

Wherefore, it is ORDERED, ADJUDGED AND DECREED that Defendants Philip Oakes and Herb's Carpet & Tile, Inc. are permanently enjoined from violating the provisions of Title I of ERISA. Further, Defendants Philip Oakes and Herb's Carpet & Tile, Inc. shall be removed as fiduciaries of the Plan and permanently enjoined from serving as fiduciaries or service providers to any ERISA-covered employee benefit plan.

It is further ORDERED, ADJUDGED AND DECREED that Philip Oakes and Herb's Carpet & Tile, Inc. are jointly and severally liable for \$\$ 6,121.94 in unremitted employee contributions due under the Employee Retirement Income Security Act, as amended, together with interest of \$817.16 on those unremitted contributions as well as interest on late contributions, at the Internal Revenue Code Section 6621 rate computed through January 25, 2013, for a total of **\$6,939.10** plus costs, post-judgment interest, and appropriate relief.

Moreover, it is ORDERED that the Secretary shall have execution thereof;

It is further ORDERED that Defendant Oakes pay the following individuals, participants of the Plan, the following amounts within 10 days of the entry of this Judgment:

Bradley DeCheney	\$1,382.58
Douglas J. Luchies	\$156.43
Michael E. Pence	\$2,250.43
Richard B. Pickard	<u>\$3,149.66</u>
Total	<u>\$6,939.10</u>

IN ADDITION, the Secretary may set off from Defendant Oakes' individual Plan account balance the amount of losses, including lost opportunity costs, resulting from his 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)), if the losses to the participants of the Plan are not otherwise restored to the them by the defendants;

Judgment entered February 4, 2013.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

By

/s/ Gordon J. Quist
JUDGE GORDON J. QUIST
U.S. District Court Judge