

STATE OF SOUTH DAKOTA
COUNTY OF HUGHES

IN CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT

WEGNER AUTO COMPANY, INC., a South
Dakota corporation, and the SOUTH DAKOTA
PUBLIC UTILITIES COMMISSION, an agency of
the State of South Dakota,

Plaintiffs,

vs.

LES SUMPTION d/b/a S&S Communications and
S&S COMMUNICATIONS, a South Dakota general
partnership,

Defendants.

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CIV 09-483

DEFAULT JUDGMENT

This action came on for hearing before the Court on October 12, 2010, the Honorable Kathleen F. Trandahl, Circuit Judge, presiding and the issues having been duly heard and the Court having found good and sufficient cause to enter judgment by default against Defendants,

It is Ordered and Adjudged

1. That the Plaintiffs, Wegner Auto Company, Inc., a South Dakota corporation and the other 131 Damages Awardees joined as Plaintiffs in this action by Order of this Court dated October 12, 2010, (see Exhibits A and B hereto (note that Exhibit B contains only one entry for entities with more than one award)), jointly, and the South Dakota Public Utilities Commission ("Commission"), solely in its fiduciary capacity as receiver on behalf of the other Plaintiffs, recover from the Defendants, Les Sumption and S&S Communications, a South Dakota general partnership, in accordance with the equitable apportionment, distribution and other provisions of the Commission's Damages Order attached to the Complaint, the sum of: (i) \$471,890.98; (ii) plus prejudgment interest on the \$572,444.50 damages amount before bond proceeds distribution over the period from June 3, 2003, through July 13, 2007, at the statutory rate of 10% per annum in the amount of \$235,408.02; (iii) plus prejudgment interest, at the statutory rate of 10% per annum, on the \$471,890.98 in damages remaining unsatisfied from bond proceeds from July 14, 2007, through October 12, 2010, the date of entry of judgment in the amount of \$153,461.47; for a total sum of damages and prejudgment interest due, payable and recoverable from Defendants to Plaintiffs, jointly, in the amount of \$860,760.47;

2. That Defendants, S&S Communications and Les Sumption, shall be jointly and severally liable to Plaintiffs, jointly, for the satisfaction in full of the amount due Plaintiffs under this judgment;

3. That the Approved Damages Awards, Approved Judgment Fractions for all Approved Damages Awards and the mechanism for apportioning and disbursing any amounts recovered on the judgment among the Approved Damages Awardees as set forth in the Damages Order are approved;

4. That pursuant to SDCL 48-7A-307(d)(4), Plaintiffs may levy execution of the judgment against Defendant Les Sumption's personal assets without having to first exhaust execution against the partnership assets of S&S Communications.


5. That the Commission is appointed post-judgment receiver to act on behalf of the Plaintiff Damages Awardees whose names are set forth on Exhibit A, jointly, in the reasonable and prudent exercise of its discretion: to pursue execution of and recovery on this judgment; to receive, hold and manage in a fiduciary capacity any and all sums of money or property as may be recovered in execution or satisfaction of the damages and interest awarded and due Plaintiffs under this judgment, net of any expenses for outside services necessarily incurred to obtain such recovery or manage such property; to distribute from time to time any amounts so recovered to Plaintiffs in accordance with the procedures and apportionment formulae set forth in the Commission's Damages Order that forms the basis of this action and judgment as described in the Complaint; to take such other and further actions in aid of the execution and recovery of this judgment for the benefit of Plaintiffs, jointly, as the Commission shall deem prudent in its reasonable exercise of its fiduciary obligations hereunder; and to report to the Court periodically following the entry of this judgment, but no less often than once each year or at such more frequent intervals as the Court may direct, concerning the actions the Commission has taken and intends to take on behalf of Plaintiffs in execution of this judgment, with such reporting to continue until the further order of this Court.

Dated at Burke, South Dakota, this 12th day of October, 2010.

BY THE COURT


Circuit Judge

ATTEST:


Clerk of Courts

STATE OF SOUTH DAKOTA
CIRCUIT COURT, HUGHES CO.

