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J.N. FILED

SEP 30 2005

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ELAINE L. CHAO, Secretary of Labor,)
United States Department of Labor,)
)
Plaintiff,)
)
vs.)
)
MICHAEL LINDER, et al.)
)
Defendants.)

CIVIL ACTION
CASE NO. 05 C 3812

JUDGE MORAN

MAGISTRATE ASHMAN

DEFENDANT THOMAS KISTING'S
ANSWER TO COMPLAINT

NOW COMES the Defendant, THOMAS KISTING (hereinafter "Defendant Kisting"), by and through his attorney, THOMAS O. MEYER of MEYER & HORNING, P.C., and in answer to the Complaint, states as follows:

Jurisdiction and Venue

1. That the Defendant Kisting admits the allegations contained in Paragraph 1 of Plaintiff's Complaint.
2. That the Defendant Kisting admits the allegations contained in Paragraph 2 of Plaintiff's Complaint.
3. That the Defendant Kisting is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of Plaintiff's Complaint, and therefore denies them.
4. That the Defendant Kisting admits the allegations contained in Paragraph 4 of Plaintiff's Complaint.

The Defendants

Joseph/Anthony and Associates, Inc.

5. That the allegations contained in Paragraph 5 of Plaintiff's Complaint are not directed to the Defendant Kisting, and therefore, he is without knowledge or information sufficient to form a belief as to the truth of said allegations.

Michael Linder

6. That the allegations contained in Paragraph 6 of Plaintiff's Complaint are directed to the Defendant Michael Linder, and therefore Defendant Kisting is without knowledge or information sufficient to form a belief as to the truth of said allegations.

Liz/Mar and Associates, Inc. and Elizabeth Linder

7. That the allegations contained in Paragraph 7 of Plaintiff's Complaint are directed to the Defendant Liz/Mar and Associates, Inc. and Elizabeth Linder, and therefore, Defendant Kisting is without knowledge or information sufficient to form a belief as to the truth of said allegations.

Local 136 Plan Trustee Fred Schrier

8. That the allegations contained in Paragraph 8 of Plaintiff's Complaint are directed to the Defendant Local 136 Plan Trustee Fred Schrier, and therefore, Defendant Kisting is without knowledge or information sufficient to form a belief as to the truth of said allegations.

Local 380 Plan Trustee Brian Diskin

9. That the allegations contained in Paragraph 9 of Plaintiff's Complaint are directed to Defendant Local 380 Plan Trustee Brian Diskin, and therefore Defendant Kisting is without knowledge or information sufficient to form a belief as to the truth of said allegations.

Local 498 Plan Administrator Thomas Kisting

10. That Defendant Kisting denies that all times he was the Plan Administrator for Local 498 Plans or that he had discretionary authority for the administrator and management of said plans or further that he was a fiduciary of said plans; Defendant Kisting affirmatively states that Defendant Joseph/Anthony and Associates, Inc. (JAA) was the Third Party Administrator at all relevant times.

The Named Plans

11. That Defendant Kisting is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of Plaintiff's Complaint.

COUNTS ONE – THIRTEEN

12-71. That the allegations contained in Counts One through Thirteen, Paragraphs 12 through 71 of Plaintiff's Complaint, are not directed to Defendant Kisting, and therefore, Defendant Kisting lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore, denies the same.

COUNT FOURTEEN

72-77. That the allegations contained in Count Fourteen, Paragraphs 72 through 77, are not directed at Defendant Kisting, and therefore, Defendant Kisting lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

78. That Defendant Kisting denies that he had knowledge or the Nationwide investment fees, and demands strict proof thereof.

79. That the allegations contained in Paragraph 79 of Count Fourteen are not directed at Defendant Kisting, and therefore, Defendant Kisting lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

COUNT FIFTEEN

80-82. That the allegations contained in Count Fifteen, Paragraphs 80 through 82, are not directed to Defendant Kisting, and therefore, Defendant Kisting lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

83. That Defendant Kisting denies the allegations contained in Paragraph 83 of Count Fifteen of Plaintiff's Complaint.

COUNT SIXTEEN

84-86. That the allegations contained in Count Sixteen, Paragraphs 84 through 86, are not directed to Defendant Kisting, and therefore, Defendant Kisting lacks knowledge or information sufficient to form a belief as to the truth of those allegations.

87. That Defendant Kisting denies the allegations contained in Paragraph 87 of Count Sixteen of Plaintiff's Complaint.

COUNT SEVENTEEN

88-92. That Defendant Kisting denies the allegations contained in Paragraphs 88 through 92 of Count Seventeen of Plaintiff's Complaint.

COUNT EIGHTEEN

93-97. That Defendant Kisting lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraphs 93 through 97 of Count Eighteen of Plaintiff's Complaint.

COUNT NINETEEN

98. That Defendant Kisting repeats his answers to Paragraphs 1 through 11 of Plaintiff's Complaint as his answers to Paragraph 98 of Count Nineteen and Plaintiff's Complaint.

99. That Defendant Kisting denies the allegations contained in Paragraph 99 of Count Nineteen of Plaintiff's Complaint and specifically denies that he accepted a gift from Defendant Linder to influence his actions.

100. That Defendant Kisting denies the allegations contained in Paragraphs 100 (a) and (b) of Count Nineteen of Plaintiff's Complaint.

101. That Defendant Kisting denies the allegations contained in Paragraph 101 of Count Nineteen of Plaintiff's Complaint.

COUNTS TWENTY – TWENTY-THREE

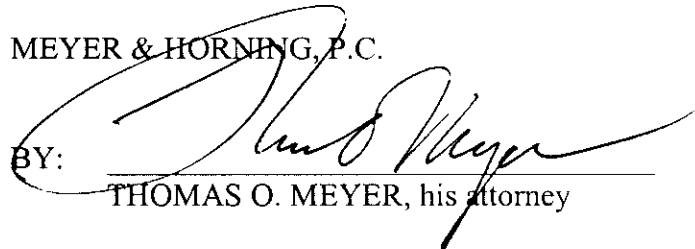
102-124. That Defendant Kisting lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraphs 102 through 124 of Count Twenty through Twenty-Three of Plaintiff's Complaint.

WHEREFORE, Defendant, THOMAS KISTING, prays that the Plaintiff's, ELAINE L. CHAO, Secretary of Labor, United States Department of Labor's, Complaint be dismissed and a Judgment be entered for the Defendant Kisting's costs of suit.

THOMAS KISTING, Defendant

MEYER & HORNING, P.C.

BY:



THOMAS O. MEYER, his attorney

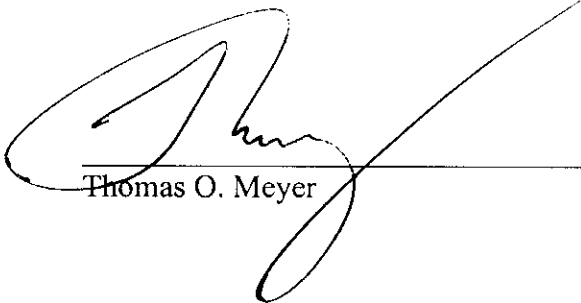
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CERTIFICATE OF SERVICE

The undersigned, an attorney of record, hereby certifies that he caused a copy of Defendant THOMAS KISTING's Answer to Plaintiff's Complaint to be served upon each of the following:

See attached Service List

via regular mail U.S. Postage prepaid at or about 5:00 p.m. on the 27th day of September, 2005.



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