

**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, and JAMES S.)	Judge SHADUR
JORGENSEN, Administrator of the Funds,)	
Plaintiffs,)	Case No. 09 CV5621
v.)	
)	
SHEPHERD CONSTRUCTION, INC., an)	
Illinois corporation,)	
)	
Defendant.)	

MOTION FOR ENTRY OF JUDGMENT IN SUM CERTAIN

Now come Plaintiffs, 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, and James S. Jorgensen, (collectively referred to hereinafter as the "Funds"), by and through their attorney, John Hamada, and hereby move for an Order of Default against Defendant Shepherd Construction, Inc. (hereinafter "the Company" or "the Defendant"), an Illinois corporation. In support of this Motion, Plaintiffs state as follows:

1. Plaintiffs filed their Complaint on September 10, 2009 seeking to compel the Defendant to submit benefits and dues reports and contributions for the period June 2009 forward, liquidated damages and interest on the foregoing reports, accumulated liquidated damages in the amount of \$1,315.77 for delinquent contributions, attorneys'

fees and costs, to submit to an audit upon demand for the period of December 27, 2007 forward, and to obtain and maintain a surety bond.

2. On November 12, 2009, this Court issued an Order finding the Defendant in Default, and ordering the Company to submit its benefits and dues reports and contributions for the months of June 2009 forward, submit its books and records to an audit upon demand, to submit payment of liquidated damages in the amount of \$1,315.77, and to obtain and maintain a surety bond. Further, the Court retained jurisdiction to enter a judgment for the amounts due and owing as pleaded in the Complaint, and as shown due and owing on the reports to be submitted, the audit, including delinquent contributions and dues, liquidated damages, interest, audit costs, and attorneys' fees and costs incurred by Plaintiffs in this matter.

3. Subsequent to the Default Order, Defendants submitted the Company's books and records to an audit for the period December 27, 2007 through August 31, 2010.

4. Pursuant to Section 502(g)(2) of the Employee Retirement Income Security Act ("ERISA"), as amended, 29 U.S.C. § 1132(g)(2), Section 301 of the Labor Management Relations Act ("LMRA"), as amended, 29 U.S.C. §185, the Agreement, and the Funds' respective Agreements and Declarations of Trust, the Funds are entitled to judgment in the amount of \$7,810.13 against the Defendant, Shepherd Construction, Inc., as follows:

- a. As set forth in the Affidavit of Rocco Marcello filed contemporaneously herewith and attached hereto as Exhibit A, \$3,065.13 in unpaid benefits and dues contributions, liquidated

damages, accumulated liquidated damages, interest, and audit costs for the audit period of December 27, 2007 through August 31, 2010. See Exhibit A, ¶¶ 1 through 5; and

- b. As set forth in the Declaration of John Hamada, filed contemporaneously herewith and attached hereto as Exhibit B, \$4,745.00 in attorneys fees and costs.

WHEREFORE, the Funds respectfully request that:

- 1. Judgment in the amount of \$7,810.13 be entered in Plaintiffs' favor and against Defendant Shepherd Construction, Inc., as follows:
 - A. \$3,065.13 in unpaid benefits and contributions, liquidated damages, accumulated liquidated damages, interest, and audit costs for the audit period of May 13, 2009 through December 31, 2009; and
 - B. \$4,745.00 in attorneys' fees and costs.
- 2. Defendants are ordered to pay post judgment interest on all amounts due from the date of judgment until the judgment is satisfied.

October 12, 2010

Respectfully submitted,

Laborers' Pension Fund, et al.

By: /s/ John Hamada

John Hamada
Office of Fund Counsel
111 W. Jackson Blvd., Suite 1415
Chicago, IL 60604
(312) 692-1540

CERTIFICATE OF SERVICE

The undersigned attorney of record certifies that he caused a copy of the foregoing Motion for Entry of Judgment in Sum Certain, and proposed Order to be served upon the following individual on October 12, 2010, via US Mail, postage pre-paid.

Derrick Washington, RA
17613 Arlington Lane
Hazel Crest, IL 60429

/s/ John Hamada