IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

TRUSTEES OF THE OHIO BRICKLAYERS PENSION FUND, *et al.*,	:	Civil Action 2:07-cv-1056
Plaintiffs,	:	
v.	:	Magistrate Judge Abel
ANGELO'S CAULKING & SEALANT, INC.,	:	
Defendant.		

OPINION AND ORDER

This matter is before the Court pursuant to the motion of Defendant Angelo's Caulking & Sealant, Inc. for summary judgment (Doc. 41). This court previously ruled on Plaintiffs' motion for summary judgment. *See* Doc. 29. In that Order, the Court described the factual background of this case. In brief, Plaintiffs are the trustees of various union pension funds, who allege that Defendant failed to fulfill its contractual obligations to contribute to the funds. Central to – and essentially dispositive of – this dispute is the question of whether and for how long Defendant was bound by collective bargaining agreements ("CBAs") with the Bricklayers and Allied Craftworkers Local Unions No. 45 and 55 of Ohio ("Locals 45 and 55") and with the Bricklayers, Terrazzo, Mosaic and Tile Layers Union No. 18 of Ohio and Bricklayers Union No. 2 of Kentucky ("Locals 18/2").

In its prior Order, the Court found:

> Defendant was bound by the 1987-1989 collective bargaining agreement with Locals 18/2 attached as Exhibit A to Plaintiffs' motion for summary judgment (Doc. 20-5). If Plaintiffs cannot prove at trial that Defendant signed or is otherwise bound by a subsequent collective bargaining agreement, it was terminated by Defendant's notice of February 6, 2008, effective May 31, 2008.
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> Unless it can be shown that Defendant entered into a new collective bargaining agreement with Locals 18/2 between 1989 and 2004 which assigned its bargaining rights to someone else Defendant did not enter into, and was not bound by, the 2004-2007 and 2007-2010 CBAs with Locals 18/2 attached as Exhibits B and C to Plaintiffs' motion for summary judgment (Docs. 20-6 and 20-7).
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> Defendant was bound by the 1995-1998 collective bargaining agreement with Locals 45/55 attached as Exhibit F to Plaintiffs' motion for summary judgment (Doc. 20-11). It was bound by a non-member of the Columbus Association, and, under that CBA, assigned its bargaining rights to the Columbus Association.
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> Defendant was bound by the 2004-2007 collective bargaining agreement with Locals 45/55 attached as Exhibit G to Plaintiffs' motion for summary judgment (Doc. 20-12). It was bound because it had assigned its bargaining rights to the Columbus Association, and never revoked them.
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> Defendant is bound by the 2007-2012 collective bargaining agreement with Locals 45/55 attached Exhibit H to Plaintiffs' motion for summary judgment (Doc. 20-13). It is bound because it assigned its bargaining rights to the Columbus Association, and never revoked them.

(Doc. 29 at 17-18.) The parties have since engaged in further discovery. Defendant now urges the Court that, with respect to Locals 18/2, Plaintiffs cannot prove at trial that Defendant did other than the Court already found, and, that with respect to Locals 45/55, Defendants were never bound by the 2004-2007 or 2007-2012 CBAs.

Plaintiffs object to Defendant's motion to the extent that it seeks the Court to

reconsider its prior findings with respect to the Local 45/55 CBAs. However, as the Court's findings and analysis in that order reflect, the record in this case was at the time incomplete. The parties have now submitted significant additional evidence, and the Court will consider it.

Summary Judgment Standard

Summary judgment is appropriate "if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). The movant has the burden of establishing that there are no genuine issues of material fact, which may be accomplished by demonstrating that the nonmoving party lacks evidence to support an essential element of its case. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986); *Barnhart v. Pickrel, Schaeffer & Ebeling Co.*, 12 F.3d 1382, 1388-89 (6th Cir. 1993). To avoid summary judgment, the nonmovant "must do more than simply show that there is some metaphysical doubt as to the material facts." *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986); *accord Moore v. Philip Morris Cos.*, 8 F.3d 335, 340 (6th Cir. 1993). "[S]ummary judgment will not lie if the dispute about a material fact is 'genuine,' that is, if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).

