

Eastern District of Kentucky  
**FILED**

FEB 24 2015

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION AT LEXINGTON**

AT LEXINGTON  
ROBERT R. CARR  
CLERK U.S. DISTRICT COURT

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

Civil Action No. 5:12-cv-250-KKC

v.

**GEORGE HOFMEISTER**, et. al.,  
Defendants.

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

Civil Action No. 5:13-cv-156-KKC

v.

**GEORGE HOFMEISTER**, et. al.,  
Defendants.

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

Civil Action No. 5:13-cv-158-KKC

v.

**ROBERT LA COURCIERE**, et. al.,  
Defendants.

**CONSOLIDATED**  
(For all purposes excluding trial)<sup>1</sup>

**CONSENT ORDER AND JUDGMENT**  
**RE: GEORGE HOFMEISTER**

Plaintiff Thomas E. Perez, Secretary of Labor, United States Department of Labor (“Secretary”), pursuant to the provisions of the Employee Retirement Income Security Act of 1974 (“ERISA”), as amended, 29 U.S.C. §1001, et seq., filed complaints in the Eastern District of Kentucky in *Perez v. George Hofmeister, et. al.*, Case no. 5:12-cv-250, *Perez v. George Hofmeister, et. al.*, Case no. 5:13-cv-156, and *Perez v. Robert La Courciere, et. al.*,

<sup>1</sup>See 5:12-cv-250 [Doc. 88]; 5:13-cv-156 [Doc. 41]; and 5:13-cv-158 [Doc. 48].

Case no. 5:13-cv-158 (the “Secretary’s Actions”) against various defendants, including George Hofmeister (“Mr. Hofmeister”), alleging breaches of fiduciary duty under Title I of ERISA, with respect to the Hillsdale Hourly Pension Plan (“Hillsdale Hourly Plan”), the Hillsdale Salaried Pension Plan (“Hillsdale Salaried Plan”), the Revstone Casting Fairfield, GMP Local 359 Pension Plan (“RCF Plan”), and the Fourslides, Inc. Pension Plan (“Fourslides Plan”) (collectively, “the Plans”).

The Pension Benefit Guaranty Corporation (“PBGC”) has been appointed trustee of the Hillsdale Hourly Plan, the Hillsdale Salaried Plan and the RCF Plan.

Mr. Hofmeister admits to the jurisdiction of this Court over him and the subject matter of this action.

The Secretary and Mr. Hofmeister (“the Parties”) have agreed to resolve all matters in controversy in this action between them and said parties do now consent to entry of an Order and Judgment by this Court in accordance therewith.

Upon consideration of the record herein, and as agreed to by the Parties, the Court finds that it has jurisdiction to enter this Consent Order and Judgment.

IT IS THEREFORE ORDERED that:

1. Mr. Hofmeister is permanently enjoined and restrained from violating the provisions of Title I of ERISA, 29 U.S.C. §1001 et seq.
2. Mr. Hofmeister is removed as a fiduciary and/or service provider of all ERISA-covered plans on which he serves. Further, Mr. Hofmeister is permanently enjoined and restrained from serving or acting as a fiduciary and from serving or acting as a service provider to any ERISA-covered employee benefit plan. Mr. Hofmeister may serve as an employee, an officer of a company or on the board of directors of a company provided that he does not serve in any ERISA fiduciary or service provider capacity. Mr. Hofmeister, in his

capacity as an employee, an officer or member of the board of directors of a company, may carry out settlor functions as to any ERISA-covered plan.

3. Within 45 days of the entry of this Consent Order and Judgment, Mr. Hofmeister shall pay \$200,000.00 to the Hillsdale Hourly Plan, \$99,000.00 to the Hillsdale Salaried Plan, and \$1,000.00 to the RCF Plan. Payments to the Hillsdale Hourly Plan, Hillsdale Salaried Plan, and RCF Plan shall be made to the PBGC at an address to be provided by the Secretary. The parties agree that, for purposes of ERISA Section 502(l), 29 U.S.C. § 1132(l), the “applicable recovery amount” shall be \$300,000. Mr. Hofmeister shall pay 20% of the “applicable recovery amount,” which is \$60,000, within 45 days of the entry of this Consent Order and Judgment. Payment of \$60,000 shall be made to the Department of Labor and sent by regular U.S. mail to:

ERISA – Civil Penalties  
P.O. Box 71360  
Philadelphia, PA 19176-1360

Mr. Hofmeister hereby waives the notice of penalty assessment and service requirements of 29 C.F.R. § 2570.83.

