IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

THOMAS E. PEREZ, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR,	:	
Plaintiff,	:	Civil Action
v.	:	No. 1:16-cv-00719-CCC
TARRY BRATTON, BC, INC., and BC, INC., 401(k) PLAN,	:	
Defendants.	:	

FILED
HARRISBURG, PA
OCT 0 3 2016
PER DEPUTY CLERK
Per CLERK

STIPULATED PROPOSED CONSENT ORDER OF DISMISSAL

Plaintiff, Secretary of Labor, United States Department of Labor, ("Secretary"), has filed a complaint in this action pursuant to the Employee Retirement Income Security Act of 1974 ("ERISA", 29 U.S.C. § 1001 et seq., alleging certain violations by each of the above captioned Defendants.

Counsel for the Secretary has engaged in settlement discussions with Defendants, Tarry Bratton, and BC, Inc., and the parties have agreed to resolve this case without further litigation.

1. The Secretary alleges that the Defendants violated sections 404(a)(1)(A), 404(a)(1)(B), 404(a)(1)(D), 406(a)(1)(B), 406(a)(1)(D), 406(b)(1) & (2), and 403(a) & (c)(1) of ERISA, 29 U.S.C. §§1103-1106.

2. For purposes of this Stipulation of Dismissal, Defendants admit that the Court has jurisdiction over them, and the subject matter of this action.

3. Defendants represent that they have restored assets to the plan that were alleged in the Complaint to have been owed.

4. The Secretary and Defendants understand and agree that this agreement is without prejudice to the Secretary's right to investigate and redress violations of ERISA, if any, not alleged in the Complaint, including the Secretary's right to institute future enforcement actions with respect to any such matter. It is further understood that this paragraph shall not constitute a waiver by Defendants of any defenses, legal or equitable to any such future action.

5. Accordingly, it is hereby ordered, adjudged and decreed that:

a. This Court has jurisdiction over Defendants.

b. Defendants represent that they have restored all plan assets to the BC, Inc. 401(k) plan.

c. Defendants shall discharge their duties to the Plan, and to any other ERISA-covered plan sponsored by BC, Inc., now or in the future, in compliance with ERISA and all regulations promulgated by the Department of Labor,

including, but not limited to, any regulations regarding the remittance to an ERISA plan of employee contributions that are withheld from employee paychecks.

d. Defendants understand that the Secretary may seek a penalty of 20 percent of the applicable recovery amount under the provisions of ERISA § 502(l), 29 U.S.C. § 1132(l). The payment of the penalty amount is not tax deductible. Defendants shall not contest their liability for the amount assessed in accordance with this section under 29 U.S.C. § 1132(l).

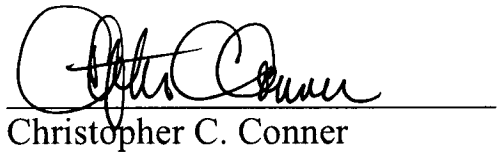
e. The Secretary and Defendants shall each bear their own costs, expenses and attorney's fees incurred to date in connection with any stage of this proceeding, including but not limited to attorney's fees which may be available under the Equal Access to Justice Act, as amended.

f. This Agreement shall operate as a final disposition of all claims asserted by the Secretary against Defendants in the complaint.

g. Nothing in this Agreement is binding on any other government agency other than the United States Department of Labor.

h. The Court directs the entry of this Agreement as a final order.

Date: 10/3/16



Christopher C. Conner
Chief Judge
U.S. District Court for the
Middle District of Pennsylvania

For Tarry Bratton & BC, Inc.:

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Dated: 9/30/2016

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Dated: 9/30/2016