

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION

R. ALEXANDER ACOSTA,)
Secretary of Labor,)
United States Department of Labor,)
)
Plaintiff,)
)
v.)
)
EYE CENTERS OF TENNESSEE, LLC,)
LARRY E. PATTERSON, M.D., and)
RAYMOND K. MAYS,)
)
Defendants.)

No. 2:14-cv-00115
CHIEF JUDGE CRENSHAW

JUDGMENT

In accordance with the Findings of Fact and Conclusions of Law (Doc. No. 138) entered on March 21, 2018, the Court ORDERS Defendants to restore losses to the Plan in the amount of \$971,622.16 on or before April 30, 2018, as they are jointly and severally liable for the following elements of damages:

1. Defendants shall restore to the Plan a total of \$3,240.24 in damages including prejudgment interest arising from delinquent employee contributions to the Plan, as agreed upon by the parties at trial. (Doc. No. 90-1 at 6).
2. Defendants shall restore to the Plan a total of \$4,772.47 in damages including prejudgment interest arising from delinquent employer contributions to the Plan, as agreed upon by the parties at trial. (Doc. No. 90-1 at 6).
3. Defendants shall restore to the Plan a total of \$579.74 in damages including prejudgment interest arising from a delinquent employee rollover to the Plan, the amount agreed upon by the parties at trial. (Doc. No. 90-1 at 6).

4. Defendants shall restore to the Plan a total of \$470,026.47, consisting of a principal amount of \$344,225.39 and lost opportunity costs in the amount of \$125,801.08 based on the Internal Revenue Code Rate § 6621(a)(2) through March 23, 2018, for losses flowing from their prohibited transactions with Park Street Properties.

5. Defendants shall restore to the Plan a total of \$21,507.16, consisting of a principal amount of \$17,077.24 and lost opportunity costs in the amount of \$4,429.92 based on the Internal Revenue Code Rate § 6621(a)(2) through March 23, 2018 for losses flowing from their prohibited transactions with Upper Cumberland Building Consultants, LLC.

6. Defendants shall restore to the Plan lost opportunity costs in the amount of \$270.17 based on the Internal Revenue Code Rate § 6621(a)(2) through March 23, 2018, for losses flowing from the prohibited transfer of \$50,000 to Eye Centers of Tennessee, LLC on February 10, 2010.

7. Defendants shall restore to the Plan lost opportunity costs in the amount of \$142,966.21 based on the Internal Revenue Code Rate § 6621(a)(2) through March 23, 2018, for lost opportunity costs flowing from their prohibited transfers totaling \$782,250.00 to Maple Leaf Development, LLC.


8. Defendants shall restore to the Plan a total of \$328,259.70, consisting of a principal amount of \$290,000.60 and lost opportunity costs in the amount of \$38,259.10 based on the Internal Revenue Code Rate § 6621(a)(2) through August 17, 2017, for losses flowing from their prohibited transactions with The Pit Barbell Club.

9. Defendants shall, on or before April 30, 2018, restore to the Plan the sum of \$971,622.16 to be allocated to the accounts of all the Plan's participants and beneficiaries and former participants and beneficiaries. Defendants shall make restitution to the Plan directly

to the successor fiduciary of the Plan, Receivership Management, as appointed by this Court's August 17, 2017 Order permanently enjoining Defendants from serving as a fiduciary to any ERISA covered plan and from violating Title I of ERISA. In the event that Defendants fail to make restitution in the amount ordered, post judgment interest shall be assessed against any remaining unpaid balance of such amount, in accordance with 28 U.S.C. § 1961, from the date hereof until paid in full.

10. This Judgment does not adjudicate or otherwise affect any potential civil money penalties that may be assessed pursuant to ERISA § 502 (l), 29 U.S.C. § 1132(l).

IT IS SO ORDERED AND ADJUDGED.



WAVERLY D. CRENSHAW, JR.
CHIEF UNITED STATES DISTRICT JUDGE