

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

)	
THOMAS E. PEREZ, SECRETARY OF LABOR,)	
UNITED STATES DEPARTMENT OF LABOR,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	
)	
TECSOL, INC.,)	
)	
Defendant.)	
)	

COMPLAINT

Thomas E. Perez, Secretary of Labor, United States Department of Labor, hereby alleges:

JURISDICTION AND VENUE

1. This action arises under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, *et seq.*, and is brought to obtain relief under sections 409 and 502 of the Act, 29 U.S.C. §§ 1109 and 1132, in the form of equitable remedies that will redress violations, obtain appropriate equitable relief for breaches of fiduciary duty under the Act, § 409, 29 U.S.C. § 1109, and obtain such further equitable relief as may be appropriate to enforce the provisions of Title I of the Act.

2. This Court has subject matter jurisdiction over this action pursuant to section 502(e)(1) of the Act, 29 U.S.C. § 1132(e)(1).

3. Venue with respect to this action lies in the Western District of Pennsylvania, pursuant to section 502(e)(2) of the Act, 29 U.S.C. § 1132(e)(2).

4. The TecSol, Inc. 401(k) Plan is an employee benefit plan within the meaning of section 3(3) of the Act, 29 U.S.C. § 1002(3), and is therefore subject to the coverage of the Act pursuant to section 4(a) of the Act, 29 U.S.C. § 1003(a).

5. TecSol, Inc. (“TecSol”), a Pennsylvania corporation, is the Administrator and Sponsor of the Plan. TecSol had a place of business located in Seven Fields, Pennsylvania and a registered office in Evans City, Pennsylvania. Both Evans City, Pennsylvania and Seven Fields, Pennsylvania are located in Butler County, Pennsylvania.

6. For purposes of this Complaint, the relevant period is defined as 2012 to date.

THE PARTIES

7. The Secretary, pursuant to sections 502(a)(2) and (5) of the Act, 29 U.S.C. §§ 1132(a)(2) and (5), has the authority to enforce the provisions of Title I of the Act by, among other means, the filing and prosecution of claims against fiduciaries and others who commit violations of the Act.

8. TecSol is the Administrator of the Plan and the Plan Sponsor. During some or all of the relevant time period, TecSol has exercised discretionary authority and discretionary control respecting management of the Plan, has exercised authority and control respecting management and disposition of the Plan’s assets and had discretionary authority and discretionary responsibility in the administration of the Plan. TecSol is therefore a fiduciary to the Plan within the meaning of the Act, § 3(21), 29 U.S.C. § 1002(21), and a party in interest with respect to the Plan within the meaning of the Act, § 3(14)(A), 29 U.S.C. § 1002(14)(A).

GENERAL ALLEGATIONS

9. On or about January 1, 1995, TecSol established the Plan to provide benefits to its employees in the event of retirement, death, or disability and upon termination of employment.

The Plan was amended and reinstated on January 1, 2009.

10. The Company contracted with Valley Forge Pension Management, Inc. to assist with managing the Plan.

11. On November 16, 2012, TecSol issued a notice of intent to terminate the Plan. On November 20, 2012 the Plan's trustee signed an amendment to terminate the Plan, effective November 30, 2012.

12. Under the terms of the Plan, Plan participants are entitled to distribution of their non-forfeitable account balance within a reasonable period of time after the effective date of the Plan's termination.

13. Plan participants were terminated from the company on November 30, 2012, at the time the company intended to terminate the Plan. Valley Forge Pension Management, Inc. requires TecSol to sign distribution documents in order to effectuate the distribution of Plan assets held in trust. TecSol has not signed distribution documents and thus not completed the distribution of Plan assets. TecSol has not taken fiduciary responsibility for the operation and administration of the Plan and its assets, nor has it appointed anyone to assume said responsibility on an on-going basis.

14. As of January 8, 2014, the Plan had three (3) participants and \$27,098.11 in Plan assets. Alliance Bernstein Investor Services currently holds the Plan's assets in trust.

VIOLATIONS

15. Pursuant to Rule 10(c) of the Federal Rules of Civil Procedure, the Secretary adopts by reference the averments and allegations of paragraphs 1-14 inclusive.

16. By the actions and conduct described above, TecSol, as fiduciary of the Plan,
 - a. failed to discharge its duties with respect to the Plan solely in the interest of the participants and beneficiaries and for the exclusive purpose of providing benefits to participants and its beneficiaries and defraying reasonable expenses of administering the Plan, in violation of the Act, § 404(a)(1)(A), 29 U.S.C. § 1104(a)(1)(A); and
 - b. failed to discharge its duties with respect to the Plan solely in the interest of the participants and beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, in violation of the Act, § 404(a)(1)(B), 29 U.S.C. § 1104(a)(1)(B); and
 - c. failed to discharge its duties with respect to the Plan b accordance with the documents and instruments governing the plan, in violation of the Act, § 404(a)(1)(D), 29 U.S.C. § 1104(a)(1)(D).

PRAYER FOR RELIEF

WHEREFORE, the Secretary prays that this Court enter an order:

- A. Removing defendant TecSol from its position as fiduciary with respect to the Plan and appointing an independent fiduciary to administer the Plan in order to effectuate its termination and the distribution of Plan assets to the Participants and beneficiaries; and
- B. Awarding such further relief as is appropriate and just.

Respectfully submitted,

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U.S. DEPARTMENT OF LABOR

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