

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

THOMAS E. PEREZ, Secretary of Labor,)	FILE NO. 40-022792
United States Department of Labor,)	
)	
Plaintiff,)	
)	
v.)	Case No. <u>3:15-cv-01437</u>
)	
WILLIAM W. BIBB and SYNCOR, LLC,)	
d/b/a SPECPRINT GROUP HEALTH PLAN,)	
)	
Defendant.)	

CONSENT JUDGMENT AND ORDER

Plaintiff, Secretary of Labor, United States Department of Labor, pursuant to his authority under §§ 502(a)(2) and 502(a)(5), 29 U.S.C. §§ 1132(a)(2) and 1132(a)(5), of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 et seq., ("ERISA") has filed a Complaint against Defendants William W. Bibb and Syncor, LLC d/b/a SpecPrint Group Health Plan ("Bibb" and "Syncor," respectively, or "Defendants"). Defendants and the Secretary have agreed to resolve the matters in controversy in accord with the terms of this Consent Judgment and Order.

A. The Secretary's Complaint alleges that Defendants breached their fiduciary duties with respect to the SpecPrint Group Health Plan (the "Plan") by failing to discharge their duties under the Plan and by violating provisions of §§ 403, 404, 405, 406, and 502 of ERISA, 29

U.S.C. §§ 1103, 1104, 1105, 1106, and 1132, as set forth in the Complaint.

B. Defendants hereby admit to the jurisdiction of the Court over them and over the subject matter of this action. Defendants admit that this Court has the authority to enforce this Order and that this Court is the most appropriate venue for the actions which may be required as a result of this Order.

C. Defendants neither admit nor deny the allegations in the Complaint.

D. Defendants expressly waive any and all claims of whatsoever nature that they have or may have against the Secretary, or any of his officers, agents, employees, or representatives, arising out of or in connection with the filing, prosecution, and maintenance of this civil action or any other proceeding and investigation incident thereto.

E. This Order, in conjunction with the Agreed Judgment agreed to by the Parties and filed in bankruptcy court in the Middle District of Tennessee, action 3:15-bk-03375, represents a complete settlement of all the Secretary's claims asserted in this action against Defendant.

F. The Secretary and Defendants expressly waive Findings of Fact and Conclusions of Law, except as otherwise set forth and addressed herein, and consent to the entry of this Order as a full and complete resolution of all claims and issues which were, or might have been, alleged in this action without trial or adjudication of any issue of fact or law raised in the Complaint.

G. This Order is not binding upon any government agency other than the U.S. Department of Labor and only resolves claims arising out of this action as between the Secretary and Defendants.

Accordingly, it is **ORDERED ADJUDGED AND DECREED** that:

1. The Court has jurisdiction over the parties to this Order and the subject matter

of this action and is empowered to provide the relief herein.

2. Defendants Bibb and Syncor; their agents, servants, employees; and all persons in active concert or participation with them are hereby permanently enjoined and restrained from violating the provisions of Title I of ERISA.

3. Defendant William W. Bibb is permanently enjoined from acting as a fiduciary, trustee, agent, or representative in any capacity to any employee benefit plan, as defined by ERISA.

4. AMI Benefit Plan Administrators, Inc., 100 Terra Bella Drive, Youngstown, Ohio 44505, (330) 406-9021, ami@amibenefit.com, is appointed as successor fiduciary for the Plan and:

a. The successor fiduciary shall collect, marshal, and administer all of the Plan's assets and take such further actions with respect to the Plan as may be appropriate;

b. The successor fiduciary shall have all the rights, duties, and responsibilities of any fiduciary or trustee described under applicable law with respect to the successor fiduciary's duties;

c. The successor fiduciary is authorized to delegate or assign fiduciary duties as appropriate and allowed under the law;

d. The successor fiduciary shall be entitled to receive reasonable fees and expenses for his services, said fees and expenses not to exceed \$1,500.

e. If no party or the Court objects within 15 days of service of any invoice, full payment of such invoice shall be made from the funds paid by Defendant as set forth in the related bankruptcy action, 3:15-bk-03375;

f. Defendant shall, in good faith and to the best of his ability, deliver or

otherwise make available to the successor fiduciary any information, documents, files or other compilations, wherever and however stored; that are reasonably necessary to perform the duties of the successor fiduciary;

g. The successor fiduciary is authorized to give instructions respecting and make distribution of assets of the Plan;

h. The successor fiduciary in the performance of his duties may retain such assistance as he may require, including attorneys, accountants, actuaries and other service providers

i. The payment of administrative expenses and all fees to the successor fiduciary, his assistants, attorneys, accountants, actuaries and other necessary service providers are to be considered priority administrative expenses of the Plan

j. The successor fiduciary or his agents, employees or representatives may not be held personally responsible for any claims against the Plan which existed, arose, matured or vested prior to the appointment of the successor fiduciary

k. The successor fiduciary is to comply with all applicable rules and laws.

5. In the event that the Defendants do not comply with the Agreed Judgment issued in Bankruptcy Court for the Middle District of Tennessee, Case No. 3:15-bk-03375, the Secretary shall seek to enforce post judgment interest against any remaining unpaid balance of such amount, in accordance with 28 U.S.C. § 1961, from the date hereof until paid in full.

6. This Consent Judgment resolves all claims of Plaintiff's Complaint with the following exceptions:

a. This Judgment does not affect or bind any governmental agency other than the United States Department of Labor.

b. This Judgment does not resolve the monies owed to Plan participants. That issue is resolved by the Agreed Judgment filed by the parties in the bankruptcy court for the Middle District of Tennessee, action number 3:15-bk-03375.

c. This Court retains jurisdiction for purposes of enforcing compliance with the terms of this Consent Order and Judgment.

7. Each party shall bear its own costs and expenses, including attorneys' fees, arising in connection with any stage of the above-referenced proceeding including but not limited to,

attorney's fees which may be available under the Equal Access to Justice Act, as amended.

This 8th day of December 2015.


UNITED STATES DISTRICT JUDGE

Defendants consent to entry
of the foregoing Judgment:

Plaintiff moves entry of
the foregoing Judgment:

Respectfully submitted:

M. PATRICIA SMITH
Solicitor of Labor

STANLEY E. KEEN
Regional Solicitor

ROBERT M. LEWIS, JR.
Counsel

By: /s/ Willow Eden Fort
WILLOW EDEN FORT
Attorney

Office of the Solicitor
U. S. Department of Labor
Attorneys for Plaintiff


WILLIAM WADE BIBB
and SYNCOR, LLC d/b/a
SPECPRINT GROUP HEALTH PLAN

ADDRESS:
William Wade Bibb
201 Acklen Park Drive, # 21
Nashville, Tennessee 37203

ADDRESS:
Office of the Solicitor
U. S. Department of Labor
618 Church Street, Suite 230
Nashville, Tennessee 37219

State of Tennessee
County of Davidson

Telephone: (615) 781-5330, Ext. 237
Fax: (615) 781-5321
Email: Fort.Willow@dol.gov
SOL Case No. 0400/15/00394

SWORN TO and SUBSCRIBED before me
this 11th day of August, 2015.

Notary Public
My Commission Expires: 11/5/2018

