

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

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

Plaintiff,

v.

HOLDEN SAND & GRAVEL and
JOSEPH MONTALTO, Fiduciary for the
HOLDEN SAND AND GRAVEL SIMPLE
IRA PLAN

Defendants.

CIVIL ACTION NO. 4:14-cv-40141

CONSENT JUDGMENT AND ORDER

Defendants Holden Sand & Gravel and Joseph Montalto (“Defendants”), and Plaintiff Thomas E. Perez, Secretary of Labor, United States Department of Labor, have agreed to resolve all matters in controversy in this action (except for the imposition by Plaintiff of any penalty pursuant to ERISA Section 502(l), 29 U.S.C. Section 1132(l) and any proceedings related thereto), and accordingly consent to the entry of this Consent Judgment and Order by this Court.

By consenting to this Consent Judgment and Order, Defendants admit to the jurisdiction of this Court over them and over the subject matter of this action.

The parties agree to entry of this Consent Judgment and Order, and, with due consideration and being fully advised of the premises.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Court has jurisdiction over the parties to this Consent Judgment and Order and over the subject matter of this action and is empowered to provide the relief herein.

2. Defendants are permanently enjoined from violating Title 1 of ERISA, 29 U.S.C. §1001, et seq.

3. Defendant Joseph Montalto is permanently enjoined from serving as a fiduciary to any ERISA-covered plan.

4. Defendant Joseph Montalto agrees to restore to the Holden Sand and Gravel Simple IRA Plan (the "Plan") the total amount of \$3,900.00.

5. By his consent to the entry of this Judgment, defendant Montalto hereby waives his interest in this amount, which interest is \$369.50.

6. By his consent to the entry of this Judgment, Mr. Montalto hereby waives his interest in the Plan, and agrees that the total amount of his interest in the Plan shall be allocated to the accounts of participants Craig R. Carlson, Natalie B. Towner and Christopher Young whose Plan contributions were withheld but never transmitted to the Plan, according to the amount each participant is due as shown on Exhibit A to this Consent Judgment and Order.

7. Within ninety (90) days of the date of entry of this Consent Judgment and Order, defendant Montalto shall transmit to the United States Department of Labor, in care of the undersigned attorney, certified bank checks or money orders in the amount due each of the three participants listed on the attached Exhibit B made payable to each named participant. The Secretary will distribute the checks to the participants named in Exhibit B forthwith.

8. Northeast Retirement Services is hereby appointed as the Independent Fiduciary for the Plan with the powers, duties and responsibilities set forth and agreed to by Northeast Retirement Services in the Agreement to be Appointed as Independent Fiduciary, which is attached hereto and made a part hereof.

9. Each party shall bear its own fees, costs and expenses with respect to this action.

10. The Court shall retain jurisdiction to the extent necessary to enforce this Consent Judgment and Order.

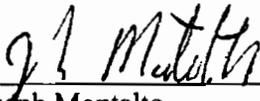
11. Nothing in this Consent Judgment and Order is binding on any governmental agency other than the United States Department of Labor.

IT IS SO ORDERED THIS 24 day of March, 2015.


United States District Judge

Consented to by:

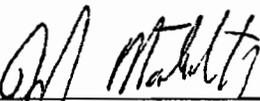
For the Defendant: Holden Sand & Gravel:



Joseph Montalto
President

3/19/2015
Date

For the Defendant: Joseph Montalto:



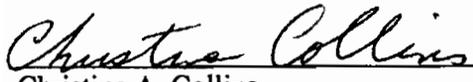
Joseph Montalto

3/19/2015
Date

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

M. Patricia Smith
Solicitor

Michael D. Felsen
Regional Solicitor



Christine A. Collins
BBO # 552660
Senior Trial Attorney

March 23, 2015
Date

U.S. Department of Labor
Attorneys for the Plaintiff

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EXHIBIT A

<u>Name</u>	<u>Amt. Outstanding</u>
Craig R. Carlson	\$1,105.50
Joseph Montalto	\$369.50
Natalie B. Towner	\$325.00
Christopher Young	<u>\$2,100.00</u>
	\$3,900.00

EXHIBIT B

<u>Name</u>	<u>Amounts Due</u>
Craig R. Carlson	\$474.12
Natalie B. Towner	\$139.38
Christopher Young	<u>\$900.62</u>
	\$1,514.12