UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

SETH D. HARRIS, Acting Secretary of Labor, United States Department of Labor, Plaintiff, v. **JANE E. LEHMAN, TELETRANS SERVICES, INC., and TELETRANS SERVICES, INC. SAVINGS AND RETIREMENT PLAN,** Defendants.	CIVIL ACTION File No.

COMPLAINT

Plaintiff, SETH D. HARRIS, Acting Secretary of Labor, United States Department of Labor ("Secretary"), alleges:

JURISDICTION AND VENUE

1. This action arises under Title I of the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, 29 U.S.C. §1001, et seq., and is brought by the Secretary under ERISA §§502(a)(2) and (5), 29 U.S.C. §§1132(a)(2) and (5), to enjoin acts and practices which violate the provisions of Title I of ERISA, to obtain appropriate equitable relief for breaches of fiduciary duty under ERISA §409, 29 U.S.C. §1109, and to obtain such further equitable relief as may be appropriate to redress violations and to enforce the provisions of Title I of ERISA.

2. This court has jurisdiction over this action pursuant to ERISA §502(e)(1), 29 U.S.C. §1132(e)(1).

3. The Teletrans Services, Inc. Savings and Retirement Plan ("Plan") is an employee benefit plan within the meaning of ERISA §3(3), 29 U.S.C. §1002(3), which is subject to the provisions of Title I of ERISA pursuant to ERISA §4(a), 29 U.S.C. §1003(a).

4. Venue of this action lies in the Eastern District of Wisconsin, Green Bay Division pursuant to ERISA §502(e)(2), 29 U.S.C. §1132(e)(2), because the Plan was administered in Brown County, Wisconsin, within this district.

5. The Plan is named as a defendant herein pursuant to Rule 19(a) of the Federal Rules of Civil Procedure solely to assure that complete relief can be granted.

DEFENDANTS

6. During the relevant time period, Teletrans Services, Inc. ("Teletrans"), the Plan Administrator, exercised authority and control over the disposition of assets of the Plan; was a fiduciary to the Plan within the meaning of ERISA §3(21)(A), 29 U.S.C. §1002(21)(A); and was a party in interest to the Plan within the meaning of ERISA §§3(14)(A) and (C), 29 U.S.C. §§1002(14)(A) and (C).

7. During the relevant time period, Jane E. Lehman ("Lehman") was the sole shareholder and president of Teletrans; a trustee of the Plan; exercised authority and control over assets of the Plan; was a fiduciary within the meaning of ERISA §3(21)(A), 29 U.S.C. §1002(21)(A); and was a party in interest to the Plan within the meaning of ERISA §§3(14)(A), (E), and (H), 29 U.S.C. §§1002(14)(A), (E), and (H).

8. During the relevant time period, the Plan's governing documents provided, in

pertinent part, that participants could make pre-tax contributions to the Plan from their compensation.

9. During the relevant time period, Teletrans withheld employee contributions from its employees' pay for remittance to the Plan. These withholdings were retained in Teletrans's corporate account until they were remitted to the Plan.

ALLEGATIONS

Count I
(Failure to remit participant contributions to the Plan)

10. The General Allegations, paragraphs 1 through 9, are hereby incorporated in these allegations.

11. During periods from May 31, 2007 through September 30, 2009, Lehman and Teletrans failed to ensure that withheld participant Plan contributions were remitted to the Plan.

12. The withheld participant Plan contributions were retained in Teletrans's general corporate bank account.

13. During periods from May 31, 2007 through September 30, 2009, approximately $35,077.95 in participants' Plan contributions were withheld and not remitted to the Plan.

14. By the conduct described in paragraphs 11 through 13 above, Lehman and Teletrans:

a. failed to ensure that the assets of the Plan were held in trust and did not inure to the benefit of Teletrans in violation of ERISA §§403(a) and (c)(1), 29 U.S.C. §§1103(a) and (c)(1); and,

b. failed to act solely in the interest of the participants and beneficiaries of the Plan and for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of plan administration in violation of ERISA §404(a)(1)(A), 29 U.S.C. §1104(a)(1)(A).

c. caused the Plan to engage in transactions which they knew or should have known constituted a direct or indirect transfer to, or use by or for the benefit of, a party in interest, of assets of the Plan, in violation of ERISA §406(a)(1)(D), 29 U.S.C. §1106(a)(1)(D);

d. dealt with assets of the Plan in their own interest in violation of ERISA §406(b)(1), 29 U.S.C. §1106(b)(1); and,

e. acted on behalf of a party whose interests are adverse to the interests of the Plan or the interests of its participants and beneficiaries in violation of ERISA §406(b)(2), 29 U.S.C. §1106(b)(2).

