

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

MAY 22 2013

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

SETH D. HARRIS, ACTING
SECRETARY OF LABOR,
UNITED STATES DEPARTMENT OF LABOR,
200 Constitution Avenue, NW
Washington, DC 20009

Plaintiff,

v.

VINEET KALUCHA,
4345 Hawthorne Street, NW
Washington, DC 20016

Defendant.

Civil Action No. 13 - 00738

CONSENT JUDGMENT

Plaintiff, Secretary of Labor, United States Department of Labor ("Secretary"), and defendant Vineet Kalucha ("Kalucha" or "Defendant") make the following submission to the Court:

WHEREAS, the Secretary is responsible for the administration and enforcement of Title I of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001, *et seq.* ("ERISA");

WHEREAS, the Secretary conducted an investigation of Kalucha's role in the Q. Know Technologies, Inc. 401(k) Plan (the "Plan") from January 1, 2006 through March 31, 2013 (the "Relevant Time Period"), and specifically concerning whether Kalucha was a fiduciary of the Plan who failed ensure that employee contributions were remitted to and collected by the Plan in a timely manner (the "Claims");

WHEREAS, the parties have entered into a Settlement Agreement resolving, for the

period January 1, 2006 through March 31, 2013, the above issues raised by the Secretary's investigation of Kalucha;

WHEREAS, under the terms of Sections 2, 3 and 4 of the Settlement Agreement, Kalucha was obligated to restore funds to the Plan, as follows:

2. Kalucha shall restore \$16,860.21 to the Plan, plus interest in the amount of \$3,973.87, on or before April 15, 2013.

3. Kalucha shall immediately ensure that this restitution to the Plan is allocated and distributed to the appropriate Plan participants in amounts necessary to restore their losses incurred as a result of the missing and late contributions at issue in the Claims. Kalucha shall ensure that the payments to the participants are designated as plan assets and that participants are given the option of a direct Individual Retirement Account ("IRA") rollover. If Kalucha is unable to locate any Plan participant who is owed a distribution, he shall establish an IRA for that individual to hold that individual's distribution while he takes all reasonable and necessary steps to locate the individual, in accordance with EBSA Field Assistance Bulletin 2004-02, attached hereto as Exhibit A. Any costs associated with locating participants, and the allocation and distribution of this restitution, shall be paid by Kalucha, and in no event shall any such costs be deducted from the \$20,834.08 that Kalucha must restore to the Plan and allocate to the Participants.

4. Kalucha shall provide written confirmation to EBSA, on or before April 30, 2013, that the restitution and distributions required by this Settlement Agreement have been made. Such written confirmation shall include a copy of all bank statements, checks, IRA statements, or any other information and documents deemed necessary by EBSA to confirm compliance with this Settlement Agreement.

WHEREAS, under the terms of the Settlement Agreement, the Secretary has the right to file this Consent Judgment, along with a Complaint alleging ERISA violations against Kalucha related to the Claims, if s/he determines that Kalucha has failed to comply with Sections 2, 3 and/or 4 of the Settlement Agreement;

WHEREAS, the parties hereto expressly agree to the submission of this Consent Judgment, subject to the terms set forth below;

IT IS THEREFORE, by the consent of the parties and for cause shown,

ORDERED, ADJUDGED AND DECREED as follows:

1. For purposes of this Consent Judgment, the parties agree that the Court has jurisdiction over defendant and this proceeding, and that venue in this Court is proper.
2. As set forth in Plaintiff's Declaration of Amounts Due (attached hereto as Exhibit A), as a result of Kalucha's failure to comply with one or more of the provisions in Sections 2, 3 or 4 of the Settlement Agreement, the amount of \$20,834.08, less any payments made by Kalucha pursuant to Sections 2, 3 and 4 of the Settlement Agreement described in Exhibit A, is due to the Plan.
3. Within ten days of the entry of this Consent Judgment, Kalucha shall restore the amount of \$20,834.08 to the Plan, less any payments previously made by him as described in Exhibit A. Kalucha shall immediately ensure that this restitution to the Plan is allocated and distributed to the appropriate Plan participants in amounts necessary to restore their losses incurred as a result of the missing and late contributions at issue. Kalucha shall ensure that the payments to the participants are designated as plan assets and that participants are given the option of a direct Individual Retirement Account ("IRA") rollover. If Kalucha is unable to locate any Plan participant who is owed a distribution, he shall establish an IRA for that individual to hold that individual's distribution while he takes all reasonable and necessary steps to locate the individual, in accordance with EBSA Field Assistance Bulletin 2004-02. Any costs associated with locating participants, and the allocation and distribution of this restitution, shall be paid by Kalucha, and in no event shall any such costs be deducted from the \$20,834.08 that Kalucha must restore to the Plan and allocate to the Participants.
4. Kalucha shall provide written confirmation to EBSA, within fifteen days of the entry of this Consent Judgment, that the restitution and distributions required by this Consent

Judgment have been made. Such written confirmation shall include a copy of all bank statements, checks, IRA statements, or any other information and documents deemed necessary by EBSA to confirm compliance with this Consent Judgment.

