

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

PAINTERS DISTRICT COUNCIL NO. 58)
et.al.,)
)
Plaintiffs,)
)
vs.)
)
TRINITY DRYWALL, LLC,)
and)
RANDY JAMES LAKEY)
)
Defendants.)

Cause No: 4:15-cv-01195-RWS

**MEMORANDUM AND ORDER ON PLAINTIFFS’
MOTION FOR ENTRY OF DEFAULT JUDGMENT - AUDIT**

This matter is before the Court on plaintiffs’ motion for default judgment against **Trinity Drywall, LLC** and **Randy James Lakey** (hereinafter, “Defendants”). Plaintiffs filed this action on **August 5, 2015** under the Employee Retirement Security Act, 29 U.S.C. §§ 1132 and 1145, and the Labor Management Relations Act, 29 U.S.C. § 185. The Complaint alleges the Defendants have failed to make accounting and fully pay several employee benefit funds and contributions due under the collective bargaining agreement between Defendants and its employees’ union. Plaintiffs are the union and the trustees, sponsors and/or fiduciaries of the various funds.

The Clerk of Court entered an order of default against the Defendants on **September 23, 2015**. [Doc. #7].

Plaintiffs have filed a motion seeking a default judgment requiring the Defendants to submit to an accounting under the parties trust documents, collective bargaining agreement and common law under ERISA.

When the Clerk of Court has entered default against a defendant, the “allegations of the complaint except as to the amount of damages are taken as true.” Mueller v. Jones, No. 2:08CV16 JCH, 2009 WL 500837, at *1 n.2 (E.D. Mo. Feb. 27, 2009) (quoting Brown v. Kenron Aluminum & Glass Corp., 477 F.2d 526, 531 (8th Cir. 1973)). Accordingly, in deciding the present motion for default judgment, the Court accepts as true the factual allegations contained in the Plaintiffs’ Complaint together with those affidavits presented in the Plaintiffs’ motion and memorandum in support as they relate to the Plaintiffs’ damages and prayer for relief.

Based on those allegations and affidavits, plaintiffs are entitled to the relief requested.

Accordingly,

IT IS HEREBY ORDERED that Plaintiffs’ motion for default judgment #[10] is **GRANTED**.

Defendants shall submit the documents requested for the period of **November 19, 2014** to today's date to Plaintiffs’ attorney no later than November 2, 2015. Failure to comply with this Order may result in the imposition of sanctions.

IT IS FURTHER ORDERED that the Court reserves jurisdiction to make such further orders and grant such additional relief, including but not limited to the entry of partial and final judgments, as it deems appropriate.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 1st day of October, 2015