

Exhibit E

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

PAINTERS DISTRICT COUNCIL NO. 14,)	
a labor organization,)	
)	No. 08-C-4984
Plaintiffs,)	
)	Judge James B. Moran
v.)	
)	Magistrate Judge Keys
DESTINY DECORATORS, INC., an)	
Illinois corporation,)	
)	
Defendants.)	

AFFIDAVIT OF ANDREW PERCH

ANDREW PERCH, upon being first sworn on oath states as follows:

1. I am a business representative and was the Secretary of the Joint Trade Board that was convened on January 16, 2008, January 30, 2008, and February 20, 2008.
2. The Joint Trade Board issued a decision on May 15, 2008. A true, accurate and genuine copy of that Decision and Award is attached as Exhibit 1.
3. The Joint Trade Board's Decision and Award ordered Destiny Decorators, Inc. to pay back wages and fines of a certain amount if paid on or before June 30, 2008. If payment in full was not received by that date the amount increased to a total of \$49,400.00.
4. As of the date of the signing of this Affidavit, Destiny Decorators, Inc. has not paid any of the above amount that the Joint Trade Board ordered must be paid.
5. The Collective Bargaining Agreement, to which Destiny Decorators, Inc. is a signatory, also imposes the duty to pay attorneys' fees and costs upon Destiny Decorators, Inc. in the event that there is any action to enforce the Decision and Award.
6. I am competent to testify to the truth of the foregoing statements.

FURTHER AFFIANT SAYETH NOT.





Andrew Perch

SUBSCRIBED AND SWORN TO
before me this 14 day
of October 2008



Notary Public

Exhibit 1

**PAINTING & DECORATING CONTRACTORS' ASSOCIATION
 PAINTERS' DISTRICT COUNCIL NO. 14
 JOINT TRADE BOARD**

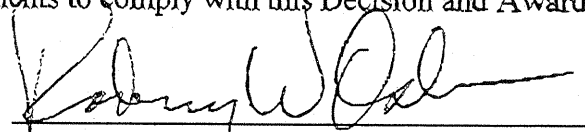
In the Matter of:)	
)	
Destiny Decorators, Inc.)	
)	07 C 03
)	
and)	
)	
Painters' District Council)	
No. 14,)	

NOTICE OF DECISION AND AWARD

To: Destiny Decorators, Inc., c/o its president
 Daniel McDuffie
 723 West 129th Place
 Chicago, IL 60628
 Fax (773) 995-1592
 Via Certified Mail RRR, Fax and First Class Mail

PLEASE TAKE NOTICE that on January 16, 2008, pursuant to proper Notice, the Joint Trade Board (the "Board") convened for a hearing. At the request of the Respondent, the Board continued the hearing until January 30, 2008, to allow for a Certified Court Reported to make a transcript of the hearing. Following the taking of testimony from several witnesses on January 30, 2008, the Board continued the hearing again for the taking of additional testimony from additional witnesses until February 20, 2008. At the close of the hearing on February 20, 2008, the parties agreed to a briefing schedule requiring any and all briefs to be submitted to the Board within fourteen (14) days after the delivery of the transcript of the February 20, 2008 hearing. Said transcript having been delivered to both the Union's and the Contractor's Counsel on March 11, 2008, briefs were due and filed on March 26, 2008. On April 8, 2008, the Board met to discuss the case, the testimony, exhibits and Briefs of Counsel regarding the case and agreed upon a Decision and Award, a copy of which was reduced to writing by the Contractors' Counsel for the Board and submitted to the Board for review and approval. A copy of the Board's Decision and Award is attached.

The Decision and Award is final and binding on all parties. You or your counsel are invited to contact the Union's attorneys, ARNOLD & KADJAN, 19 W. Jackson Blvd., Suite 300, Chicago, IL 60604 (312-236-0415) in order to make arrangements to comply with this Decision and Award.



