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SOL: JGC

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

THOMAS E. PEREZ, Secretary of Labor,
United States Department of Labor,

:
:
:

COMPLAINT

Plaintiff,
v.

: Civil Action No.
:
: 16-cv-

INTERACTIVE MARKETING GROUP INC.
401 (K) PROFIT SHARING PLAN

:

Defendant.

:

Plaintiff, THOMAS E. PEREZ, Secretary of Labor, United States Department of Labor
(the “Secretary”), to the best of his knowledge, information and belief alleges:

1. This action arises under Title 1 of the Employee Retirement Income Security Act of 1974 (“ERISA”), as amended, 29 U.S.C. §§ 1001 *et. seq.*, and is brought by the Secretary against Interactive Marketing Group Inc. 401 K Profit Sharing Plan(the “Plan”); to enjoin practices in violation of Title 1 and to obtain such further equitable relief as may be appropriate to redress violations of Title 1 of ERISA and to enforce the provisions of Title 1 of ERISA.

Jurisdiction, Parties and Venue

2. Defendant Interactive Marketing Group, Inc. 401(K) Profit Sharing Plan is an employee pension benefit plan within the meaning of ERISA § 3(3), 29 U.S.C. § 1002(3) and is covered by ERISA, pursuant to ERISA § 4(a), 29 U.S.C. § 1003(a). The Plan was sponsored by Interactive Marketing Group, Inc. (the “Company”). The Plan’s last known address was at 140 East Ridgewood Avenue, Paramus, New Jersey, 07652.

3. Guruprasad Pai is the sole trustee of the Plan and a fiduciary with respect to the Plan within the meaning of ERISA Section 3 (21)(A), 29 U.S.C. § 1002(21)(A). Attempts to reach Mr. Pai were not successful. No successor Trustee was named.

4. Jurisdiction over this action is conferred by ERISA § 502(e)(1), 29 U.S.C. § 1132(e)(1).

5. Venue for this action lies in the District of New Jersey, pursuant to ERISA 502(e)(2), 29 U.S.C. § 1132(e)(2), because the plan was administered within the District of New Jersey.

6. The Plaintiff, Secretary of Labor, has authority to bring this action under ERISA §§ 502(a)(2) & (5), 29 U.S.C. §§ 1132(a)(2) & (5).

Allegations

7. The plan was established on or about January 1, 1987.

8. On information and belief, Guruprasad Pai, served as the sole trustee of the plan since it was established.

9. Guruprasad Pai was the only individual with signatory authority and the only trustee of the plan, pursuant to ERISA § 3(21), 29 U.S.C. § 1002(21).

10. At all times relevant during this action Guruprasad Pai was the only fiduciary to the Plan with responsibilities for its administration, distribution of assets and day to day management.

11. On information and belief, Interactive Marketing Group Inc., stopped doing business on or before December 15, 2014.

12. Guruprasad Pai stopped performing fiduciary duties on or about December 15, 2014 and did not ensure the appointment of a new fiduciary to manage the Plan or oversee the distribution of the Plan's assets.

13. The plan has not been formally terminated.

14. State Street Bank and Trust Company, located at 1200 Crown Colony Drive, CC16N, Quincy, Massachusetts, 02169 has been the custodian of the Plan assets at all times relevant to this litigation.

15. As of May 26, 2015 the value of the Plan assets held with State Street Bank and Trust Company, the Plan custodian, totaled \$753,309.79.

16. Without a duly appointed Trustee or other fiduciary of the plan to instruct an asset custodian to distribute the Plan's assets, the Plan's participants are unable to obtain distributions of funds from the Plan.

Violations

17. By the conduct and circumstances described in paragraphs 7-16, the Plan exists without a named fiduciary and without its assets being held in trust by a trustee in violation of ERISA §§ 402 and 403, U.S.C. §§ 1102 and 1103.

Prayer for Relief

WHEREFORE, pursuant to section 502(a)(5) of ERISA, 29 U.S.C. § 1132(a)(5), plaintiff prays that the Court issues an order:

- A. Appointing an independent trustee and fiduciary to administer the plan and distribute the Plan's assets to its participants and beneficiaries;
- B. Ordering such further relief that is appropriate and just.

DATED:

New York, New York

s/ M. Patricia Smith
M. PATRICIA SMITH
Solicitor of Labor

s/ Jeffrey S. Rogoff
JEFFREY S. ROGOFF
Regional Solicitor

s/ John G. Campbell
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