

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

FILED
MAR 19 2010
MAGISTRATE JUDGE P. MICHAEL MAHONEY
United States District Court

THE CONSTRUCTION INDUSTRY WELFARE)
FUND OF ROCKFORD, ILLINOIS and;)
THE CONSTRUCTION INDUSTRY)
RETIREMENT FUND OF ROCKFORD,)
ILLINOIS,)

Plaintiffs,)

v.)

ANGELA M. NEWKIRK d/b/a)
PECATONICA FLOORING, INC.,)
and TIM NEWKIRK d/b/a)
ZAMBONI BIG DOG FLOORING,)
ANGELA M. NEWKIRK, individually,)
TIM NEWKIRK, individually,)

Defendants.)

CASE NO. 07 C 50198

Judge Frederick Kapala
Magistrate Judge Michael
Mahoney

**AGREED MOTION FOR JUDGMENT AGAINST
PECATONIC FLOORING, INC. AND ZAMBONI BIG DOG FLOORING**

NOW COMES Plaintiffs, the Construction Industry Welfare Fund of Rockford, Illinois, and the Construction Industry Retirement Fund of Rockford, Illinois (hereinafter called, "Plaintiffs" or "Funds"), by and through their attorney Marc M. Pekay, P.C. and Pecatonica Flooring, Inc. and Zamboni Big Dog Flooring and hereby agree to the following Judgment being entered against Pecatonica Flooring, Inc. and Zamboni Big Dog Flooring. In support of this Agreed Motion, the Parties state as follows:

1. The lawsuit was filed by Plaintiffs regarding the Defendants' failure to pay contributions to the Plaintiffs' Pension and Welfare Funds.
2. Defendants were served with the Complaint and Summons on October 11, 2007, and did not file an answer or otherwise plead.

3. After the filing of the lawsuit, the individual Defendants, Angela M. Newkirk and Tim Newkirk filed bankruptcy and were discharged in Bankruptcy Court for any obligation.

4. The audit reflected contributions due and owing for Pecatonica Flooring, Inc. in the amount of \$106,152.32, which includes \$87,220.97 in contributions and \$8,931.00 in liquidated damages. An audit was also performed regarding Zamboni Big Dog Flooring. It does not appear that any contributions would be due and owing for the audit of Zamboni Big Dog Flooring.

5. In addition to the amount shown on the audit, the Funds expended audit costs in the amount of \$2,880.00 (copy of the audit bills are attached hereto as Exhibit A).

6. The Plaintiffs have expended \$11,033.44 in legal fees (see Exhibit B).

7. The Parties agree to a Judgment against Pecatonica Flooring, Inc. in the amount of \$120,045.78. The issuance of the Judgment in that amount resolves this lawsuit.

8. The parties agree that Magistrate Judgment Mahoney may enter the Judgment Order.

Respectfully submitted,

By: Marco M. Peckay
Marco M. Peckay, on behalf of
Plaintiffs

By: Angela Newkirk
Angela M. Newkirk, on behalf of
Pecatonica Flooring, Inc.

By: Tim Newkirk
Tim Newkirk, on behalf of Zamboni
Big Dog Flooring, Inc.

Marc M. Pekay, P.C
30 North LaSalle Street
Suite 2426
Chicago, IL 60602
(312) 606-0980

RICHARD J. WOLF AND COMPANY, INC.

Post Office Box 591
Palos Park, Illinois 60464
(708) 923-0909
Fax (708) 923-0910

FILE

March 13, 2009

Board of Trustees of the Various
Fringe Benefit Funds of the
Construction Industry Funds

RE: Pecatonica Flooring Inc. (10000)

Amount due for services rendered and expenses incurred in connection with the
fringe benefit contribution compliance audit of Pecatonica Flooring Inc.,
for the period from January 1, 2006 through August 31, 2007.