In evaluating a motion for summary judgment, the evidence must be viewed

in the light most favorable to the nonmoving party. *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 158-59 (1970); *see Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133, 150 (2000) (concluding that the court must draw all reasonable inferences in favor of the nonmoving party and must refrain from making credibility determinations or weighing evidence). In responding to a motion for summary judgment, however, the nonmoving party "may not rest upon its mere allegations [...] but [...] must set forth specific facts showing that there is a genuine issue for trial." Fed. R. Civ. P. 56(e); *see Celotex*, 477 U.S. at 324. Furthermore, the existence of a mere scintilla of evidence in support of the nonmoving party's position will not be sufficient; there must be evidence on which the jury reasonably could find for the nonmoving party. *Anderson*, 477 U.S. at 251; *see Matsushita*, 475 U.S. at 587-88 (finding reliance upon mere allegations, conjecture, or implausible inferences to be insufficient to survive summary judgment).

The Locals 18/2 CBAs.

As noted above, the Court previously found that Defendant was bound by the 1987-1989 CBA with Locals 18/2. That CBA, into which Defendant agrees that it entered, contained a so-called “evergreen” clause providing that the agreement would continue from year to year thereafter unless terminated. The Court also found that, although the record contained copies of 2004-2007 and 2007-2010 CBAs ostensibly signed on behalf of Defendant, they had not been signed by the union, which the contracts by their terms required as a condition precedent to the

agreements becoming effective. Therefore, the Court concluded that Defendant continued to be bound by the 1987-1989 CBA, but none other, until it gave notice effective May 31, 2008 of its termination. Defendant now states that Plaintiffs have not presented any new evidence to challenge this assertion, and that the Court should enter judgment confirming this finding.

Plaintiffs, in their memorandum contra, state that they are "submitting herewith additional evidence that the Union and the Contractors Association actually did enter into the Agreements in question, which resolves any doubt regarding this issue." (Doc. 48 at 3.) They attach, *inter alia*, an affidavit by Fred Hubbard, a union official, stating that Locals 18/2 entered into collective bargaining agreements with the Mason Contractors Association of Cincinnati for the 2001-2004, 2004-2007, and 2007-2010 time periods, as evidenced by provided copies of memoranda of understanding. Plaintiffs state: "This is conclusive evidence that the Union and the Contractors Association did in fact enter into CBAs for at least the period of 2001 through 2010 and that Defendant is bound to those CBAs."

This new evidence, however, does not alter the Court's existing analysis. As it already found, the 1987-1989 CBA between Defendant and Local 18/2 did not contain a clause providing that Defendant was assigning its collective bargaining rights to the Contractors Association. (Doc. 29 at 4.) Later CBAs between Defendant and Local 18/2 did, although as the union did not sign these they did not come into effect. Plaintiffs have now provided copies of later, properly signed, CBAs between the Contractors Association and Local 18/2. However, Plaintiffs have not

furnished any evidence that Defendant ever assigned its collective bargaining rights to the Contractors Association. Absent such evidence, the existence of these properly executed contracts between Plaintiffs and someone other than Defendant is irrelevant.

As Plaintiffs have not proved that Defendant ever became bound by a CBA between itself and Local 18/2 subsequent to the 1987-1989 CBA, and as they have not proved that Defendant ever became bound by agreements between the Contractors Association and Local 18/2, their new evidence does not alter the Court's conclusions in its prior order. Defendant is entitled to judgment as a matter of law that it was not bound by a collective bargaining agreement with Locals 18/2 after May 31, 2008.

The Locals 45/55 CBAs.

The Court previously found that Defendant was, and is, bound by the 2007-2012 collective bargaining agreement with Locals 45/55, because it assigned its collective bargaining rights to the Central Ohio Division, Associated General Contractors and Masonry Contractors Association, Inc. of Columbus, Ohio (the "Columbus Association") when it entered into the 1995-1998 CBA, and never revoked them.[1] It therefore became bound by the later bargains struck between the Columbus Association and Locals 45/55. Defendant concedes that it signed the

[1] The Court notes that the 1995-1998 45/55 CBA, unlike the 1995-1998 18/2 CBA, contained an automatic assignment of bargaining rights provision.

1995-1998 CBA. (Doc. 41 at 5.) However, it argues that it never signed the 2004-2007 and 2007-2010 CBAs, and that, under their terms, it cannot be bound without such signature, regardless of whether it assigned its bargaining rights to the Columbus Association.

