

Defendant and the Coal, Ice, Building Material, Supply Drivers, Riggers, Heavy Haulers, Warehousemen and Helpers, Local Union No. 716, an affiliate of the International Brotherhood of Teamsters (“Local 716”). Pursuant to the provisions of the CBA, Defendant is required to submit contributions to the Plaintiff Fund to be held in trust for the benefit of certain individuals. Defendant failed to do so, and failed to submit the requisite records to Plaintiff to permit a precise calculation. Plaintiff conducted an independent audit of Defendant’s payroll records to determine the amount owed. The auditor estimated, based upon application of a reasonable formula necessitated by Defendant’s failure to either maintain or provide the requisite records, that the amount of unpaid contributions is \$219,037.21. Defendant’s failure also subjects it to liability for liquidated damages in the amount of \$21,903.72, plus interest on the unpaid amounts, which totals \$32,049.95. Finally, the Agreement requires Defendant to pay Plaintiff the cost of the audit which was necessitated by Defendant’s failure to properly maintain records in the amount of \$29,620.84, as well as its reasonable attorney fees, which the Court finds to be \$33,417.65. Defendant breached its agreement with the Plaintiff, and the above-stated damages are owed.

Finally, Defendant asserted a cross-claim against Plaintiff, challenging the propriety of certain claimed unpaid contributions as violating federal statute. Plaintiff has demonstrated the propriety of those contributions in its summary judgment brief, and again, Defendant has offered no response. Accordingly, judgment in Plaintiff’s favor on the Counterclaim is likewise appropriate.

Plaintiff is entitled to judgment in its favor and against Defendant as follows:

1. \$219,037.21 in unpaid contributions as revealed by the payroll compliance audit;
2. \$21,903.72 in reasonable liquidated damages;
3. \$32,049.95 in interest charges;
4. \$29,620.84 in auditor’s fees; and
5. \$33,417.65 in reasonable attorney’s fees.

Judgment shall issue accordingly.

IT IS SO ORDERED.

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Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana