

##-cv-#### (AAA) (AAA)

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**United States District Court**  
**DISTRICT OF COLUMBIA**

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**INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
LOCAL 808** and its members, individually, and on  
behalf of all those other Pension funds and their  
members so unfortunate as to be similarly at risk  
from the unscrupulous, unconscionable, and  
unprincipled practices of financial institutions which  
have received waivers from the United States  
Department of Labor, from the penalties  
attributable to their wrongdoing,

*Plaintiffs*

*-against-*

**EMPLOYEE BENEFITS SECURITY ADMINISTRATION and  
UNITED STATES DEPARTMENT OF LABOR,**

*Defendants*

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**VERIFIED CLASS ACTION COMPLAINT**

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## **VERIFIED COMPLAINT**

**INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 808 (“LOCAL 808”)** and its members, individually, and on behalf of all those other Pension funds and their members so unfortunate as to be similarly at risk from the unscrupulous, unconscionable, and unprincipled practices of financial institutions which have received waivers from the United States Department of Labor, from the penalties attributable to their wrongdoing, as and for their Verified Complaint against the Defendant herein, states and alleges as follows:

### **PRELIMINARY STATEMENT**

1. The Representative Plaintiffs bring this declaratory judgment action for equitable relief individually and on behalf of all <<>>
2. On January 15, 2025, United States Department of Labor (“DOL”) made an outrageous decision to give UBS and Credit Suisse (“CS”), its recent acquisition, yet another so-called QPAM waiver. This is the 14th such waiver in a row that UBS/Credit Suisse has received from DOL under its very forgiving system of Qualified Pension Asset Manager (“QPAM”) pseudo-regulation in spite of felony convictions for financial crimes since 1984. That is one-third of all the 43 such waivers that have ever been given by the US DOL to all of the world's financial institutions.

3. Clearly UBS and CS have a propensity to engage in dishonest, unscrupulous, deceitful, risky, and “dodgy” behavior that the DOL QPAM waiver system has failed to deter. Like the earlier waivers, this one will permit this giant Swiss bank to continue to advise US private pension funds through 2029.
4. CS has been convicted of for financial chicanery in poor countries like Mozambique and Angola, which are still suffering as a result. Ultimately CS failed and had to be swallowed by UBS in 2023.
5. The DOL has actively facilitated the actions of CS and UBS and present a sordid story of regulatory capture, financial chicanery, serial lying, revolving doors, and the chronic abuse of US pension funds, labor, and developing countries.
6. <<>>

### **PROCEDURAL HISTORY**

7. <<>>

### **JURISDICTION**

8. Employee Retirement Income Security Act of 1974, Public Law 93–406 29 U.S.C. §§ 1001, *et seq.*
9. <<>>

### **FEDERAL EQUITY JURISDICTION**

10. <<>>

### **CLASS ACTION ALLEGATIONS**

11. <<>>

12. This action may be properly maintained pursuant to the *Federal Rules of Civil Procedure* because it satisfies the requirements of numerosity, commonality, typicality and adequacy.

**Numerosity; Fed.R.Civ.P. 23(a)(1)**

13. The members of the class are sufficiently numerous that joinder of all of them as individual plaintiffs is impractical and would impose an unnecessary burden upon judicial resources.
14. <<>>

**Commonality Fed.R.Civ.P. 23(a)(2)**

15. There are multiple questions of fact and law common to members of the class including, but not limited to the following.
16. <<>>
17. Whether the DOL has a duty to protect the members of the Plaintiff Class from unnecessary and excessive risk in the management of their pension funds.

**Typicality Fed.R.Civ.P. 23(a)(3)**

18. Representative Plaintiffs' claims are typical of the claims of other members of the class in that all putative class members will be similarly affected by the actions and inaction of the Defendant.
19. Representative Plaintiffs' claims are typical of the claims of other members of the class in that all putative class members

will be similarly affected as a result of the unscrupulous, unconscionable, and unprincipled practices of financial institutions who have received United States Department of Labor QPAM waivers from the penalties attributable to their wrongdoing.

20. The claims of the Plaintiffs arise from the same policies, practices, and/or conduct of the Defendant.
21. The claims of the Plaintiffs depend upon the same theories of law.

#### **Adequacy Fed.R.Civ.P. 23(a)(4)**

22. The Representative Plaintiffs can and will fairly and adequately represent all the other plaintiffs and will protect the interests of the entire class.
23. That the Representative Plaintiffs have retained competent counsel to vigorously prosecute this action on behalf of class members.

