

JAN 2 10 2010

United States District Court, Northern District of Illinois



Name of Assigned Judge or Magistrate Judge	Wayne R. Andersen	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	07 C 2520	DATE	1/19/2010
CASE TITLE	Hancock et al vs. J & F Hauling, Inc.		

DOCKET ENTRY TEXT

Enter revised consent decree.

[For further detail see separate order(s).] Docketing to mail notices.

FILED
 2010 JAN 20 AM 8:05
 U.S. DISTRICT COURT

	Courtroom Deputy Initials: <i>TSA</i>
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TERRENCE J. HANCOCK, <i>et al.</i> ,)	
)	
Plaintiffs,)	CIVIL ACTION
)	
vs.)	NO. 07 C 2520
)	
J & F HAULING, INC.,)	JUDGE WAYNE ANDERSEN
an Illinois corporation,)	
)	
Defendant.)	

REVISED CONSENT DECREE

This matter coming to be heard upon Complaint of the Plaintiffs, Teamsters Local 731 Welfare Fund, *et al.*, (hereinafter referred to as the "Funds") and Defendant, J & F Hauling, Inc., an Illinois corporation (hereinafter referred to as "J & F"), having been served with a Summons and Complaint, the parties have reached a compromise and consent to the entry of this Consent Decree. The Court being fully advised in the premises of this matter enters the following findings and Consent Decree.

1. This Court has jurisdiction over the subject matter herein and the parties to this Consent Decree.
2. The Funds are fiduciaries within the meaning of ERISA, administered within this District. J & F is bound by the terms of a collective bargaining agreement between it and the Teamsters Local 731 Union and all incorporated trust documents that govern the Funds.

3. Pursuant to the terms governing the collective bargaining agreement and trust documents, J & F is obligated to submit monthly reports and benefit contributions to the Funds by the 20th day of the month following the month in which its employees performed work covered by the collective bargaining agreement.

4. Pursuant to the governing collective bargaining agreement and trust documents and Section 502(g) of ERISA, 29 U.S.C. §1132(g), the Funds are entitled to recover the costs and expenses of the Trustees to the Funds, including liquidated damages, attorneys' fees and any court costs expended in the matter. The Funds conducted a payroll audit of the company's books and records for the time period of January 1, 2004 through March 31, 2007. After application of contribution payments and deletion of certain amounts picked up in the audit on behalf of "Jay Butler" to represent landfill charges and sums paid for dumping fees, the Funds have determined that J & F owes \$28,326.00 to the Funds for this audit.

5. J & F agrees to pay the Funds a total of \$28,326.00, due per the above audit, according to the following payment schedule:

Month	Payment Amount (*see below)
January 15, 2010	\$500.00 + interest
February 15, 2010	\$500.00 + interest
March 15, 2010	\$500.00 + interest
April 15, 2010	\$500.00 + interest
May 15, 2010	\$500.00 + interest
June 15, 2010	\$500.00 + interest
July 15, 2010	\$500.00 + interest
August 15, 2010	\$500.00 + interest

Month	Payment Amount (*see below)
September 15, 2010	\$500.00 + interest
October 15, 2010	\$500.00 + interest
November 15, 2010	\$500.00 + interest
December 15, 2010	\$500.00 + interest
January 15, 2011	\$500.00 + interest
February 15, 2011	\$500.00 + interest
March 15, 2011	\$500.00 + interest
April 15, 2011	\$500.00 + interest
May 15, 2011	\$500.00 + interest
June 15, 2011	\$500.00 + interest
July 15, 2011	\$500.00 + interest
August 15, 2011	\$500.00 + interest
September 15, 2011	\$500.00 + interest
October 15, 2011	\$500.00 + interest
November 15, 2011	\$500.00 + interest
December 15, 2011	\$500.00 + interest
January 15, 2012	\$500.00 + interest
February 15, 2012	\$500.00 + interest
March 15, 2012	\$500.00 + interest
April 15, 2012	\$500.00 + interest
May 15, 2012	\$500.00 + interest
June 15, 2012	\$500.00 + interest
July 15, 2012	\$500.00 + interest
August 15, 2012	\$500.00 + interest
September 15, 2012	\$500.00 + interest

