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UNITED STATES BANKRUPTCY COURT FOR  
THE DISTRICT OF NEW JERSEY

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In re WILLIAM P. BOWMAN,	:	
	:	
Debtor,	:	Case No. 15-29403 (ABA)
	:	
THOMAS E. PEREZ, Secretary of	:	Chapter 7
Labor, United States Department of	:	
Labor,	:	Adv. Proc. No. 16-01445 (ABA)
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
WILLIAM P. BOWMAN,	:	
	:	
Defendant.	:	
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**[PROPOSED] CONSENT ORDER AND JUDGMENT**

Plaintiff Thomas E. Perez, Secretary of the United States Department of Labor (the "Secretary"), and defendant debtor William P. Bowman ("Defendant") have agreed to settle the matters in controversy in this adversary proceeding and agree to the entry of this Consent Order and Judgment in accordance with the terms herein:

A. This action is an adversary proceeding under sections 523(a)(4) and (c)(1) of the Bankruptcy Code, 11 U.S.C. §§ 523(a)(4) and (c)(1), to establish the non-dischargeability of a debt.

B. Bowman is the subject of a bankruptcy proceeding in the United States Bankruptcy Court for the District of New Jersey under Chapter 7 of the Bankruptcy Code, Case No. 15-29403, filed on or about December 4, 2015.

C. On March 20, 2013, the Secretary filed a complaint against Bowman, inter alios, in the United States District Court for the District of New Jersey under the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1001, et seq. That action was styled Harris v. Bowman et al., bearing civil action number 13-cv-01716 (RMB)(JS) (the "Underlying Action").

D. The Underlying Action was brought to secure equitable relief under section 502 of ERISA, 29 U.S.C. § 1132 -- namely, to redress violations of ERISA, to recover losses and obtain other equitable remedies from employee benefit plan fiduciaries, and to enforce the provisions of Title I of ERISA.

E. The Underlying Action was settled by consent judgment on April 25, 2013 (the "First Consent Judgment"). In the First Consent Judgment, Defendant Bowman agreed to undertake certain payment obligations to an ERISA plan.

F. Bowman admits that his violations of ERISA that were subject of the Underlying Action and resolved by the First Consent Judgment constituted defalcation as that term is used in section 523(a)(4) of the Bankruptcy Code, 11 U.S.C. § 523(a)(4).

G. Bowman admits that, because his debt obligation to the William Bowman Associates, Inc. Profit Sharing 401(k) Plan arose from a defalcation he committed while he was acting in a fiduciary capacity, the debt is non-dischargeable pursuant to section 523(a)(4) of the Bankruptcy Code, 11 U.S.C. § 523(a)(4).

H. Bowman admits that this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 157(b)(1) and that this Court has personal jurisdiction over him for all purposes relevant to this matter including the entry of this Consent Order and Judgment.

I. The Secretary and Bowman have agreed to resolve all matters in controversy between them in this matter and said parties do now consent to entry of a Consent Order and Judgment by this Court.

J. Upon consideration of the record herein, and as agreed to by the Secretary and Bowman, the Court finds that it has jurisdiction to enter this Consent Order and Judgment.

IT IS THEREFORE ORDERED that:

1. Because Bowman's debt to the plan arises from defalcation while he was acting in a fiduciary capacity, the debt is non-dischargeable pursuant to section 523(a)(4) of the Bankruptcy Code, 11 U.S.C. § 523(a)(4).

2. Bowman expressly waives, releases and forever discharges any and all claims that he have or may have against the Secretary, or any of his agents, attorneys, employees, or representatives, relating to, arising out of, or in connection with the investigation and litigation of the claims in the complaint filed in this action and the settlement relating thereto. In particular, Bowman expressly waives any and all claims under the Equal Access to Justice Act (Pub. Law No. 96-481 [1980], reenacted at Pub. Law No. 99-80 [1985] and amended at Pub. Law No. 104-121 [1996]), which he have or may have against the Secretary or any of his agents, attorneys, employees, or representatives, relating to, arising out of, or in connection with the investigation or litigation of the claims in the complaint filed in this action and the settlement relating thereto.

3. Each party shall bear their attorneys' fees and costs associated with the litigation and settlement of this case.

4. The parties agree that this document may be executed via counterpart signatures and that a signature via facsimile or PDF and electronic mail will be deemed an original signature and will be binding upon the party transmitting the signature by facsimile or PDF and electronic mail.

5. The Court shall retain jurisdiction over the parties and subject matter of this action for the purpose of enforcing and/or interpreting this Consent Order and Judgment.

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

7. By entering into this Consent Order and Judgment, the Secretary and Bowman each represents that he has been informed by legal counsel of the effect and purpose of this Consent Order and Judgment and agrees to be bound by its terms.

8. If the Court does not enter this Consent Order and Judgment, this agreement will become void and the parties may proceed with litigation of the action as if they had never executed this document.

9. The Court finds that there is no just reason to delay the entry of this Consent Order and Judgment and expressly directs the entry thereof as a Final Order and Judgment.

SO ORDERED this \_\_\_\_ day of \_\_\_\_\_ 2016.

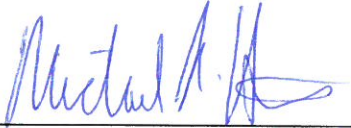
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United States Bankruptcy Judge  
District of New Jersey

FOR THE SECRETARY:

M. PATRICIA SMITH  
Solicitor of Labor

JEFFREY S. ROGOFF  
Regional Solicitor



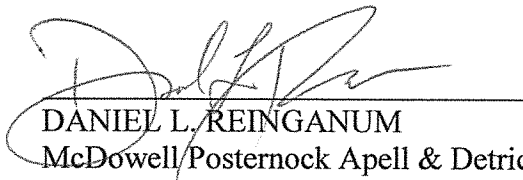
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MICHAEL R. HARTMAN  
Senior Trial Attorney

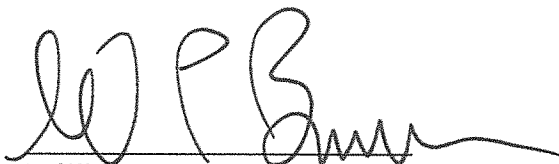
Dated: 8/31/16

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Dated: August 27, 2016

  
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William P. Bowman

Dated: AUG 29, 2016