

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

CONSTRUCTION WORKERS PENSION)
TRUST FUND LAKE COUNTY AND)
VICINITY,)
Plaintiff,)

v.)

ENVIRONMENTAL CLEANSING)
CORPORATION,)
Defendant, and)
Third-Party Plaintiff,)

LABORERS' PENSION FUND &)
WELFARE FUNDS)
Third-Party Defendants.)

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, and JAMES S.)
JORGENSEN, as Administrator of the Funds)
Counter-Plaintiffs,)

v.)

ENVIRONMENTAL CLEANSING)
CORPORATION,)
Counter-Defendant)

Case No. 15 C 8532

Judge Sharon Johnson Coleman

AFFIDAVIT OF MICHAEL CHRISTOPHER

STATE OF ILLINOIS }
COUNTY OF COOK }

Michael Christopher being first duly sworn on oath, deposes and states as follows:

1. I am a Representative of the Field Department, employed by the Laborers' Pension

Exhibit 4

Fund and Laborers' Welfare Fund of the Health and Welfare Department of the Construction and General Laborers' District Council of Chicago and Vicinity (the "Funds"), Counter-Plaintiffs in the above referenced action. My responsibilities include oversight of the collection of amounts owed by Environmental Cleansing Corporation (the "Company" or the "Counter-Defendant") to the Funds, and the Funds are further authorized to act in the collection of unpaid Union work dues on behalf of the Construction & General Laborers' District Council of Chicago and Vicinity (the "Union"). This affidavit is submitted in support of the Funds' Motion To Reinstate This Cause And To Enter Judgment Consistent With The Terms Of The Parties' Settlement Agreement.

2. The Company has been a signatory employer at least since July 8, 1999 as reflected by the Funds' records and as shown by the collective bargaining agreement that was attached to the Funds' Answer and Affirmative Defenses in this action (See Docket No. 23-1), and is a true and correct copy of the agreement between the Company and the Union that is on file with the Funds.

3. On or about June 4, 2016, the Funds and the Company (collectively hereinafter the "Parties") signed a Settlement Agreement and Release (the "Agreement") and an Installment Note (the "Note") to resolve the above captioned case, covering the Company's unpaid monthly reports from December 2015 through April 2016. The Company self-reported these amounts and the Funds reserved the right to audit this period for compliance, in which case additional amounts may be owed pursuant to an independent auditor's report.

4. On or about October 27, 2016 the Parties submitted an Agreed Draft Order of Dismissal to the Court, explicitly consenting to the Court's retaining jurisdiction of this action until August 1, 2018, for the purpose of enforcing the Agreement, Note and Guaranty, covering the duration of the Note's payment schedule, allowing the Funds to reinstate the action through August

1, 2018.

5. As of April 11, 2017, the Company defaulted on its Note, when it failed to timely submit its ninth note payment, which was due on April 1, 2017. Thereafter, the Company failed to cure the deficiency, despite repeated requests that the Company remit its delinquent note payments. To date there is a remaining balance on the Note in the amount of \$141,615.84 due to the Funds.

6. The Note is explicitly incorporated into the Agreement, assesses untimely paid note payments with liquidated damages at the same rates as untimely made monthly payments, pursuant to the governing collective bargaining agreement, Master Agreement and Declarations of Trust of the respective Funds, to which the Company is bound. The agreements require payment of liquidated damages in the amount of twenty percent of any delinquent principal contributions to the Welfare, Pension, and Training funds. The same agreements establish that liquidated damages are due in the amount of ten percent of the principal amount for delinquent contributions to the LDCLMCC, CAICA and LECET funds, and for Union dues. As the amount remaining on the Note consist entirely of amounts due to the Pension and Welfare Funds, the amount of \$7,080.79 is due for liquidated damages, based on the four delinquent unpaid note payments to date (April, May, June and July note payments each in the amount of \$8,850.99).

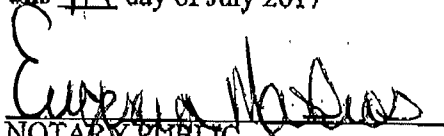
7. Additionally, the Company also breached the Agreement and was in default on the Note when it failed to submit timely its monthly Work Hour reports since March of 2017. The Company owes the Funds for its unreported principal contributions, Union dues, liquidated damages and accumulated interest, but the Funds will be seeking these damages in a new lawsuit against the Company. Thus, the Funds are moving to reinstate this action purely for a judgment against the Company pursuant to its material breach of the Agreement by defaulting on the Note, as well as the

Funds are seeking judgment against the Company's president Matthew Konopko, based on his Personal Guaranty ("Guaranty") of the Note that was also explicitly incorporated into the Agreement.

8. Additionally, the Company is obligated under the Agreement and the Note to pay the Funds for the costs associated with its attorneys' fees and costs incurred in its efforts to enforce the Agreement and the Note, including the fees and costs incurred in reinstating this action.


Michael Christopher
Field Department Representative

Subscribed and sworn to before me
this 11th day of July 2017


NOTARY PUBLIC

