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FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND
2016 MAY 31 PM 1:36
CLERK'S OFFICE
AT BALTIMORE
BY _____ DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN (BALTIMORE) DIVISION

THOMAS E. PEREZ, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR, Plaintiff, v. BRIAN HICKS, et al., Defendants.	Civil Action No. 1:15-cv-01097

ELH

REVISED ~~PROPOSED~~ ORDER

WHEREAS, Plaintiff, Thomas E. Perez, Secretary of Labor for the U.S. Department of Labor (the Secretary), filed a Complaint in this matter against Defendants Brian Hicks ("Defendant Hicks"), Trojan Horse LTD, Capitol Expressways, Inc., Glen Burnie Hauling, Inc., BDH Logistics, LLC, and Defendant Trojan Horse LTD 401(K) Plan ("the Plan"), on April 16, 2015; and

WHEREAS, Defendants were duly served with the complaint but have failed to answer or otherwise appear in this action; and

WHEREAS, the time for Defendants to answer or move with respect to the Complaint has expired; and

WHEREAS, the Clerk of Court entered default against Defendants Trojan Horse LTD, Capitol Expressways, Inc., Glen Burnie Hauling, Inc., BDH Logistics, LLC, and the Plan on September 11, 2015; and

WHEREAS, the Clerk of Court entered Defendant Hicks' default on January 6, 2016; and

ELH

WHEREAS, in ECF 30, the Secretary having moved the Court to enter a default judgment in favor of the Secretary against Defendant Hicks, Trojan Horse LTD, Capitol Expressways, Inc., Glen Burnie Hauling, Inc., and BDH Logistics, LLC (collectively, "Defendants"), and it appears by the Declaration of Meredith Hochman and the exhibits attached in support thereof, and the files of this Court, that Defendants have violated the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, 29 U.S.C. § 1001 et seq.; and

WHEREAS, the Court has reviewed the Report and Recommendation submitted by United States Magistrate Judge J. Mark Coulson, dated April 15, 2016, *see* ECF 32; and no objections were filed as to ECF 32; and

ELH

WHEREAS, the Court agrees with Judge Coulson's Report and Recommendation in every respect, concludes that it is neither clearly erroneous nor contrary to law, and therefore, shall adopt it as its own; and

WHEREAS, Plaintiff on May 26, 2016 submitted "Secretary's Supplemental Memorandum in Support of the Secretary's Motion for Default Judgment," *see* ECF 36, and on May 27, 2016 submitted this Revised Proposed Order, and served such documents on Defendants., *see* ECF 37; and

WHEREAS, no objections have been filed in response to ECF 36, and the Court has reviewed ECF 36 and determined that the relief sought is appropriate equitable relief for Defendants' violations of the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, 29 U.S.C. § 1001 et seq.

Accordingly, it is on this 31st day of May, 2016, ORDERED:

1. Judge Coulson's Report and Recommendation (ECF 32) is adopted as an Order of the Court;

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2. The Secretary's Amended Motion For Default Judgment (ECF 30) against defendants Brian Hicks; Trojan Horse, Ltd.; Capitol Expressways, Inc.; Glen Burnie Hauling, Inc.; and BDH Logistics, LLC (ECF 30) is GRANTED;

3. Defendants Brian Hicks, Trojan Horse, Ltd., Capitol Expressways, Inc., Glen Burnie Hauling, Inc. and BDH Logistics, LLC are removed as fiduciaries of the Plan and permanently enjoined from serving as fiduciaries, trustees, agents, representatives, or service providers to any Plan governed by ERISA, and are permanently enjoined from violating any provisions of ERISA in the future;

4. Metro Benefits is hereby appointed as the Independent Fiduciary of the Plan with plenary authority over the Plan in order to effect the termination of the Plan and distribution of the Plan's assets to the Plan participants and beneficiaries. The Independent Fiduciary shall receive reasonable compensation for the performance of its duties together with costs reasonably and necessarily incurred. The compensation and expenses provided for herein shall be paid from the Plan's assets and shall not exceed $28,050.00 as detailed in the Independent Fiduciary's proposal marked as Exhibit A attached hereto and made a part hereof.

5. The Court hereby orders defendants Brian Hicks; Trojan Horse, Ltd.; Capitol Expressways, Inc.; Glen Burnie Hauling, Inc.; and BDH Logistics, LLC to reimburse the Plan for the cost of the services to be provided by Metro Benefits, in an amount not to exceed $28,050.00.

6. Defendants Brian Hicks; Trojan Horse, Ltd.; Capitol Expressways, Inc.; Glen Burnie Hauling, Inc.; and BDH Logistics, LLC are jointly and severally liable for $18,588.34 in employee contributions and loan repayments, together with interest in the sum of $1,572.40 as of January 29, 2016, for a total sum of $20,160.74 in monetary damages. Defendants shall remit $20,160.74 to the Plan within 30 days of the date of this Order. Therefore, judgment shall be entered in favor of plaintiff and against defendants, jointly and severally, in the total sum of $20,160.74 to be paid directly to the Plan.

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7. Defendants shall cooperate with the Independent Fiduciary in the performance of its duties.

8. This Court retains jurisdiction of this action for purposes of enforcing compliance with the terms of this Judgment.

9. The Court directs the entry of this Default Judgment as a final order.

10. The Clerk is directed to administratively CLOSE this case.

Dated: 5/31/16

Ellen R. Hollander

United States District Judge