The Court examined the contracts at issue in depth in its earlier order. The 1995-1998 CBA was negotiated between the Columbus Association and Locals 45/55. In an introductory provision, the contract provided that the Columbus Association "shall bargain only for those members of the Association who have assigned their bargaining rights to the Association." (Doc. 20-10 at 3.) It also provided that "this Agreement may extend to other Employers, not members of the Contractors Association, upon signing a copy of the Agreement." (*Id.*) Defendant, through its president, signed an appendix to the CBA entitled "Agreement of Non-Members of the Association." (*Id.* at 20.) In it, Defendant affirmed that it wished to become an additional party to the CBA, and "hereby agree[d] to accept and be bound by all the terms and provisions of said agreement as additional parties hereto."

The 1995-1998 CBA to which Defendant consented to become a non-association signatory contractor contained several provisions. One of them was Article IV, Section 10, which held:

> Section 10. Termination for Non-Association Signatory Contractors - Any contractor who is signatory to or bound by this collective bargaining agreement and who at the time of its expiration is not a member of the Association(s) who are signatory to this collective bargaining agreement acknowledges that notice of termination or

> modification of said agreement which is given to the Association(s) shall be notice to said contractor of the Union's desire to modify or terminate this Agreement.
>
> In the event that said contractor (who is not a member of the Association(s) at the time this collective bargaining agreement is due to expire) shall not give to the Union written notice of its intention to negotiate separately for a renewal collective bargaining agreement within the sixty (60) days set forth herein for the Association(s), then said contractor shall be deemed to have appointed said Association(s) as its agent for collective bargaining and agreement entered into between the Union and said Association(s).
>
> The provisions of this section shall operate for successive collective bargaining agreements until such time as the contractor gives timely notice to the Union that it desires to negotiate separately or until such time as the Union gives notice that it does not desire to have the Association(s) act as the bargaining agent for the contractor.

(*Id.* at 7.) Under the terms of this section, Defendant agreed that, if it were not a member of the Columbus Association at the time of expiration in 1998, and if it did not give the union written notice of its intention within sixty days of expiration that it wished to negotiate separately for a new renewal agreement, it automatically appointed the Columbus Association its "agent for collective bargaining and agreement". Moreover, this situation would continue indefinitely through successor agreements until Defendant should give timely notice that it wished to negotiate separately. Based on this provision, the Court earlier held:

> Defendant's misunderstanding of its situation and obligations is unfortunate. However, by assigning its collective bargaining rights to the Columbus Association in 1995, and never revoking them, Defendant agreed to automatically become bound by whatever collective bargaining agreements the Columbus Association entered into with Locals 45 and 55. In this case, those subsequent CBAs were the 2004-2007 and the 2007-2012. It will be bound by the 2007-2012 45/55 CBA, and the obligations set forth in that agreement, until May 31, 2012.

Defendant, however, now points out that both the 2004-2007 and 2007-2012 CBAs contain the same introductory language that "[i]t is mutually agreed that this Agreement may extend to other Employers, not members of the Contractors Association, upon signing a copy of the Agreement." *See* Doc. 20-11 at 2; 20-12 at 3. Defendant maintains that this provision must be given effect, and that, as it did not sign the 2004-2007 and 2007-2012 CBAs, the agreements did not "extend" to them. "The assignment provisions in Article IV, Section 10 cannot be permitted to supersede the plain language of the contract requiring that a non-member employer, such as Defendant, 'sign a copy of the Agreement' in order for it to be binding." (Doc. 41 at 6.)

The requirement, pursuant to 29 U.S.C. §186(c)(5)(B), that an obligation by an employer to pay into a union trust fund must arise out of "a written agreement with the employer", is well established in caselaw. In *Merrimen v. Paul F. Forst Elec., Inc.*, 861 F.2d 135 (6th Cir. 1988), pension fund trustees sued an employer who, though he had paid wage and fringe benefits for a time in accordance with a CBA, had never actually signed the CBA itself. The trustees argued that the employer should be considered bound to the CBA by its course of dealings. The Sixth Circuit Court of Appeals, however, declined "to hold that an employer which never signed its assent to a CBA is bound to make pension contributions in accordance therewith merely because it did so voluntarily for a time... a literal construction of section 302(c)(5)(B) effectively forces pension funds, which are third-party beneficiaries of labor agreements, to be more vigilant as to the formalities of

execution than are the parties to those agreements. However, what disparity may exist in this regard derives from the express and unmistakable terms of Congress' mandate." *Id.* at 139. The CBA in *Merrimen* was negotiated between the union and a contractors' association, of which the defendant employer was a member. *Id.* at 137-138. The defendant stated that it had never intended to assign its collective bargaining rights to the contractors' association.[2]