Rodney W. Osborne
Counsel for the PDCA/FCAC
Ekroth & Osborne, Ltd.
15 Salt Creek Lane, Ste., 122
Hinsdale, IL 60521
Fax (630) 850-9015

MAY 21 2008

cc: Frank Avila, Esq.
Avila & Tomic, LLC
227 West Monroe Street, 20th Floor
Chicago, IL 60606
Fax (312) 762-5929
Via Certified Mail RRR and Fax

**PAINTING & DECORATING CONTRACTORS ASSOCIATION
PAINTERS DISTRICT COUNCIL NO. 14
JOINT TRADE BOARD**

In the Matter of:)	
)	
Destiny Decorators, Inc.)	
)	07 C 03
and)	
)	
Painters' District Council)	
No. 14,)	

DECISION AND AWARD

On December 21, 2007, the Painters' District Council No. 14 (the Union") sent a notice of hearing to the Employer, Destiny Decorating, Inc., c/o its president, Daniel McDuffie, ("Destiny") via facsimile transmission, first class, and certified mail, for a hearing on January 16, 2008, to be held at 1100 Taft Avenue, Berkeley, IL, at the hour of 9:30 a.m., or as soon thereafter as the dispute could be heard. The case was called at the appointed time and place with the Union and counsel for Destiny present. Counsel for Destiny requested that the proceedings be recorded by a certified court reporter. Even though no prior written request for same had been submitted, Destiny and the Union agreed to continue the hearing to arrange for a certified court reporter until January 30, 2008, at 9:30 a.m., at 19 West Jackson Blvd., Chicago, IL. The continued case was called at that appointed time and place before Virginia Ann Murphy, CSR No. 84-1083. A transcript of the January 30, 2008 proceedings consisting of 218 pages is part of the record of the proceedings.

The continued hearing in this case was before the following Joint Trade Board representatives duly appointed pursuant to Article XVI of the Collective Bargaining Agreement between the Union and the Painting and Decorating Contractors Association, Chicago Council ("PDCA, Chicago") effective June 1, 2003, through May 31, 2008 ("Collective Bargaining Agreement"):

EMPLOYER

Richard Ascher, Chairman
Norbert Soltysiak

UNION

Andrew Perch, Secretary
Hugo Lopinto

Testimony was taken from Benjamin Vargas, Howard Levinson, Michelle Ringold and Herman Rogers; and Exhibits 1A through 14 were marked for identification. Given the late hour, the parties mutually agreed to adjourn the hearing following the testimony of these witnesses and the presentation of these Exhibits to February 20, 2008, at 9:30 a.m., at 1101 Taft Street, Berkeley, Illinois. The continued case was called at that appointed time and place before Deborah Janicek, CSR No. 084-003352, of Bevil Reporting. A transcript of the February 20, 2008 proceedings consisting of 308 pages and additional Exhibits is also part of the record of the proceedings.

The hearing was reconvened at 9:50 a.m. on February 20, 2008, at 1101 Taft Street, Berkeley, Illinois. Testimony was taken from John Spiros, Jr., Charles Jackson, David Russell Johnson, Ayton Taylor and Daniel McDuffie.

THE CLAIM

The Union alleged violations of Article V, Sections 1 and 2 "and all other sections as they may apply" of the Collective Bargaining Agreement. Destiny Decorating, Inc., is signatory to the Collective Bargaining Agreement with the Union. The Collective Bargaining Agreement as between Destiny Decorating, Inc., and the Union remains in full force and effect. Article V, Section 1 of the Collective Bargaining Agreement sets the hourly wage rate for "journeyman" painters. Article V, Section 2 of the Collective Bargaining Agreement establishes the "Premium Pay" sometimes referred to as "overtime pay" for work performed outside the normal work hours (generally 8:00 a.m. to 4:30 p.m., Monday through Friday except for legal holidays specified in Sections 2 and 4 of Article IV and certain "Industrial Work" described in Section 3 of Article V).

THE EVIDENCE PRESENTED

Three individuals: Herman Rogers (hereinafter "Rogers"); Charles Jackson (hereinafter "Jackson"); and David Johnson (hereinafter "Johnson") each testified that he had worked for Destiny doing "painters" work covered by the Collective Bargaining Agreement. Each of them testified in some detail concerning when he worked, where he worked, for whom he worked and what work he performed for Destiny. Destiny, through its counsel, sought to undermine each of

these individuals testimony by noting that each of their respective oral testimonies was not supported by timely written logs or time sheets prepared by these workmen indicating the date, place, hours worked, and tasks performed. However, the Board was also presented with other evidence regarding each of these individuals, separate and apart from their oral testimonies, that tended to corroborate each of their testimonies with respect to the time periods they worked for Destiny, the amount they were paid by Destiny and the scope of the work they each performed.

