

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

BOARD OF TRUSTEES of the PIPE FITTERS)	
RETIREMENT FUND, LOCAL 597;)	
BOARD OF TRUSTEES of the PIPE FITTERS)	CIVIL ACTION
WELFARE FUND, LOCAL 597;)	
BOARD OF TRUSTEES of the PIPE FITTERS)	
TRAINING FUND, LOCAL 597; the)	NO.: 10-CV-3790
BOARD OF TRUSTEES of the CHICAGO AREA)	
MECHANICAL CONTRACTING INDUSTRY)	
IMPROVEMENT TRUST;)	JUDGE: CASTILLO
THE PIPE FITTERS' ASSOCIATION,)	
LOCAL 597 U.A.; BOARD OF TRUSTEES)	
of the PIPE FITTERS' INDIVIDUAL)	MAGISTRATE
ACCOUNT and 401(K) PLAN; and)	JUDGE: FINNEGAN
BOARD OF TRUSTEES of the PIPE FITTING)	
COUNCIL OF GREATER CHICAGO,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
ALEXANDER GAMMIE ASSOCIATES)	
PLUMBING & HEATING COMPANY;)	
an Illinois Corporation; and FRANK E. HEROUT)	
an Individual;)	
)	
Defendants.)	

MOTION FOR FINAL JUDGMENT

Now come Plaintiffs, the BOARD OF TRUSTEES of the PIPE FITTERS RETIREMENT FUND, LOCAL 597, *et al.*, by and through their attorneys, JOHNSON & KROL LLC, and move this Honorable Court for entry of Final Judgment in favor of Plaintiffs and against Defendants ALEXANDER GAMMIE ASSOCIATES PLUMBING & HEATING COMPANY (“ALEXANDER GAMMIE”), and FRANK E. HEROUT (“HEROUT”), jointly and severally, and in support thereof state as follows:

1. On or about June 18, 2010, Plaintiffs filed their Complaint in the above-captioned matter.

2. On June 22, 2010, copies of the Summons and Complaint were served upon Defendant ALEXANDER GAMMIE via corporate service by leaving a true and correct copy of said documents with Mary Ellen Staats, the corporate secretary of Defendant ALEXANDER GAMMIE. (Affidavit of Service is attached as Exhibit 1).
3. On June 28, 2010, copies of the Summons and Complaint were served upon Defendant HEROUT via personal service by leaving a true and correct copy of said documents with HEROUT. (Affidavit of Service is attached as Exhibit 2).
4. On July 20, 2010, this Court entered an Order of Default in favor of Plaintiffs and against Defendants ALEXANDER GAMMIE and HEROUT and retained jurisdiction to enter a specific Default Judgment amount. (Order of Default is attached as Exhibit 3).
5. This case involved unpaid contributions and wage deductions.
6. The amount of contributions and wage deductions due and owing to the Plaintiffs is determined by the number of hours worked by covered employees under the Collective Bargaining Agreement and Trust Agreements.
7. Defendants ALEXANDER GAMMIE and HEROUT currently owe the TRUST FUNDS and UNION \$91,493.04 in unpaid principal under a defaulted Settlement Agreement. (Affidavit of Greg Watson is attached as Exhibit 4).
8. Defendants ALEXANDER GAMMIE and HEROUT currently owe the TRUST FUNDS and UNION \$8,806.93 in liquidated damages as a result of their default on the Settlement Agreement pursuant to the terms of the Settlement Agreement. (Exhibit 4).
9. Defendants ALEXANDER GAMMIE and HEROUT currently owe the TRUST FUNDS and UNION \$21,314.04 in unpaid contributions for the months of February, May and June 2010. (Exhibit 4).

10. Defendants ALEXANDER GAMMIE and HEROUT currently owe the TRUST FUNDS and UNION \$3,357.15 in unpaid liquidated damages and \$184.28 in unpaid interest for the time period of January of 2010 through present pursuant to the terms of the Collective Bargaining and Trust Agreements. (Exhibit 4).
11. Defendants ALEXANDER GAMMIE and HEROUT currently owe the PIPE FITTERS' INDIVIDUAL ACCOUNT and 401(k) PLAN \$172.07 in unpaid 401(k) liquidated damages and \$30.44 in unpaid 401(k) interest. (Exhibit 4).
12. Defendants ALEXANDER GAMMIE and HEROUT currently owe the TRUST FUNDS and UNION \$4,316.75 in reasonable attorney's fees pursuant to the terms of the Collective Bargaining Agreement, Trust Agreements and 29 U.S.C. § 1132(g)(2)(D). (Affidavit of Attorney's Fees is attached as Exhibit 5).
13. A proposed Order is attached.

WHEREFORE, Plaintiffs pray:

- A. That Final Judgment be entered in favor of Plaintiffs and against Defendants ALEXANDER GAMMIE and HEROUT, jointly and severally, in the amount of \$91,493.04 for all unpaid principal under the defaulted Settlement Agreement;
- B. That Final Judgment be entered in favor of Plaintiffs and against Defendants ALEXANDER GAMMIE and HEROUT, jointly and severally, in the amount of \$8,806.93 for all unpaid liquidated damages as a result of their default on the Settlement Agreement pursuant to the terms of the Settlement Agreement;
- C. That judgment be entered in favor of Plaintiffs and against Defendants ALEXANDER GAMMIE and HEROUT, jointly and severally, in the amount of \$21,314.04 for all unpaid contributions for the months of February, May and June

2010;

- D. That judgment be entered in favor of Plaintiffs and against Defendants ALEXANDER GAMMIE and HEROUT, jointly and severally, in the amount of \$3,357.15 for all unpaid liquidated damages and \$184.28 for all unpaid interest for the time period of January 2010 through present;
- E. That judgment be entered in favor of Plaintiffs and against Defendants ALEXANDER GAMMIE and HEROUT, jointly and severally, in the amount of \$172.07 for all unpaid 401(k) liquidated damages and \$30.44 for all unpaid 401(k) interest;
- F. That judgment be entered in favor of Plaintiffs and against Defendants ALEXANDER GAMMIE and HEROUT, jointly and severally, in the amount of \$4,316.75 for attorney's fees and costs incurred by the Plaintiffs in bringing this suit pursuant to the Collective Bargaining Agreement, Trust Agreements, and 29 U.S.C. §1132(g)(2)(D); and
- G. That Plaintiffs have such other and further relief as the Court may deem just and equitable all at the Defendant's cost pursuant to 29 U.S.C. §1132(g)(2)(E).

Respectfully Submitted,

JOHNSON & KROL, LLC

By: /s/ William P. Callinan - 6292500
One of Plaintiffs' Attorneys

William P. Callinan
JOHNSON & KROL, LLC
300 South Wacker Drive, Suite 1313
Chicago, Illinois 60606
(312) 372-8587