In *United Ass'n of Journeymen and Apprentices of Plumbing and Pipefitting Industry of U.S. and Canada v. Herb Phillips Plumbing & Heating of Bay City, Inc.*, 947 F.2d 946 (Table) (6th Cir. 1991), the appellate court addressed the question of whether the requirement of a written agreement "can be satisfied by a written collective bargaining agreement signed on behalf of a construction industry employer by a contractors association which, although authorized to take such action for the employer, is not shown to have been authorized in writing." *Id.* at *1. *Herb Phillips* involved a company which was a member of a multi-employer bargaining association. The association negotiated a CBA, which its membership ratified. Attached to the CBA were assent forms designed for signature by individual employers, which the defendant never signed. The presidents of the union and the association testified that it was their understanding that these forms

[2] In a footnote, the *Merrimen* court emphasized that mere membership in the contractors' association in that case had not bound the defendant to the CBA negotiated by that association, and noted that the CBA had stated that it "shall apply to all firms who sign a Letter of Assent to be bound by this agreement". *Id.* at fn 7.

were for nonmembers of the association, and that members were not expected to sign assent forms. *Id.* The defendant made payments in accordance with the CBA for a time, but later ceased to do so. Upon being sued, it argued that *Merrimen* stood for the proposition that "under §302 an employer cannot be bound by the trust fund contribution provisions of a collective bargaining agreement unless the employer itself has put its signature to a written instrument indicating an intent to be so bound." *Id.* The appellate court disagreed, finding that the defendant had made the association its agent for collective bargaining, and that under the ordinary principles of agency law it was bound by whatever written contract the association had entered into.

Finally, in *National Leadburners Health and Welfare Fund v. O. G. Kelley & Co., Inc.*, 129 F.3d 372 (6th Cir. 1997), the appellate court was confronted with another employer which had ceded its collective bargaining rights to a multi-employer association, and which had not signed the CBA itself. Its opinion stated the question succinctly:

> This case requires us to decide whether the "written agreement" required by §302 requires that the employer be a signatory to the agreement or whether an employer may be bound to a §302 written agreement without actually being a signatory to the agreement, that is, may an employer delegate the authority to sign onto a "written agreement" for purposes of §302?

Id. at 374. The *National Leadburners* court, approaching the question from a different angle than the panel in *Herb Phillips*, found that the "written agreement" requirement was only intended to ensure that trust fund contributions were

properly directed – that is, that the terms of the contribution agreement would be definite and certain. The statute did not require that the employer sign this agreement: "No conflict with the legislative purpose is implicated in reading the "written agreement" requirement to be devoid of a[n] employer signature requirement; setting the agreement down in writing offers the intended protection." *Id.* at 375. Moreover, it was sufficient that only an industry association bargaining on behalf of an employer had signed the "written agreement". *Id.*, citing *O'Hare v. General Marine Transport Corp.*, 740 F.2d 160, 172-72 (2d Cir. 1984). *See also Bowers v. Transportacion Maritima Mexicana, S.A.*, 901 F.2d 258, 261-62 (2d Cir. 1990). Limiting *Merrimen*, the *National Leadburners* court noted that, in that case, the employer indisputably had not adopted or promised to adopt the agreement in any sort of writing, and the contract at issue had explicitly required a signature by the employer in order to bind it. *Id.* at 374-375.

This court, in its earlier order, essentially followed the analysis of *Herb Phillips*, finding, as quoted above, that Defendant had assigned away its collective bargaining rights and thus became bound by other agreements entered into by its agent, the Columbus Association. Defendant now is arguing, essentially, that the Court should follow *Merrimen*, and find that the 45/55 CBA by its express contractual provisions mandated that nonmembers of the Columbus Association could be bound only "upon signing a copy of the Agreement." It states that contracts should be interpreted in a way that renders all provisions meaningful and not mere surplusage. Therefore, since Defendant never signed the later CBAs, "the

contracts cannot be given effect, regardless of whether bargaining rights were assigned to the Columbus Association." (Doc. 41 at 6.)

