

**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, Administrator of the Funds,)**

V.

Defendant.

Judge Dow

STATE OF ILLINOIS)
)
COUNTY OF COOK)

1. I am the Director of the Field Department employed by the 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 (the "Laborers' Funds"), the plaintiffs in the above referenced action. My responsibilities include oversight of the collection of amounts owed by J.J. Day, Inc. This affidavit is submitted in support of the Laborers' Funds' motion for a prove up of damages.

Exhibit 1

to be bound by the terms and conditions set forth in the Local Agreements and in the Trust Agreements.

3. The Company submitted its books and records to the Funds' designated auditors from the firm of Legacy Professionals LLP, who, based on limited disclosure, prepared an audit report dated March 6, 2017, reflecting unpaid contributions owed for the period from June 30, 2015 through March 31, 2016. I reviewed the report which shows that principal contributions are owed to the Welfare, Retiree Welfare, Pension, and Training Funds, as well as to the LDCLMCC, LECET and to the Union for dues in the total amount of \$739,845.92. A true and correct copy of the audit report is attached hereto.

4. The respective Agreements and Declarations of Trust of the Laborers Funds, to which J.J. Day, Inc., is bound require payment of liquidated damages in the amount of 20 percent of the principal for the Welfare, Pension and Training Funds and ten percent for Union dues and for the LDCLMCC and LECET Funds. Interest is owed at the rate of 12% on all delinquent amounts owed from the date of the delinquency forward. It is my responsibility to prepare the damage and interest calculation for audit reports. With respect to the audit report prepared by the Legacy Professionals LLP, the total amount of liquidated damages (adding the Funds at the rate of 20% and the Union/ancillary Funds at 10% penalty) is the amount of \$145,289.26.

5. Interest has been determined for unpaid Funds' contributions in the amount of \$120,046.88, through March 14, 2017.

6. Audit fees paid by the Funds in connection with this matter are \$1,587.00.

7. This Company does not have the full amount required posted in lieu of a surety bond on file with the Funds.

FURTHER AFFIANT SAYETH NOT.

Subscribed and sworn to before me
this ____ day of March 2017.

Jean Mashos

NOTARY PUBLIC

JJ Day Inc.
P.O. Box 2202
Muncie, IN 47307

Employer Number:35576

June 30, 2015 through March 31, 2016

LEGACY
PROFESSIONALS LLP
CERTIFIED PUBLIC ACCOUNTANTS

March 6, 2017

Board of Trustees
Pension and Welfare Funds of Construction and General
Laborers' District Council of Chicago and Vicinity
11465 Cermak Rd.
Westchester, Illinois 60154

We have applied certain procedures, as discussed below, to the payroll records of JJ Day Inc., a contributing employer to the Pension and Welfare Funds of Construction and General Laborers' District Council of Chicago and Vicinity, for the period June 30, 2015 to March 31, 2016. The purpose of our review was to assist you in determining whether contributions to the Trust Funds are being made in accordance with the collective bargaining agreements in effect and with the Trust Agreements of the Funds. The propriety of the contributions is the responsibility of the employer's management.

Our procedures included a review of the pertinent provision of the collective bargaining agreements and compared underlying employer payroll records to Fund contribution records. The employer records we reviewed included payroll journals, individual earnings records, payroll tax returns, contribution reports, job classifications, and general disbursement records as appropriate. The scope of this engagement was limited to records made available by the employer and would not necessarily disclose all exceptions in employer contributions to the Trust Funds. Any compensation paid to employees not disclosed to us or made part of the written record was not determinable by us and was not included in our review.

Our procedures related to a review of the employer's payroll records only and did not extend to any financial statements of the contributing employer. The procedures were substantially less in scope than an audit of the financial statements of the contributing employer, the objective of which is the expression of an opinion on the contributing employer's financial statements. Accordingly, no such opinion is expressed.

