

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JULIE A. SU, Acting Secretary of Labor,	)	
United States Department of Labor,	)	
	)	
Plaintiff,	)	No. 2:22-cv-01702-RJC
	)	
vs.	)	
	)	Judge Robert J. Colville
ROBERT KENDI, KEN-CO	)	
FABRICATING COMPANY, INC., and	)	
THE KEN-CO FABRICATING	)	
COMPANY, INC. HEALTH PLAN	)	
	)	
Defendants,	)	

**ORDER**

**AND NOW** this 8<sup>th</sup> day of February 2024, upon consideration of the Motion for Default Judgment (ECF No. 22) filed by Acting Secretary of Labor Julie A. Su, and for the reasons stated in this Court’s Memorandum Opinion, filed herewith, it is **HEREBY ORDERED** that:

1. The Acting Secretary’s motion for default judgment is hereby granted and judgment is entered in favor of the Secretary against defendants.
2. The Fiduciary Defendants shall immediately pay to the Plan the amount of \$40,436.19.
3. The Fiduciary Defendants are removed from their roles of fiduciaries to the Ken-Co Fabricating Company, Inc. Health Plan (the “Plan”).
4. AMI Benefit Plan Administrators, Inc. is permanently appointed to serve as the independent fiduciary to the Plan (the “Independent Fiduciary”).
5. The Independent Fiduciary shall have and shall exercise plenary power over the Plan. The Independent fiduciary shall have the exclusive authority to exercise all powers previously exercised or held by the Fiduciary Defendants, under the terms of the documents governing the

Plan, including but not limited to full authority and control with respect to the management or disposition of the assets of the Plan.

6. Concerning any activities which the Independent Fiduciary performs, the Independent Fiduciary shall be free to consult with the Acting Secretary, the Internal Revenue Service, other federal, state, and local governmental agencies, and any other person or entity that the Independent Fiduciary believes appropriate in the conduct of the Independent Fiduciary's duties, including attorneys, accountants, actuaries, and other service providers.

7. The Independent Fiduciary shall be entitled to receive fees and expenses reasonably and necessarily incurred in administrating and terminating the Plan, not to exceed \$450. Should the scope of the Independent Fiduciary's work change, the Independent Fiduciary may petition the Court to increase this amount. The payment of administrative expenses and fees to the Independent Fiduciary, and to its assistants, attorneys, accountants, actuaries and other necessary service providers, shall be considered priority administrative expenses of the Plan superior to any other class of expense or obligation. The Independent Fiduciary's second priority shall be the payment of legitimate claims on the Plan by its participants and beneficiaries.

9. Fiduciary Defendants shall be responsible paying the reasonable fees and expenses of the Independent Fiduciary.

10. On a quarterly basis, the Independent Fiduciary shall provide the Acting Secretary and Fiduciary Defendants with a report of all significant actions taken and all funds expended.

11. This matter is deemed closed. However, the Independent Fiduciary may apply to the Court for clarification of this Order or enforcement of this Order's terms.

12. The Secretary shall serve a copy of this Order and a copy of the Court's Memorandum Opinion on Defendants.

BY THE COURT:

/s/Robert J. Colville  
Robert J. Colville  
United States District Judge

DATED: February 8, 2024  
cc: All counsel of record