

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND
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In re: :
P AND P "QUICK-SETT" SERVICES, INC.: BK No. 10-14705
Debtor Chapter 11
- - - - -x

P AND P "QUICK-SETT" SERVICES, INC.:
and PRESTIGE CAPITAL CORPORATION
Plaintiffs :

v. : A.P. No. 10-1098

C.W. WRIGHT CONSTRUCTION COMPANY, :
INC., ROCK HILL SAND & GRAVEL, INC. :
d/b/a GUDELSKY MATERIALS, and :
VIRGINIA ELECTRIC AND POWER COMPANY :
d/b/a DOMINION VIRGINIA POWER :
Defendants
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ORDER

Heard on November 3, 2011, on C.W. Wright Construction Company, Inc.'s ("CWW") Counterclaim, Crossclaim, and Third-Party Complaint (the "Interpleader"). Upon consideration and after notice and opportunity to be heard, the Court makes the following findings of fact and conclusions of law.

A. Findings of Fact:

1. On January 18, 2011, CWW filed an interpleader action concerning a \$646,626 subcontract balance that was in its possession when P&P filed its Chapter 11 bankruptcy petition (the "Subcontract Balance"). See Docket No. 30.

2. On February 4, 2011, CWW filed a Motion to Deposit Funds With the Court registry, and for a Discharge. See Docket No. 75.

3. On March 17, 2011, this Court issued an Order allowing CWW to deposit a check in the amount of \$642,626 into the Court registry (the "Interpleader Funds"). See Docket No. 143.

4. On April 19, 2011, the Court issued a Scheduling Order establishing, *inter alia*, deadlines for discovery and the submission of a Joint Pre-Trial Order, and setting a trial date on November 3, 2011, at 11:30 a.m. See Docket No. 108.

5. On October 27, 2011, in response to motions filed by Prestige Capital Corporation ("Prestige"), the Court entered judgments by default against Interpleader Defendants Hahn Transportation, Inc., Beckner Boiler Corp., Duffield Hauling, Inc., F&L Plumbing & Heating, Inc., Mobile Mini, Inc., and L.F. Orrision, Inc. See Docket Nos. 241-252.

6. On September 28, 2011, Prestige distributed a draft Joint Pre-Trial Order to the Chapter 7 Trustee of P&P "Quick-Sett" Services, Inc. (the "Trustee"), Roanoke Cement Company, LLC ("Roanoke"), Rock Hill Sand & Gravel, Inc. ("Gudelsky"), CWW, and other parties of record represented by counsel in the bankruptcy case.

7. Prestige received comments to the Joint Pre-Trial Order from CWW, revised the document, and recirculated the Joint Pre-Trial Order to the Trustee, Roanoke, Gudelsky, and CWW. Because the Trustee did not oppose Prestige's right to receive the

Interpleader Funds, he declined to be a party to the Joint Pre-Trial Order. Although they did not oppose the undisputed facts and arguments set forth in the Joint Pre-Trial Order, Roanoke, Gudelsky, and CWW did not agree to sign the Joint Pre-Trial Order.

8. On October 27, 2011, Prestige filed a one-party Joint Pre-Trial Order.

9. At the request of the Court Clerk, in order to avoid the expenditure of judicial resources and the parties' resources necessary to conduct an uncontested trial, Prestige drafted a Consent Order and circulated it to the Trustee, Roanoke, Gudelsky, and CWW. In response, Roanoke stated that it "would take no further action in this matter" and would not participate as a signatory to any consent order. Prestige never heard from Gudelsky as to whether it would sign the proposed Consent Order or had any proposed edits. Therefore, it was impossible for Prestige to submit a Consent Order to the Court and the trial was held on November 3, 2011.

10. The Trustee has stated in open Court that he has reviewed the documents submitted by Prestige, and that he has no objection to Prestige's request regarding the Interpleader Funds.

B. Conclusions of Law

1. Prestige has a first-priority secured interest in the \$642,626, plus accrued interest, that CWW has deposited in this Court's registry as part of the Interpleader action.

2. Interpleader Defendants Roanoke and Gudelsky are hereby defaulted for their failure to comply with the requirement to submit a Joint Pre-Trial Order, and their failure to cooperate to submit a Consent Order which necessitated a hearing on November 3, 2011, for an unopposed matter.

3. Interpleader Defendants Roanoke and Gudelsky have no valid claim to the Interpleader Funds and are hereafter restrained and permanently enjoined from asserting any claim against the Interpleader Funds.

4. The Court registry shall release \$642,626, plus accumulated interest (less 10% of the accumulated interest in accordance with this Court's Order dated March 17, 2011, allowing the funds to be deposited), to Prestige Capital Corporation (Tax Identification Number 22-2661128), by sending a check in said amount, payable to "Prestige Capital Corporation" to Jeffrey S. Brenner, Esq., Nixon Peabody LLP, One Citizens Plaza, Providence, Rhode Island 02903.

5. No further Order of this Court is required for Prestige to withdraw the Interpleader Funds from the registry of the Court, and this Order constitutes approval of the Court in accordance with Local Rule 7067-1.

ENTER:

A handwritten signature in black ink, reading "Arthur N. Votolato", is written over a light gray rectangular background.

Arthur N. Votolato
U.S. Bankruptcy Judge

Entered on docket: 11/18/11