In addition to the evidence presented in support of the individual claimants, the Board was also presented with evidence presented by the Union's auditors who performed an analysis of the evidence supplied by the complaining workers concerning the hours worked and the amount paid and gave a "conservative" estimate of the amount of wages owed to each claimant pursuant to the Collective Bargaining agreement. In addition, Destiny's own records some of which was made available to the Union's auditors, including cancelled checks, payroll records and checking account records showed the amount of payments made to each of the individuals involved contained in Destiny's own records. Thus, there is little, if any, question that destiny did pay these three men for doing something. What really is disputed is whether all of any of the men performed "painters" work for Destiny, and if so how much.

Evidence Presented Regarding Herman Rodgers

Rogers testified that he worked for Destiny from April until September, 2006, and that during that time he performed painting work, including working with a sprayer, a brush and rolling work, taping window frames and base work; that he regularly worked more than 40 hours per week, usually 10 hours per day, and often on Saturdays also for which he was not compensated at all which he described as "Sacrifice Saturdays". He further testified that he was paid in cash the first three weeks and then was paid by check. He also kept an informal small note book where he detailed the locations where he worked each day and what sort of work he did. These locations included the Christian Industrial League at Rosevelt and California and 105th and Michigan and 38th and Ellis. He acknowledged that he started keeping the notebook after he realized that Destiny was not in fact paying him correctly and that he stopped recording in his "Diary" his last day of work. In addition, the Union also produced records of Roger's prior history as a painter with three other contractors, to wit: CQS Construction, Inc., in

December 2003; Sellegren Brothers, Inc. In February, 2004; and Lankford Construction Co. From April to August, 2006; and even after his employment with Destiny, with DMG World Media, for a short time November, 2006.

The Union also produced one of its Business Agents, John Spiros, who testified that during the summer of 2006, Rogers approached him at a meeting of Local 147 of the IUPAT and complained to Spiros that he was having difficulty with initially an unnamed employer but subsequently acknowledged that the employer was Destiny, who had promised to issue but had not issued to him a letter to attend the Apprenticeship school. After identifying to Mr. Spiros, that the employer was Destiny, Mr. Spiros referred Rogers to Union Counsel for assistance.

Also with respect to Rogers, Destiny's own records independently support Rogers claim that he worked for Destiny for at least 18 of the 20 weeks Rogers claims to have worked for Destiny. These records further tend to corroborate Rogers oral testimony that he was paid \$10/hour or less but was often "Docked" for some of the hours worked for what Rogers testified Destiny claimed was poor painting work. In addition, Rogers testified that he repeatedly asked Destiny for months for a letter to allow him to attend the DC-14 Apprenticeship School. He had attended this school previously in 2004, but was laid off by his then employer and could not find another Employer to support his apprenticeship. Finally, after several months, Destiny gave him a letter to the DC-30 Apprenticeship school even though Rogers had only worked in the DC-14 area. Rogers attended the DC-30 school for only one day, but after that Destiny immediately laid him off and he could not attend the school without being employed by a union painting contractor. DC-30's apprenticeship records corroborate Rogers' testimony regarding the letter and his attendance for one day as well. Destiny's President, Daniel McDuffie, admitted during his testimony that Rogers worked for him, but not on union jobs and not as a painter. This testimony by Mr. McDuffie was made despite the fact that Destiny is signatory to the Collective Bargaining Agreement which makes all jobs on which Destiny performs painting work in Cook, Lake, Will and Grundy Counties, union jobs, and in spite of the fact that Destiny sent a letter in support of sending Rogers to the DC-30 Apprenticeship school. Moreover, McDuffie also stated that he paid Rogers "by the Job" not by the hour, and that he took out no federal or state income taxes or social security or Medicare taxes and used no timesheets for Rogers, all in violation of state and federal tax laws.

Destiny by and through its President produced only its own records and claimed that Rogers agreed to work as a laborer for less than \$10.00 per hour.

