

SOL:SMG
(13)00641

UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK

THOMAS E. PEREZ, Secretary of Labor,	:	
United States Department of Labor,	:	
	:	Civil Action File
Plaintiff,	:	
	:	No.
v.	:	
	:	
VAN BUREN AUTOMOTIVE PRODUCTS	:	
401(K) PROFIT SHARING PLAN,	:	
Defendant.	:	

COMPLAINT

Plaintiff, Thomas E. Perez, Secretary of Labor, United States Department of Labor (the “Secretary”), to the best of his knowledge, information and belief alleges:

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 against the Van Buren Automotive Products 401(k) Profit Sharing Plan (the “Plan”) to enjoin practices in violation of Title 1 of ERISA and to obtain such further equitable relief as may be appropriate to redress violations and to enforce the provisions of Title I of ERISA.

JURISDICTION AND PARTIES

2. The Plan is an employee pension benefit plan within the meaning of ERISA § 3(3), 29 U.S.C. § 1002(3) and is covered by ERISA, pursuant to ERISA § 4(a), 29 U.S.C. § 1003(a). The Plan was sponsored by Precision Power Products, Inc. (“The Company”). The Plan’s last known address was 10 Industrial Blvd., Medford, NY 11763.

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

4. Venue of this action lies in the Eastern District of New York pursuant to ERISA § 502(e)(2), 29 U.S.C. § 1132(e)(2), because the Plan was administered in Medford, New York, within the Eastern District of New York.

5. The Secretary has the authority to bring this action pursuant to ERISA § 502(a)(5), 29 U.S.C. § 1132(a)(5).

FACTUAL ALLEGATIONS

6. The Plan was established on or about June 1, 1988 by the Company.

7. Anthony Spagnolo was the sole trustee of the Plan.

8. The Company went out of business in 1992.

9. Anthony Spagnolo passed away on September 12, 2012.

10. ING Life Insurance and Annuity Company, (“ING”), located at One Orange Way, Windsor, CT 06095, is and has been the Recordkeeper at all times relevant to this action.

11. As of March 4, 2013 ING has held \$102,582.34 in Plan assets.

12. United Benefits Pensions, Inc., located at 35 Pinelawn Road, Suite 103E, Melville, NY 11747.

13. From at least 2012, no individual or entity has come forward to assume fiduciary responsibility for the Plan or to distribute the Plan’s its assets to the Plan’s six participants, and there is no fiduciary actively functioning on behalf of the Plan.

14. Without a duly appointed Trustee or other fiduciary of the Plan to instruct an asset custodian to distribute the Plan’s assets, the Plan’s participants are unable to obtain distributions of funds from the Plan.

VIOLATION

15. By the conduct and circumstances described in paragraphs 6-14, the Plan exists without a named fiduciary and without its assets being held in trust by a trustee in violation of ERISA §§ 402 and 403, 29 U.S.C. §§ 1102 and 1103.

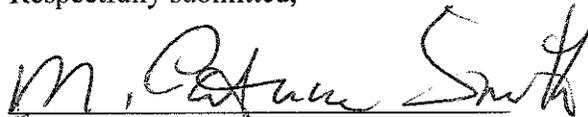
PRAYER FOR RELIEF

WHEREFORE, the Secretary requests that this Court enter an Order:

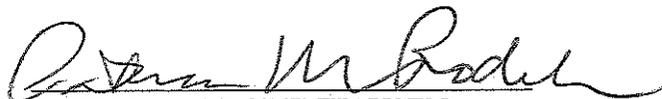
- A. Appointing an independent trustee and fiduciary to administer the Plan and distribute the Plan's assets to its participants and beneficiaries; and
- B. Ordering such further relief as is appropriate and just.

DATED: August 2, 2013
New York, NY

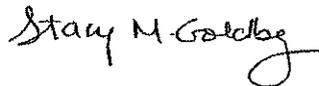
Respectfully submitted,



M. PATRICIA SMITH
Solicitor of Labor



PATRICIA M. RODENHAUSEN
Regional Solicitor



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Secretary of Labor, Plaintiff

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