin business owner in contempt for failing to comply with the court's prior order to restore \$53,122 to employee benefit plan

Posted on Tuesday, Dec 14, 2021

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*Court removed defendants, permanently enjoined them from acting as fiduciaries or service providers*

**MADISON, WI** – A U.S. District Court judge in Wisconsin has held a Madison business owner in civil contempt of court after he failed to comply with a March 2021 consent order and judgment requiring him to restore \$53,122 to the Thunderbird Engineering Inc. company's 401(k) Plan.

The Dec. 7 order enforced a U.S. Department of Labor motion that followed an investigation by the department's Employee Benefits Security Administration. EBSA found the owner failed to forward employees' voluntary payroll contributions and loan repayments from Jan. 1, 2014, through Aug. 6, 2020, to the retirement plan, in violation of the [Employee Retirement Income Security Act](#).

U.S. District Court Chief Judge James D. Peterson of the Western District of Wisconsin issued a contempt order to Thunderbird Engineering Inc. and owner Shawn Woldt. Woldt made two of the of the required, scheduled payments, totaling \$18,866 from the March order and judgment. He then failed to respond to the department's inquiries about his failure to make the rest of the payments. Woldt has continued to violate federal law by continuing to withhold voluntary contributions and failing to forward those contributions to the plan since at least

Aug. 6, 2020.

Woldt now has until Dec. 28, 2021, to restore the remaining \$34,254, plus interest, to the 401(k) plan. If he fails to restore the funds by the deadline, the court order requires him to pay a penalty of \$100 per day to the plan. The court also removed the defendants as fiduciaries to the plan and immediately appointed an independent fiduciary to manage the plan.

“The Secretary of Labor has the legal authority to ensure compliance with laws the department enforces,” said Regional Solicitor of Labor Christine Heri in Chicago. “The U.S. Department of Labor sought the courts’ intervention in the enforcement of this consent order and judgment after Thunderbird Engineering Inc. and owner Shawn Woldt failed to comply with the agreed upon terms and continued to violate federal law.”

“Complying with a court order is not voluntary,” said Employee Benefits Security Administration Regional Director Jeffrey Monhart in Chicago. “The Employee Benefits Security Administration is charged with protecting the integrity of employee benefit plans and ensuring those that service such accounts comply with the law and protect employees’ retirement assets. We have taken the steps to hold Thunderbird Engineering Inc. and Shawn Woldt accountable, and to make the employees in his company’s 401(k) plan whole.”

The penalty ordered by the court will accumulate daily until the amount owed and penalty amounts are paid in full. The court also ruled that plan losses and all fees and expenses related to the independent fiduciary’s services can be drawn from Woldt’s personal 401(k) account, and a set-off from Woldt’s account is allowed to restore all amounts due to the plan. In addition, the order prohibits Woldt from withdrawing or moving any funds from his individual plan account until all monies are restored, and the independent fiduciary’s fees and reasonable expenses are paid.