

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

THOMAS E. PEREZ, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

**HOME COMP. CARE, INC. SAVINGS &
RETIREMENT PLAN**, and
DR. ANTHONY ALEXANDER,

Defendants.

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: CIVIL ACTION
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: FILE NO. **1:14 CV 578**
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: Judge Harry D. Leinenweber
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CONSENT ORDER AND JUDGMENT

Plaintiff **THOMAS E. PEREZ**, Secretary of Labor, United States Department of Labor, pursuant to the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, 29 U.S.C. §1001, et seq., filed a complaint against defendant Dr. Anthony Alexander, alleging breaches of his fiduciary responsibilities under ERISA §404(a)(1)(A) & (B), 29 U.S.C. §1104(a)(1)(A) & (B), with respect to the Home Comp. Care, Inc. Savings & Retirement Plan ("Plan"). Furthermore, the Plan was named as a defendant pursuant to Federal Rule of Civil Procedure 19(a) solely to assure that complete relief would be granted.

Defendant Dr. Anthony Alexander and the Plan waive service of process of the complaint and admit to the jurisdiction of this Court over them and the subject matter of this action.

The Plaintiff and Defendants agree to resolve all matters in controversy in this action between them (except for the imposition by Plaintiff of any penalty pursuant to ERISA §502(l), 29 U.S.C. §1132(l), and any proceedings related thereto), 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 Order and Judgment.

IT IS THEREFORE ORDERED that:

1. Defendant Dr. Anthony Alexander shall immediately be removed from his position as Plan Administrator and Trustee of the Plan.

2. Within seven (7) days of the entry of the Consent Order and Judgment, Defendant Dr. Anthony Alexander shall remit \$2,735.00 for fees and expenses reasonably and necessarily incurred in administering and terminating the Plan by issuing a cashier's check in the name of the Plan to "ING Life Insurance & Annuity Company", at Attn. Mark Fehrs, P.O. Box 2215, NY, NY 10116-2215 along with the written instruction that the \$2,735.00 should be deposited into the Plan's Forfeiture/DF account. The Plan's account no. "PH8491" should be written on the front of the check. Within fourteen (14) days of the entry of the Consent Order and Judgment, Defendant Dr. Anthony Alexander shall provide a copy of the front and back of the above-mentioned check to the Regional Director of the Employee Benefits Security Administration ("Regional Director") located at the Chicago Regional Office, 230 South Dearborn Street, Suite 2160, Chicago, IL 60604.

3. AMI Benefit Plan Administrators, Inc., 100 Terra Bella Drive, Youngstown, Ohio 44505, is hereby appointed as the independent fiduciary for the Plan to administer the Plan and to terminate the Plan consistent with the Plan's governing documents, the Internal Revenue Code, and ERISA. The independent fiduciary shall have the following powers, duties and responsibilities:

a. 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 of 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 and the Plan is fully terminated;

b. 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 this Consent Order and Judgment and to disburse to each such eligible participant or beneficiary the payment to which he or she is entitled;

c. The independent fiduciary shall have full access to all data, information and calculations in the Plan's possession or under its 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;

d. The independent fiduciary may retain such persons and firms including, but not limited to, accountants and attorneys, as may be reasonably required to perform his duties hereunder;

e. The independent fiduciary shall obtain bonding in an amount that meets the requirements of ERISA §412, 29 U.S.C. §1112. The costs incurred by the independent fiduciary in obtaining such bonding shall be paid by the Plan;

f. The independent fiduciary shall initiate the termination of the Plan in accordance with ERISA as soon as administratively feasible. The independent fiduciary's responsibilities shall include, but not be limited to, causing the distribution of the Plan's assets to the Plan participants and filing all appropriate documents with the various government agencies. The independent fiduciary shall provide the Regional Director with quarterly updates on his progress toward terminating the Plan. Within thirty (30) days from the date that the Plan is fully

terminated, the independent fiduciary shall provide satisfactory proof of such termination, including proof of issuance of the Plan's participant distributions, to the Regional Director; and

g. After terminating the Plan, as referenced in paragraph 3(f) above, for the services performed pursuant to this Consent Order and Judgment, the Independent Fiduciary shall receive compensation, from the Plan not to exceed \$2,735.00 for fees and expenses reasonably and necessarily incurred in administering and terminating the Plan.

4. Defendant Dr. Anthony Alexander agrees to fully cooperate with any requests from the independent fiduciary, any service provider, the Regional Director, or asset custodian, that relate to the administration and termination of the Plan.

5. Each party agrees to bear his 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.

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

7. Nothing in this Order is binding on any government agency other than the United States Department of Labor.

DATED: September 2, 2014

A handwritten signature in black ink, appearing to read 'Harry D. Leinenweber', written over a horizontal line.

HARRY D. LEINENWEBER
UNITED STATES DISTRICT JUDGE

The parties hereby consent to the entry of this consent order and judgment:

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

Dated this 15th day of August, 2014.

FOR DEFENDANTS:

/s/ Dr. Anthony Alexander
DR. ANTHONY ALEXANDER

/s/ Dr. Anthony Alexander
HOME COMP. CARE, INC.
SAVINGS & RETIREMENT PLAN
By: Dr. Anthony Alexander, on
behalf of Home Comp. Care, Inc.
Savings & Retirement Plan,

/s/ Pamela Bobersky
AMI BENEFITS, INC.,
for proposed Independent Fiduciary
By: Pamela Bobersky, President

FOR PLAINTIFF:

M. PATRICIA SMITH
Solicitor of Labor

CHRISTINE Z. HERI
Regional Solicitor

/s/ Mark H. Ishu
MARK HENRY ISHU
Trial Attorney

Attorneys for **THOMAS E. PEREZ,**
Secretary of Labor, United States
Department of Labor

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