

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

BOARD OF TRUSTEES of the PIPE FITTERS)	
RETIREMENT FUND, LOCAL 597;)	
BOARD OF TRUSTEES of the PIPE FITTERS)	CIVIL ACTION
WELFARE FUND, LOCAL 597;)	
BOARD OF TRUSTEES of the PIPE FITTERS)	
TRAINING FUND, LOCAL 597; the)	NO.: 09-CV-1527
BOARD OF TRUSTEES of the CHICAGO AREA)	
MECHANICAL CONTRACTING INDUSTRY)	
IMPROVEMENT TRUST;)	JUDGE: DARRAH
THE PIPE FITTERS' ASSOCIATION,)	
LOCAL 597 U.A.; BOARD OF TRUSTEES)	
of the PIPE FITTERS' INDIVIDUAL)	MAGISTRATE
ACCOUNT and 401(K) PLAN; and)	JUDGE: SCHENKIER
BOARD OF TRUSTEES of the PIPE FITTING)	
COUNCIL OF GREATER CHICAGO,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
AMCON, INC., an Illinois Corporation;)	
ROBERT STIPETIC, an individual; and)	
DIANE STIPETIC, an individual.)	
)	
Defendant.)	

MOTION FOR ENTRY OF FINAL JUDGMENT

Now come Plaintiffs, the BOARD OF TRUSTEES of the PIPE FITTERS RETIREMENT FUND, LOCAL 597 *et al.*, by and through their attorneys, JOHNSON & KROL, LLC, and moves this Honorable Court for entry of Final Judgment in favor of Plaintiffs and against Defendants AMCON, INC. (“AMCON”), ROBERT STIPETIC, and DIANE STIPETIC and in support thereof state as follows:

1. On or about March 11, 2009, Plaintiffs filed their Complaint in the above-captioned matter.

2. On or about August 11, 2009, Plaintiffs filed a First Amended Complaint against the above-listed Defendants.
3. Defendant AMCON was served with the First Amended Complaint through its former attorney Thomas Duda, via the CM/ECF Filing System on or about August 11, 2009. (Docket Entry # 34); (Fed. R. Civ. P. 5(b)(1)).
4. Defendants ROBERT STIPETIC and DIANE STIPETIC were served with the copies of the Summons and First Amended Complaint, via personal service on or about August 29, 2009. (Affidavits of Service are attached as Exhibits 1A and 1B).
5. Defendants failed to Answer or otherwise plead to the allegations of the Complaint within 20 days of the date of service. (Fed. R. Civ. P. 12(a)(3)).
6. On or about September 30, 2009, this Court entered Default Judgment in favor of Plaintiffs and against Defendants AMCON, ROBERT STIPETIC and DIANE STIPETIC. (A copy of the Default Order is attached as Exhibit 2).
7. The Order required the Defendants to submit Contribution Reports for the months of June, July and August of 2009 so that the total aggregate amount owed to Plaintiffs could be determined.
8. The Order further provided that judgment is entered in favor of Plaintiffs and against Defendants AMCON, ROBERT STIPETIC and DIANE STIPETIC, jointly and severally, for whatever contributions, liquidated damages and interest charges that are shown to be due and owing on the missing Contribution Reports for the months of June, July and August of 2009.
9. Defendants submitted the missing Contribution Reports on or about November 24, 2009.
10. Based on the Contribution Reports, Defendants AMCON, ROBERT STIPETIC and

DIANE STIPETIC, jointly and severally, owe the Plaintiffs an additional \$11,018.80 in unpaid contributions, liquidated damages and interest for the months of June, July and August of 2009, in addition to the amount entered in the Default Judgment. (Affidavit of Greg Watson is attached as Exhibit 3).

11. Defendants AMCON, ROBERT STIPETIC and DIANE STIPETIC, jointly and severally, owe the TRUST FUNDS an additional \$2,461.57 in reasonable attorney's fees pursuant to the terms of the Collective Bargaining Agreement, Trust Agreements and 29 U.S.C. § 1132(g)(2)(D). (A revised Affidavit of Attorney's Fees is attached as Exhibit 4).
12. The total principal balance due and owing to Plaintiffs from Defendants AMCON, ROBERT STIPETIC and DIANE STIPETIC, jointly and severally, is \$112,573.72. (Exhibit 3).
13. Defendant AMCON remains bound by the Collective Bargaining Agreement and has a continuing obligation to report all hours worked by its covered employees to the TRUST FUNDS and UNION.
14. A proposed Order is attached as Exhibit 5.

WHEREFORE, Plaintiffs pray for the following:

- A. That judgment be entered in favor of Plaintiffs and against Defendants AMCON, ROBERT STIPETIC and DIANE STIPETIC, jointly and severally, in the amount of \$112,573.72;
- B. That a Declaratory Judgment be entered that Defendant AMCON is bound by the provisions of the Collective Bargaining Agreement for the remainder of the Collective Bargaining term and therefore has a continuing obligation to submit monthly contribution

reports and payments to the TRUST FUNDS and UNION.

- C. That Defendant AMCON be Ordered to submit timely and accurate Contribution Reports reporting all hours spent performing covered work for all subsequent months for the remainder of the Collective Bargaining term.
- D. That Defendant AMCON be Ordered to submit timely contribution payments for all subsequent months for the remainder of the Collective Bargaining term.
- E. That Plaintiffs have such other relief and further relief as the Court may deem just and equitable all at Defendants' cost, pursuant to 29 U.S.C. §1132(g)(2)(E).

Respectfully submitted,

JOHNSON & KROL, LLC

/s/ William P. Callinan – 6292500
One of Plaintiffs' Attorneys

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