

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,)
Plaintiffs,)
No. 09 C 6289)
v.)
Judge Castillo)
D.L. ANDERSON COMPANY, INC. and)
NANCY ANDERSON)
Defendants.)

AFFIDAVIT OF ROCCO MARCELLO

STATE OF ILLINOIS)
COUNTY OF COOK)

Rocco Marcello, 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 D.L. Anderson Company, Inc. (hereinafter "D.L. Anderson" or "Company") and Nancy Anderson. This affidavit is submitted in support of the Laborers' Funds' motion for damages.
2. On or about June 2, 2009, D.L. Anderson entered into an Installment Note ("Note"), and its owner Nancy Anderson entered into Guaranty of Payment and Indemnification ("Guaranty") for that Note, which requires, *inter alia*, monthly note payments and for payment of current monthly

contributions as they become due and owing to the Funds.

3. The Note requires 18 monthly note payments to be remitted to the Funds by the 1st of each month in the amount of \$721.53. Upon signing the Note, D.L. Anderson made a down payment of \$3,153.29. Currently, the Company and Nancy Anderson owe a total of \$10,822.95 on the Note.

4. The Company and Nancy Anderson only made Note payments through September 2009. As of January 25, 2010, neither the Company or Nancy Anderson have made any subsequent Note payments. (See attached Exhibit 1).

5. Per the terms of the Note and Guaranty, the Company and Nancy Anderson have incurred penalties in the amount of \$721.55 as the result of not making timely Note payments. (See attached Exhibit 1).

6. Also, the Company has failed to pay its contributions for the months of May and June 2009. As a result, principal contributions are owed to the Welfare, Pension, Training, LDCLMCC, MARBA, WGC, LECET, CISCO Funds and for Union dues in the amount of \$5,867.72. (See attached Exhibit 2).

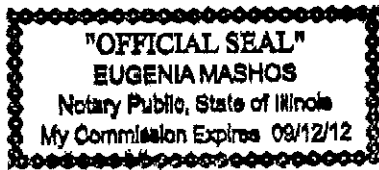
7. The respective Agreements and Declarations of Trust of the Laborers' Funds, to which D.L. Anderson is bound, require payment of liquidated damages. Pursuant to those Agreements, liquidated damages are calculated at 20% of delinquent contributions. Liquidated damages are owed in the amount of \$1,132.76. 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 delinquency forward. Interest has been determined for unpaid Funds' contributions in the amount of \$56.62 through January 25, 2010. The Company and Nancy Anderson also owe accumulated penalties in the amount of \$29.87 through January 25, 2010. (See attached Exhibit 2).

FURTHER AFFLIANT SAYETH NOT.


Rocco Marcello

Subscribed and sworn to before me
this 25th day of January 2010


NOTARY PUBLIC



PAYMENT PLAN WORKSHEET

1/25/2010

COMPANY DL ANDERSON CO., INC.

