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UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

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

Plaintiff, :

v. :

FIRST LAND TITLE AGENCY OF NEW YORK, INC. :
PROFIT SHARING PLAN :

Defendant. :

Civil Action File

No.

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 First Land Title Agency of New York, Inc. Profit Sharing Plan to enjoin practices in violation of Title I 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 defendant, First Land Title Agency of New York, Inc., Profit Sharing Plan (the “Plan”), is a defined contribution plan, qualifying as an employee benefit plan within the meaning of ERISA § 3(3), 29 U.S.C. § 1002(3) and subject to coverage by the Act under 29 U.S.C. §1003(a). The Plan was sponsored by First Land Title Agency of New York, Inc. (“the Company”), an employer of employees covered by the Plan. The last known address of the Company was 267 Carleton Avenue, Central Islip, NY 11722.

3. Jurisdiction over this action is conferred upon the Court by ERISA § 502(e)(1), 29 U.S.C. § 1132(e)(1).

4. Venue for this action lies in the Eastern District of New York, where the plan and plan sponsor were located, pursuant to ERISA § 502(e)(2), 29 U.S.C. § 1132(e)(2).

5. The Plaintiff Secretary of Labor has authority to bring this civil action under ERISA §§502(a)(5), 29 U.S.C. §§1132(a)(5).

ALLEGATIONS

6. The Plan was established on or about January 1, 2002.

7. Andrew Knee was the Trustee of the Plan at all times relevant to this action.

8. Andrew Knee was the only fiduciary to the Plan with responsibilities for its administration, distribution of assets, and day-to-day management.

9. On August 21, 2007 Andrew Knee committed one count of Grand Larceny in violation of New York PL 155.40(01).

10. Andrew Knee was sentenced to one to three years in prison and is currently serving time at the Franklin Correctional Facility in Malone, New York, with the earliest possible release date of September 2014.

11. Due to his criminal conviction, Andrew Knee is prohibited from serving as an administrator, officer or fiduciary of any employee benefit plan pursuant to ERISA § 411, 29 U.S.C. § 1111.

12. Andrew Knee stopped performing his fiduciary duties on or about the year 2011 when the company went out of business and did not ensure the appointment of a new fiduciary to manage the Plan or oversee the distribution of the Plan's assets. No individuals or entities have come forward to assume fiduciary responsibility for the Plan or to distribute its assets to Plan participants, and there is no fiduciary actively functioning on behalf of the Plan.

13. The Plan has not been formally terminated.

14. ING Life Insurance and Annuity Company, located at One Orange Way, Windsor, CT 06095-4774, is and has been the investment provider for the Plan assets at all times relevant to this litigation.

15. As of November 25, 2013, the assets held in the Plan had a value of approximately \$127,120.42 and there were approximately two plan participants.

16. Plan participants are unable to obtain distributions of funds from the Plan without instructions to asset custodians from a duly appointed trustee or other fiduciary.

VIOLATIONS

17. By the conduct and circumstances described in paragraphs 6-16, 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 prays for judgment:

- 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: June 11, 2014
New York, New York

Respectfully submitted,


M. PATRICIA SMITH
Solicitor of Labor


JEFFREY S. ROGOFF
Acting Regional Solicitor


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