The findings of this audit report should not be construed as an endorsement or ratification of any of the Employer's contribution practices. The finding is based solely on those documents that the Employer provided to the auditors. This firm has not been retained to provide, and does not provide, any interpretation or advice concerning any terms of the collective bargaining agreement between the Employer and the Union or the terms of the Funds' respective Agreement and Declarations of Trust. All questions concerning the Employer's contribution practices, or any contributions or benefits-related issue, should be directed to the Union or the Fund office. No failure to note an exception to any of the employer's contribution practices should be construed as a ratification of such practice or waiver of the Union or the Funds' ability to challenge such practice in the future.

The exceptions to employer contributions noted are detailed on the accompanying schedule.

Legacy Professionals LLP

**LEGACY PROFESSIONALS, LLP
COMPLIANCE AUDIT INFORMATION SHEET**

EMPLOYER NAME	<u>JJ Day Inc.</u>	EMPLOYER #	<u>35576</u>
ADDRESS	<u>P.O. Box 2202</u>	PHONE #	<u>(765) 287-9002</u>
CITY/STATE/ZIP	<u>Muncie, IN 47307</u>	FEIN #	<u></u>
DATE OF CONTACT	<u>May 18, 2016</u>	AUDIT PERIOD	<u>June 30, 2015 through March 31, 2016</u>
CONTACT'S NAME	<u>Barb Isenburg</u>	TITLE	<u>Administrative Assistant</u>
PERSON FUND IS TO CONTACT	<u>SAME AS ABOVE</u>	TITLE	<u>SAME AS ABOVE</u>
ENTITY TYPE	<u>Not Provided</u>	FIELD REPRESENTATIVE	<u>Jean Mashos</u>
MAIN BUSINESS ACTIVITY	<u>Not Provided</u>		

AVERAGE NUMBER OF EMPLOYEES: 50

AVERAGE NUMBER OF CHICAGO LABORERS: 3

<u>OWNERSHIP-PRINCIPALS</u>	<u>TITLE</u>	<u>%</u>	<u>ADDRESS</u>
<u>Not Provided</u>			

BANKING FACILITIES USED AND ACCOUNT NUMBER: Not Provided

DOES EMPLOYER HAVE INTEREST IN OTHER OPERATIONS ? ☐ YES ☒ NO

IF YES, LIST NAME OF SAME

IS EMPLOYER A MEMBER OF ANY TRADE ORGANIZATION/ASSOCIATION? ☐ YES ☒ NO

IF YES, LIST NAME OF SAME

AUDIT DATE June 8, 2016

AUDIT SITE (IF DIFFERENT FROM EMPLOYER'S ADDRESS):

311 S. Wacker Drive, Suite 4000
Chicago, IL 60606
(Offices of Legacy Professionals)

ALL REQUIRED ACCOUNTING RECORDS WERE AVAILABLE WITH THE EXCEPTION OF: Payroll for unverified employees, disbursements, bank statements,
completed CAIS.

BRIEFLY DESCRIBE THE NATURE OF THE DELINQUENCY, IF ANY: The employer did not report any hours worked by covered
employees during the audit period. All unverified employees hours were included in the report.

DID YOUR EXAMINATION UNCOVER ANYTHING SPECIAL OR UNUSUAL WHICH SHOULD BE BROUGHT TO
THE ATTENTION OF THE FUND COUNSEL OR OTHER INTERESTED PERSONS?

☒ YES

☐ NO

IF YES, EXPLAIN: Unverified employees hours were calculated by dividing the employees quarterly wages by 18 to come up with
hours worked. The discrepancy was placed in the first month of the respective quarter.

