

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

-----  
**JULIE A. SU**, Acting Secretary of Labor,  
United States Department of Labor,

Plaintiff,

v.

**CLADDAGH DEVELOPMENT GROUP, LLC**  
**and CLADDAGH DEVELOPMENT GROUP,**  
**LLC EMPLOYEES SAVINGS TRUST,**

Defendants.

CIVIL ACTION

Case No. 1:23-cv-1198

**COMPLAINT**

Plaintiff Julie A. Su, Acting Secretary of Labor, United States Department of Labor (“the Secretary”), alleges as follows:

**JURISDICTION AND VENUE**

1. This action arises under Title I of the Employee Retirement Income Security Act of 1974 (“ERISA”), as amended, 29 U.S.C. §§ 1001, *et seq.*, and is brought by the Secretary under ERISA § 502(a)(2) and (5), 29 U.S.C. § 1132(a)(2) and (5), to enjoin acts and practices which violate the provisions of Title I of ERISA, to obtain appropriate equitable relief for breaches of fiduciary duty under ERISA § 409, 29 U.S.C. § 1109, and to obtain such further

equitable relief as may be appropriate to redress violations and to enforce the provisions of Title I of ERISA.

2. This court has jurisdiction over this action pursuant to ERISA § 502(e)(1), 29 U.S.C. § 1132(e)(1).

3. Claddagh Development Group, LLC Employees Savings Trust (“Plan”) is an employee benefit plan within the meaning of ERISA § 3(3), 29 U.S.C. § 1002(3), which is subject to the provisions of Title I of ERISA pursuant to ERISA § 4(a), 29 U.S.C. § 1003(a).

4. Venue of this action lies in the Northern District of Ohio, pursuant to ERISA § 502(e)(2), 29 U.S.C. § 1132(e)(2), because the Plan is administered in Solon, Cuyahoga County, Ohio, within this district.

#### **DEFENDANTS**

5. Since at least January 1, 2003, Defendant Claddagh Development Group, LLC (“Claddagh”) was the sponsor of the Plan, the Plan Administrator of the Plan, and a fiduciary of the Plan within the meaning of ERISA § 3(21)(A), 29 U.S.C. § 1002(21)(A).

6. The Plan is named as a Defendant in this action pursuant to Federal Rule of Civil Procedure 19(a), solely to assure that complete relief can be granted.

#### **ALLEGATIONS**

7. Paragraphs 1 through 6 above are realleged and incorporated herein by reference.

8. Claddagh, an Ohio corporation, had its principal place of business in Ohio. Claddagh was petitioned into an involuntary Chapter 11 bankruptcy on October 25, 2006.

9. On June 29, 2010, the Company’s bankruptcy converted to a Chapter 7 bankruptcy that closed on May 30, 2019.

10. Claddagh's assets were sold through the bankruptcy on March 11, 2008 to CDG Acquisitions, LLC ("CDG") but CDG did not agree to maintain the Plan.

11. Kevin Blair and Pat McDonagh are co-owners of Claddagh, each owning 50% of the company.

12. The asset custodian and record-keeper for the Plan is CUNA Mutual Group.

13. According to CUNA, in order to process benefit distributions, authorization is needed from a plan fiduciary.

14. To date, participants have been unable to secure a plan fiduciary's signature to authorize distributions.

15. By Defendant Claddagh failing to administer the Plan, participants of the Plan have not been able to obtain distributions from the Plan of their individual account balances.

16. As of March 18, 2022, the Plan has 65 active participants. As of December 31, 2021, the Plan had assets totaling approximately \$103,542.49 and a forfeiture account totaling \$3,0729.25.

17. To date, Defendant Claddagh has not terminated the Plan or issued distributions to all of the Plan's participants.

18. Since March 11, 2008, Defendant Claddagh has failed to administer the Plan and its assets.

19. By the facts described in paragraphs 1 through 18 above, Defendant Claddagh:  
a. Failed to discharge its duties with respect to the Plan solely in the interest of the participants and beneficiaries and for the exclusive purpose of providing benefits to

participants and its beneficiaries and defraying reasonable expenses of administering the Plan, in violation of ERISA § 404(a)(1)(A), 29 U.S.C. § 1104(a)(1)(A); and

b. Failed to discharge its duties with respect to the Plan solely in the interest of the participants and beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, in violation of ERISA § 404(a)(1)(B), 29 U.S.C. § 1104(a)(1)(B).

**PRAYER FOR RELIEF**

WHEREFORE, the Secretary prays for judgment:

A. Removing Defendant Claddagh, as well as Kevin Blair and Pat McDonagh, from their positions as fiduciary with respect to the Plan;

B. Appointing an independent fiduciary to terminate the Plan consistent with the Plan's governing documents, the Internal Revenue Code, and ERISA, distribute the Plan's assets to the participants and beneficiaries, and conclude any Plan-related matters connected with the proper termination of the Plan;

C. Awarding the Secretary the costs of this action; and

D. Ordering such further relief as is appropriate and just.

Respectfully submitted,

**SEEMA NANDA**  
Solicitor of Labor

**CHRISTINE Z. HERI**  
Regional Solicitor

**LEAH A. WILLIAMS**  
Associate Regional Solicitor

/s/Kenneth M. Rock

**KENNETH M. ROCK**

Trial Attorney

**STEPHEN M. PINCUS**

Trial Attorney

Attorneys for JULIE A. SU,  
Acting Secretary of Labor, United States  
Department of Labor, Plaintiff

Office of the Solicitor  
U.S. Department of Labor  
1240 East 9th Street, Suite 881  
Cleveland, Ohio 44199  
Telephone: (216) 357-5392  
Facsimile: (216) 522-7172  
Email: [rock.kenneth.m@dol.gov](mailto:rock.kenneth.m@dol.gov)