



or "CBA") with the Construction and General Laborers' District Council of Chicago and Vicinity (the "Union") since at least January 28, 2003, as shown by the exhibit at Tab B in the Funds' Appendix in support of their motion for partial summary judgment ("Tab \_\_\_"), which is a true and correct copy of the "short form" Agreement between Eagle America and the Funds, on file with the Funds.

4. The Funds' Tabs C and D are copies of the master collective bargaining agreements between the Union and the Builders' Association of Greater Chicago (incorporated by reference into the short form collective bargaining agreement, Tab B, ¶ 2) for the periods June 1, 2001- May 31, 2006, and June 1, 2006 - May 31, 2010 respectively.

5. The Funds' Tab E is a copy of the declaration of trust creating the Laborers' Welfare Fund of the Health and Welfare Department of the Construction and General Laborers' District Council of Chicago and Vicinity, and amendments thereto. The Funds' Tab F is a copy of the declaration of trust creating the Laborers' Pension Fund, and amendments thereto.

6. The Funds have been duly designated to serve as collection agents for Construction and General Laborers' District Council of Chicago and Vicinity Training Fund, Construction Industry Service Corporation ("CISCO"), the Laborers' District Council Labor Management Cooperation Committee ("LDC/LMCC"), the Laborers' Employers' Cooperation & Education Trust ("LECET") the Laborers' Employers' Cooperation & Education Trust ("LECET"), the Concrete Contractors Association of Greater Chicago ("CCA") and Chicago Area Independent Construction Association ("CAICA"), to act as collection agent for those funds, and as agent of the Union for the purposes of collecting union dues deducted from employees' wages.

7. The Funds' designated auditors from the accounting firm of Bansley and Kiener, L.L.P., conducted a payroll audit of the Company's records for the period from June 1, 2004 through June 30, 2007 and prepared a report reflecting contributions that the auditors found are owed to the Funds ("June 2004 Report"). For that period, the audit report indicates that Pension, Health and Welfare, Training, LDCLMCC, CCA, CAICA, LECET and CISCO Fund contributions, and Union dues are owed in the amount of \$7,544.57. (See Tab H).

8. The Funds' designated auditors from the accounting firm of Bansley and Kiener, L.L.P., conducted a payroll audit of the Company's records for the period from July 1, 2007 through

February 29, 2008 and prepared a report reflecting contributions that the auditors found are owed to the Funds ("July 2007 Report"). For that period, the original audit report indicates that Pension, Health and Welfare, Training, LDCLMCC, CCA, CAICA, LECET and CISCO Fund contributions, and Union dues are owed in the amount of \$27,463.00. (See Tab G).

9. The Company is bound by the Agreement and Declaration of Trust creating the Amended Health and Welfare Department of the Construction and General Laborers' District Council of Chicago and Vicinity and the amendments attached thereto, and the Restated Agreement and Declaration of Trust Creating the Laborers' Pension Fund. The respective Agreements and Declarations of Trust of the Laborers Funds, to which the Company is bound, as well as the policies and rules adopted by the Trustees of the Funds pursuant to those Agreements and Declarations of Trust, require that the Company pay liquidated damages in the amount of 10 percent of the principal amount of delinquent contributions prior to June 1, 2007, liquidated damages in the amount of 20 percent of the principal amount of delinquent contributions on and after June 1, 2007, and interest at a rate of prime plus 2 percent, as charged by Chase Bank, on all delinquent amounts owed from the date of delinquency forward. On the original audit, for the period of July 1, 2008 through February 29, 2009, liquidated damages are owed in the amount of \$5,304.97, accumulated penalties are owed in the amount of \$6,791.47, and interest is owed in the amount of \$1,546.46 through January 22, 2009. For the period of June 1, 2004 through June 30, 2007, liquidated damages are owed in the amount of \$1,196.93, and interest is owed in the amount of \$1,242.38 through December 17, 2009. (See attached Exhibit 1).

10. In the interest of resolving this matter, the Funds have revised down the July 1, 2008 - February 29, 2008 audit to reflect the number of unreported hours found by the Company's internal audit for this time period. As a result, for that period, Pension, Health and Welfare, Training, LDCLMCC, CCA, CAICA, LECET and CISCO Fund contributions, and Union dues are owed in the amount of \$17,169.58. Also, for the revised audit period of July 1, 2008 through February 29, 2009, liquidated damages are owed in the amount of \$3,301.23, accumulated penalties are owed in the amount of \$6,791.47, and interest is owed in the amount of \$1,786.62 through December 18, 2009. (See attached Exhibit 1).