AUDITOR: Terrence Truesdale

Laborers' District Council

Reconciliation of Differences Per Year

Fiscal Year Ending	5-31-2011	5-31-2012	5-31-2013	5-31-2014	5-31-2015	5-31-2016	Total Due
Fringe Hours Not Reported	-	-	-	-	-	28,295.50	28,295.50
Dues Hours Not Reported	-	-	-	-	-	28,295.50	28,295.50
Dues Wages Not Reported	-	-	-	-	-	533,556.42	533,556.42
Dollar Amount Due							
Welfare (Active)	-	-	-	-	-	282,389.10	282,389.10
Welfare (Retiree)	-	-	-	-	-	113,182.00	113,182.00
Pension	-	-	-	-	-	303,327.76	303,327.76
Training	-	-	-	-	-	14,147.76	14,147.76
IAF	-	-	-	-	-	-	-
CISCO	-	-	-	-	-	-	-
LECET	-	-	-	-	-	1,980.70	1,980.70
LDCLMCC	-	-	-	-	-	4,810.25	4,810.25
Working Dues	-	-	-	-	-	20,008.37	20,008.37
Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 739,845.94	\$ 739,845.94
Plus previous late charges assessed by Laborers' Pension and Welfare Funds							
							\$ -
Plus previous underpayments incurred to Laborers' District Council Funds							
							\$ -
Plus previous penalties incurred to Laborers' District Council Funds							
							\$ -
Audit Fee							
							\$ 1,587.00
Total Amount Due							
							\$ 741,432.94

Employer Name:	JJ Day Inc.	Person Contacted:	Barb Isenburg
Employer #:	35576	Date of Contact:	May 18, 2016
Date of Audit:	June 8, 2016	Telephone:	(765) 287-9002
Audit Period :	June 30, 2015 through March 31, 2016	Auditor:	Terrence Truesdale

Laborers' District Council

Schedule of Deficiencies

Audit Period: June 30, 2015 through March 31, 2016
 Date of Audit: June 8, 2016
 Field Auditor: Terrence Truesdale

Employer Name: JJ Day Inc.
 Employer Number: 35576
 Agreement Type: NMA

SSN	Name	2015												2016					Total
		Jnn	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May						
	Fringe Hours		536.00			866.00				583.50							1,985.50		
	Dues Hours		536.00			866.00				583.50							1,985.50		
	Dues Wages		9,649.63			15,588.29				10,501.51							35,739.43		
	Fringe Hours		557.25			1,044.75				729.25							2,331.25		
	Dues Hours		557.25			1,044.75				729.25							2,331.25		
	Dues Wages		10,032.00			18,804.61				13,125.75							41,962.36		
	Fringe Hours		82.00														82.00		
	Dues Hours		82.00														82.00		
	Dues Wages		1,475.50														1,475.50		
	Fringe Hours		342.50			664.50				446.50							1,453.50		
	Dues Hours		342.50			664.50				446.50							1,453.50		
	Dues Wages		6,165.00			11,958.85				8,036.14							26,159.99		
3	Fringe Hours		349.75			421.25				409.00							1,180.00		
	Dues Hours		349.75			421.25				409.00							1,180.00		
	Dues Wages		6,296.75			7,583.66				7,361.25							21,241.66		
	Fringe Hours		765.00			823.25				948.50							2,536.75		
	Dues Hours		765.00			823.25				948.50							2,536.75		
	Dues Wages		13,770.13			14,817.25				17,071.25							45,658.63		
3	Fringe Hours		546.00			581.00				456.75							1,583.75		
	Dues Hours		546.00			581.00				456.75							1,583.75		
	Dues Wages		9,827.96			10,458.55				8,223.26							28,509.77		
	Fringe Hours					286.75				473.75							760.50		
	Dues Hours					286.75				473.75							760.50		
	Dues Wages					5,162.09				8,529.00							13,691.09		
	Fringe Hours		208.00			518.25				416.00							1,142.25		
	Dues Hours		208.00			518.25				416.00							1,142.25		
	Dues Wages		3,744.00			9,326.64				7,488.00							20,558.64		
	Fringe Hours		237.00			26.25				446.25							709.50		
	Dues Hours		237.00			26.25				446.25							709.50		
	Dues Wages		4,266.25			474.50				8,031.50							12,772.25		
Total Fringe Hours		-	3,623.50	-	-	5,232.00	-	-	-	4,909.50	-	-	-	-	-	-	13,765.00		
Total Dues Hours		-	3,623.50	-	-	5,232.00	-	-	-	4,909.50	-	-	-	-	-	-	13,765.00		
Total Wages		-	65,227.22	-	-	94,174.44	-	-	-	88,367.66	-	-	-	-	-	-	247,769.32		
Welfare (Active)			36,162.53		-	52,215.36		-	-	48,996.81		-	-	-	-	-	137,374.70		
Welfare (Retiree)			14,494.00		-	20,928.00		-	-	19,638.00		-	-	-	-	-	55,060.00		
Pension			38,843.92		-	56,087.04		-	-	52,629.84		-	-	-	-	-	147,560.80		
Training			1,811.75		-	2,616.00		-	-	2,454.75		-	-	-	-	-	6,882.50		
IAF			-		-	-		-	-	-		-	-	-	-	-	-		
CISCO			-		-	-		-	-	-		-	-	-	-	-	-		
LECET			253.65		-	366.24		-	-	343.67		-	-	-	-	-	963.56		
LDCLMCC			616.00		-	889.44		-	-	834.62		-	-	-	-	-	2,340.06		
Working Dues			2,446.02		-	3,531.54		-	-	3,313.79		-	-	-	-	-	9,291.35		
3.75%																			
SHEET TOTAL		-	94,627.87	-	-	136,633.62	-	-	-	128,211.48	-	-	-	-	-	-	359,472.97		

