

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

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

Plaintiff, \*

v. \*

KEVIN M. LYNCH, as an individual and \*  
fiduciary of the AHC Corp. 401(k) Plan, \*  
JANETTE M. RIOUX, as an individual and \*  
fiduciary of the AHC Corp. 401(k) Plan, \*  
and AMERICAN HYDRAULICS CORP., \*

Defendants. \*

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CIVIL ACTION NO. 15-cv-111-LM

**CONSENT JUDGMENT AND ORDER**

Plaintiff Thomas E. Perez, Secretary of Labor, United States Department of Labor (the “Secretary”), and Defendants Kevin M. Lynch, Janette M. Rioux, and American Hydraulics Corp. have agreed to resolve all matters in controversy in this action and said parties do now consent to the entry of a judgment and order by this Court in accordance their agreement.

Defendants acknowledge receipt of Plaintiff’s Complaint. By consenting to this judgment and order, Defendants have admitted to the jurisdiction of this Court over them and will not challenge the Court’s subject matter jurisdiction in this case. Defendants neither admit nor deny the allegations in the Secretary’s Complaint.

In connection with the resolution of this matter, the Department of Labor will assess a penalty pursuant to Section 502(l) of the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1132(l), of 20 percent of the “applicable recovery amount” as defined in Section 502(l), which “applicable recovery amount” in this case is \$19,853.96. Defendants agree

to pay said penalty as directed by the assessment letter to be issued by a representative of the Secretary, except to the extent that Defendants seek and are granted a waiver in the Secretary's sole discretion, pursuant to Section 502(l)(3)(B) of ERISA, 29 U.S.C. § 1132(l)(3)(B).

Now, therefore, by consent of the parties hereto, it is hereby ORDERED, ADJUDGED and DECREED that:

1. Defendants are permanently enjoined from violating Sections 404 and 406 of ERISA, 29 U.S.C. §§ 1104, 1106.

2. On or before August 1, 2015, Defendants shall pay to the AHC Corp. 401(k) Plan (the "Plan") the amount of \$18,506.79, representing the principal amount due and owing to the Plan. On or before August 1, 2015, Defendants shall also pay to the Plan the amount of \$1,347.17, representing lost opportunity costs accruing from January 7, 2011 to June 29, 2015. Upon making payments, Defendants shall ensure that the non-fiduciary Plan participants receive their share consistent with their entitlements to these contributions, plus a pro rata share of the accrued interest.

3. Defendants shall submit the following, setting forth evidence of compliance with the provisions of Paragraph 2 of this judgment:

- a. Within ten (10) days of making the payment(s) to the Plan, Defendants shall submit to Plaintiff proof of payment(s) made to the Plan; and
- b. Within thirty (30) days of completing all payments to the Plan, Defendant shall submit a written report to Plaintiff showing a full accounting of the proceeds allocated to the participants' accounts.

c. Proof of payment and report of compliance shall be sent to the following address:

Susan Hensley, Regional Director  
Employee Benefit Security Administration  
U.S. Department of Labor, JFK Federal Building, Room 575  
Boston, MA 02203

4. Defendants shall obtain and maintain the requisite fidelity bond or bonds.

5. Defendant Janette M. Rioux is permanently enjoined from serving as a fiduciary for any employee benefit plan subject to ERISA. Defendant Kevin M. Lynch is enjoined for a period of five years from the date of this Consent Judgment and Order from serving as a fiduciary for any employee benefit plan subject to ERISA. Defendant Lynch agrees to take a minimum of eight hours of education on fiduciary responsibilities within six months after the date of this Consent Judgment and Order, and provide a certificate of completion to the United States Department of Labor.

6. Each party shall bear its own fees and expenses with respect to this action.

7. The Court shall retain jurisdiction of this matter for purposes of enforcing this judgment.

8. Nothing in this judgment is binding on any governmental agency other than the United States Department of Labor.

IT IS SO ORDERED THIS 5th day of August, 2015.

  
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Landya B. McCafferty  
United States District Judge

Consented to by:

For Plaintiff Thomas E. Perez, Secretary of Labor:

M. Patricia Smith

Solicitor of Labor

Michael D. Felsen  
Regional Solicitor

/s/ Mark A. Pedulla  
Mark A. Pedulla  
Massachusetts BBO No. 685925  
Trial Attorney

July 2, 2015  
Dated

U.S. Department of Labor  
Office of the Solicitor  
JFK Federal Building, Room E-375  
Boston, MA 02203  
TEL: 617-565-2500  
FAX: (617) 565-2141  
EMAIL: pedulla.mark.a@dol.gov

For Defendants:

/s/ Kevin M Lynch  
Kevin M. Lynch

6/29/15  
Dated

/s/ Janette M. Rioux  
Janette M. Rioux

6/29/2015  
Dated

/s/ Kevin M Lynch  
American Hydraulics Corp.

6/29/15  
Dated