

in the Complaint (except for the imposition by the Secretary of any penalty pursuant to ERISA §502(l), 29 U.S.C. §1132(l), and any proceedings related thereto), and said parties now consent to the entry of this Consent Order and Judgment by this Court.

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. Defendants are permanently enjoined and restrained from violating the provisions of Title I of ERISA, 29 U.S.C. §1001 *et seq.*
2. Defendants are liable to certain participants and/or beneficiaries of the Plan ("Participants") for a total of \$25,686.90, which represents the full amount of unremitted contributions and untimely remitted contributions (plus lost opportunity costs) calculated through October 18, 2013.
3. Kousaie, on behalf of both Defendants, agrees to reimburse the Participants in accordance with the Court-approved Debtors' Plan of Reorganization filed in *In re: Frank M. Kousaie, Jr., et al.*, United States Bankruptcy Court, Northern District of Ohio, Eastern Division, Case No. 13-53034 ("Bankruptcy Plan"). Should Kousaie fail to reimburse the Participants in accordance with the Bankruptcy Plan, the entire amount of any balance remaining plus post-judgment interest shall become due and payable immediately with no further notice or demand required by the Secretary to the Defendants.
4. Kousaie hereby waives any rights to amounts owed to him under the Bankruptcy Plan, including any unremitted contributions to the Plan that would otherwise be reimbursed to him pursuant to the Bankruptcy Plan. Therefore, by the Court's entry of this Consent Order and Judgment, Kousaie relinquishes his right to

receive \$12,843.29, which constitutes his share of the \$25,686.90 owed to the Participants. Kousaie's wife, Robin B. Kousaie, consents to this waiver.

5. Defendants shall be removed as fiduciaries of the Plan. AMI Benefit Plan Administrators, Inc. of 100 Terra Bella Drive, Youngstown, Ohio 44505, shall be appointed as the independent fiduciary ("Independent Fiduciary") of the Plan. The Independent Fiduciary shall have the following powers, duties, and responsibilities:

A. The Independent Fiduciary shall have responsibility and authority for terminating the Plan. Such terminations shall be made in accordance with the Plan's governing documents, ERISA, and the Internal Revenue Code ("IRC"). While not required to obtain a determination letter to terminate the Plan under ERISA or the IRC, the Independent Fiduciary shall make a determination as to whether it is prudent to go through the determination letter process for the Plan.

B. The Independent Fiduciary's responsibilities with respect to the termination of the Plan shall include, but not be limited to, liquidating the Plan's assets, communicating with Participants regarding the termination of the Plan and their disbursal options, calculating the Participant account balances, and filing appropriate termination papers with the Internal Revenue Service and the Department of Labor.

C. The Independent Fiduciary shall have responsibility and authority to collect, liquidate, and manage such assets of the Plan for the benefit of the eligible Participants who are entitled to receive such assets, until such time that the assets of the Plan are distributed to the eligible Participants.

D. The Independent Fiduciary shall exercise reasonable care and diligence to identify and locate each Participant who is eligible to receive a

payment under the terms of the Plan and to disburse each such eligible Participant the payment to which he/she is entitled.

E. The Independent Fiduciary shall have full access to all data, information, and calculations in the Plan's possession or under its control, including that information contained in the records of the Plan's custodial trustees and other service providers, bearing on the distribution of benefit payments, Participant account balances, and current Plan assets.

F. The Independent Fiduciary may terminate any current service providers to the Plan and retain such persons and firms including, but not limited to, accountants and attorneys, as may be reasonably required to perform his duties hereunder.

G. The Independent Fiduciary shall obtain bonding in an amount that meets the requirements of ERISA §412, 29 U.S.C. §1112.

H. The Independent Fiduciary shall not be responsible for bringing any action on behalf of the Plan against any prior fiduciaries or service providers of the Plan for violations of state or federal law that occurred prior to the date of the Independent Fiduciary's appointment. The Independent Fiduciary shall be responsible for pursuing any violations of ERISA that occur after its appointment as Independent Fiduciary by this Court.

I. The Independent Fiduciary may not be held responsible or liable for any claim against the Plan or related entities that existed arose, matured, or vested prior to his appointment as Independent Fiduciary for the Plan.

J. The Independent Fiduciary represents that it will not charge the Plan more than \$6,670 plus reasonable out-of-pocket expenses as incurred (bond purchase, etc.). Such charges shall be borne by the Plan.

K. The Independent Fiduciary shall reallocate the sums that would otherwise have been paid to Kousaie to the accounts of the Participants (other than Kousaie) in an amount equal to employee contributions owed to each Participant in partial satisfaction of the employee contributions not originally remitted to the Plan.

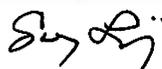
6. Kousaie agrees that he will notify the Cincinnati Regional Director of the Employee Benefits Security Administration within seven days of any changes to his name, residence, telephone number, mailing address, or employment until the amounts recited in this Consent Order and Judgment are paid in full.

7. Each party shall bear his own fees, costs, and other expenses incurred by such party in connection with any stage of this proceeding to date, including but not limited to, attorneys' fees that may be available under the Equal Access to Justice Act as amended.

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

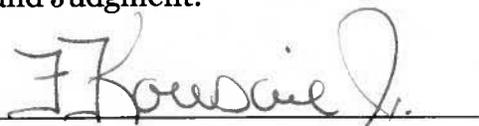
9. Nothing in this Consent Order and Judgment is binding on any government agency other than the United States Department of Labor.

DATED: August 1 _____, 2014



JUDGE SARA LIOI
U.S. DISTRICT JUDGE

The undersigned apply for and consent to the entry of the above Consent Order and Judgment:


FRANK M. KOUSAIE
Individually and on behalf of the
Anesthesia & Pain Center of Akron, Inc.
4464 Kings Ridge Drive
Richfield, Ohio 44286

Defendants

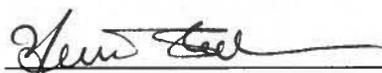

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HEMA STEELE
Trial Attorney

*Attorneys for Thomas E. Perez, Secretary
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