

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

LABORERS' PENSION FUND and
LABORERS' WELFARE FUND OF THE
HEALTH AND WELFARE DEPARTMENT
OF THE CONSTRUCTION AND GENERAL
LABORERS' DISTRICT COUNCIL OF
CHICAGO AND VICINITY, JAMES S.
JORGENSEN, Administrator of the Funds,

Plaintiffs,

v.

WILL COUNTY RECYCLING, INC.,
Defendants.

Case No. 08 C 3586

Judge Manning

AFFIDAVIT OF JOSEPH GILLERAN

STATE OF ILLINOIS
COUNTY OF COOK

Joseph Gilleran being first duly sworn on oath, deposes and states as follows:

1. I am a Field Representative employed by the Laborers' Pension Fund and Laborers' Welfare Fund of the Health and Welfare Department of the Construction and General Laborers' District Council of Chicago and Vicinity (the "Laborers' Funds"), the plaintiffs in the above referenced action. My responsibilities include oversight of the collection of amounts owed by Will County Recycling, Inc. This affidavit is submitted in support of the Laborers' Funds' motion for a default and a prove up of damages.

2. Will County Recycling, Inc., has been a signatory employer since September 25, 2006, as reflected by the Funds' records and is shown in the collective bargaining agreement which is attached to the Complaint as Exhibit A, which is a true and correct copy of the agreement between the Company and the Construction and General Laborers' District Council of Chicago and Vicinity and its affiliated local ("Union"), on file with the Funds.

3. The Company submitted its books and records to the Funds' designated auditors from the firm of Levinson, Simon & Sprung, P.C., who prepared an audit report reflecting unpaid contributions owed for the period from November 1, 2007 through August 31, 2008. The report shows that the principal contributions are owed to the Welfare, Pension, Training, LDCLMCC, LECET funds, and for Union dues in the total amount of \$2,616.99. A copy of the audit report is attached to plaintiffs' Motion for Default Judgment as Exhibit B.

4. The respective Agreements and Declarations of Trust of the Laborers Funds, to which Will County Recycling, Inc., is bound require payment of liquidated damages in the amount of 20 percent of the principal amount of delinquent contributions to the Welfare, Pension and Training funds. Therefore, liquidated damages are owed in the amount of \$485.45 based on delinquent contributions to those funds. The same agreements establish that liquidated damages are due the amount of 10 percent of the principal amount of delinquent contributions to the LDCLMCC, LECET funds, and for Union dues. Therefore, liquidated damages are owed in the amount of \$18.98 based on delinquent contributions to those funds and Union dues. Interest is owed at the rate of prime plus two percent as charged by Chase Bank on all delinquent amounts owed from the date of the delinquency forward. Therefore, interest is owed in the amount of \$111.37.

5. The respective Agreements and Declarations of Trust of the Laborers' Funds, to which Will County Recycling, Inc. is bound, require that it maintain a bond in the amount of \$5,000.00 to guarantee payment of contributions to the Laborers' Funds. Will County Recycling, Inc. does not currently maintain such a bond.

6. Audit costs for the work performed by Levinson, Simon & Sprung, P.C. charged to the Laborers' Funds in this matter are \$1,067.97. The respective Agreements and Declarations of Trust of the Laborers' Funds, to which Will County Recycling, Inc. is bound, require that it pay these audit costs.

7. The respective Agreements and Declarations of Trust of the Laborers' Funds, to which Will County Recycling, Inc. is bound, require that it report and pay monthly contributions to the plaintiff Funds based on each hour worked by covered employees. Will County Recycling, Inc. has not reported hours worked by covered employees for the period of September 1, 2008 the present, or paid any contributions that may be owing based on those reports.

FURTHER AFFIANT SAYETH NOT.

*Joseph Gilleran*  
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Joseph Gilleran

Subscribed and sworn to before me  
this 24 day of November 2008.

*Susan M. DiForti*  
NOTARY PUBLIC

