

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

LABORERS' LOCAL UNION NOS. 472 &
172 and LABORERS' LOCAL UNION NOS.
472 & 172 WELFARE AND PENSION
FUNDS AND SAFETY, EDUCATION AND
TRAINING FUNDS; ZAZZALI, FAGELLA,
NOWAK, KLEINBAUM & FRIEDMAN,
P.A.,

Petitioners,

v.

ESCON ENTERPRISES, INC.,

Respondent.

Civ. No. 11-cv-5309

OPINION and ORDER

THOMPSON, U.S.D.J.

This matter has come before the Court on Petitioners Laborers' Local Union Nos. 472 & 172; Laborers' Local Union Nos. 472 & 172 Welfare Pension Funds and Safety, Education and Training Funds; Zazzali, Fagella, Nowak, Kleinbaum & Friedman, P.A.'s, Motion to Confirm Arbitration Award. [Docket # 2]. This motion is unopposed by the Respondent ESCON Enterprises, Inc. The Court has decided this matter after considering the parties' written submissions and without holding oral argument pursuant to Fed. R. Civ. P. 78(b).

This Court having found that respondent is bound to a written Collective Bargaining Agreement that provides for the submission to arbitration of any controversies concerning delinquent payment to petitioner Laborers' Local Union Nos. 472 & 172 and Laborers' Local Union Nos. 472 & 172 Welfare and Pension Funds, and Safety, Education and Training Funds; this dispute having been submitted to an arbitrator who, upon a hearing with proper notice to all parties, entered an award; this Court having jurisdiction to enforce the awards of arbitrators

pursuant to 9 U.S.C. § 9; the Court having considered the written submissions of petitioners in light of the fact that respondent has not submitted opposition to the motion; and for good cause shown:

It is on this 17th day of October, 2011

ORDERED that Petitioners' Motion to Confirm Arbitration Award is GRANTED; and it is

ORDERED that the Arbitration Award against ESCON Enterprises, Inc. dated June 30, 2011 is hereby confirmed; and it is

ORDERED that judgment is hereby entered against ESCON Enterprises, Inc. in favor of Laborers' Local Union Nos. 472 & 172 and Laborers' Local Union Nos. 472 & 173 Welfare and Pension Funds, and Safety, Education and Training Funds (collectively, "the Funds") in the amount of \$14,137.55. This amount is subject to additional interest at the rate of twelve percent (12%) per annum on the unpaid balance of both contributions and interest for the period such monies remain outstanding after the date such contributions become due and payable to the Funds; and it is

ORDERED that judgment is hereby entered against ESCON Enterprises, Inc. in favor of Petitioner Zazzali, Fagella, Nowak, Kleinbaum & Friedman in the amount of \$2,718.76, which is twenty percent (20%) of the original total principal amount due of \$13,593.80 to the Petitioner Funds, or twenty percent (20%) of the adjusted amount shown to be due by the audit ordered herein plus interest of ten percent (10%) from the date of the Award on any part of the attorneys' fees awarded that is not paid within thirty days to Petitioners' attorneys, Zazzali, Fagella, Nowak, Kleinbaum & Friedman; and it is

ORDERED that judgment is hereby entered against ESCON Enterprises, Inc. in favor of Laborers' Local Union Nos. 472 & 172 and Laborers' Local Union Nos. 472 & 172 Welfare and

Pension Funds, and Safety, Education and Training Funds in the amount of \$1,000.00 for reimbursement of the arbitrator's fee; and it is

ORDERED that judgment is hereby entered, and the respondent is ordered to pay the total amount of \$17,856.31; and it is

ORDERED that ESCON Enterprises, Inc. shall permit the Funds' agents to conduct an audit of the books and records of ESCON Enterprises, Inc.; and it is

ORDERED that ESCON Enterprises, Inc. shall pay the Petitioners' costs in this action; and it is

ORDERED that ESCON Enterprises, Inc. in accordance with the Arbitration Award, shall pay, as supplementary attorneys' fees, ten percent (10%) of the total amount due to the Funds in the event that any additional efforts or services are required in order to recover the amounts due on the judgment; and it is

ORDERED that ESCON Enterprises, Inc. shall make all future contributions to the Funds in a prompt and timely manner, as determined by the Funds, and the failure of the Respondent to do so shall be deemed a violation of this Order; and it is

ORDERED that ESCON Enterprises, Inc., its president, registered agent, or other authorized corporate official designated by the Funds, shall appear and make discovery on oath and produce documents concerning the property and things in action of the respondent at the offices of Zazzali, Fagella, Nowak, Kleinbaum & Friedman upon ten (10) days notice; and it is

ORDERED that the ESCON Enterprises, Inc., through its authorized corporate official, shall produce at that time and place the following documents pertaining to ESCON Enterprises, Inc.:

- A. Bank Accounts;
- B. Federal and state tax returns;

C. Financial statements;

D. Documents evidencing ownership interest in real estate, motor vehicle, any and all equipment, pension, life or profit sharing plans, stocks, bonds, securities, or other tangible goods;

E. Payroll records, accounts receivables, and accounts payables;

F. Any judgments or liens by or against ESCON Enterprises, Inc.; and

G. Any and all loans, promissory notes, bills of exchange or commercial paper made by or for the benefit of ESCON Enterprises, Inc.; and it is

ORDERED that this case is CLOSED.

/s/ Anne E. Thompson

ANNE E. THOMPSON, U.S.D.J.