

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

BOARD OF TRUSTEES, NATIONAL
STABLIZATION AGREEMENT OF
SHEET METAL INDUSTRY TRUST
FUND, *et al.*,

Plaintiffs,

v.

MIKE BEVILACQUA SHEET
METAL, INC.,

Defendant.

Civil Action No. 1:14-cv-545 (AJT/TCB)

ORDER

This matter is before the Court on the Report and Recommendation (Doc. No. 11) of the Magistrate Judge recommending that default judgment be entered against defendant Mike Bevilacqua Sheet Metal, Inc. in favor of plaintiffs Board of Trustees, National Stabilization Agreement of the Sheet Metal Industry Trust Fund (“SASMI”), the Board of Trustees, Sheet Metal Workers’ National Pension Fund (“NPF”), the Board of Trustees of the International Training Institute for the Sheet Metal and Air Conditioning Industry (“ITI”), the Board of Trustees of the National Energy Management Institute Committee (“NEMIC”), the Board of Trustees, Sheet Metal Workers’ International Association Scholarship Fund (“SMWIASF”), and the Board of Trustees of the Sheet Metal Occupational Health Institute Trust (“SMOHIT”) (collectively, “plaintiffs” or “Funds”) in the amount of \$1,295.19 for the sum of unpaid contributions to the Funds under Count I for March 2014, and \$1,322.87, the sum of unpaid contributions to the plaintiff Funds under Count II for March 2014. As to Count I, the Magistrate Judge also recommends that plaintiffs recover \$178.75 in interest calculated at 8.5 percent per annum through July 14, 2014, \$812.44 in liquidated damages, and post-judgment

interest. As to Count II, the Magistrate Judge recommends that plaintiffs recover \$829.80 in liquidated damages, \$307.96 in pre-litigation liquidated damages, and \$182.58 in interest accrued at a rate of 8.5 percent per annum through July 14, 2014, with post-judgment interest accruing at the rate of 8.5 percent per year through the date payment is finally made to plaintiffs. Next, the Magistrate Judge recommends ordering defendant to file, within twenty days of this Order, complete, proper, and timely remittance reports with accompanying contributions for all periods to date, to include the name and Social Security Number of each employee, the hours worked, periods with no work (which shall be reported as such), wages paid, and contributions owed for that month, together with a check for the full amount of contributions owed. Finally, the Magistrate Judge recommends that plaintiffs should recover from defendant \$2,820.50 in attorneys' fees and \$602.94 in costs.

The Court conducted a *de novo* review of the evidence in this case and adopts and incorporates the findings and recommendations of the Magistrate Judge. Accordingly, it is hereby

ORDERED that Plaintiffs' motion for default judgment (Doc. No. 7) be, and the same hereby is, GRANTED; it is further

ORDERED that default judgment be, and the same hereby is, entered under Count I against defendant in favor of plaintiff Board of Trustees, Sheet Metal Workers' National Pension Fund ("NPF") in the amount of \$431.73 in unpaid contributions; \$270.82 in liquidated damages; \$59.59 in accrued interest through July 14, 2014; plus interest accruing from July 14, 2014 until the date of payment accruing at the rate provided by 28 U.S.C. § 1961, for a total award to plaintiff NPF of \$762.14, plus interest; and it is further

ORDERED that default judgment be, and the same hereby is, entered under Count I against defendant in favor of plaintiff Board of Trustees of the International Training Institute for

the Sheet Metal and Air Conditioning Industry (“ITI”) in the amount of \$66.42 in unpaid contributions; \$41.66 in liquidated damages; \$9.17 in accrued interest through July 14, 2014; plus interest accruing from July 14, 2014 until the date of payment accruing at the rate provided by 28 U.S.C. § 1961, for a total award to plaintiff ITI of \$117.25, plus interest; and it is further

ORDERED that default judgment be, and the same hereby is, entered under Count I against defendant in favor of plaintiff Board of Trustees, Sheet Metal Workers’ International Association Scholarship Fund (“SMWIASF”) in the amount of \$11.07 in unpaid contributions; \$6.94 in liquidated damages; \$1.53 in accrued interest through July 14, 2014; plus interest accruing from July 14, 2014 until the date of payment accruing at the rate provided by 28 U.S.C. § 1961, for a total award to plaintiff SMWIASF of \$19.54, plus interest; and it is further

