

**United States District Court
Northern District of Indiana
Hammond Division**

NATIONAL ROOFING INDUSTRY)
PENSION FUND,)
)
Plaintiff,)
)
v.)
)
THUNDER BAY ROOFING, INC.)
and PAUL GIVENS,)
)
Defendants.)

Civil Action No. 2:03-CV- 271 JVB

OPINION AND ORDER

This matter is before the Court on Plaintiff’s Verified Application to Court to Enter an Order and Default Judgment Against Defendants filed on August 8, 2007.

Plaintiff filed its initial Complaint to collect delinquent fringe benefits for the period from August 1, 2002, through July 2003 under the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U. S. C. § 1132 and § 1145. Neither Defendant appeared or filed an answer, but Defendant Givens supplied payroll records for 2002 and 2003. In April 2004, the parties settled and entered into a payment agreement, whereupon the action was dismissed without prejudice.

When the Defendants failed to honor the agreement the case was reinstated. On February 2, 2006, Plaintiff filed its Amended Complaint to collect delinquent contributions for the period from August 1, 2002 through February 1, 2006. On May 25, 2006, Defendants were served with, *inter alia*, Plaintiff’s reinstatement motion, the Order reinstating the action, and the First Amended Complaint. Neither Defendant filed an answer to the Amended Complaint. Plaintiff’s

motion to compel Defendants to produce payroll records filed on October 18, 2006, was granted. Following an April 3, 2007, show cause hearing for failing to comply with the Court's Order to produce the records, Defendant Given, who appeared at the hearing pro se, turned over additional payroll records.

In its Application, which was served on both Defendants by mail, Plaintiff stated that the two sets of payroll records produced establish that the Defendants owe \$1,663.49 in delinquent contributions, \$759.82 in interest and \$213.76 in liquidated damages for the period from August 2002 through August 2004 as well as \$16,188.10 in attorneys' fees and \$224.77 in expenses. In support of these figures Plaintiff submitted the affidavits of Paul T. Berkowitz and Robbie D. Goodrich.

Plaintiff's Application is **GRANTED**. The Clerk of the Court shall enter default judgement against the Defendants for:

1. \$1663.49 in delinquent contributions;
2. \$759.82 in prejudgment interest;
3. \$213.76 in liquidated damages;
4. \$16,188.10 in attorneys' fees and expenses.

SO ORDERED on February 7, 2008.

s/ Joseph S. Van Bokkelen
Joseph S. Van Bokkelen
United States District Judge