

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF FLORIDA  
PANAMA CITY DIVISION

THOMAS E. PEREZ,	)	
Secretary of Labor,	)	FILE NO.
United States Department of Labor,	)	
	)	5:12-CV-00301-RS-CJK
Plaintiff,	)	
	)	
v.	)	
	)	
CHARLES V. RED, JR., and	)	
ETHERIDGE CABINET SHOP, INC., SIMPLE	)	
IRA PLAN,	)	
	)	
Defendants,	)	
	)	

**CONSENT JUDGMENT AND ORDER**

Plaintiff, Secretary of Labor, United States Department of Labor, pursuant to his authority under §§ 502(a)(2) and 502(a)(5), 29 U.S.C. §§ 1132(a)(2) and 1132(a)(5), of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 et seq., ("ERISA") has filed a Complaint against Defendants Charles V. Red, Jr. and Etheridge Cabinet Shop, Inc., SIMPLE IRA Plan. Defendants and the Secretary have agreed to resolve all matters in controversy in this action, and the parties now consent to entry of a Judgment and Order by this Court.

A. The Secretary's Complaint alleges that Defendants breached their fiduciary duties with respect to the Etheridge Cabinet Shop, Inc. SIMPLE IRA Plan (the "Plan") by failing to discharge their duties under the Plan and by violating provisions of §§ 403, 404 and 406 of ERISA, 29 U.S.C. §§ 1103, 1104 and 1106, as set forth in the Complaint.

B. Defendants admit to the jurisdiction of the Court over them and over the subject matter of this action. Defendants admit that this Court has the authority to enforce this Order and that this Court is the most appropriate venue for any enforcement action which may be required as a result of this Order.

C. Defendants expressly waive any and all claims of whatsoever nature that they have or may have against the Secretary, or any of her officers, agents, employees, or representatives, arising out of or in connection with the filing, prosecution, and maintenance of this civil action or any other proceeding and investigation incident.

D. This Order represents a complete settlement of all the Secretary's claims asserted in this action against Defendants. This Order is not binding upon any government agency other than the U.S. Department of Labor and only resolves claims arising out of this action as between the Secretary and Defendants.

E. The Secretary and Defendants expressly waive Findings of Fact and Conclusions of Law, except as otherwise set forth and addressed in this Order, and consent to the entry of this Order as a full and complete resolution of all claims and issues which were, or might have been, alleged in this action without trial or adjudication of any issue of fact or law raised in the Complaint.

It is **ORDERED**:

1. The Court has jurisdiction over the parties to this Order, the subject matter of this action, and is empowered to provide the relief provided by this Order.

2. Defendant Charles V. Red, Jr. is permanently enjoined from acting as a fiduciary, trustee, agent, or representative in any capacity to any employee benefit plan, as defined by ERISA.

3. This Consent Judgment resolves all claims of Plaintiff's Complaint with the following exceptions:

a. This Judgment does not affect or bind any governmental agency other than the United States Department of Labor.

b. This Court retains jurisdiction for purposes of enforcing compliance with the terms of this Consent Order and Judgment.

4. Each party shall bear its own costs and expenses, including attorneys' fees, arising in connection with any stage of the above-referenced proceeding including but not limited to, attorney's fees which may be available under the Equal Access to Justice Act, as amended.

**ORDERED** on June 13, 2014.

/S/ Richard Smoak  
**RICHARD SMOAK**  
**UNITED STATES DISTRICT JUDGE**