Evidence Presented Regarding Charles Jackson

Charles Jackson testified that he had worked as a painter and as a member of the Union for many years. His Union employers included Continental Painting, Stain Pant and Decorating, J B Construction and National Decorating, in addition to Destiny over the last 10 years or so. Prior to coming to work for Destiny, he had worked outside the trade for a short period and was attempting to get back into the Union by working with Destiny. He began working for Destiny in late February, 2007 when he worked a couple of days and began working full time for Destiny in March, 2007 and continued working for Destiny with only a few days off, through August 17, 2007. Jackson testified that for all but the last two weeks he worked for Destiny and was paid in cash at the rate of \$150/day. Destiny finally issued to him a letter to join the Union in early August, 2007, after which he worked for only two additional weeks at Union scale before being laid off by Destiny. Prior to the 2 week period of full scale pay in August, 2007, he was always paid in Cash at the rate of \$150 per day even if he worked many more hours including at least one day when he worked for 16 hours.

Mr. McDuffie testified that Jackson only worked for Destiny for the two weeks he paid him Union Scale in August 2007. Jackson had previously testified during his direct examination and prior to Mr. McDuffie's testimony, that he was always paid in cash which was delivered to him in an envelope by another Destiny employee. Mr. Jackson produced 9 of these envelopes, with his name written on the envelope, and all but one of the envelopes bearing Destiny's printed return address, and three with "750" and one with "150" written on the inside flap of the envelope which number could have represented 5 days at \$150/day and one day at \$150/day. McDuffie likewise denied that these envelopes were used for cash payments and did not know how they had come into the possession of Mr. Jackson.

Mr. Spiros testified that he had been one Destiny job at the Robert Taylor Homes project at the end of July or early August, 2007, where he remembered seeing Jackson and David Johnson working for Destiny.

Evidence Presented Regarding David Johnson

David Johnson's grievance is perhaps the most simple. It is clear from both Mr. Johnson's testimony and Destiny's records that Mr. Johnson was on Destiny's payroll. The issue is one of classification. Was he to be paid as a journeyman or as an apprentice. Destiny says he was an apprentice, the Union says no because he was not enrolled in the Union's JATC Apprenticeship School and if not enrolled, he was not an apprentice. At the hearing, Destiny did not argue that Johnson had actually enrolled or ever attended the JATC School. Instead, it argued that Johnson was a so called "Section 3" apprentice through a City of Chicago Program. Destiny hired Johnson pursuant to a letter from Harry McGraw of Kennedy-King College's Dawson Technical Institute where Johnson had been attending class, to Larry Thomas, a Union business agent, which letter stated that "Johnson has been hired by Destiny Decorator's, Inc. to be a 1st year apprentice painter." Moreover, Destiny issued a "Letter of Intent" to Johnson dated April 3, 2007 that stated "As a requirement of the painters union, in order to obtain the above position mentioned. You are required to register and complete the apprenticeship program." This letter also states that "If you meet the requirements of Destiny Decorators you will be able to start working on April 3, 2007." This April 3, 2007, is not exactly how the apprenticeship enrollment is done. The employer has to send a letter Of Intent to the Apprenticeship school first, not later. Then, the employee must register as an apprentice at the apprenticeship school. Until the employee is registered, he is not an apprentice. Under Article XIII, Section 5(a) and Section 9 of the CBA, a painter is only an apprentice if the painter is enrolled and attending class at the JATC. If the painter is not so enrolled, he must be paid at least at Journeyman scale.

Destiny claimed that the CBA gives the contractor a 90 day trial period. That is only true if the painter enrolls in the apprenticeship school with the required Letter of Intent to hire and allows the painter to go to class one day a week. That is how the CBA is written and how it has always been interpreted.

