

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Hilda L. Solis, Secretary of
Labor, United States Department
of Labor

v.

Civil No. 09-cv-376-LM

Media Solutions, Inc.

O R D E R

Having been granted a default against Media Solutions, Inc., on a claim brought under 29 U.S.C. § 1132(a)(5), see document no. 14, the Secretary of Labor now moves for default judgment, pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure. The Secretary's motion, (doc. no. 15), is granted, and judgment is entered in accordance with the prayer for relief in the Secretary's complaint.

Specifically, the court orders that: (1) Corporate Benefits Company ("CORBCO") of 161 Massachusetts Ave., Boston, MA, 02115, is appointed successor independent fiduciary of the Media Solutions, Inc. 401(k) Plan with all rights and responsibilities attendant to a fiduciary of an ERISA plan; and (2) CORBCO shall be entitled to a reasonable fee for its services, after submission of invoices to the United States Department of Labor, in the amount of \$3,525. The Department reserves the right to object to and dispute any such invoice, if warranted, and the payment to CORBCO may be made out of Plan assets, pursuant to Sections 7.04 and 8.03 of the governing Media Solutions, Inc. 401(k) Plan Document.

In so ruling, the court notes its authority under 29 U.S.C. § 1132(a)(5) to grant "appropriate equitable relief" to redress ERISA violations. Cf. Donovan v. Bierwirth, 680 F.2d 263, 276 (2d Cir. 1982) ("Although ERISA does not provide specifically for the appointment of a receiver in an action by the Secretary under § 1132(a)(5), such power is conferred by the provision authorizing him to seek 'other appropriate equitable relief.'" (citing Marshall v. Snyder, 572 F.2d 894, 901 (2d Cir. 1978))). Moreover, as this case involves none of the factors listed in Rule 55(b)(2)(A)-(D), the Secretary's motion may be granted without a hearing. Accordingly, the hearing scheduled for January 6, 2011, is hereby cancelled.

SO ORDERED.



Landya B. McCafferty
United States Magistrate Judge

Date: January 6, 2011

cc: Donald E. d'Entremont, Esq.