10. Audit costs for the work performed by Bansley and Kiener, LLP, charged to the

Laborers' Funds in this matter are \$3,448.85.

11. The Funds have received no payment toward the amounts shown in the June 1, 2004 Report or the July 1, 2007 Report.

12. The respective Agreements and Declarations of Trust of the Laborers' Funds, to which the Company is bound, require that it maintain a bond in the amount of \$5,000.00 to guarantee payment of contributions to the Laborers' Funds. The Company does not currently maintain such a bond and the Funds do not have a bond on file for the Company.

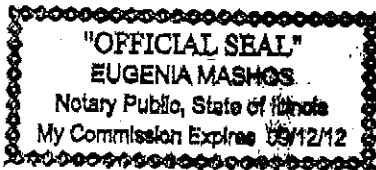
FURTHER AFFLIANT SAYETH NOT.

*Joseph Gilleran*

\_\_\_\_\_  
Joseph Gilleran

Subscribed and sworn to before me  
this 17<sup>th</sup> day of January 2010

*Eugenia Mashos*  
\_\_\_\_\_  
NOTARY PUBLIC



REVISED  
AUDIT

EMPLOYER EAGLE AMERICA CORP CODE 11353

FOLLOWING ARE THE FIGURES OWED BY THE ABOVE MENTIONED CONTRACTOR AS A RESULT OF THE AUDIT.

	HOURS	WELFARE	RATE	PENSION	RATE	TRAINING	FUND	RATE	DUES	LDCLMCC	RATE	CCA	RATE	CAICA	RATE	LECJET	RATE	CISCO	RATE	TOTAL	
7-1-07-2-29-08 ADDITIONAL HOURS	1,142.23	9,103.57	7.97	6,487.87	5.68	251.29	0.22	1,041.29	137.07	0.12	79.96	0.07	-	-	-	68.53	0.06	-	-	17,169.5	
<u>MEN NOT REPORTED</u>																					
SUBTOTAL	1,142.23	9,103.57		6,487.87		251.29		1,041.29	137.07		79.96					68.53				17,169.58	
10% PENALTIES																					132.69
20% PENALTIES		1,820.71		1,297.57		50.26		104.13	13.71		8.00					6.85					3,168.54
AUDIT COSTS		960.68		960.67																	1,921.35
ATTORNEY FEES																					
ACCUM. PENALTIES		3,855.24		2,655.29				280.94													6,791.47
INTEREST		1,008.48		718.70		27.85			15.16		8.84					7.59					1,786.62
TOTAL DUE		16,748.68		12,120.10		329.40		1,426.36	165.94		96.80					82.97					30,970.25

AUDIT

EMPLOYER EAGLE AMERICA CORP. CODE 11353

FOLLOWING ARE THE FIGURES OWED BY THE ABOVE MENTIONED CONTRACTOR AS A RESULT OF THE AUDIT.

	HOURS	WELFARE	RATE	PENSION	RATE	TRAINING		DUES	LDCLMCC	RATE	CCA	RATE	CAICA	RATE	LECBT	RATE	CISCO	RATE	TOTAL
						FUND	RATE												
6-1-04-6-30-07	244.00	1,673.84	6.86	961.36	3.94	41.48	0.17	52.23	11.88	0.12	6.93	0.07	-	-	5.94	0.06	-	-	2,753.66
ADDITIONAL	319.00	2,542.43	7.97	1,811.92	5.68	70.18	0.22	286.63	38.28	0.12	22.33	0.07	-	-	19.14	0.06	-	-	4,790.91
HOURS																			
6-1-05-5-31-06																			
6-1-07-6-30-07																			
MEN NOT REPORTED																			
	563.00	4,216.27		2,773.28		111.66		338.86	50.16		29.26				25.08				7,544.57
10% PENALTIES		167.38		96.14		4.15		33.89	5.02		2.93				2.51				312.02
20% PENALTIES		508.49		362.38		14.04													884.91
AUDIT COSTS		763.75		763.75															1,527.50
ATTORNEY FEES																			
SHORTAGES																			
ACCUM. PENALTIES																			
ACCUM. INTEREST		737.49		469.78		19.21			7.59		4.42				3.89				1,242.38
TOTAL DUE		6,393.38		4,465.33		149.06		372.75	62.77		36.61				31.48				11,511.38