Evidence Related to
“All Other Sections as They May Apply” of the Collective Bargaining Agreement

In addition to the main issue presented to the Joint Trade Board concerning the payment of wages to the three individuals, Rogers, Jackson and Johnson, certain other provisions of the Collective Bargaining Agreement are also raised by the evidence presented. In most of the Joint Trade Board cases over the last few years, the Board has often been presented with evidence that the respondent contractor failed to:

1. File Job Reports. Report one or more jobs to the Union pursuant to ARTICLE XII, Section 4 of the CBA;
2. File Hiring Cards. “All Employers shall, prior to the completion of the first pay period, but no later than seventy-two (72) hours after a new employee is hired, submit a list of all new employees to the Union, in writing upon a form provided by the Union,” pursuant to ARTICLE III, Section 5(b);
3. Furnish Time Sheets. “Each Employer shall be required to obtain and maintain for a period of Seven (7) years weekly time sheets completed, signed and dated by each covered employee for all hours worked.” ARTICLE X, Section 4.
4. Subcontracting to Employees. Any Employer who subcontracts any work covered by this agreement will notify the Union of the subcontractor before such work is begun. Employer agrees that he will not sublet work to any Employee. ARTICLE XI, Section 1.

No evidence was presented by either party to these proceedings regarding the Employer's filing or failure to file Job Reports or Hiring Cards. There is considerable evidence that the Employer failed to produce time sheets for any of Herman Rogers' employment and for all but two weeks of Charles Jackson's employment. Time sheets were supplied for most of David Johnson's time, but only after members of Board requested them. The Union's auditors had previously requested them, but Destiny failed to furnish them to the auditors.

ISSUES PRESENTED

Jurisdiction

The Joint Trade Board has jurisdiction over these claims because Destiny Decorators, Inc., signed a memorandum of agreement binding it to the collective bargaining agreement between the Painting and Decorating Contractors Association, Chicago Council (the "Association") and the Union on September 4, 2002, a copy of which was entered into the record as Exhibit 2. Article XVI, Section 2(a) of the Collective Bargaining Agreement provides the Joint Trade Board with jurisdiction over "all disputes and matters of controversy arising under the provisions" of the CBA.

Article V of the Collective Bargaining Agreement provides for the proper rates for wages to be paid to persons whose employment is governed by the CBA. Article XII, Section 1 of the CBA likewise provides that in the event wages are not properly so paid within four days after the end of a payroll period, "the Employee shall be paid double time for all waiting time until payment of the wages is made in full, and the Employer shall pay all necessary expenses for collecting wages that are due".

FINDINGS AND CONCLUSIONS

Following considerable discussion, the Board by appropriate motion duly made, seconded, and passed unanimously, and based upon the evidence presented to it at the hearing in this matter, finds and concludes as follows:

1. (a) Destiny Decorators, Inc. ("Destiny") is a signatory contractor to the Collective Bargaining Agreement with the Union. Destiny has taken no action to terminate such Agreement and accordingly, is bound to the terms and conditions of employment set forth in the Collective Bargaining Agreement between the Employer Association and the Union, dated June 1, 1997, as extended through May 31, 2004, as extended through May 31, 2008.

(b) Article XVI of the Agreement gives the Board jurisdiction over the parties' current dispute.

(c) This case is properly before the Board for disposition.

2. (a) Article V, Sections 1 and 2 requires signatory employers to pay wages at the contract rate for journeymen.

(b) The contract wage rate for journeymen in effect during June 1, 2006 through May 31, 2007 was \$34.40, per hour and from June 1, 2007 through May 31, 2008 was \$35.40 per hour.

(c) The time and one half rate for journeymen in effect during November and December, 2007 is \$53.10 per hour.

(d) The computation of a double time rate during the period from November 2007 through December, 2007 is \$70.80.

3. Herman Rogers, Charles Jackson and David Johnson performed covered work for Destiny Decorators, Inc. during the various periods as set forth below:

a. Herman Rogers during the period from April 29, 2006, through September 8, 2006;

b. Charles Jackson, during the period from February, 2007, through August 17, 2007;

c. David Johnson, during the period from April 2, 2007 through July 17, 2007;

4. Based upon the information prepared by the Union's Auditors, Howard Levinson and Benjamin Vargas, from information obtained by the Union's Auditors from Destiny's available records and the sworn affidavits of the complainants themselves the amount claimed due to the claimants, is as follows:

- a. Herman Rogers - \$15,401.96;
- b. Charles Jackson - \$13,765.20; and
- c. David Johnson - \$ 7,313.44

for a total of \$ 36,480.60 in unpaid wages.

