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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

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R. ALEXANDER ACOSTA, Secretary of Labor, :  
United States Department of Labor, :

Plaintiff, :

v. :

STEVEN R. DEVORE BEST, THE :  
NEUROSCIENCE CENTER LLC and THE :  
NEUROSCIENCE CENTER LLC, DEFINED :  
BENEFIT PENSION PLAN, :

Defendants. :  
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CIVIL ACTION

Case No. 18-CV-03002

Judge Charles Norgle

**CONSENT ORDER AND JUDGMENT**

Plaintiff R. Alexander Acosta, Secretary of Labor, United States Department of Labor (“Secretary”), pursuant to the provisions of the Employee Retirement Income Security Act of 1974 (“ERISA”), as amended, 29 U.S.C. §1001, et seq., filed a Complaint against Defendants Steven R. Devore Best (“S. Best”), The Neuroscience Center LLC (the “Center”), and The Neuroscience Center LLC Defined Benefit Pension Plan (the “Plan”)<sup>1</sup>, alleging violations of ERISA §§ 403, 404, and 406 with respect to the Plan.

Defendants S. Best, the Center, and the Plan waive service of process of the Complaint and admit to the jurisdiction of this Court over them and the subject matter of this action.

The Secretary and Defendants agree to resolve all matters in controversy in this action between them (except for the imposition by the Secretary of any penalty pursuant to ERISA

<sup>1</sup> The Plan is named as a defendant herein pursuant to Federal Rule of Civil Procedure 19(a) solely to assure that complete relief can be granted.

§502(1), 29 U.S.C. § 1132(l), and any proceeding related thereto) and said parties do now consent to entry of a Consent Order and Judgment by this Court in accordance therewith.

Upon consideration of the record herein, and as agreed to by the parties, the Court finds that it has jurisdiction to enter this Consent Order and Judgment.

**IT IS THEREFORE ORDERED AND ADJUDGED** that:

1. Defendants S. Best and the Center are permanently enjoined and restrained from violating the provisions of Title I of ERISA, 29 U.S.C. §1001 *et seq.*

2. As of the date of the entry of this Consent Order and Judgment, Defendants S. Best and the Center are removed as fiduciaries of the Plan, and no longer serve as Plan Administrator or Trustee to the Plan.

3. Defendants S. Best and the Center are permanently enjoined from serving or acting as fiduciaries or service providers with respect to any employee benefit plan subject to ERISA.

4. Upon Defendants' execution of this Consent Order and Judgment, Defendants shall send a check or wire transfer in the amount of \$419,758.47, (the "settlement amount") to the Plan trust account No. 40121924 at Heartland Bank and Trust Company (routing no. 071112066) for the benefit of the Plan. Defendants shall provide the undersigned attorney for the Secretary with written proof that the settlement amount has been placed in the trust account of the Plan. Within five business days of the receipt of such notice, the executed Consent Order and Judgment will be submitted by the parties to the Court.

5. Defendants agree that they will not make any withdrawals or distributions from any Plan account or any Plan assets.

6. Lefoldt and Co., P.A., located at 690 Towne Center Blvd., P.O. Box 2848, Ridgeland, Mississippi 39158-2848, is hereby appointed as the independent fiduciary for the Plan. See Exhibit A attached hereto and made a part hereof.

7. The independent fiduciary shall take appropriate actions to locate each Plan participant or beneficiary to distribute to each such participant or beneficiary, with the exception of S. Best, the proceeds from his or her Plan account. S. Best shall receive no part of the \$419,758.47 referenced in paragraph 4 above.

8. Within thirty days of the date of entry of this Consent Order and Judgment, in accordance with ERISA, the independent fiduciary will initiate distribution of all Plan assets to the participants or beneficiaries with the exception of S. Best and will initiate termination of the Plan. In addition, the independent fiduciary shall file the final Plan Form 5500 prior to concluding its work.

