

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HILDA L. SOLIS,

Plaintiff,

v.

Case Number 12-12374

Honorable David M. Lawson

SOURCE HR, LLC and AUSTIN
R. RITTER,

Defendants.

CONSENT JUDGMENT

The parties stipulate as follows:

1. On May 31, 2012, plaintiff Hilda L. Solis, Secretary of Labor, United States Department of Labor, pursuant to the provisions of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, *et seq.*, filed a complaint against defendants Source HR, LLC and Austin R. Ritter alleging breaches of their fiduciary responsibilities under ERISA §§ 404 and 406, 29 U.S.C. §§ 1104 and 1106, with respect to the Source HR Employee Welfare Benefit Plan and employee welfare benefit plans administered by Source HR on behalf of its client employers (collectively, “the Plans”).

2. Defendants Source HR and Ritter waived service of process of the complaint and consented to the jurisdiction of the Court over them and the subject matter of this action.

3. The plaintiff and defendants have agreed 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 the parties consent to the entry of this judgment by the Court.

4. The parties agree that, if the Secretary of Labor assesses a penalty pursuant to ERISA §502(l) in connection with the violations alleged in this matter, the “applicable recovery amount” shall include all amounts paid in accordance with this judgment.

5. The parties agree to bear their own attorneys’ fees, costs, and other expenses incurred in connection with any stage of this proceeding to date, including attorneys’ fees which may be available under the Equal Access to Justice Act.

6. Defendants Source HR and Ritter are jointly and severally liable to the Plans in the total amount of \$24,062.25, representing \$20,784.47 in insurance commissions owed to the Plans and \$3,277.78 in lost opportunity costs owed to the Plans. The lost opportunity costs are based on the Internal Revenue Code § 6621(a) rate and have been calculated through December 10, 2012.

7. Defendant Ritter has demonstrated his current inability to pay the amount of \$24,062.25 that he owes to the Plans. Ritter’s demonstration of inability to pay includes his completion of a Declaration of Financial Status executed under penalty of perjury and Ritter’s 2008, 2009, 2010, and 2011 U.S. Tax Returns. In reliance on the representations made by defendant Ritter in the documents provided by him to the Secretary, the Secretary agrees to forbear collection from him of the entire restitution amount.

8. The participants listed below were participants in the Source HR Plan and the Client Employer Plans during the period from May 1, 2007 through March 20, 2011, and were provided benefits under U.S. Health & Life Insurance Company policy group numbers 3310 and 3314 and Liberty Union Life Assurance Company policy group number 88050.

	Participant Name	Percentage of Total
1	Christine Anderson	5.6252%
2	Patrick Doyle	1.5718%
3	Sheryar Durrani	2.7799%

4	Ann English	0.5779%
5	Thomas Ferguson	1.1381%
6	Stephen Garrison	4.5622%
7	Jennifer Gregus	0.3944%
8	Martin Hall	0.1972%
9	Catherine Hegbloom	1.1468%
10	Marie Irwin	0.5779%
11	Lisa Jerdon	0.3684%
	Lisa Jerdon	0.6084%
12	David Kolkema	2.1660%
13	Jeffrey Lundberg	0.4930%
14	Steven Morris	13.3376%
15	Joseph Moylan	26.1416%
16	Tracy Nadeau	0.8875%
17	Deanna Oliver	0.3923%
18	Donald Proctor	2.7799%
19	Deborah Prokurat	4.2585%
20	David Rea	16.5885%
21	William Seets	0.5917%
22	Michelle Smith	0.5678%
23	Christine Sturgeon	0.5684%
24	Suzanne Toben	0.7459%
25	Paul Trame III	2.8267%
26	Mary Vanderhoek	1.1418%
27	Lisa Widenbach	3.8364%
	Lisa Wilson (Widenbach)	1.2749%
28	Mieka Winnie	1.8533%

Accordingly, it is **ORDERED AND ADJUDGED** that defendants Source HR and Ritter shall be immediately removed as fiduciaries of the Plans and are enjoined from serving or acting as fiduciaries or service providers with respect to any employee benefit plan subject to ERISA.

It is further **ORDERED AND ADJUDGED** that defendant Source HR shall pay \$24,062.25 to the Plans **on or before January 14, 2013**. Upon receipt, the Plans shall pay these funds to the Plans' participants listed above in section 8, in pro rata shares based on their respective percentage shares of premiums paid that generated the insurance commissions.

It is further **ORDERED AND ADJUDGED** that if it is found that the documents defendant

Ritter provided regarding his financial status are untrue, then the sum of \$24,062.25, plus accrued interest from December 11, 2012, shall immediately become due and payable by him together with post-judgment interest pursuant to 28 U.S.C. § 1961, less any payments made to the Plans by defendant Source HR.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: January 4, 2013

Consented to by:

s/Kevin M. Wilemon
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PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 4, 2013.

s/Shawntel Jackson
SHAWNTEL JACKSON