FILED

OCT 13 2010

 Clerk

By _____ Deputy

JUDGMENT EXHIBIT B – CIV 09-483
ALPHABETIC LIST OF JUDGMENT JOINT DAMAGES AWARDEES

CORPORATE PARTIES

Auto Shoppe Inc.
Barber Farm Service, Inc.
Beck Motors, Inc.
BMI Agency, Inc.
Brookings Auto Mall, LLC
Chase Auto Connection
Clarke Insurance Agency
Corsica Implement Inc.
Country Ford Inc.
Dakota Premium Hay
Dave Hahler Automotive, Inc.
Doug's Anchors Marine Inc.
Duling Financial Services
Eastern Plains Urology
Ellefson Implement
Erv's Furniture
Eugene Beckman & Sons
Evanson Jensen Funeral Home
Faith Livestock
Farmers Implement & Irrig. Inc.
Farmers Union Service Assn.
First National Bank
First St. Bank Miller/Highmore
(n/k/a Quoin Financial Bank)
Fort Pierre Livestock Inc
Funk Harvesting
Gesswein Motors
Graham Tire Co.
Grant County Implement
Great Plains Internat. Inc
Haberer's Imp.
Hagan Benefits
Harry K Chevy
Harry K Ford
Healthy Lifestyles
Highmore Cattle Co
Hoffman Harvesting
Huron Manufact. Corp.
Jensen Rock & Sand Inc.
Jobbers Moving & Storage
Jones Trucking
Koletzky Implement Inc.
Krause Financial Planning
Lake County International, Inc.
Legend Seeds
Midland Pub. And Printing
Midwest Credits
Miller Livestock
Mobridge Regional Hospital
Montgomery Furniture
Moodie Implement
Moreau-Grand Elect. Co-Op
New Frontier Station
Newport Colony
North Central Farmers Elevator
O'keefe Implement Inc.

Olsen Implement
Paul Nelson Farm
Pharmco Industries
Platte Parts Store
Prostrollo Motors
Rapid Precision
Riverside Motel
Rushmore Electric
Schulte's Flandreau Motors
Scott Supply
Shawn Chase Ford
Skorpik's, Inc.
AAA South Dakota
State Farm Insurance
Tyndall Motors Inc
V & S Trucking
Van Der Werff Imp.
Variable Investment Advisors
Wegner Auto Co. Inc.
Whetstone Ag Supply, Inc.
Winner Livestock Auction

NATURAL PERSONS

Kyle Ammann
Pat Amman
Jamie and Jason Anderberg
Sherry Badger
Tember Beckett
Glen Behnke
Charles and Orpha Bensen
Dennis Bieber
Richard and Carolyn Bieber
Margaret Bohner
Bob and Diane Booth
Curtis Bossert
Brian Brockel
Jeff and Debbie Bumpous
Allen and Jean Croyle
Linda Dikoff
Colin Dutenhoffer
Craig Engel
Darren and Heidi Engelhart
Rod and Suzanne Gepper
Nicole and Chris Glines
Ronald Graves
Vicki and Bruce Graves
Tim and Elaine Hall
Wayne Heien
Delton Hitchcock
Maurice Hoffman
Calvin and Marcella Huber
Melvin and Phoebe Huber
Tim and Sonja Huber
Bart Johnson
Neal and Janet Johnson
Myron Joneson
John Koskan
Lauren Langdeau
Gerald Larson
Denny and Doris Lauing
Jack R. Leininger
Myrt Liebig
Janice Mellema
Judy Nichols
Duane O'neal
Lavonne and Steve Oswald
Kevin Parmely
Lyle Perman
Sandra Schaack
Joseph and Penny Schonebaum
Chuck Simon
Curtis Sylte
Judy and Herman Symens
Jake Volk
Bill Wagner
Terry and Joann Wheeler
Arnold Wienk
Kenny Wiese
Byron and Penny Woodruff