#### **General support for class certification**

24. This action may be maintained and should be certified as a class-action under Rule 23(b)(1)(A) and (B) of the *Federal Rules of Civil Procedure* because the prosecution of separate claims or defenses by or against individual members of the class would create a risk of varying adjudications concerning individual members of the class which would establish incompatible standards of conduct for the party opposing the class and the adjudication concerning individual class

members of the class which would, as a practical matter, be dispositive of the interests of other members of the class who are not parties to the adjudications, or substantially impair or impede the ability of other members of the class who are not parties to the adjudication to protect their interest.

25. This action may be maintained and should be certified as a class-action because the egregious wrongful conduct of the Defendant affects the entire class and all its members, thereby making declaratory judgment and equitable relief affecting the entire class and all its members appropriate.
26. This action may be maintained and should be certified as a class action because common questions of law and fact predominate over questions of law and fact affecting individual members of the class.
27. This action may be maintained and should be certified as a class action because class representation is superior to other available methods for the fair and efficient adjudication of controversy.
28. This action may be maintained and should be certified as a class action because the individual class members are without sufficient economic resources to pursue individual litigation.
29. This action may be maintained and should be certified as a class action because individual lawsuits filed and maintained by each individual member of the class would unduly burden the courts and magnify the delay and expense for all parties.

30. This action may be maintained and should be certified as a class-action to allow a single court, located in the jurisdiction where the pension funds are located and their members may reside to provide a fair and equitable hearing of all the claims of the class members within a single forum.

**Fed. R. Civ. P. 23(b)(2)**

31. This action is also maintainable as a class action pursuant to Fed.R.Civ.P. 23(b)(2) because the elements of Plaintiffs' causes of action are common to and apply generally to all members of the Plaintiff Class, and the equitable and declaratory relief sought is appropriate and will apply to all members of the Plaintiff class.

**THE PLAINTIFF CLASS**

32. <<>>

**THE REPRESENTATIVE PLAINTIFF**

33. **International Brotherhood of Teamsters Local 808** represents Metro North workers and building service workers in New York. Metro North workers maintain tracks used by hundreds of thousands of weekly riders. Local 808 building service members work at various locations, including Stuyvesant Town, the largest apartment complex in Manhattan. Local 808 members have a long history of activism in civil rights.

34. <<>>

35. <<>>

**DEFENDANT UNITED STATES DEPARTMENT OF LABOR**

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38. According to information publicly posted on its website at  
<<>>

39. According to information publicly posted on its website at  
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40. <<>>

**Defendant DOL; Mission, Vision & Values**

41. According to information publicly posted on its website at  
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42. <<>>

43. <<>>

**EMPLOYEE RETIREMENT INCOME SECURITY ACT (“ERISA”)**

44. The goal of Title I of ERISA is to protect the interests of participants and their beneficiaries in employee benefit plans. Those who manage plans and other fiduciaries must meet certain standards of conduct, derived from the common law of trusts and made applicable with certain modifications to all fiduciaries.

45. ERISA covers retirement plans including traditional defined benefit pension plans and individual account plans such as 401(k) plans and welfare benefit plans (e.g., employment based

medical and hospitalization benefits, apprenticeship plans, and other plans described in section 3(1) of Title I).

46. DOL responsibilities under ERISA have been expanded by health care legislation. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) added a new part 6 to Title I of ERISA which provides for the continuation of health care coverage for employees and their beneficiaries (for a limited period of time) if certain events would otherwise result in a reduction in benefits. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) added a new Part 7 to Title I of ERISA aimed at making health care coverage more portable and secure for employees and gave the department broad additional responsibilities with respect to private health plans. These responsibilities were increased further with the enactment of the Newborns' and Mothers' Health Protection Act of 1996, the Mental Health Parity Act of 1996, the Women's Health and Cancer Rights Act of 1998, the Genetic Information Nondiscrimination Act of 2008, the Mental Health Parity and Addiction Equity Act of 2008, and the Children's Health Insurance Program Reauthorization Act. Most recently, the 2010 passage of the Patient Protection and Affordable Care Act (ACA) brought widespread health care reform. The ACA also provided EBSA with additional enforcement authority to protect workers and employers whose health benefits are provided through Multiple Employer Welfare Arrangements. Employee Benefits Security Administration (“EBSA”)

47. According to information publicly posted on its website at <https://www.dol.gov/agencies/ebsa/about-ebsa/about-us>

EBSA commits to educating and assisting more than 153 million workers, retirees, and their families covered by the benefit plans we oversee. This includes overseeing more than 801,000 private retirement plans, 2.6 million health plans, and 514,000 other welfare benefit plans, which collectively hold about \$14 trillion in assets. We also dedicate ourselves to serving plan sponsors and members of the employee benefits community.