Audit Cost \$1,430.00

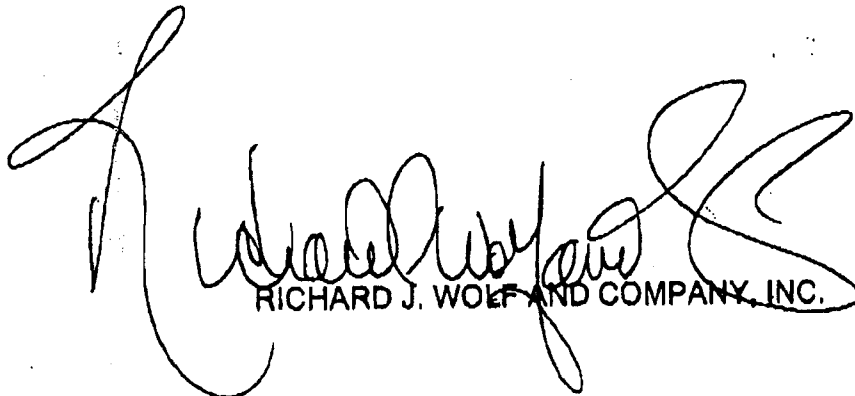

RICHARD J. WOLF AND COMPANY, INC.

Exhibit A

RICHARD J. WOLF AND COMPANY, INC.

FILE COPY

Post Office Box 591
Palos Park, Illinois 60464
(708) 923-0909
Fax (708) 923-0910



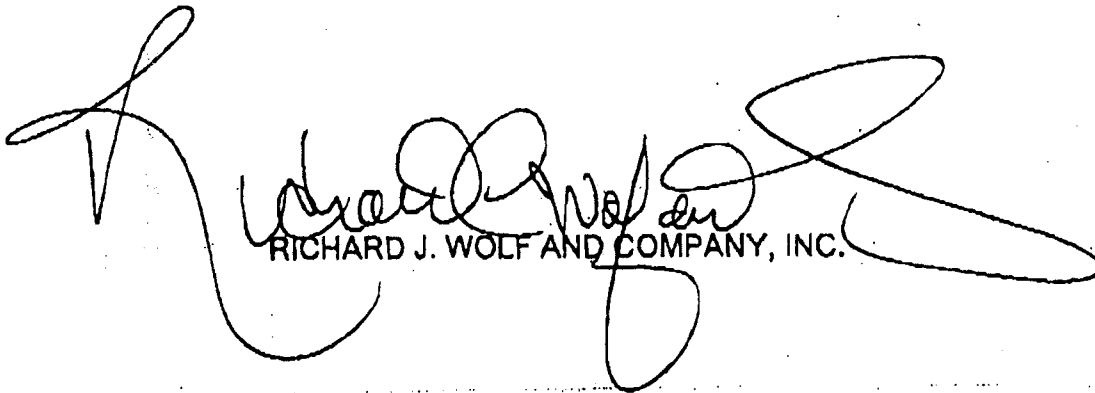
April 3, 2009

Board of Trustees of the Various
Fringe Benefit Funds of the
Construction Industry Funds

RE: Zamboni Big Dog Flooring (10108)

Amount due for services rendered and expenses incurred in connection with the
fringe benefit contribution compliance audit of Zamboni Big Dog Flooring,
for the period from January 1, 2006 through August 31, 2007.

Audit Cost \$1,430.00



RICHARD J. WOLF AND COMPANY, INC.

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Defendants.)

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AFFIDAVIT OF MARC PEKAY

NOW COMES, Marc M. Pekay, who upon my oath affirms and says:

1. I am the attorney who represents the Construction Industry Welfare Fund of Rockford, Illinois and The Construction Industry Retirement Fund of Rockford, Illinois (hereinafter collectively referred to as the "Funds" or the "Plaintiffs"). My office is located at 30 N. LaSalle Street, Suite 2426, Chicago, Illinois 60602.

2. I am admitted to the federal bar and have regularly represented trust funds in matters involving collection of fringe benefits.

3. My billing fee for myself is \$200.00 per hour

4. I have spent 51.1 hours in this matter.

EXHIBIT R

5. The total amount of Legal Fees that was billed was \$10,220.00 most of which has already been paid by the Funds.

6. In addition to legal fees, the cost of filing this lawsuit, process server fees of having the Company served and overnight delivery fees to the Court is \$813.44.

7. Therefore, the total amount of Legal Fees and Costs that was billed by the Law Offices of Marc M. Pekay and most of which has been paid by the Funds is \$11,033.44.

FURTHER AFFIANT SAYETH NOT

Dated this 19th day of March, 2010.

By Marc M. Pekay
Marc M. Pekay

Sworn and subscribed to before me
This 19th day of March, 2010

By James A. Farone
Notary Public

