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7
8 UNITED STATES DISTRICT COURT

9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 GIL CROSTHWAITE and RUSS BURNS, in their
 respective capacities as Trustees of the
 11 OPERATING ENGINEERS’ HEALTH AND
 WELFARE TRUST FUND, et al.,

Case No.: C10-0151 SC

**STIPULATION FOR ENTRY OF
JUDGMENT; [~~PROPOSED~~] ORDER**

12 Plaintiffs,

13 v.

14 PAUL T. BECK CONTRACTORS, INC., a
 15 California corporation; JAMES RAY BECK,
 individually, and *dba* JRB GRADING & PAVING
 16 *aka* JRB GRADING & PAVING, LLC., a Limited
 Liability Company,

17 Defendants.
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 20 Plaintiffs GIL CROSTHWAITE and RUSS BURNS, in their respective capacities as
 21 Trustees of the OPERATING ENGINEERS’ HEALTH AND WELFARE TRUST FUND,
 22 PENSION TRUST FUND FOR OPERATING ENGINEERS, PENSIONED OPERATING
 23 ENGINEERS’ HEALTH AND WELFARE FUND, OPERATING ENGINEERS AND
 24 PARTICIPATING EMPLOYERS PRE-APPRENTICESHIP, APPRENTICE AND
 25 JOURNEYMEN AFFIRMATIVE ACTION TRAINING FUND, HEAVY AND HIGHWAY
 26 COMMITTEE; and OPERATING ENGINEERS LOCAL 3 (hereinafter collectively referred to as
 27 “Plaintiffs”) and Defendant PAUL T. BECK CONTRACTORS, INC., a California corporation,
 28 stipulate and agree as follows:

1 1. Plaintiffs brought the above-captioned consolidated action against Defendant Paul
2 T. Beck Contractors, Inc. In this consolidated action, Plaintiffs sought the following:

3 a. In case number C10-0151 SC, Plaintiffs sought the payment of delinquent
4 contributions balances of \$120,791.18, interest of at least \$29,233.03, and liquidated damages of
5 \$12,742.03 due from reported hours during the period of May 2009 through December 2009, and
6 delinquent interest of at least \$5,661.91 and liquidated damages of \$21,136.19 due from reported
7 hours paid late during the period of November 2008 through April 2009, pursuant to Section 502
8 of the Employee Retirement Income Security Act, as amended (hereinafter “ERISA”) (29 U.S.C. §
9 1132) and Section 301 of the Labor Management Relations Act (hereinafter “LMRA”) (29 U.S.C.
10 § 185.) Plaintiffs also sought attorneys’ fees and costs incurred in connection with this action; that
11 this Court issue an Order directing and permanently enjoining Defendants to submit to the Trust
12 Funds, all reports and contributions due and owing by Defendants, plus interest, attorneys’ fees,
13 and costs as provided in ERISA sections 502(a)(3) and (g)(2) (29 U.S.C. § 1132(a)(3), (g)(2)); that
14 this Court issue an Order permanently enjoining Defendants for so long as they remain obligated
15 to contribute to the Trust Funds, from failing, neglecting, or refusing to timely submit required
16 monthly contributions reports and payments as required by the terms of the collective bargaining
17 agreements, Trust Agreements and ERISA sections 502(a)(3) and (g)(2), (29 § 1132(a)(3), (g)(2));
18 that Defendants be ordered to submit to an audit between Plaintiffs and Defendants; and that this
19 Court retain jurisdiction of this matter to enforce the Order compelling an Audit and payment of
20 all amount found due and owing.

21 2. The Parties are desirous to settle this action and hereby stipulate and agree to settle
22 this action under the terms set forth below. This Stipulation for Entry of Judgment memorializes
23 the terms agreed to by the Parties; to the extent that it differs from or varies from any previous
24 writing between the Parties relating to the matters resolved herein, this Stipulation for Entry of
25 Judgment shall supersede and replace such other communications and/or agreements.

26 3. Defendant PAUL T. BECK CONTRACTORS, INC., a California corporation,
27 agrees to have a Judgment entered against it as follows:

28 a. Judgment is entered against Defendant Paul T. Beck Contractors, Inc. and

1 in favor of the Plaintiffs in the amount of \$204,866.09, consisting of \$120,791.18 in delinquent
2 contributions for hours worked by Paul T. Beck Contractors, Inc., plus \$34,874.94 in interest,
3 \$33,878.22 in liquidated damages, \$14,493.00 in attorneys' fees, and \$828.75 in costs.

4 4. The Parties further acknowledge that by entering into this Stipulation, Plaintiffs in
5 no way waive their right to conduct an audit for the period of time covered by this action or to
6 seek payment of any contributions found due from such an audit.

7 5. It is further stipulated and agreed this Stipulation for Entry of Judgment shall be
8 binding on all Defendant Paul T. Beck Contractors, Inc.'s successors, heirs, and assigns regardless
9 of whether Defendants change the name or style or address of the business. This Stipulation for
10 Entry of Judgment shall not be binding on David Beck as an individual.

11 6. The provisions set forth in this Stipulation for Entry of Judgment are not in
12 violation of any state or federal law. However, if any portion of this Stipulation for Entry of
13 Judgment is found to be in violation of any state or federal law, Defendant Paul T. Beck
14 Contractors, Inc. agrees to have judgment entered against it in the manner outlined in Paragraph 3.

15 7. The Parties acknowledge they have each had the opportunity to be represented by
16 independent legal counsel of their own choice throughout all of the negotiations that preceded the
17 execution of this Stipulation for Entry of Judgment. Plaintiffs and Defendant Paul T. Beck
18 Contractors, Inc. further acknowledge that they have had adequate opportunity to perform
19 whatever investigation or inquiry each deemed necessary in connection with the subject matter of
20 this Stipulation for Entry of Judgment prior to its execution, and agree with the delivery and
21 acceptance of the considerations specified in this Stipulation for Entry of Judgment.

22 8. This Stipulation for Entry of Judgment may be executed in counterparts.

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