

the provisions of the Employee Retirement Income Security Act of 1974, as amended , 29 U.S.C. Sec. 1001 et seq (“the Act”).

II

Upon information and belief, Defendant-Respondent Thomas Fernandes resides at 1926 Sweetbriar Lane, Darien, Illinois 60561 and has a place of business in Roseville, Michigan and owns a condominium at 3904 Springwater Drive #1, Northville, Michigan within the jurisdiction of this Court.

III

On January 9, 2013, the Secretary, pursuant to the authority vested in him by the Act, commenced a civil action in the above-entitled case to enjoin and restrain Defendant-Respondent Thomas Fernandes from violating certain provisions of the Act. Defendant-Respondent Thomas Fernandes waived service and answer of the complaint in the Consent Judgment and Order he signed. During this proceeding, attorney John W. Henke, III has represented Mr. Fernandes.

IV

On June 10, 2013, this Court entered a Judgment by consent in the civil action referred to in paragraph III above, requiring that Thomas Fernandes pay \$11,143.21 to 61 participants of the Air Gage Company 401(k) Plan and the Air Gage Company Health Care Plan (collectively “the Plans”). To date, Mr. Fernandes has not made this payment to the participants of the Plans.

A copy of the Judgment is attached hereto and incorporated herein by reference as “Exhibit A.”

V

Defendant-Respondent Thomas Fernandes has full knowledge of the contents and terms of the Judgment he signed on April 10, 2013.

VI

Defendant-Respondent has failed to comply with the Judgment referred to in paragraph IV, and has violated the provisions of the Judgment by continuing to withhold \$11,143.21 from 61 participants from the Plans as is more fully explained in the Declaration of Christopher Greenwood which is attached hereto and incorporated herein by reference as "Exhibit B."

VII

The failure of Defendant-Respondent to comply with the Judgment referred to in paragraph IV has caused Plaintiff-Petitioner to suffer damage and incur expenses in the preparation of this proceeding.

WHEREFORE, Plaintiff-Petitioner respectfully requests this Court to:

(a) Prosecute Thomas Fernandes for civil contempt of court and issue an order to him requiring him to appear and show cause why he should not be adjudged in civil contempt for his failure and refusal to comply with this Court's June 10, 2013 Judgment; and

(b) Adjudge Thomas Fernandes in civil contempt by virtue of his non-compliance with this Court's June 10, 2013 Judgment as specified in paragraph VI above; and

(c) Assess damages for expenses incurred by Plaintiff-Petitioner in the preparation and conduct of this contempt proceeding; and

(d) Order Thomas Fernandes to purge himself of the civil contempt by paying to the 61

participants of the Plans a total of \$11,143.21; and

(e) Order Defendant-Respondent to pay interest on the aforesaid Judgment amount from the date the Judgment was entered to the present; and

(f) For such all other just and further relief as may be necessary and appropriate.

Respectfully submitted,

/s/Maureen M. Cafferkey
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Solicitor of Labor

CHRISTINE Z. HERI
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CERTIFICATE OF SERVICE

I hereby certify that on March 27, 2014 a copy of the foregoing Petition for Prosecution of Defendant-Respondent Thomas Fernandes for Civil Contempt, Declaration of Christopher Greenwood and proposed Order to Show Cause were filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicted on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's system.

Dated: March 27, 2014

I hereby certify that a copy of the foregoing Petition for Prosecution of Defendant-Respondent Thomas Fernandes for Civil Contempt, Declaration of Christopher Greenwood and proposed Order to Show Cause was mailed prepaid first class mail this 27th day of March, 2014 to:

Thomas Fernandes
1926 Sweetbriar Lane
Darien, Illinois 60561

John W. Henke, III
29800 Telegraph Road
Southfield, MI 48034

/s/Maureen M. Cafferkey
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