CODE 20120

PHONE# 815-485-0670

CONTACT PERSON DALE

NUMBER OF PAYMENTS 18

FIELD REP RM

PAYMENT PLAN COVERS THE MONTHS OF 12/08 - 2/09 REMITTANCE REPORTS

TOTAL WELFARE & PENSION 14,725.22

LESS 20% DOWN 3,153.29

EQUALS AMOUNT FINANCED 11,571.93

PLUS ATTORNEY COSTS 981.25

PLUS AUDIT COSTS -

PLUS NOTE INTEREST 434.36

WELFARE PAYMENT 421.04
PENSION PAYMENT 300.49
TOTAL 721.53
PAYMENTS 18
TOTAL W & P 12,987.54

EQUALS TOTAL W & P 12,987.54

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BEG	PAYMENT	PAYMENT	SCHEDULED	ACTUAL	CHECK#	DATE	SCHEDULED	ACTUAL	CHECK#	DATE	END	ENTER
NUMBER	NUMBER	DUE DATE	PAYMENT	PAID		REC'D	PAYMENT	PAID		REC'D	BALANCE	"1" IF
											OWED	LATE
												20% LATE
												FEE
												(OWED)/PAID
DUES	925.65	XXXX	AT SIGNING	925.65	1291	7/21/2009	XXXX	XXXX	XXXX	XXXX	-	-
LDCLMCC	105.49	XXXX	AT SIGNING	105.49	1291	7/21/2009	XXXX	XXXX	XXXX	XXXX	-	-
WGC	70.33	XXXX	AT SIGNING	70.33	1291	7/21/2009	XXXX	XXXX	XXXX	XXXX	-	-
TRAIN	258.76	XXXX	AT SIGNING	258.76	1291	7/21/2009	XXXX	XXXX	XXXX	XXXX	-	-
LECET	43.96	XXXX	AT SIGNING	43.96	1291	7/21/2009	XXXX	XXXX	XXXX	XXXX	-	-
CISCO	-	XXXX	AT SIGNING	-			XXXX	XXXX	XXXX	XXXX	-	-
CAICA	-	XXXX	AT SIGNING	-			XXXX	XXXX	XXXX	XXXX	-	-
D.P.	3,153.29	XXXX	AT SIGNING	3,153.29	1260	6/1/2009	XXXX	XXXX	XXXX	XXXX	-	-
W & P	12,987.54											
	1	7/1/2009	421.04	421.04	1291	7/21/2009	300.49	300.49	1291	7/21/2009	12,266.01	1
	2	8/1/2009	421.04	421.04	1302	7/31/2009	300.49	300.49	1302	7/31/2009	11,544.48	-
	3	9/1/2009	421.04	421.04	1307	9/2/2009	300.49	300.49	1307	9/2/2009	10,822.95	-
	4	10/1/2009	421.04				300.49				10,822.95	1
	5	11/1/2009	421.04				300.49				10,822.95	1
	6	12/1/2009	421.04				300.49				10,822.95	1
	7	1/1/2010	421.04				300.49				10,822.95	1
	8	2/1/2010	421.04				300.49				10,822.95	-
	9	3/1/2010	421.04				300.49				10,822.95	-
	10	4/1/2010	421.04				300.49				10,822.95	-
	11	5/1/2010	421.04				300.49				10,822.95	-
	12	6/1/2010	421.04				300.49				10,822.95	-
	13	7/1/2010	421.04				300.49				10,822.95	-
	14	8/1/2010	421.04				300.49				10,822.95	-
	15	9/1/2010	421.04				300.49				10,822.95	-
	16	10/1/2010	421.04				300.49				10,822.95	-
	17	11/1/2010	421.04				300.49				10,822.95	-
	18	12/1/2010	421.04				300.49				10,822.95	-
TOTALS	17,545.02		12,136.20	5,820.60			5,408.82	901.47			10,822.95	(721.55)

LABORERS' PENSION & WELFARE FUNDS
SUMMARY OF AMOUNTS OWED

1/25/2010

EMPLOYER D L ANDERSON CO., INC.

CODE 20120

PERIOD	HOURS	WELFARE	RATE	PENSION	RATE	TRAINING FUND	RATE	DUES	LDCLMCC	MARBA	RATE	WQC	RATE	LECET	RATE	CISCO	RATE	TOTAL
May-09	170.0	1,501.10	8.83	1,048.90	6.17	45.90	0.27	167.24	20.40	0.12	-	13.60	0.08	8.50	0.05	-	-	2,805.64
Jun-09	160.0	1,460.80	9.13	1,339.20	8.37	64.00	0.40	154.88	19.20	0.12	-	12.80	0.08	11.20	0.07	-	-	3,062.08
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
SUBTOTAL	330.0	2,961.90		2,388.10		109.90		322.12	39.60			26.40		19.70				5,867.72
10% PENALTIES								32.21	3.96			2.64		1.97				40.78
20% PENALTIES		592.38		477.62		21.98												1,091.98
AUDIT COSTS		-		-														-
ATTORNEY FEES		-		-														-
ACCUM. PENALTIES								29.87										29.87
ACCUM. INT. - ABOVE AUDIT																		-
ACCUM. INT. - ABOVE REPORTS		30.65		23.99		1.09			0.41			0.28		0.20				56.62
ACCUM. INT. - LATE PAID RPTS.																		-
TOTAL DUE		3,584.93		2,889.71		132.97		384.20	43.97			29.32		21.87				7,086.97