

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO**

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**HILDA L. SOLIS**, Secretary of Labor,  
United States Department of Labor,

Plaintiff,

v.

**LFAC, INC. PROFIT SHARING  
401(k) PLAN**,

Defendant.  
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: CIVIL ACTION  
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: Case No. 1:12-cv-01462  
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**CONSENT JUDGMENT AND ORDER**

Plaintiff, Hilda L. Solis, Secretary of Labor, United States Department of Labor (the "Secretary"), pursuant to the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001 et seq., filed a Complaint against Defendant LFAC, Inc. Profit Sharing 401(k) Plan (the "Plan") alleging a violation under ERISA with respect to the Plan.

Defendant waives service and answer of the complaint, and hereby admits that this Court has jurisdiction over it and the subject matter of this action.

The Plaintiff and Defendant, have agreed to resolve all matters as alleged in the complaint and said parties do now consent to entry of a Consent Order and Judgment by this Court in accordance therewith.

Upon consideration of the record herein, and as agreed to by the parties, the Court finds that it has jurisdiction to enter this Consent Judgment and Order.

**IT IS THEREFORE ORDERED that:**

1. All prior fiduciaries of the Plan are removed and AMI Benefit Plan Administrators, Inc. shall be appointed as the independent fiduciary of the Plan. The independent fiduciary shall have the following powers, duties and responsibilities:
  - a. The independent fiduciary shall have responsibility and authority for terminating the Plan. Such terminations shall be made in accordance with the Plan's governing documents, the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §1001 et seq., and the Internal Revenue Code (IRC). While not required to obtain a determination letter to terminate the Plan under ERISA or the IRC, the independent fiduciary shall make a determination as to whether it is prudent to go through the determination letter process for the Plan;
  - b. The independent fiduciary's responsibilities with respect to the termination of the Plan shall include, but not be limited to, liquidating the Plan's assets, communicating with participants regarding the termination of the Plan and their disbursal options, calculating the participant and beneficiaries account balances, and filing appropriate termination papers with the Internal Revenue Service and the Department of Labor;
  - c. The independent fiduciary shall have responsibility and authority to collect, liquidate, and manage such assets of the Plan for the benefit of the eligible participants and beneficiaries for the Plan who are entitled to receive such assets, until such time that the assets of the Plan are distributed to the eligible participants and

beneficiaries of the Plan;

d. The independent fiduciary shall exercise reasonable care and diligence to identify and locate each participant and beneficiary of the Plan who is eligible to receive a payment under the terms of the Plan and to disburse to each such eligible participant or beneficiary the payment to which he or she is entitled;

e. The independent fiduciary shall have full access to all data, information and calculations in the Plan's possession or under their control, including that information contained in the records of the Plan's custodial trustees and other service providers, bearing on the distribution of benefit payments, participant account balances and current plan assets;

f. The independent fiduciary may terminate any current service providers to the Plan and retain such persons and firms including, but not limited to, accountants and attorneys, as may be reasonably required to perform his duties hereunder;

g. The independent fiduciary shall obtain bonding in an amount that meets the requirements of ERISA 412, 29 U.S.C. 1112;

h. The independent fiduciary's reasonable and necessary fees and administrative expenses and costs incurred in terminating the Plan shall be paid out of the assets of the Plan. Additionally, the independent fiduciary shall be authorized to pay reasonable administrative expenses due and owing to any of the Plan's service providers, as of the date an order is entered, out of the assets of the Plan;

i. The independent fiduciary shall not be responsible for bringing any action on behalf of the Plan against any prior fiduciaries or service providers

of the Plan for violations of state or federal law that occurred prior to the date of the independent fiduciary's appointment. The independent fiduciary shall be responsible for pursuing any violations of ERISA that occur after its appointment as the independent fiduciary by this Court;

j. The independent fiduciary may not be held responsible or liable for any claim against the Plan or related entities that existed, arose, matured or vested prior to his appointment as independent fiduciary for the Plan;

k. The independent fiduciary represents that he will not charge the Plan more than \$1,755.00.

2. Each party agrees to pay his, her or its own attorneys' 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.

3. The Court shall maintain jurisdiction over this matter only for purposes of enforcing this Consent Judgment and Order.

4. Nothing in this Consent Judgment and Order is binding on any government agency other than the U.S. Department of Labor.

Dated: October 3, 2012

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT COURT JUDGE

The parties hereby apply for and consent to the entry of this Consent Judgment and Order.

FOR PLAINTIFF SECRETARY OF LABOR,

Maureen M. Cafferkey

MAUREEN M. CAFFERKEY  
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Dated 9/28/12.

FOR DEFENDANT:

Frank W. Johnson

FRANK JOHNSON as fiduciary of  
the LFAC, Inc. Profit Sharing 401(k) Plan  
1068 Bridgeview Place  
LeClaire, Iowa 52753

Dated 9/28/12.