

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

PACE INDUSTRY UNION-MANAGEMENT)
PENSION FUND *et al.*,)
)
Plaintiffs,)
)
v.)
)
EXCELSIOR WEST PACKAGING,)
)
Defendant.)
_____)

Civil Action No. 3:09-cv-00718
District Judge Haynes

ORDER & FINAL JUDGMENT

Upon consideration of the Motion for Default Judgment by Plaintiffs PACE Industry Union-Management Pension Fund and its Trustees Stan Johnson, Ron Hackney, Jon Geenen, Dale Olsen, Gary Beevers, Timothy Sudela, James Kidder, and Lisa Silverman (“Pension Fund”) and USW Industry 401(k) Fund and its Trustees Stan Johnson, Ron Hackney, Jon Geenen, Dale Olsen, Gary Beevers, Timothy Sudela, James Kidder, and Lisa Silverman (“401(k) Fund”) (collectively, “Plaintiffs” or “Funds”) and absence of exceptions thereto, and the entire record in this case, it appearing to the Court that Defendant Excelsior West Packaging (“Defendant”), has failed to plead or otherwise defend in this action, that default was entered against Defendant on May 13, 2011, and that there is no just reason for delay, it is by the Court, this 15th day of May, 2012,

ORDERED, that judgment by default is hereby entered in the above-captioned case in favor of Plaintiffs and against Defendant; and it is

FURTHER ORDERED, that, pursuant to 29 U.S.C. § 1132(g)(2), Defendant’s collective bargaining agreements, and the Funds’ Trust Documents, Defendant shall pay to Plaintiffs, and Plaintiffs are awarded, \$337,336.60 consisting of the following:

As to the Pension Fund and against Defendant:

- (a) delinquent pension contributions owed to the Pension Fund that were discovered through the Pension Fund's audit in the amount of \$19,882.06;
- (b) delinquent contributions owed to the Pension Fund for the months of December 2007, July 2008, August 2008, January 2009 and March 2009 through January 2010, in the amount of \$164,757.32;
- (c) interest in the amount of \$59,664.87 on the delinquent contribution owed to the Pension Fund described in subparagraphs (a) and (b) calculated from the date due until April 30, 2012;
- (d) liquidated damages in the amount of \$59,664.87 on the delinquent contributions owed to the Pension Fund described in subparagraphs (a) and (b);
- (e) audit costs owed to the Pension Fund in the amount of \$2,832.32;
- (f) The attorneys' fees and costs incurred by the Pension Fund in the amount of \$8,668.47.

As to the 401(k) Fund and against Defendant:

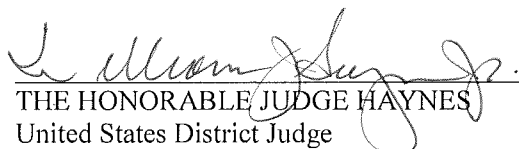
- (a) delinquent contributions owed to the 401(k) Fund that were discovered by the 401(k) Fund's audit in the amount of \$8,000.74;
- (b) interest on the delinquent contributions due to the 401(k) Fund in the amount of \$5,258.66 calculated from the date due through April 30, 2012;
- (c) liquidated damages in the amount of at least \$5,258.66 on the delinquent contributions owed to the 401(k) Fund;
- (d) audit costs owed to the 401(k) Fund in the amount of \$2,045.18;

(e) The attorneys' fees and costs incurred by the 401(k) Fund in the amount of \$1,303.46; and it is

FURTHER ORDERED, that if Defendant fail to comply with any of the terms of this Order, Plaintiffs may, in addition to pursuing the remedies provided under Fed. R. Civ. P. 69, reopen this case upon motion to this Court and notice to the Defendant, and may, at that time, ask for further appropriate monetary and/or injunctive relief; and it is

FURTHER ORDERED, that Plaintiffs are awarded execution for the collection of the judgment and that this Court shall maintain jurisdiction of the case for the purpose of enforcing this Order.

Dated: 5-15, 2012


THE HONORABLE JUDGE HAYNES
United States District Judge

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