



The Defendants have waived service of process of the complaint and have admitted to the jurisdiction of this Court over them and the subject matter of this action.

The Secretary and Defendants have agreed to resolve all matters in controversy in this action between them (except for the imposition by Plaintiff of any penalty pursuant to ERISA §502(l), 29 U.S.C. §1132(l), and any separate proceedings related thereto) and said parties do now consent to entry of a Consent Order and Judgment by this Court.

The Secretary and Defendants further agree that, if the Secretary assesses a penalty pursuant to ERISA §502(l), 29 U.S.C. § 1132(l) in connection with the violations alleged in this matter, the “applicable recovery amount” shall include all amounts paid in accordance with this Consent Order and Judgment.

Now, therefore, upon consideration of the record herein, and as agreed to by the parties hereto, the Court finds that it has jurisdiction to enter this Consent Order and Judgment, and being fully advised in the premises, it is

**ORDERED, ADJUDGED AND DECREED** that:

A. Defendants Stephanie Jochims and Robert Jochims, (collectively “Defendants”) are permanently enjoined from violating the provisions of Title I of ERISA.

B. Defendants are permanently enjoined from serving as fiduciaries or service-providers to the Plan, except for the purposes of restoring the monies owed to the Plan and terminating the Plan, as described herein.

C. Defendants are jointly and severally liable to the Plan in the amount of \$5,956.93, which includes \$5,166.67 in unremitted employee contributions and \$790.26 in lost opportunity costs.

D. The Plan is amended to permit the set off of \$5,956.93 of defendant Stephanie

Jochims's Plan account for losses incurred by the Plan resulting from fiduciary breaches, as authorized by Section 1502(a) of the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, Section 1502(a), 111 Stat. 788, 1058-59 (1997) (codified at 29 U.S.C. Section 1056(d)(4)).

E. Within seven (7) days of the entry of this Judgment, Defendant Stephanie Jochims, pursuant to §1502(a) of the Taxpayer Relief Act of 1997, codified at 29 U.S.C. §1056(d)(4), shall cause \$5,956.93 from her current Plan account balance to be reallocated to the investment accounts of Plan participants. These monies shall be allocated to the individual plan accounts of the Plan participants, with the exclusion of Stephanie and Robert Jochims, who: (1) were employees of Western Steel, (2) were Plan participants during the period of January 23, 2008 through May 10, 2013; (3) had voluntary employee contributions withheld from their pay for contribution to the Plan during this period and such contributions remain unremitted. The Plan shall allocate the aforementioned money to the Plan's participants in an amount equal to the unremitted, withheld amounts from each participant's pay for contributions to the Plan and the loss opportunity costs shall be allocated on a pro rata basis according to the percentage shares each participant was owed. Defendant shall provide proof of such reallocation to the Kansas City Regional Director, Employee Benefits Security Administration, 2300 Main St., Ste. 1100 Kansas City, MO 64108 ("Kansas City Regional Director") within seven (7) days after the reallocation.

F. Defendants shall terminate the Plan in accordance with ERISA within thirty (30) days of the entry of this Consent Order and Judgment. Defendants' responsibilities shall include, but not be limited to, causing the distribution of the Plan's assets to the plan participants and causing the filing of all appropriate documents with the various government agencies. Within sixty (60) days of the entry of this Consent Order and Judgment, Defendants shall provide satisfactory proof of such termination to the Kansas City Regional Director.

G. The Defendants agree to fully cooperate with any requests from any service provider or asset custodian that relate to the administration and termination of the Plan.

H. Nothing in this Consent Order and Judgment is binding on any governmental agency except for the United States Department of Labor, Employee Benefits Security Administration.

I. Each party agrees to bear his/her/its own attorney's fees, costs, and other expenses incurred by such party in connection with any stage of this proceeding to date including, but not limited to, attorneys' fees, which may be available under the Equal Access To Justice Act, as amended.

The Court retains jurisdiction for purposes of enforcing compliance with the terms of this Consent Order and Judgment.

Dated this 6<sup>th</sup> day of May, 2014.

s/Richard H. Kyle  
RICHARD H. KYLE  
United States District Judge

The undersigned apply for and consent to the entry of this Consent Order and Judgment this 24th of April, 2014:

For the Defendants:

s/Stephanie Jochims  
Stephanie Jochims

s/Robert Jochims  
Robert Jochims

s/Stephanie Jochims  
Western Steel Erection 401(k) Plan

By: Stephanie Jochims

Its: President

For the Secretary of Labor:

M. PATRICIA SMITH  
Solicitor of Labor

CHRISTINE Z. HERI  
Regional Solicitor

s/Bruce Canetti  
Bruce C. Canetti  
Attorneys for Thomas E. Perez  
Secretary of Labor, Plaintiff