

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

BOARD OF TRUSTEES of the PLUMBERS')	
LOCAL UNION NO. 93 U.A.;)	
BOARD OF TRUSTEES of the PLUMBERS')	
LOCAL UNION NO. 93 U.A. RETIREMENT)	
ACCOUNT FUND;)	
BOARD OF TRUSTEES of the PLUMBERS')	
LOCAL UNION NO. 93 U.A. PENSION FUND;)	
BOARD OF TRUSTEES of the PLUMBERS')	CIVIL ACTION
LOCAL UNION NO. 93 U.A. HEALTH AND)	
WELFARE FUND;)	
BOARD OF TRUSTEES of the JOINT)	NO.: 10-CV-2137
APPRENTICESHIP COMMITTEE FUND of the)	
PLUMBING & HEATING INDUSTRY OF LAKE)	
AND McHENRY COUNTIES; and)	JUDGE: ZAGEL
The INDUSTRY ADVANCEMENT FUND;)	
)	
Plaintiffs,)	
)	MAGISTRATE
vs.)	JUDGE: SCHENKIER
)	
TMS MECHANICAL, INC.)	
an Illinois Corporation,)	
)	
Defendant.)	

MOTION FOR FINAL JUDGMENT

Now come Plaintiffs, the BOARD OF TRUSTEES OF THE PLUMBERS LOCAL UNION NO. 93 U.A., *et al.*, (“TRUST FUNDS”) by and through their attorneys, JOHNSON & KROL, LLC, and move this Honorable Court for entry of Final Judgment in favor of Plaintiffs and against Defendant TMS MECHANICAL, INC. (“TMS MECHANICAL”) and in support thereof, state as follows:

1. On April 7, 2010, Plaintiffs filed their Initial Complaint in the above-captioned matter.
2. On May 4, 2010, copies of the Summons and Complaint were served upon TMS MECHANICAL via corporate service by leaving a true and correct copy of said

documents with John Evan, the registered agent for service for Defendant TMS MECHANICAL. (Affidavit of Service attached as Exhibit 1).

3. On or about June 30, 2010, this Court entered an Order of Default in favor of Plaintiffs and against Defendant TMS MECHANICAL in the amount of \$61,850.30. (Order of Default is attached as Exhibit 2).
4. The Court further ordered TMS MECHANICAL, through its President Tim Sack, to provide access to its books and records within ten (10) days from the date of the Order so that the Plaintiffs could conduct a payroll compliance audit. (Exhibit 2).
5. The Default Order provided that Judgment was entered for all contributions, liquidated damages and interest found to be due and owing for the outstanding months of March and April of 2010. (Exhibit 2).
6. The Default Order further provided that Plaintiffs were granted leave to file for Final Judgment upon completion of the audit and once the total aggregate amount owed to Plaintiffs from Defendant TMS MECHANICAL was determined. (Exhibit 2).
7. The audit was recently completed and revealed that TMS MECHANICAL owed the TRUST FUNDS and UNION \$38,791.67 in unpaid contributions, \$3,879.18 in liquidated damages, and \$978.31 in unpaid interest, in addition to the amounts owed under the Default Order. (Affidavit of Scott Spangle is attached as Exhibit 3).
8. In addition, Defendant TMS MECHANICAL owes the TRUST FUNDS and UNION \$6,185.03 in unpaid liquidated damages and \$3,752.84 in unpaid interest for the months of December 2009 through February 2010. (Exhibit 3).
9. Defendant TMS MECHANICAL is also obligated to pay reasonable attorney's fees and court costs incurred by the Plaintiffs pursuant to the Collective Bargaining Agreement, Trust Agreements and 29 U.S.C. §1132(g)(2)(D) in the amount of \$8,410.45. (Affidavit

of Attorney's Fees is attached as Exhibit 4).

10. The total aggregate owed to date, including the \$61,850.30 for which default was previously entered is \$123,847.78.

WHEREFORE, Plaintiffs pray for the following:

- A. That Judgment be entered in favor of Plaintiffs and against Defendant TMS MECHANICAL in the amount of \$123,847.78 for contributions, liquidated damages, interest and attorney's fees owed for the months of December of 2009 through April of 2010;
- B. That Defendant TMS MECHANICAL be ordered to comply with the terms of the Collective Bargaining and Trust Agreements including the submission of ongoing Contribution Reports and contributions throughout the remainder of the Collective Bargaining term; and
- C. That Plaintiffs have such other relief and further relief as the Court may deem just and equitable all at Defendant's 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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