5. Destiny Decorators, Inc. disputes that it owes the wages referenced in paragraph 4 to the individuals listed therein.

6. The evidence supports a finding that by failing to pay the three individuals the amounts listed in paragraph 4, Destiny Decorators, Inc has committed at least three (3) separate violations of the Agreement.

7. a. **Herman Rogers**, should have been paid on or before September 8, 2006, the last day he worked, and was not. As of March 26, 2008, the date of last day of the hearing in this matter, 564 days had elapsed;

b. **Charles Jackson**, should have been paid on Aug 17, 2007 and was not. As of March 26, 2008, the date of last day of the hearing, 222 days had elapsed;

c. **David Johnson**, should have been paid on July 17, 2007, the last day he worked, and was not. As of March 26, 2008, the date of last day of the hearing, 253 days had elapsed.

8. Article XII, Section 1 of the Agreement provides that in the event an Employer does not pay wages when they become due, the employer may be charged double time for

waiting time to be paid to the affected employee(s) for each hour from the date the employee should have been paid to the date that he or she actually receives the wages.

AWARD

The Joint Trade Board, pursuant to the powers granted to it by Article XVI, Section 2 of the parties' agreement has the power to enter an award. After considering all of the evidence presented, the Board believes that the claimants' statements regarding the amounts due to them, while credible, and more believable than those of Destiny, do not necessarily require that this board award any or all of the claimants the full amount of the wages each of them has claimed. Each of the claimants did not immediately bring to the attention of the Union the disparity in their pay upon discovering that they were paid improperly, but instead each waited until at least a number of weeks of employment had passed. This behavior demonstrates that they, at least initially, acquiesced in Destiny's violation of the wage provisions of the contract. However, because they were indeed paid improperly, the Board concludes that they are owed at least some wages and feel that an award for two weeks of their wages at the proper rates less the amount already paid for such two weeks is a fair award provided that Destiny pays the amount promptly. This represents the amount of time after which they would have had sufficient knowledge to know they were paid improperly and thus should have complained to the Union. Further, the Board finds that Destiny violated other provisions of the contract. The Board therefore enters the following award.

1. For the violation of Article V, Section 1, the employer shall pay wages to the employees listed below in the following amounts:

- | | | |
|----|-------------------------|---|
| a. | Herman Rogers, | 7 days @ \$208.40/day or \$ 1,458.80 and
3 days @ \$188.40/day or \$ <u>562.20</u>
For a total of \$ 2,024.00 |
| b. | Charles Jackson, | 10 days @ \$125.20/day or \$ 1,252.00 |
| c. | David Johnson, | 5 days @ \$170.40/day or \$ 852.00 and
5 days @ \$165.12/day or \$ <u>825.60</u>
For a total of \$ 1,677.60 |

2. The payment of these amounts must be made by the employer. From these gross wages, the employer must make all payroll deductions as required by law and the Agreement, including but not limited to state and federal withholding, social security, medicare, savings fund contributions, and dues checkoff. The payment of these amounts must be delivered to the Painters' District Council No. 14, c/o their attorneys, Arnold and Kadjan, 19 West Jackson Blvd., Chicago, Illinois 60604 on or before June 30, 2008.

3. For the violation of failure to timely pay wages owed under Article V, Section 1, the Board may invoke the remedy as described by Article XII, Section 1. Under this provision, the Board may award additional amounts to each Employee up to double time for each hour of waiting time, or the Board may, under ARTICLE XVI, Section 2(c), award "of actual damages, plus fines, and assess liquidated damages which shall include interest, costs, attorneys' fees, administrative expenses, auditing or accountants' fees, research, investigation, and stenographic expenses in the event of a transcript in obtaining or enforcing the award." In exercise of these powers, the Board fines Destiny Decorators, Inc. in the amount of \$5,000 with respect to each of the three (3) employees of Destiny for whom less than journeyman wages were paid for a total fine, in addition to the requirement to pay the amounts specified above in paragraph 1, of \$15,000. If the amounts of the wages due as described in paragraph 1 above are paid on time, as described above, on or before June 30, 2008, then this penalty shall be limited to a fine of One Thousand and no/100 Dollars (\$1,000.00) per such employee for a total of Three Thousand and no/100 Dollars (\$3,000.00) payable to the Painters' Joint Cooperation Trust Fund.