The result that Defendant urges, however, would have the effect of rendering other parts of the 1995-1998 45/55 CBA meaningless. A collective bargaining agreement's terms must be construed so as to render none nugatory. Where ambiguities exist, the court may look to other words and phrases in the collective bargaining agreement for guidance. *Maurer v. Joy Technologies, Inc.*, 212 F.3d 907, 915 (6th Cir. 2000). Both the 1995-1998 45/55 CBA which Defendant agrees it signed, as well as the later ones which it did not, contained language providing a mechanism for the Columbus Association to negotiate on behalf of nonmembers. *See, e.g.*, Doc. 20-10 at 3 (union to negotiate no other agreement with nonmembers without notice to the association; association to bargain for members who have assigned bargaining rights to the association), 7 (automatic appointment of association by nonmembers as bargaining agent in absence of notice otherwise); parallel provisions at Doc. 20-11 at 2, 5; Doc. 20-12 at 3, 9.

The Court cannot ignore the explicitly defined mechanism in these contracts for the assignment of collective bargaining rights. The CBA that Defendant signed provided that, absent notice of termination, Defendant would be deemed to have appointed the Columbus Association its "agent for collective bargaining *and agreement* entered into between the Union and said Association(s)." (Doc. 20-10 at 7, emphasis added.) Under *Herb Phillips*, therefore, Defendant is deemed to have agreed to whatever contract the Columbus Association agreed to; under *National*

Leadburners, this agreement was enough and Defendant's explicit signature on the later CBAs was not necessary. The introductory provision that the CBA could extend to nonmembers was satisfied when Defendant's agent, the Columbus Association, signed it. Under the original Agreement of Non-Members of the Association, whereby nonmember Defendant became bound to the 1995-1998 CBA, the signatory agreed "to accept and be bound by *all* the terms and provisions of said agreement". (Doc. 20-10 at 20, emphasis added.) Those terms and provisions included a mechanism whereby, unless Defendant were to take steps to prevent it from happening, Defendant's signature on subsequent CBAs would not be required thereafter to bind it. Defendant did not withdraw its collective bargaining rights until much later; it thereby became bound by the 2004-2007 and 2007-2012 CBAs with Locals 45 and 55.

Defendant also argues that, even if it had assigned its collective bargaining rights to the Columbus Association in the 1995-1998 45/55 CBA, Local 45/55's course of dealing indicated that it typically ignored those rights and entered into separate agreements with employers anyway. (Doc. 41 at 12.) Specifically, it has attached to its summary judgment copies of Agreements of Non-Members of the Association signed by ten employers which, it asserts, demonstrate that Locals 45/55 frequently entered into subsequent CBAs directly with employers instead of relying upon those employers' assignments of collective bargaining rights to the Columbus Association. Defendant argues that the provisions of the CBAs automatically assigning collective bargaining rights to the Columbus Association,

are in actual practice ignored, and that this provision should not be given effect.

However, it is almost impossible to draw any conclusions at all from Defendant's evidence. As Defendant itself states, "for these individual employers it is impossible to discern whether the non-renewal is because they a) ceased hiring Union employees, b) sent a letter withdrawing from the Columbus Association, or c) ceased to operate as a business altogether." (Doc. 41 at 15.) These is no indication as to whether these ten employers might have specifically exercised the contractual mechanism to withdraw their collective bargaining rights from the Columbus Association, or whether for some specific reason these employers negotiated specifically modified CBAs with the union. In any case, these documents do not support Defendant's sweeping conclusion that there is really "no 'automatic renewal' for non-members of the Association" because, if there were, it would not "be necessary" for employers to ever execute subsequent CBAs themselves. Moreover, even if the union were to have sometimes ignored the assignment of collective bargaining rights by an employer to the Columbus Association, that would serve only as an argument by one of those employers against the union's later attempt to enforce the automatic assignment clause. Defendant has not offered any legal basis for the argument that this course of conduct somehow modifies the terms of *its* CBA.

Defendant raises another new argument with respect to the 45/55 CBAs. It states that it provided written notice of termination to the union on February 6, 2008. *See* Doc. 20-13. This, it argues, was effective to terminate the CBA then in

force on the next anniversary of the inception of the contract, regardless of whether the CBA's term had yet expired. (Doc. 41 at 7-9.) Defendant refers to the following language:

> This Agreement shall be binding on all parties from June 1, 2007 until May 31, 2012, and shall continue from year to year unless either party hereto notifies the other party sixty (60) days prior to termination date hereof of intention to modify and/or terminate.
>
> An individual employer may modify and/or terminate this Agreement by notifying the other party, in writing, sixty (60) days prior to the annual anniversary date of his intent to modify and/or terminate this Agreement following which this Agreement shall terminate as of that anniversary date for that employer.

