

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

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

Plaintiffs,)

v.)

MACDONALD CONSTRUCTION SERVICES, INC.)

Defendant.)

CASE NO. 08 C 50149

Judge Frederick Kapala
Magistrate Judge Michael
Mahoney

AFFIDAVIT OF JIM FARONE

JIM FARONE, being first duly sworn on oath, deposes and states as follows:

1. I am the Administrative Director of The Construction Industry Welfare Fund of Rockford, Illinois and The Construction Industry Retirement Fund of Rockford, Illinois (hereinafter collectively referred to as the "Funds"), Plaintiffs in the above referenced action. My responsibilities include oversight of the collection of amounts owed by Defendant, MacDonald Construction Services, Inc. (hereinafter "MacDonald" or the "Company"). This Affidavit is submitted in support of the Funds' Motion for Entry of Judgment. I have personal knowledge regarding the statements contained herein.

2. On or about July 19, 2007, the Company and the Chicago Regional Council of Carpenters entered into a Collective Bargaining Agreement (hereinafter collectively referred to as the "Agreements"). See Exhibit F-1. Pursuant to the terms of these Agreements, the Company is bound to the terms of the relevant collective bargaining

agreements and trust agreements which state the Company must pay contributions to the Funds.

3. The Agreements and Trust Agreements to which the Company is bound require that the Company submit benefit reports and contributions by the fifteenth (15th) day of the following month. Payments which are not received by the twenty-fifth (25th) day of the month after the work was performed are required to pay an additional amount of ten percent (10%) in liquidated damages. The Agreements and the Funds' respective Agreements, also obligate the Company to submit its books and records to the Funds for periodic audits to determine benefit contribution compliance.

4. MacDonald submitted its books and records to an audit. Pursuant to the audit, the Company owes *Seventy Thousand Six Hundred Eighty Seven Dollars and seventy eight cents (\$70,687.78)* for hours worked from January 1, 2006 through March 31, 2008. In addition, the audit fees for the audit are *seven hundred and fifty dollars (\$750.00)* and pursuant to the Agreements to which Defendant is bound, the Company is liable for this fee. *(Attached as Exhibit C).*

5. In addition to the above, the Company owes *One Thousand One Hundred and Forty Nine Dollars and seventy six cents (\$1,149.76)* in unpaid liquidated damages for August 2007 through November 2007 contributions that were not paid on time. *(Attached hereto as Exhibit D).* The Company previously paid \$1,489.76 of the liquidated damages owed.

6. The Company also owes *ninety dollars and eighty four cents (\$90.84)* for an underpayment of September 2007 through November 2007 contributions. *(Attached hereto as Exhibit E).*

7. The Company also owes legal fees and costs in the amount of *Four Thousand Fifty Nine Dollars and thirty seven cents (\$4,059.37)* that the Funds have incurred in trying to collect on these delinquencies. (*Attached hereto as Exhibit G*).

FURTHER AFFIANT SAYETH NOT

Dated this 7th day of January 2009

By *Jim Farone*
Jim Farone

Sworn and subscribed to before me
This 7 day of ~~September 2008~~ *January, 2009*

By *Nancy H. Shindel*
Notary Public