4. In the event that the employer fails to pay the amounts referred to in paragraphs 1 and 3, above, on or before June 30, 2008, the Board will impose the full remedial provisions of Article XII, Section 1, and award the three employees in addition to the amounts described in paragraph 1 of this Award, double time for waiting time for each hour from the date that the amounts were owed, until the date that the employees should be paid through the last date of the hearing, March 26, 2008, provided that such amount shall be limited to an amount not to exceed \$10,000.00 per man.

5. For the violation of failure to report one or more jobs to the Union pursuant to ARTICLE XII, Section 4 of the CBA, the Board finds no violation, as no evidence was submitted by the Union or otherwise in the record in support of this potential violation.

6. For the violation of failure to file hiring cards pursuant to ARTICLE III, Section 5(b) of the CBA, the Board likewise finds no violation, as no evidence was submitted by the Union or otherwise in the record to support this potential violation. See Transcript of May 26, 2008 at pg. 300.

7. For the violation of failure to furnish time sheets for each employee pursuant to ARTICLE X, Section 4 of the CBA, the Board finds ample evidence to support multiple violations by the Employer with respect to Herman Rogers and Charles Jackson. For these violations the Board imposes a fine of \$200.00 for each employee or a total of \$400.00 payable to the Painters' Joint Cooperation Trust Fund.

8. For the violation of Subcontracting work to Employees in violation of ARTICLE XI, Section 1, the Board finds that the Employer either violated the provisions of this Section by subcontracting work to Herman Rogers for which he may or may not have been furnished an IRS Form 1099-MISC, or a W-2 form; or if he was furnished with a W-2 he was quite clearly an employee of the corporation known as Destiny Decorators, Inc., as evidenced by the checks issued to him and he violated ARTICLE V, Section 1(a) by not paying Rogers per hour worked. The latter alternative finding is based on Destiny's assertion at the hearing that Rogers was paid by the job, not by the hour. In other words, Rogers was performing painting work for an Employer signatory to the CBA and paying him in violation of ARTICLE V, Section 1(a) through payment by the job, or Destiny was subcontracting work to an individual who was, immediately before subcontracting work to him, such an employee, in violation of ARTICLE XI, Section 1. For violating the provisions of either ARTICLE V, Section 1(a) or

ARTICLE XI, Section 1, the Board imposes a fine of \$5,000.00, payable to the Painters Joint Cooperation Trust Fund.

In accordance with Article XVI, Section 2 (c) of the parties collective bargaining agreement, the employer is required to pay all attorneys' fees and costs incurred in prosecuting this proceeding, including any proceedings to enforce this Award.

9. For each amount of fines or wages specified above where the amount is less if paid on or before June 30, 2008, Destiny must pay all amounts due in fines and wages on or before June 30, 2008 in order to be relieved from paying the higher amounts due if paid after June 30, 2008. In summary, the fines and wages due on or before June 30, 2008 come to \$2,024.00 in gross wages payable to Herman Rogers, \$1,252.00 in gross wages payable to Charles Jackson, \$1,677.60 in gross wages payable to David Johnson, \$3,000.00 in fines for underpayment of wages, \$400.00 in fines for failure to furnish time sheets, and \$5,000.00 for the alternative findings of subcontracting to an employee or payment by the job instead of by the hour. If all of the amounts stated in the previous sentence are not paid by on or June 30, 2008, the fines and wages due come to \$10,000.00 in gross wages payable to Herman Rogers, \$10,000.00 in gross wages payable to Charles Jackson, \$10,000.00 in gross wages payable to David Johnson, \$15,000 in fines for underpayment of wages, \$400.00 in fines for failure to furnish time sheets, and \$5,000.00 for the alternative findings of subcontracting to an employee or payment by the job instead of by the hour.

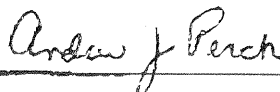
10. This Decision and Award is final and binding on all parties.

11. The Board directed that a copy of this Decision and Award be mailed to the employer and to the Union via first class and certified mail.


JOINT TRADE BOARD

Richard Ascher, Chairman

Dated: May 15, 2008



Andrew Perch, Secretary

Dated: May 15, 2008.