(Doc. 20-12 at 26.) Therefore, says Defendant, since it provided notice of termination on February 6, 2008, termination should have been effective May 31, 2008, the next "anniversary date", and it was not bound by the remaining years of the 2007-2012 45/55 CBA.

This argument is unavailing. The contractual provision cited, the "evergreen clause", provides for annual renewal of the CBA after the end of its original term in the absence of any subsequent CBA. As it states, the 45/55 CBA "shall be binding on all parties from June 1, 2007 until May 31, 2012", and will continue automatically thereafter "from year to year". That automatic renewal, however, could be cut off by the Columbus Association (one of the "either party hereto") by providing notice at least sixty days before May 31, 2012 of intention to modify and/or terminate. Likewise, the CBA will automatically renew every year with respect to an "individual employer" (such as Defendant), unless that employer

should cut off the annual cycle of renewal by providing sixty days' notice of intention to modify and/or terminate.

Defendant's argument that the "annual anniversary date" to which this provision refers includes dates within the original binding contract term would render the clause "shall be binding on all parties from June 1, 2007 until May 31, 2012" meaningless. It is clear from the contractual language quoted that the "annual anniversary date" referred to is the annual automatic renewal date of June 1 of every year after 2012, and that this provision of the evergreen clause was intended to set forth how an individual employer could stop the automatic renewal at or after the end of the original contract term. This argument is therefore not well taken.

Defendant has also again argued that Plaintiff the Bricklayers & Trowel Trades International Pension Fund ("IPF") informed it in May 2008 that its union CBAs, and obligations to contribute to the pension funds, had expired in May 2007, and that Plaintiff "should be held to its initial determination" or that the Court should "rigorously enforce IPF's original determination". (Doc. 41 at 10-11.) The Court previously addressed this issue in its original order. It found at that time that "Defendant has argued that Plaintiffs are estopped from asserting that it is bound by the 2007-2012 CBA", and that "Plaintiff is correct in asserting that an equitable estoppel requires 'a representation of past or existing fact made to a party who relies upon it reasonably.'" (Doc. 29 at 16, fn 5, quoting *Hortman v. City of Miamisburg*, 110 Ohio St.3d 194, 198 (2006).)

As Defendant recounts in its motion, the IPF later, in November 2008, sent correspondence retracting its statement, asserting that Defendant was still bound after all, and stating that it would refund all employer withdrawal liability payments erroneously made. (Doc. 41 at 10.) Defendant, though it continues to argue that it would be unfair for the Court to penalize it, but not IPF, for having misunderstood the termination date of the applicable CBAs, still has not demonstrated that it relied in any way upon the IPF's mistake. It notes that it made employer withdrawal liability payments as a result of having been informed that its CBA obligations had ceased, but also that IPF refunded these when it discovered its mistake. It also notes that it stopped filing reports and making contributions in May of 2007, although as this action predated the IPF's correspondence it could not have been in reliance upon it. As Plaintiffs argue, the remedy Defendant seeks is still the use of the doctrine of equitable estoppel to prevent Plaintiffs from denying that the CBAs terminated in May 2007. Absent a showing of reasonable reliance on the part of Defendant, the Court will not so estop Plaintiffs.

Conclusions.

For the reasons set forth above, the Court finds the following:

• Defendant was bound by the 1987-1989 collective bargaining agreement with Locals 18/2. That agreement was terminated by Defendant's notice of February 6, 2008, effective May 31, 2008. Defendant did not enter into the 2004-

2007 or 2007-2010 collective bargaining agreements with Locals 18/2.

• Defendant was bound by the 1995-1998 collective bargaining agreement with Locals 45/55, because it executed that agreement. In that agreement, it assigned its collective bargaining rights to the Columbus Association.

• Defendant was bound by the 2004-2007 collective bargaining agreement with Locals 45/55, because it had assigned its bargaining rights to the Columbus Association, and never revoked them.

• Defendant is bound by the 2007-2012 collective bargaining agreement with Locals 45/55.

Accordingly, Defendant's motion for summary judgment (Doc. 41) is **GRANTED IN PART**. The Court has made a determination on all the outstanding issues of law presented in this case.

s/Mark R. Abel
United States Magistrate Judge