

10-13-10JWL148889-3

65100-1337LIT5018

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

JAMES T. SULLIVAN, not individually but as Trustee of)
PLUMBERS' PENSION FUND, LOCAL 130, U.A., etc.,)
et al.,) No. 10 C 1568
Plaintiffs,) Judge Ruben Castillo
v.) Magistrate Judge
JOHN C. BRILL, individually and d/b/a JCB Companies,) Arlander Keys
Defendant.)

PLAINTIFFS’ MOTION FOR JUDGMENT

Plaintiffs, James T. Sullivan, not individually, but as Trustee of Plumbers’ Pension Fund, Local 130, U.A., etc., et al. (“Funds”), by their attorneys, John W. Loseman, Douglas A. Lindsay, and Brian T. Bedinghaus, with LEWIS, OVERBECK & FURMAN, LLP of counsel, move the Court to enter judgment in favor of Funds and against Defendant, John C. Brill, individually and d/b/a JCB Companies (“Brill”), for all amounts due. In support hereof, Funds state:

1. Funds are multiemployer employee benefit funds and brought this complaint pursuant to a collective bargaining agreement, ERISA, 29 U.S.C. §§1132 and 1145, and LMRA, 29 U.S.C. §185, to obtain an audit verifying Brill’s compliance with its obligations under its collective bargaining agreement with Chicago Journeymen Plumbers’ Local Union 130, U.A., and to recover all amounts found due. Complaint, Docket No. 1.

2. On March 12, 2010, the Court entered an order requiring Brill to produce his books and records for audit, and retaining jurisdiction to enter any appropriate final judgment. Order, Docket No. 6.

3. As required by the Court's Order, Brill produced his books and records for compliance audit by Funds' auditors.

4. Upon completing the compliance audit, the certified public accounting firm of Legacy Professionals LLP issued its Compliance Report to the Trustees ("Audit Report") dated June 15, 2010. The Audit Report reveals that for the period from January 1, 2006, through December 31, 2009, Brill failed to pay certain amounts owed to Funds. The audit delinquency, not including ERISA damages, totals \$140,488.60. A true and correct copy of the Audit Report is attached as Exhibit B to the First Amended Complaint, Docket No. 16.

5. On September 2, 2010, the Court entered an order holding Brill in default and allowing 21 days for Brill to contest the audit results. The Court also allowed Funds to file an Amended Complaint. *Order, Docket No. 15.*

6. On September 13, 2010, Funds filed their First Amended Complaint, including the Audit Report as Exhibit B thereto. *First Amended Complaint, Docket No. 16.* On September 18, 2010, the First Amended Complaint was served on Brill. *Affidavit of Service, Docket No. 17.*

7. As of the date of filing of this Motion, Brill remains in default and has made no response to the First Amended Complaint.

8. Pursuant to ERISA, LMRA, and the collective bargaining agreements, Funds are entitled to recover from Brill the following damages:

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| Audit delinquency per the CBA and ERISA, 29 U.S.C. §1132(g)(2)(A) and (B), through June 30, 2010. See Audit Report attached to First Amended Complaint as Exhibit B. | \$140,488.60 |
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| Additional interest for period July 1 through Oct. 15, 2010, at rate of \$1,404.15 per month as set forth in Audit Report, per CBA and 29 U.S.C. §1132(g)(2)(B) | 5,616.60 |
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ERISA double interest (\$39,388.91 accrued in Audit Report + 5,616.60 additional interest) per 29 U.S.C. §1132(g)(2)(C) 45,005.51

Attorneys' fees and costs per the CBA and 29 U.S.C. §1132(g)(2)(D) through October 11, 2010. See Affidavit of John W. Loseman attached as Exhibit A. 6,481.06

Audit costs per the CBA and 29 U.S.C. §1132(g)(2)(E). See Affidavit of James Kemperas attached as Exhibit B. 2,597.35

Total: \$200,189.12

WHEREFORE, Plaintiffs, James T. Sullivan, not individually but as a Trustee of Plumbers' Pension Fund, Local 130, U.A., Plumbers' Welfare Fund, Local 130, U.A., Trust Fund for Apprentice and Journeyman Education and Training, Local 130, U.A., and Chicago Journeymen Plumbers' Local Union 130, U.A., Group Legal Services Plan Fund; and The Plumbing Council of Chicagoland, request that the Court enter judgment in favor of Plaintiffs and against Defendant, John C. Brill, individually and d/b/a JCB Companies, in the amount of \$200,189.12.

James T. Sullivan, not individually but as a Trustee of Plumbers' Pension Fund, Local 130, U.A., etc., et al., by their attorneys, John W. Loseman, Douglas A. Lindsay, and Brian T. Bedinghaus

By: /s/ John W. Loseman
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CERTIFICATE OF SERVICE

John W. Loseman, an attorney, certifies that he caused a copy of the foregoing Plaintiffs' Motion for Judgment to be served on the following person(s):

John C. Brill
15135 Hawthorn Court
Cedar Lake, IN 46303

by causing a true and correct copy thereof to be sealed in an envelope addressed as aforesaid, with proper First Class postage prepaid, and deposited with the U.S. Postal Service at 20 N. Clark Street, Chicago, IL, this 13th day of October, 2010.

/s/ John W. Loseman