9. The independent fiduciary, within sixty days of each distribution being finalized by the cashing of a distribution check or by the rollover of funds to an individual retirement account ("IRA"), shall provide the Employee Benefits Security Administration Regional Director, Chicago Regional Office, 230 S. Dearborn Street, Suite 2160, Chicago, Illinois 60604 ("Regional Director") with cancelled checks or IRA receipt confirmations verifying the payments made to or on behalf of each participant or beneficiary.

10. The independent fiduciary shall have full access to all data, information and calculations in the Plan's possession or under its control, including that information contained in the Defendants' records and records of the Plan's custodial trustees and other service providers, bearing on the distribution of benefit payments, participant account balances and current Plan assets.

11. The independent fiduciary may retain such persons and firms including but not limited to accountants and attorneys, as may be reasonably required to perform his duties hereunder.

12. For the services performed pursuant to this Consent Order and Judgment, the independent fiduciary shall receive compensation not to exceed \$4,968.75 for fees and expenses reasonably and necessarily incurred. The independent fiduciary's fees and expenses shall be paid by Defendants by placing \$4,968.75 in the Plan trust account at the time of execution of this Consent Order and Judgment. The \$4,968.75 referenced in this paragraph is in addition to the loss restoration set forth in paragraph 4 above.

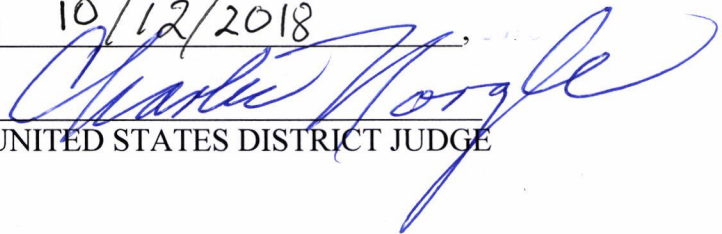
13. The independent fiduciary shall obtain bonding in an amount that meets the requirements of ERISA § 412, 29 U.S.C. §1112. The costs incurred by the independent fiduciary in obtaining such bonding shall be paid by Defendants and are included in the amount referenced in paragraph 12 above.

14. The independent fiduciary's appointment shall terminate upon the first to occur of: (1) removal by the Court; (2) its resignation after finding an acceptable replacement, agreed to by all the parties or the Court, providing notice to all parties to this matter, and approval by the Court to have the replacement independent fiduciary appointed; or (3) the liquidation or distribution of the Plan's assets and the completion of all related tasks.

15. Each party agrees to bear his or its own attorneys' fees, costs and other expenses incurred by such party in connection with any stage of this proceeding to date including, but not limited to, attorneys' fees which may be available under the Equal Access to Justice Act, as amended.

16. The Court shall maintain jurisdiction over this matter only for purposes of enforcing this Consent Order and Judgment.

17. Nothing in this Order is binding on any government agency other than the United States Department of Labor.

DATED 10/12/2018  
  
UNITED STATES DISTRICT JUDGE

The parties hereby consent to the entry of this Consent Order and Judgment:

FOR THE SECRETARY OF LABOR:

KATE S. O'SCANNLAIN  
Solicitor of Labor

CHRISTINE Z. HERI  
Regional Solicitor

\_\_\_\_\_  
MARGARET A. SEWELL  
Senior Trial Attorney  
Office of the Solicitor  
U.S. Department of Labor  
230 S. Dearborn St. Rm 844  
Chicago, IL 60604

DATED: \_\_\_\_\_

FOR THE DEFENDANTS:

\_\_\_\_\_  
STEVEN R. DEVORE BEST

DATED: \_\_\_\_\_

\_\_\_\_\_  
THE NEUROSCIENCE CENTER LLC

DATED: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
THE NEUROSCIENCE CENTER DEFINED  
BENEFIT PENSION PLAN

DATED: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
LEFOLDT & CO., P.A.  
INDEPENDENT FIDUCIARY

DATED: \_\_\_\_\_