15. As a direct and proximate result of the fiduciary breaches, the Plan has suffered injury and losses for which Lehman and Teletrans are personally liable and are subject to appropriate equitable relief pursuant to ERISA §409, 29 U.S.C. §1109.

Count Two
(Failure to timely remit participant contributions and participant loan repayments to the Plan)

16. The General Allegations, paragraphs 1 through 9, are hereby incorporated in these Allegations.

17. During periods from October 31, 2007 through March 31, 2008, Lehman and Teletrans failed to ensure that withheld participant Plan contributions were timely remitted to the Plan.

18. During periods from August 31, 2009 through November 30, 2010, Lehman and Teletrans failed to ensure that all participant loan repayments were timely remitted to the Plan.

19. Based upon information and belief, the participant Plan contributions and employee loan repayments withheld and untimely remitted were retained in Teletrans's general operating account and used by Lehman and Teletrans.

20. By the conduct described in paragraphs 17 through 19 above, Lehman and Teletrans:

a. in violation of ERISA §29 U.S.C. §1103(a) and (c)(1), failed to ensure that the assets of the Plan were held in trust and did not inure to the benefit of Teletrans; and

b. failed to act solely in the interest of the participants and beneficiaries of the Plan and for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of plan administration in violation of ERISA §404(a)(1)(A), 29 U.S.C. §1104(a)(1)(A).

c. caused the Plan to engage in transactions which they knew or should have known constituted a direct or indirect transfer to, or use by or for the benefit of, a party in interest, of assets of the Plan, in violation of ERISA §406(a)(1)(D), 29 U.S.C. §1106(a)(1)(D);

d. dealt with assets of the Plan in their own interest in violation of ERISA §406(b)(1), 29 U.S.C. §1106(b)(1); and,

e. acted on behalf of a party whose interests are adverse to the interests of the Plan or the interests of its participants and beneficiaries in violation of ERISA §406(b)(2), 29 U.S.C. §1106(b)(2).

21. As a direct and proximate result of the fiduciary breaches, the Plan has suffered injury and losses for which Lehman and Teletrans are personally liable and subject to appropriate equitable relief pursuant to ERISA §409, 29 U.S.C. §1109.

Count Three
(Failure to maintain fidelity bond for fiduciaries)

22. The allegations contained in paragraphs 1 through 9, are hereby incorporated in this Count.

23. As of November 5, 2012, the Plan had approximately $168,390.29 in assets, and the Plan had no current fidelity bond.

24. By the conduct described, Lehman and Teletrans failed to ensure that the fiduciaries of the Plan who handled the funds or other property of the Plan were bonded against losses to the Plan resulting from acts of fraud or dishonesty in violation of ERISA §412, 29 U.S.C. §1112.

PRAYER FOR RELIEF

WHEREFORE, the Secretary prays for judgment:

A. Permanently enjoining Lehman and Teletrans from violating the provisions of Title I of ERISA;

B. Ordering Lehman and Teletrans to make good to the Plan any losses, including lost opportunity costs, resulting from fiduciary breaches committed by them or for which they are liable;

C. Ordering Lehman and Teletrans to correct the prohibited transactions in which they engaged relating to the Plan;

D. Permanently enjoining Lehman and Teletrans from serving as a fiduciary or service provider to any ERISA-covered employee benefit plan;

E. Appointing an independent fiduciary to terminate the Plan consistent with the Plan's governing documents, the Internal Revenue Code, and ERISA, distribute its assets to the participants and beneficiaries, and conclude any plan-related matters connected with the proper termination of the Plan;

F. Ordering Lehman and Teletrans to pay all reasonable fees and expenses incurred by the independent fiduciary in administering and terminating the Plan;

G. Awarding the Secretary the costs of this action; and

H. Ordering such further relief as is appropriate and just.

M. PATRICIA SMITH
Solicitor of Labor

CHRISTINE Z. HERI
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