Month	Payment Amount (*see below)
October 15, 2012	\$500.00 + interest
November 15, 2012	\$500.00 + interest
December 15, 2012	\$500.00 + interest
January 15, 2013	\$500.00 + interest
February 15, 2013	\$500.00 + interest
March 15, 2013	\$500.00 + interest
April 15, 2013	\$500.00 + interest
May 15, 2013	\$500.00 + interest
June 15, 2013	\$500.00 + interest
July 15, 2013	\$500.00 + interest
August 15, 2013	\$500.00 + interest
September 15, 2013	\$500.00 + interest
October 15, 2013	\$500.00 + interest
November 15, 2013	\$500.00 + interest
December 15, 2013	\$500.00 + interest
January 15, 2014	\$500.00 + interest
February 15, 2014	\$500.00 + interest
March 15, 2014	\$500.00 + interest
April 15, 2014	\$500.00 + interest
May 15, 2014	\$500.00 + interest
June 15, 2014	\$500.00 + interest
July 15, 2014	\$500.00 + interest
August 15, 2014	\$500.00 + interest
September 15, 2014	\$326.00 + interest
TOTAL	\$28,326.00 + interest

*** Payments will include accrued interest at the rate of prime +2%. Prime shall be determined at the time of payment.**

6. Payments shall be made payable by check to the "Teamsters Local 731 Fringe Benefit Funds" and sent to Funds' counsel, Baum Sigman Auerbach & Neuman, Ltd., 200 West Adams Street, Suite 2200, Chicago, Illinois 60606, so that Fund Counsel receives such payment on or before the indicated due date.

7. J & F agrees that it must remain current with respect to its submission of monthly reports and fringe benefit contributions that may accrue throughout the period of the above payment schedule, referenced above, should J & F begin to do covered work.

8. In the event that J & F fails to timely submit payments as agreed to above or fails to submit current reports and contributions as they may become due during the pendency of this schedule, J & F agrees that it shall be considered in violation of the Consent Decree. In such event, J & F consents to the entry of judgment against it for all unpaid installments due under the agreement, all contributions which may be due according to subsequently submitted reports, and all of the Funds' reasonable attorneys' fees and court costs incurred.

9. As long as J & F is in compliance with the payments outlined in Paragraph 5 above, it may satisfy the judgment in full by paying $\frac{1}{2}$ of the then-current balance (including interest, as specified above) owed.

10. It is further understood and acknowledged between the parties nothing contained herein limits or modifies the right of the Funds' to audit the payroll books and records of J & F at such future time as in the course of their regular audit program a new audit may be requested, nor do the terms of this Consent Decree limit or modify the Funds' right to recover from J & F any

additional contributions or liquidated damages which may become due or which may be found to have been due as a result of an audit for any time period not audited.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:


- A. That the Plaintiffs, Teamsters Local 731 Welfare Fund, *et al.*, recover from the Defendant, J & F Hauling, Inc., contributions, liquidated damages and attorneys' fees in the amount of \$28,326.00.
- B. That the Defendant must submit fringe benefit reports and contributions to the Funds as required by the governing collective bargaining agreement and related trust documents that govern the Funds should J & F Hauling, Inc. begin to do covered work.
- C. In the event J & F Hauling, Inc. violates the terms of this Consent Decree, Plaintiffs are entitled to immediate execution of the amount of the judgment plus all contributions and liquidated damages due according to any subsequently submitted reports, and Plaintiffs' reasonable attorneys' fees and court costs incurred during the litigation of this matter.

DATE: January 19, 2010

ENTERED: Wayne Andersen
JUDGE WAYNE ANDERSEN

WE HEREBY AGREE TO THE ENTRY OF THIS CONSENT DECREE:

J & F Hauling, Inc.

By: 
James Fergelec, president

Respectfully submitted,

Respectfully submitted,

/s/ Jennifer L. Dunitz-Geiringer
One of the Attorneys for the Plaintiffs

/s/ Mark C. Gross
One of the Attorneys for the Defendant

Jennifer L. Dunitz-Geiringer
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CERTIFICATE OF SERVICE

The undersigned, an attorney of record, hereby certifies that on Tuesday, the 12th day of January 2010, she electronically filed, **Revised Consent Decree**, with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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E-Mail: mgross@gbllc.net

/s/ Jennifer L. Dunitz-Geiringer

Name and Address of Attorney for the Plaintiffs:

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