Laborers' District Council

Schedule of Deficiencies

Audit Period: June 30, 2015 through March 31, 2016
Date of Audit: June 8, 2016
Field Auditor: Terrence Truesdale

Employer Name: JJ Day Inc.
Employer Number: 35576
Agreement Type: NMA

SSN	Name	2015												2016					Total
		Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May						
	Fringe Hours		1,079.00			859.25			771.75										2,710.00
	Dues Hours					859.25			771.75										2,710.00
	Dues Wages		19,424.00			15,468.37			13,892.00										48,784.37
	Fringe Hours		870.00			242.00													1,112.00
	Dues Hours		870.00			242.00													1,112.00
	Dues Wages		15,658.50			4,355.00													20,013.50
	Fringe Hours		697.50			1,089.00			843.25										2,629.75
	Dues Hours		697.50			1,089.00			843.25										2,629.75
	Dues Wages		12,553.92			19,601.94			15,179.78										47,335.64
	Fringe Hours		177.00																177.00
	Dues Hours		177.00																177.00
	Dues Wages		3,186.00																3,186.00
	Fringe Hours		168.50																168.50
	Dues Hours		168.50																168.50
	Dues Wages		3,033.75																3,033.75
	Fringe Hours		233.50			40.00													273.50
	Dues Hours		233.50			40.00													273.50
	Dues Wages		4,204.25			720.00													4,924.25
	Fringe Hours		324.00			231.50													555.50
	Dues Hours		324.00			231.50													555.50
	Dues Wages		5,833.75			4,168.73													10,002.48
	Fringe Hours		482.00			7.00													489.00
	Dues Hours		482.00			7.00													489.00
	Dues Wages		8,676.00			127.50													8,803.50
	Fringe Hours					560.50			571.75										1,132.25
	Dues Hours					560.50			571.75										1,132.25
	Dues Wages					10,088.50			10,289.75										20,378.25
	Fringe Hours		1,902.00			1,399.00			1,131.00										4,432.00
	Dues Hours		1,902.00			1,399.00			1,131.00										4,432.00
	Dues Wages		34,236.43			25,180.16			20,355.97										79,772.56
Total Fringe Hours		-	5,933.50	-	-	4,428.25	-	-	3,317.75	-	-	-	-	-	-	-	-	-	13,679.50
Total Dues Hours		-	5,933.50	-	-	4,428.25	-	-	3,317.75	-	-	-	-	-	-	-	-	-	13,679.50
Total Wages		-	106,806.60	-	-	79,710.20	-	-	59,717.50	-	-	-	-	-	-	-	-	-	246,234.30
	Welfare (Active)		59,216.33	-	-	44,193.94	-	-	33,111.15	-	-	-	-	-	-	-	-	-	136,521.42
	Welfare (Retiree)		23,734.00	-	-	17,713.00	-	-	13,271.00	-	-	-	-	-	-	-	-	-	54,718.00
	Pension		63,607.12	-	-	47,470.84	-	-	35,566.28	-	-	-	-	-	-	-	-	-	146,644.24
	Training		2,966.75	-	-	2,214.13	-	-	1,658.88	-	-	-	-	-	-	-	-	-	6,839.76
	IAF		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	CISCO		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	LECET		415.35	-	-	309.98	-	-	232.24	-	-	-	-	-	-	-	-	-	957.57
	LDCLMCC		1,008.70	-	-	752.80	-	-	564.02	-	-	-	-	-	-	-	-	-	2,325.52
	Working Dues		4,005.25	-	-	2,989.13	-	-	2,239.41	-	-	-	-	-	-	-	-	-	9,233.79
SHEET TOTAL		-	154,953.50	-	-	115,643.82	-	-	86,642.98	-	-	-	-	-	-	-	-	-	357,240.30