5. Upon EBSA's receipt of the written confirmation required by Paragraph 4 of this Consent Judgment, Kalucha is removed as a fiduciary of the Plan and is permanently enjoined from serving as a trustee, fiduciary, advisor, or administrator to any employee benefit plan, as that term is defined at Section 3(3) of ERISA, 29 U.S.C. §1002(3), or from serving in any capacity that involves decision-making authority or custody or control of the moneys, funds, assets, or property of any employee benefit plan subject to ERISA.

6. Kalucha agrees to pay and shall not contest a penalty of 20% of the applicable recovery amount assessed by the Department of Labor ("DOL") pursuant to ERISA §502(l), 29 U.S.C. §1132(l), and this document or a copy thereof can be used as evidence of his waiver of any defenses or appeals pursuant to ERISA §502(l).

7. The Secretary and the Defendant shall each bear their own costs, expenses, and attorneys' fees incurred to date in connection with any stage of this proceeding, including but not limited to, attorneys' fees which may be available under the Equal Access to Justice Act, as amended.

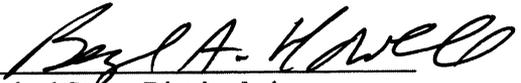
8. This Consent Judgment shall operate as a final disposition of all Claims asserted by the Secretary against the Defendant in the Complaint.

9. Nothing in this Consent Judgment is binding on any governmental agency other than the United States Department of Labor.

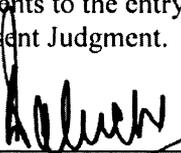
10. This Court retains jurisdiction of this action for purposes of enforcing compliance with the terms of this Consent Judgment.

11. The Court directs the entry of this Consent Judgment as a final order.

Date: May 22, 2013


United States District Judge

Waiving service and any answers,
defendant Vineet Kalucha
consents to the entry of this
Consent Judgment.


Vineet Kalucha

M. Patricia Smith
Solicitor of Labor

Catherine Oliver Murphy
Regional Solicitor

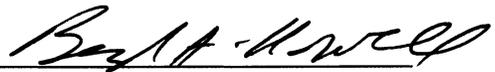
Adam F. Welsh
Attorney
Office of the Solicitor
Suite 630E, The Curtis Center
170 S. Independence Mall West
Philadelphia, PA 19106
(215) 861-5159
(215) 861-5162 (fax)

U.S. DEPARTMENT OF LABOR

Attorneys for Plaintiff

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Date: May 22, 2013

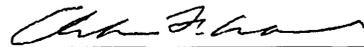

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U.S. DEPARTMENT OF LABOR

Attorneys for Plaintiff

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

<hr/>		:
SECRETARY OF LABOR,		:
UNITED STATES DEPARTMENT OF LABOR,		:
200 Constitution Avenue, NW		:
Washington, DC 20009		:
	Plaintiff,	:
	v.	:
		:
VINEET KALUCHA,		:
4345 Hawthorne Street, NW		:
Washington, DC 20016		:
	Defendant.	:
<hr/>		:

Civil Action No. 13-00738

DECLARATION OF AMOUNTS DUE OF WILLIAM JURGOVAN

I, William Jurgovan, hereby state that I am an Investigator with the Washington District Office of the Employee Benefits Security Administration (“EBSA”), United States Department of Labor, and make this declaration pursuant to Section 1746 of Title 28 of the United States Code:

1. In the course of my duties as an Investigator with EBSA, I was responsible for an investigation of the Q. Know Technologies, Inc. 401(k) Plan (the “Plan”) and Vineet Kalucha (“Kalucha”) to determine whether any violations of Title I of the Employee Retirement Income Security Act of 1974 had occurred or were about to occur.

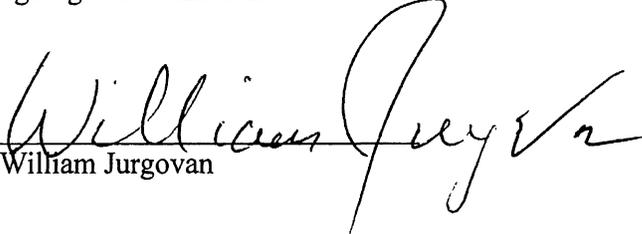
2. In order to resolve the issues raised by our investigation of Kalucha, Kalucha entered into a settlement agreement requiring him to, among other things, restore a total of \$20,834.08 to the Plan and provide written confirmation to EBSA, on or before April 30, 2013, that this amount had been restored to the Plan and distributed to the appropriate Plan participants.

3. As of the date of the execution of this Declaration, Kalucha has not provided such written confirmation to EBSA. EBSA has also communicated with the service provider that Kalucha had indicated he would use to distribute the funds to the appropriate Plan participants, and that service provider has confirmed that no such funds had been distributed as of May 16, 2013.

4. Because Kalucha has failed to remit any of the funds required by the settlement agreement, the entire amount of \$20,834.08 remains due.

I declare under penalty of perjury that the foregoing is true and correct.

Date: 5/17/2013


William Jurgovan