

10-01-10JWL148731-3

65100-1360LIT5044

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.,))	
)	No. 10 C 2798
Plaintiff,))	
)	Judge Ronald A. Guzman
v.))	
)	Magistrate Judge
SOUTH POINT, INC.,))	Geraldine Soat Brown
)	
Defendant.))	

PLAINTIFF'S MOTION FOR JUDGMENT

Plaintiff, James T. Sullivan, not individually, but as Trustee of Plumbers' Pension Fund, Local 130, U.A., etc. ("Funds"), by his attorneys, John W. Loseman, Douglas A. Lindsay, and Brian T. Bedinghaus, with LEWIS, OVERBECK & FURMAN, LLP of counsel, moves the Court to enter judgment in favor of Funds and against Defendant, South Point, Inc. ("South Point"), for all amounts due. In support hereof, Funds state:

1. Funds are multi-employer 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 South Point'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 June 24, 2010, the Court entered an order holding South Point in default, requiring South Point to produce its books and records for audit, and retaining jurisdiction to award to Funds all amounts found to be due along with all other and further relief requested in the

complaint. *Default Order, Docket No. 15*. For the Court's convenience, a true and correct copy of the Default Order is attached as Exhibit A.

3. As required by the Court's Default Order, South Point produced its 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 August 31, 2010. The Audit Report reveals that for the period from June 14, 2009, through May 31, 2010, South Point failed to pay all amounts owed to Funds. The audit delinquency, not including ERISA damages, totals \$29,493.07. A true and correct copy of the Audit Report is attached as Exhibit B(1).

5. Pursuant to ERISA, LMRA, and the collective bargaining agreements, Funds are entitled to recover from South Point the following damages:

Audit delinquency per the CBA and ERISA, 29 U.S.C. §1132(g)(2)(A) and (B), through Aug. 31, 2010. See Affidavit of James J. Gienzik attached as Exhibit B.	\$29,493.07
Additional interest for period Sept. 1 through Oct. 19, 2010, at rate of \$358.01 per month as set forth in Audit Report, per CBA and 29 U.S.C. §1132(g)(2)(B)	716.02
ERISA double interest (\$3,714.50 accrued in Audit Report + 716.02 additional interest) per 29 U.S.C. §1132(g)(2)(C)	4,430.52
Attorneys' fees and costs per the CBA and 29 U.S.C. §1132(g)(2)(D) through September 30, 2010. See Affidavit of John W. Loseman attached as Exhibit C.	7,189.59

Audit costs per the CBA and 29 U.S.C.
§1132(g)(2)(E). See Affidavit of
James J. Giemzik attached as Exhibit B. 1,611.25

Total: \$43,440.45

WHEREFORE, Plaintiff, 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, requests that the Court enter final judgment in favor of Plaintiff and against Defendant, South Point, Inc., in the amount of \$43,440.45.

James T. Sullivan, not individually but as a Trustee of Plumbers' Pension Fund, Local 130, U.A., etc., by his 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 Plaintiff's Motion for Judgment to be served on the following person(s):

South Point, Inc.
c/o Carolynn P. Kloese, Registered Agent
254 Oregon Street
Frankfort, IL 60423

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 11th day of October, 2010.

/s/ John W. Loseman