ORDERED that default judgment be, and the same hereby is, entered under Count I against defendant in favor of plaintiff Board of Trustees, National Stabilization Agreement of the Sheet Metal Industry Trust Fund (“SASMI”) in the amount of \$785.97 in unpaid contributions; \$493.02 in liquidated damages; \$108.46 in accrued interest through July 14, 2014; plus interest accruing from July 14, 2014 until the date of payment accruing at the rate provided by 28 U.S.C. § 1961, for a total award to plaintiff SASMI of \$1,387.45, plus interest; and it is further

ORDERED that default judgment be, and the same hereby is, entered under Count II against defendant in favor of plaintiff Board of Trustees of the Sheet Metal Occupational Health Institute Trust (“SMOHIT”) in the amount of \$11.07 in unpaid contributions; \$6.94 in liquidated damages; \$2.58 in pre-litigation liquidated damages; \$1.53 in accrued interest through July 14, 2014; plus interest accruing from July 14, 2014 until the date of payment accruing at the rate of 8.5% per annum, for a total award to plaintiff SMOHIT of \$22.12, plus interest; and it is further

ORDERED that default judgment be, and the same hereby is, entered under Count II against defendant in favor of plaintiff Board of Trustees, Sheet Metal Workers’ National Pension

Fund (“NPF”) in the amount of \$431.73 in unpaid contributions; \$270.82 in liquidated damages; \$100.51 in pre-litigation liquidated damages; \$59.59 in accrued interest through July 14, 2014; plus interest accruing from July 14, 2014 until the date of payment accruing at the rate of 8.5% per annum, for a total award to plaintiff NPF of \$862.65, plus interest; and it is further

ORDERED that default judgment be, and the same hereby is, entered under Count II against defendant in favor of plaintiff Board of Trustees of the International Training Institute for the Sheet Metal and Air Conditioning Industry (“ITI”) in the amount of \$66.42 in unpaid contributions; \$41.66 in liquidated damages; \$15.46 in pre-litigation liquidated damages; \$9.17 in accrued interest through July 14, 2014; plus interest accruing from July 14, 2014 until the date of payment accruing at the rate of 8.5% per annum, for a total award to plaintiff ITI of \$132.71, plus interest; and it is further

ORDERED that default judgment be, and the same hereby is, entered under Count II against defendant in favor of plaintiff Board of Trustees of the National Energy Management Institute Committee (“NEMIC”) in the amount of \$16.61 in unpaid contributions; \$10.42 in liquidated damages; \$3.86 in pre-litigation liquidated damages; \$2.30 in accrued interest through July 14, 2014; plus interest accruing from July 14, 2014 until the date of payment accruing at the rate of 8.5% per annum, for a total award to plaintiff NEMIC of \$33.19, plus interest; and it is further

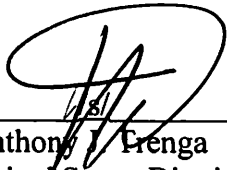
ORDERED that default judgment be, and the same hereby is, entered against defendant in favor of plaintiffs in the amount of \$2,820.50 in attorneys’ fees and \$602.94 in costs; and it is further

ORDERED that defendant shall file, within twenty days of this Order, complete, proper, and timely remittance reports with accompanying contributions for all periods to date, to include the name and Social Security Number of each employee, the hours worked, periods with no work

(which shall be reported as such), wages paid, and contributions owed for that month, together with a check for the full amount of contributions owed.

The Clerk is directed to enter judgment in accordance with this Order pursuant to Fed. R. Civ. P. 58 and to forward copies of this Order to all counsel of record and to:

Mike Bevilacqua Sheet Metal, Inc.
916 Capouse Avenue
Scranton, PA 18509-2932



Anthony J. Frenga
United States District Judge

Alexandria, Virginia
August 20, 2014