4. Mr. Hofmeister, and, where applicable, his agents, beneficiaries, representatives, assigns and successors in interest, do hereby release the Secretary and the Secretary’s officers, agents, attorneys, employees, and representatives, both in their individual and governmental capacities, from all actions, claims and demands of whatsoever nature, including those arising under any statute, rule, or regulation, that relate in any manner to the filing, prosecution, and maintenance of this civil action or any other proceeding or investigation incident thereto. In particular, Mr. Hofmeister expressly waives any and all claims of any nature that he may have against the Secretary, or any of the Secretary’s

officers, agents, employees, or representatives arising under the Equal Access To Justice Act, 5 U.S.C. §504, 28 U.S.C. §2412, as amended.

5. The Secretary hereby releases Mr. Hofmeister and, where applicable, his agents, beneficiaries, representatives, assigns and successors in interest, from all civil actions, civil claims and civil demands under Title I of ERISA that are based upon, arise out of, or relate to, the facts, transactions and occurrences referred to in the Secretary's Actions.

6. This Consent Order and Judgment does not release any claims against Defendants Bernard Tew, Tew Enterprises, LLC, Bluegrass Investment Management, LLC, MIDS, LLC, DIDS, LLC, Metavation, LLC (now known as TPOP, LLC), Fairfield Castings, LLC, Fourslides, Inc., the Plans, or any other person or entity.

7. Except as provided in paragraph 10 hereof, this Consent Order and Judgment constitutes a full, final and complete judicial resolution of all of the civil claims alleged in the Secretary's Actions and any other civil claims based upon, arising out of, or relating to, the facts, transactions and occurrences referred to in the Secretary's Actions against Mr. Hofmeister. Except as provided herein, neither the Secretary nor Mr. Hofmeister waive any claims against any other person. Except as provided herein, the Secretary's claims, and Mr. Hofmeister's claims are expressly preserved. Except as provided herein, nothing in this Consent Order and Judgment is, nor is to be construed as, an admission or acknowledgement that any person or entity is in any way released from any liability or wrongdoing, except for Mr. Hofmeister, who is released as described, and the Secretary, who is released as described.

8. This Consent Order and Judgment may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same instrument.

9. The Court shall maintain jurisdiction over this matter only for purposes of enforcing this Consent Order and Judgment.

10. Nothing in this Consent Order and Judgment, including but not limited to paragraphs 5 and 7 hereof, is binding on the PBGC (either as a federal agency and guarantor or as statutory plan trustee), or any government agency other than the United States Department of Labor with respect to its civil ERISA claims. Nothing in this Consent Order and Judgment shall in any way release any claims of the PBGC, or restrict the PBGC from asserting any claims it has as statutory trustee of the Hillsdale Hourly Plan, the Hillsdale Salaried Plan and the RCF Plan (the "PBGC Trusteed Plans") against Mr. Hofmeister, or his agents, beneficiaries, representatives, assigns and successors in interest, irrespective of whether such claims are based upon, arise out of, or relate to, the facts, transactions and occurrences referred to in the Secretary's Actions. Further, this Consent Order and Judgment does not resolve any criminal liability, or any restitution, forfeitures, or fines arising out of such liability, if any. In agreeing to this Consent Order and Judgment, Mr. Hofmeister denies any criminal wrongdoing of any kind and states that any criminal charges would be invalid.

11. The Secretary and Mr. Hofmeister shall bear their own costs, expenses, and attorney's fees in connection with this action and any other proceeding or investigation incident thereto.

12. By entering into this Consent Order and Judgment, Mr. Hofmeister represents that he has been informed by Counsel of the effect and purpose of this Consent Order and Judgment and agrees to be bound by its terms.

13. Each undersigned representative of the Parties to this Consent Order and Judgment certifies that he or she is fully authorized by such Party to enter into and execute the terms and conditions of this Consent Order and Judgment, and to legally bind such Party

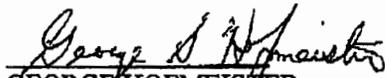
to this Consent Order and Judgment. By signature below, the Parties consent to entry of this Consent Order and Judgment.

The Court finds that there is no just reason to delay the entry of this Consent Order and Judgment and, pursuant to Rule 54(b), Fed. R. Civ. P., expressly directs the entry thereof as a final Consent Order and Judgment.

Dated: 2/24/15  
  
Karen K. Caldwell  
United States District Judge

FOR GEORGE HOFMEISTER:

Dated: 1/23

  
GEORGE HOFMEISTER

  
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FOR THE SECRETARY:

Dated: 1/23/15

  
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