

In connection with the resolution of this matter, the Department of Labor will assess a penalty pursuant to ERISA §502(l) of 20% of the "applicable recovery amount" as defined in ERISA §502, which "applicable recovery amount" in this case is \$485,560.77. Defendants agree to pay said penalty as directed by the assessment letter, except to the extent that Defendant seeks and is granted a waiver in the Secretary's sole discretion, pursuant to ERISA § 502(l)(3)(B).

The parties now move for entry of this Consent Judgment and Order which constitutes a full and complete resolution of all claims and issues arising between them in connection with this action.

Now, therefore, by consent of the parties hereto,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

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

2. Defendant Marcinek is permanently enjoined from serving as a fiduciary to any other future employee benefit plan covered by ERISA.

3. Defendants shall pay to the Fletcher-Thompson, Inc. Savings Plan ("the Plan") the total amount of \$ 485,560.77, representing outstanding monies due and owing to the non-fiduciary Plan participants and/or beneficiaries. This amount represents the principal amount due and owing to the Plan plus accrued lost opportunity costs.

Payment shall be made on a monthly installment basis of no less than \$40,463.40

per month for twelve (12) months, with interest accruing at a post-judgment rate of .11% until the full amount due is paid. Monthly payments are due on or before the 15th date of each month, and shall commence no later than February 15, 2015.

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.

4. Defendants shall submit the following, setting forth evidence of compliance with the provisions of Paragraph 2 of this Consent Judgment and Order.

Within thirty (30) days of each payment, Defendants shall submit a written report to Plaintiff showing a full accounting of the proceeds allocated to the participants' and/or beneficiaries' accounts. Proof of payments and reports of compliance shall be sent to the following address:

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

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

6. The Court shall retain jurisdiction of this matter for purposes of enforcing this Consent Judgment and Order.

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

IT IS SO ORDERED THIS _____ day of _____, _____.

United States District Judge Stefan R. Underhill

Consented to by:

For the Plaintiff, Thomas E. Perez, Secretary of Labor:

M. Patricia Smith
Solicitor of Labor

Michael D. Felsen
Regional Solicitor

Gail E. Glick
Senior Trial Attorney

Dated

U.S. Department of Labor
Office of the Solicitor
John F. Kennedy Federal Building
Room E-375
Boston, MA 02203
TEL: 617-565-2500

For Defendants:

For Fletcher-Thompson, Inc.

Dated

Michael C. Marcinek

Dated