48. According to information publicly posted on its website at <https://www.dol.gov/agencies/ebsa/about-ebsa/about-us>

EBSA's mission is to ensure the security of the retirement, health, and other job-based benefits of America's workers and their families. We accomplish this mission by developing effective regulations; assisting and educating workers, plan sponsors, fiduciaries, and service providers; and vigorously enforcing the law.

49. According to information publicly posted on its website at <https://www.dol.gov/agencies/ebsa/about-ebsa/about-us>

The Employee Benefits Security Administration (EBSA) is responsible for administering and enforcing the fiduciary, reporting and disclosure provisions of Title I of the Employee Retirement Income Security Act of 1974 (ERISA). Until February 2003, EBSA was known as the Pension and Welfare Benefits Administration (PWBA). Prior to January 1986, PWBA was known as the Pension and Welfare Benefits Program. At the time of this name change, the Agency was upgraded to a sub-cabinet position with the establishment of Assistant Secretary and Deputy Assistant Secretary positions.

The provisions of Title I of ERISA, which are administered by the U.S. Department of Labor, were enacted to address public concern that funds of private pension plans were being mismanaged and abused. ERISA was the culmination of a long line of legislation concerned with the labor and tax aspects of employee benefit plans. Since its enactment in 1974, ERISA has been amended to meet the changing retirement and health care needs of employees and their families. The role of EBSA has also evolved to meet these challenges.

The administration of ERISA is divided among the U.S. Department of Labor, the Internal Revenue Service of the Department of the Treasury (IRS), and the Pension Benefit Guaranty Corporation (PBGC). Title I, which contains rules for reporting and disclosure, vesting, participation, funding, fiduciary conduct, and civil enforcement, is administered by the U.S. Department of Labor. Title II of ERISA, which amended the Internal Revenue Code to parallel many of the Title I rules, is administered by the IRS. Title III is concerned with jurisdictional matters and with coordination of enforcement and regulatory activities by the U.S. Department of Labor and the IRS. Title IV covers the insurance of defined benefit pension plans and is administered by the PBGC.

As a result of the enactment of the Federal Employees' Retirement System Act of 1986 (FERSA), EBSA has fiduciary and auditing oversight of the Thrift Savings Plan that was established by this Act.

### **QUALIFIED, PROFESSIONAL ASSET MANAGER ("QPAM") PROGRAM**

50. The qualified professional asset manager programs of the DOL here is an exemption established under ERISA that provides

relief for a certain transactions involving employee benefit plans, and IRAs that would otherwise be prohibited under title I and Title II of ERISA and the Internal Revenue Code.

51. <<>>

52. <<>>

### **Regulatory history of the DOL; in general**

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54. <<>>

### **Regulatory history of the DOL; UBS**

55. <<>>

56. <<>>

### **Regulatory history of the DOL; Credit Suisse**

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58. <<>>

### **THE FACTS GIVING RISE TO THIS ACTION**

59. <<>>

60. <<>>

### **ECONOMIC IMPACT OF DOL POLICIES AND PRACTICES**

61. <<>>

62. <<>>

63. <<>>

## **THE PLAINTIFFS' COMPLAINTS**

64. <<>>

65. <<>>

## **THE CAUSES OF ACTION**

66. <<>>

67. <<>>

## **INJURIES AND DAMAGES**

68. <<>>

69. <<>>

### **Special economic damage**

70. <<>>

71. <<>>

## **IMMINENT DANGER OF SERIOUS, PERMANENT AND IRREPARABLE ECONOMIC DAMAGE TO THE PENSIONS SYSTEMS OF AMERICAN WORKERS**

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73. <<>>

### **Serious damage**

74. <<>>

### **Permanent damage**

75. <<>>

## **Irreparable damage**

76. <<>>

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**PRAYER FOR RELIEF**

WHEREFORE the Representative Plaintiff/Plaintiffs seek judgment:

DECLARING the rights of the Plaintiffs <<>>

PROHIBITING Defendant United States Department of Labor <<>>

All together with such other and further relief as this Court shall deem just, proper and equitable under the circumstances including the attorneys' fees incurred in bringing this action.

DATED AT: <<>>, NY  
January 31, 2025

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**REPRESENTATIVE PLAINTIFF’S VERIFICATION**

State of <<>>  
County of <<>> } *ss:*

The undersigned, being duly sworn, deposes and says that he has been duly authorized by the <<Representative Plaintiff Pension Fund>> to execute this verification on behalf of the <<Representative Pension Fund>>, in this action.

That I have read the foregoing Complaint and that I believe the allegations therein to be true.

<<Representative Plaintiff Pension Fund>>

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

<<Title>>

Sworn to before me, this                   <sup>th</sup> day of January, 2025

<<Notary Public>>