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**UNITED STATES DISTRICT COURT**  
**District of Minnesota**

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Edward Hugler, *Acting Secretary of Labor, United States Department of Labor*

**JUDGMENT IN A CIVIL CASE**

Plaintiff(s),

v.

Case Number: 16-cv-3245 (PAM/FLN)

Michael E. Weinhagen, Weinhagen Tire Co., Inc., and Weinhagen Tire Co., Inc. 401(k) Plan

Defendant(s).

**Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED THAT:

1. From at least January 1, 2009, to the present, Defendants Michael E. Weinhagen and Weinhagen Tire Co., Inc. were fiduciaries to the Plan within the meaning of ERISA § 3(21)(A), 29 U.S.C. § 1002(21)(A).

2. From at least January 1, 2009, to the present, Defendant Michael E. Weinhagen was a party in interest to the Plan within the meaning of ERISA § 3(14)(A), (E) and (H), 29 U.S.C. § 1002(14)(A), (E), and (H).

3. From at least January 1, 2009, to the present, Defendant Weinhagen Tire Co., Inc. was a party in interest to the Plan within the meaning of ERISA § 3(14)(A), (C) and (G), 29 U.S.C. § 1002(14)(A), (C), and (G).

4. As fiduciaries and parties in interest, Defendants Michael E. Weinhagen and Weinhagen Tire Co., Inc. violated ERISA §§ 403(c)(1), 404(a)(1)(A), 406(a)(1)(D), 406(b)(1) and (2), 29 U.S.C. §§ 1103(c)(1), 1104(a)(1)(A), 1106(a)(1)(D), 1106(b)(1) and (2).

5. Defendants Michael E. Weinhagen and Weinhagen Tire Co., Inc. are permanently enjoined and restrained from violating the provisions of Title I of ERISA, 29 U.S.C. §1001 *et seq.*

6. Defendants Michael E. Weinhagen and Weinhagen Tire Co., Inc. shall retain Larry Cumpston, CPA, Lawrence Cumpston & Associates, PLLP, 3801 E. Lafayette Frontage Road, Suite 110, St. Paul, MN 55107, as Plan Co-Administrator. The new Plan Co-Administrator shall also act as the Plan recordkeeper and be a Plan fiduciary.

7. By April 30, 2017, Defendants Michael E. Weinhagen and Weinhagen Tire Co., Inc. shall file all delinquent Form 5500 Annual Reports through the U.S. Department of Labor's delinquent filer program.

8. Defendants Michael E. Weinhagen and Weinhagen Tire Co., Inc. shall maintain copies of all Plan documents at Defendants' principal place of business, 206 South Wabasha, St. Paul, MN 55107.

9. Each party agrees to bear his or its own attorneys' fees, costs and other expenses incurred by such party in connection with any stage of this proceeding to date including, but not limited to, attorneys' fees which may be available under the Equal Access to Justice Act, as amended.

10. The Court shall maintain jurisdiction over this matter only for purposes of enforcing this Consent Order and Judgment.

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

Date: April 11, 2017

RICHARD D. SLETTEN, CLERK

s/L. Brennan

(By) L. Brennan, Deputy Clerk