

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF INDIANA

HAMMOND DIVISION

HILDA L. SOLIS,)	
Secretary of Labor,)	
U.S. Department of Labor,)	
)	
Plaintiff)	
)	
v.)	
)	NO. 2:07-CV-00068-RL-PRC
HARRIS, N.A.,)	
)	
Defendant)	
)	
JONATHAN E. HOGGE and)	
MY SMART BENEFITS, INC.,)	
)	
Intervenors.)	
)	
)	
)	

ORDER APPROVING THE INDEPENDENT FIDUCIARY'S SECOND
REVISED PLAN OF DISTRIBUTION FOR AND GRANTING HER MOTION TO
DISTRIBUTE ASSETS OF THE MY SMART BENEFITS UNPAID CLAIMS TRUST

This matter is before the Court in response to its Order of
December 8, 2008 and the Motion of the Independent Fiduciary to
Distribute Assets of the My Smart Benefits Unpaid Claims Trust.

1. Pursuant to the March 8, 2007 Order of this Court,
Jeanne Barnes Bryant was appointed as Independent Fiduciary
(hereafter referred to as "Independent Fiduciary") for a trust
established for the payment of outstanding medical claims of, or
on behalf of, the employee participants in various employee
welfare benefit plans established by employer clients of My Smart
Benefits, Inc. (MSB), a third party administrator of employer

sponsored dental and vision plans. Pursuant to that Order, the Independent Fiduciary submitted her Report and Plan of Distribution on August 13, 2007 (D.E. #9).

2. When the Independent Fiduciary received several inquiries and objections after the filing of her Report and Plan of Distribution, determined based upon the inquiries and objections, there were participants, employers, and others who wanted to make claims on the Settlement Fund, but had not been included in the claims provided to the Independent Fiduciary by the U.S. Department of Labor, a Revised Plan of Distribution was submitted on February 13, 2008.

3. The Revised Plan was objected to by Mr. Jonathan Hogge (both in his individual capacity and as president/owner of My Smart Benefits Inc.), Direct Benefits, and Daniel Dixon. After hearing arguments and a review of the submissions in support of and in opposition to said objections, the Court issued its Opinion and Order of December 8, 2008. (D.E. # 81) This Order directed the Independent Fiduciary to submit her Second Revised Plan of Distribution at her earliest convenience and directed the Independent Fiduciary to utilize the information developed by Mr. Hogge to more accurately adjudicate submitted claims.

4. In compliance with said Order, the Independent Fiduciary filed her Second Revised Plan of Distribution and Motion to Distribute Assets on October 14, 2010. Notice of the Plan and Motion was given to all participants listed on Exhibits A, B, C, and D of the Second Revised Plan and Motion. The notice

directed participants to the website of Receivership Management Inc. where the Second Revised Plan and Motion was posted (www.receivermgmt.com). The Notice advised participants they had until November 15, 2010 to file objections to the Second Revised Plan and Motion and directed them to file said objections with the Court and the Independent Fiduciary.

5. On November 15, 2010, Ms. Donna Schatz a participant in the My Smart Dental Benefits Plan submitted an Objection. On November 18, 2010, the Independent Fiduciary submitted her response to Ms. Schatz objection. No other objections were filed. On November 18, Ms. Schatz communicated to the Independent Fiduciary she was withdrawing her objection.

6. On Exhibit A of the Second Revised Plan of Distribution were listed claims to which the Intervenors had submitted objections to the Approved Amounts. On November 5, 2010, the Intervenors announced that any disputes with the Independent Fiduciary's Second Revised Plan of Distribution and Motion to Distribute Assets had been resolved and that said Intervenors had no objection to the approval of the Independent Fiduciary's Second Revised Plan of Distribution and Motion to Distribute Assets.

Based upon the recommendations of the Independent Fiduciary, the resolution of objections of the Intervenors, no objections received from the U.S. Secretary of Labor, and the record of the matter taken as a whole, the Court **OVERRULES** the Objection of Donna Schatz, **APPROVES** the Second Revised Plan of

Distribution of the Independent Fiduciary, and **GRANTS** the Motion of the Independent Fiduciary to distribute the assets of the Trust, and further **DIRECTS** the Independent Fiduciary as follows:

1. The Independent Fiduciary shall as soon as possible:
 - a) Implement payment of the recommended amounts of the Independent Fiduciary on to the claimants listed on Exhibit A of the Second Revised Plan of Distribution and Motion to Distribute Assets, totaling \$11,678.62;
 - b) Implement payment of all Approved Amounts to the Claimants listed on Exhibits B, C, and D, totaling \$239,525.17; and
 - c) Implement payment of amounts listed for late filed claims, totaling \$7,182.80.
2. Make all the distributions stated above on a pro-rata basis of available assets, after establishing a reserve of \$12,000 to defray all post distribution costs, as outlined in paragraphs 13, 15, and 16 of the Second Revised Plan of Distribution and Motion to Distribute Assets.

All unclaimed distributions shall be directed to the unclaimed property funds of the claimant's state of residence last known to the Independent Fiduciary. Upon the completion of the distribution of all funds and all checks have been cancelled, the Independent Fiduciary shall file with the Court a final accounting and request for discharge. If no objection is filed by any party or the Court within fifteen days of the Independent

Fiduciary's filing of her final accounting and request for discharge, the Independent Fiduciary's final accounting and request for discharge shall be deemed approved without further order of this Court.

Dated: November 22, 2010

/s/ Rudy Lozano
RUDY LOZANO, Judge
United States District Court

Submitted by: /s/ Jeanne B. Bryant
Jeanne B. Bryant (TN. BPR #5835)
Independent Fiduciary