Laborers' District Council
Schedule of Deficiencies

Audit Period:	June 30, 2015 through March 31, 2016
Date of Audit:	June 8, 2016
Field Auditor:	Terrence Truesdale

Employer Name: JJ Day Inc.
Employer Number: 35576
Agreement Type: NMA

[illegible]

Laborers' District Council

Monthly Summary of Discrepancies by Fund

Employer Name: JJ Day Inc.
 Employer Number: 35576
 Agreement Type: NMA

Audit Period: June 30, 2015 through March 31, 2016
 Date of Audit: June 8, 2016
 Field Auditor: Terrence Truesdale

	2014							2015					Total
	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	
Total Fringe Hours	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Dues Hours	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Wages	-	-	-	-	-	-	-	-	-	-	-	-	-
Welfare (Active)	-	-	-	-	-	-	-	-	-	-	-	-	-
Welfare (Retiree)	-	-	-	-	-	-	-	-	-	-	-	-	-
Pension	-	-	-	-	-	-	-	-	-	-	-	-	-
Training	-	-	-	-	-	-	-	-	-	-	-	-	-
IAF	-	-	-	-	-	-	-	-	-	-	-	-	-
CISCO	-	-	-	-	-	-	-	-	-	-	-	-	-
LECET	-	-	-	-	-	-	-	-	-	-	-	-	-
LDCLMCC	-	-	-	-	-	-	-	-	-	-	-	-	-
Working Dues	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTALS	-	-	-	-	-	-	-	-	-	-	-	-	-

	2015							2016					Total
	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	
Total Fringe Hours	-	9,735.00	595.00	78.00	9,660.25	-	-	8,227.25	-	-	-	-	28,295.50
Total Dues Hours	-	9,735.00	595.00	78.00	9,660.25	-	-	8,227.25	-	-	-	-	28,295.50
Total Wages	-	180,305.02	27,792.80	3,488.80	173,884.64	-	-	148,085.16	-	-	-	-	533,556.42

Welfare (Active)	\$9.98	97,155.30	5,938.10	778.44	96,409.30	-	-	82,107.96	-	-	-	-	282,389.10
Welfare (Retiree)	\$4.00	38,940.00	2,380.00	312.00	38,641.00	-	-	32,909.00	-	-	-	-	113,182.00
Pension	\$10.72	104,359.20	6,378.40	836.16	103,557.88	-	-	88,196.12	-	-	-	-	303,327.76
Training	\$0.50	4,867.50	297.50	39.00	4,830.13	-	-	4,113.63	-	-	-	-	14,147.76
IAF	\$0.07	-	-	-	-	-	-	-	-	-	-	-	-
CISCO	\$0.01	-	-	-	-	-	-	-	-	-	-	-	-
LECET	\$0.07	681.46	41.65	5.46	676.22	-	-	575.91	-	-	-	-	1,980.70
LDCLMCC	\$0.17	1,654.96	101.15	13.26	1,642.24	-	-	1,398.64	-	-	-	-	4,810.25
Working Dues	3.75%	6,761.44	1,042.23	130.83	6,520.67	-	-	5,553.20	-	-	-	-	20,008.37
TOTALS	-	254,419.86	16,179.03	2,115.15	252,277.44	-	-	214,854.46	-	-	-	-	739,845.94