



ERISA §502(l), 29 U.S.C. §1132(l), and any proceedings related thereto), and 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. Defendants are permanently enjoined and restrained from violating the provisions of Title I of ERISA, 29 U.S.C. §1001 *et seq.*
2. Defendants are removed as fiduciaries to the Plan and are permanently enjoined from serving or acting as fiduciaries or service providers to any ERISA-covered employee benefit plan.
3. Summit Benefit Solutions, Inc., 600 Lexington Avenue, Mansfield, Ohio 44907, is hereby appointed as the independent fiduciary for the Plan. 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 for 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;
  - b. The independent fiduciary shall have responsibility and authority for terminating the Plan. Such terminations shall be made in accordance with the Plan's governing documents, the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §1001 *et seq.*, and the Internal Revenue Code. While not required to obtain a determination letter to terminate the Plan under ERISA or the Internal Revenue Code, the independent fiduciary shall make a determination as to whether it is prudent to go through the determination letter process for the Plan. The independent fiduciary's responsibilities with respect to the termination of the Plan shall include, but not be limited to, liquidating the Plan's assets, communicating with participants regarding the termination of the Plan and their disbursement options, calculating the participant and beneficiaries account balances, and filing appropriate termination papers with the Internal Revenue Service and the Department of Labor;

c. 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;

d. 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;

e. 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;

f. 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;

g. Within 30 days of the distribution of all of the Plan's assets, the independent fiduciary shall provide the EBSA Regional Director, at EBSA, Fort Wright Executive Building I, 1885 Dixie Highway, Suite 210, Fort Wright, Kentucky, 41011-2664, with a report identifying the distributions made by the Plan since the independent fiduciary's appointment;

h. The independent fiduciary shall not be responsible for bringing any action on behalf of the Plan against any prior fiduciaries or service providers of the Plan for violations of state or federal law that occurred prior to the date of the independent fiduciary's appointment. The independent fiduciary shall be responsible for pursuing any violations of ERISA that occur after his appointment as the independent fiduciary by this Court;

i. The independent fiduciary may not be held responsible or liable for any claim against the Plan or related entities that existed, arose, matured or vested prior to his appointment as independent fiduciary for the Plan; and

j. The independent fiduciary shall be paid no more than \$1,250.00, as identified in the attached fee proposal (Exhibit A). The cost of the fidelity bond is not included in the \$1,250.00 sum. Fees incurred in administering the Plan beyond those specified in the fee proposal must be submitted to the Court. If no objection is raised by either party or by the Court within 30 days of the

submission of the supplemental fee proposal to the Court, the fees may be paid from Plan assets.

4. Each party agrees to bear his, her 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.

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

6. Nothing in this Consent Judgment and Order is binding on any government agency other than the United States Department of Labor.

DATED \_\_\_\_\_, 2011

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

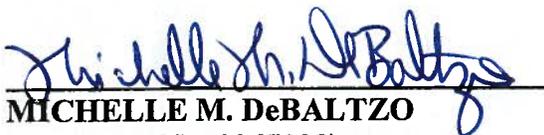
The parties hereby consent to the entry of this consent order and judgment:

**FOR THE SECRETARY OF LABOR:**

**M. PATRICIA SMITH**

Solicitor of Labor  
**JOAN E. GESTRIN**  
Regional Solicitor

**BENJAMIN T. CHINNI**  
Associate Regional Solicitor

  
\_\_\_\_\_  
**MICHELLE M. DeBALTZO**

(Ohio Reg. No. 0067998)  
Trial Attorney  
U.S. Department of Labor  
Office of the Solicitor

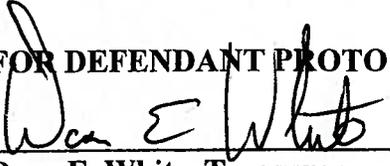
**BARBARA L. MCQUADE**

United States Attorney  
PETER A. CAPLAN  
Assistant United States Attorney  
211 W. Fort Street, Suite 2001  
Detroit, Michigan 48226  
(313) 226-9784  
P-30643  
[peter.caplan@usdoj.gov](mailto:peter.caplan@usdoj.gov)

DATED: 8/22/11

1240 East Ninth St.  
Cleveland, Ohio 44199  
(216) 522-3879; (216) 522-7172 (Fax)  
[debaltzo.michelle@dol.gov](mailto:debaltzo.michelle@dol.gov)

**FOR DEFENDANT PROTO CRAFT, INC:**



**Dean E. White, Treasurer  
Proto Craft, Inc.  
481 Parkview Boulevard  
Lake Orion, Michigan 48362**

DATED: 8/2/11

**FOR DEFENDANT BRENDA DUNCAN:**



**Brenda Duncan, Fiduciary of the Proto  
Craft, Inc. Profit Sharing & 401(k) Plan  
1570 Kathy Lynn  
Ortonville, MI 48446**

DATED: 7-16-11

**FOR DEFENDANT PROTO CRAFT, INC. PROFIT SHARING & 401(K) PLAN:**



**Brenda Duncan  
1570 Kathy Lynn  
Ortonville, MI 48446**

DATED: 7-16-11



**SUMMIT BENEFIT SOLUTIONS, INC.**  
Pension Administration and Employee Benefit Providers

September 27, 2010

United States Department of Labor  
Employee Benefits Security Administration  
Fort Wright Executive Building 1  
1885 Dixie Highway, Suite 210  
Fort Wright, Kentucky 41011-2664

Attn: Amanda Diersing

Re: Protocraft Inc. Profit Sharing and 401(k) Plan

Dear Ms. Diersing:

Thank you for the opportunity to provide a quote for qualified plan administration services to you for Protocraft Inc.

**Proposed Services**

To assist you with the termination and winding-up process, Summit Benefit Solutions, Inc. would perform the following services relative to the abandoned 401(k) Plan.

- Locate plan and participant information needed to terminate plan
- Send final notice to the Department of Labor to complete the process
- Complete all required Form 5500, Annual Return/Report of Employee Benefit Plan Reports

**Proposed Fees**

Based on the services outlined above, our fee to administer the abandoned 401(k) plan process would be:

|                                  |                   |
|----------------------------------|-------------------|
| Per participant fee \$75.00 x 10 | \$ 750.00         |
| Final Form 5500                  | <u>500.00</u>     |
| Total                            | <u>\$1,250.00</u> |

We would appreciate the opportunity to discuss our services in further detail.

Respectfully submitted,

SUMMIT BENEFIT SOLUTIONS, INC.

*Sheri A. Baker*

Sheri A. Baker, CPA, PFS, APM  
President

600 Lexington Avenue • Mansfield, Ohio 44907  
419-756-3921 phone • 419-756-3961 fax