

00-103-CD
THE SHERWIN-WILLIAMS COMPANY -vs- ROBERT AUGHINBAUGH

(1)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

THE SHERWIN-WILLIAMS
COMPANY,

ARBITRATION DIVISION

Plaintiff,

NO.: 00-103-CO

vs.

ROBERT AUGHINBAUGH,

TYPE OF PLEADING:

Defendant.

COMPLAINT IN CIVIL ACTION

FILED ON BEHALF OF:
THE SHERWIN-WILLIAMS COMPANY,
Plaintiff

COUNSEL OF RECORD FOR THIS PARTY:

Joseph R. Lawrence, Esquire
PA I.D. #65709

McGRATH & ASSOCIATES, P.C.
1500 Union Bank Building
306 Fourth Avenue
Pittsburgh, PA 15222
TELEPHONE NO.: (412) 281-4333

FIRM NO.: 025

FILED

JAN 28 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

THE SHERWIN-WILLIAMS
COMPANY,

ARBITRATION DIVISION

Plaintiff,

No. :

vs.

ROBERT AUGHINBAUGH,

Defendant.

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THE COMPLAINT AND NOTICE ARE SERVED, BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY AN ATTORNEY AND THE FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. IF YOU DO NOT HAVE OR KNOW AN LAWYER, THEN YOU SHOULD GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR'S OFFICE
ONE NORTH 2ND STREET
CLEARFIELD, PA 16830
(814) 765-2641

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

THE SHERWIN-WILLIAMS
COMPANY,

ARBITRATION DIVISION

Plaintiff, No.:

vs.

ROBERT AUGHINBAUGH,

Defendant.

COMPLAINT IN CIVIL ACTION

NOW COMES the Plaintiff, The Sherwin-Williams Company, by and through its attorneys, McGrath & Associates, P.C., files this Complaint in Civil Action and in support thereof states as follows:

1. The Sherwin-Williams Company is a corporation organized under the laws of Ohio with offices located at 313 Technology Drive, Malvern, Pennsylvania 19355 (hereinafter referred to as "Plaintiff").

2. Robert Aughinbaugh is an individual who resides at R.R. 1, Box 189B-1, Penfield, Pennsylvania 15849 (hereinafter referred to as "Defendant").

3. Defendant requested Plaintiff to extend credit to Defendant for the purchase of paint, related materials and equipment on an open account.

4. Plaintiff extended credit to Defendant, at Defendant's request for the purchase of paint and related items in the total unpaid amount of \$1,011.39.

5. The latest date that payment was due without default for any of the above referenced amount was November 20, 1998.

6. Plaintiff has made demand on Defendant for payment of the above amount on numerous occasions.

7. Defendant has defaulted on its payment obligation by refusing, and continuing to refuse, to tender payment of the above amount.

WHEREFORE, the Plaintiff, The Sherwin-Williams Company, demands judgment against Defendant, Robert Auginbaugh in the amount of \$1,011.39, plus post judgment interest and costs.

McGRATH & ASSOCIATES, P.C.

BY: 

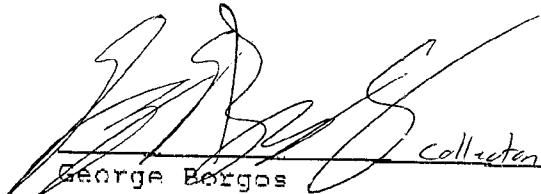
Joseph R. Lawrence, Esquire
Pa. I.D. #65709
1500 Union Bank Building
306 Fourth Avenue
Pittsburgh, PA 15222
(412) 281-4333
Firm No. 025

VERIFIED STATEMENT

I, George Borgos, of The Sherwin Williams Company, am duly authorized to make this Verified Statement on its behalf, and I hereby verify that the statements set forth in the foregoing Complaint in Civil Action are true and correct to the best of my knowledge, information and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Date: 11/17/99



George Borgos
The Sherwin-Williams Company
Collection Manager

FILED

JAN 28 2000
MHS2 atty Lawrence
William A. Shaw
Prothonotary
Pd. \$80.00
1 cc to Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

THE SHERWIN-WILLIAMS
COMPANY,

Plaintiff,

vs.

83 ROBERT AUGHINBAUGH,

Defendant.

ARBITRATION DIVISION

NO.: 00-103-CD

TYPE OF PLEADING:

PRAECIPE FOR DEFAULT JUDGMENT

FILED ON BEHALF OF:
THE SHERWIN-WILLIAMS COMPANY,
Plaintiff

COUNSEL OF RECORD FOR THIS PARTY:

Joseph R. Lawrence, Esquire
PA I.D. #65709

McGRATH & ASSOCIATES, P.C.
1500 Union Bank Building
306 Fourth Avenue
Pittsburgh, PA 15222
TELEPHONE NO.: (412) 281-4333

FIRM NO.: 025

FILED

~ ~

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

THE SHERWIN-WILLIAMS
COMPANY,

ARBITRATION DIVISION

Plaintiff,

No.: 00-103-CD

vs.

ROBERT AUGHINBAUGH,

Defendant.

PRAECIPE FOR DEFAULT JUDGMENT

TO: PROTHONOTARY

Please enter a default judgment in the above-captioned case in favor of Plaintiff, **The Sherwin-Williams Company**, and against the Defendant, **ROBERT AUGHINBAUGH**, in the amount of:

Principal \$1,011.39

Total \$1,011.39

plus post-judgment interest and costs.

McGRATH & ASSOCIATES, P.C.

By: 

Joseph R. Lawrence, Esquire
Attorneys for Plaintiff
1500 Union Bank Building
306 Fourth Avenue
Pittsburgh, Pennsylvania 15222-2102
Telephone (412) 281-4333

AFFIDAVIT OF NON-MILITARY SERVICE
AND CERTIFICATION OF MAILING OF NOTICE OF
INTENT TO TAKE DEFAULT JUDGMENT

COMMONWEALTH OF PENNSYLVANIA }
 } SS:
COUNTY OF ALLEGHENY }

Before me, the undersigned authority, a Notary Public, in and for said County and State, personally appeared **Joseph R. Lawrence, Esquire**, attorney for and authorized representative of Plaintiff who, being duly sworn according to law, deposes and says that the Defendant, **ROBERT AUGHINBAUGH**, is not in the military service of the United States of America to the best of his knowledge, information and belief and certifies that the Notices of Intent to Take Default Judgment were mailed in accordance with Pa. R.C.P. 237.1, as evidenced by the attached copies.

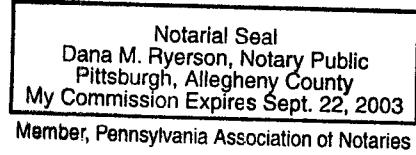


Joseph R. Lawrence, Esquire

Sworn to and subscribed before me this

26th day of April, 2000.

Dana M. Ryerson
Notary Public



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

THE SHERWIN-WILLIAMS
COMPANY,

ARBITRATION DIVISION

No.:00-103-CD

Plaintiff,

vs.

ROBERT AUGHINBAUGH,

Defendant.

TO: **ROBERT AUGHINBAUGH**
R.R. 1, Box 189B-1
Penfield, PA 15849

DATE OF NOTICE: April 6, 2000

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

COURT ADMINISTRATOR'S OFFICE
ONE NORTH 2ND STREET
CLEARFIELD, PA 16830
(814) 765-2641

McGRATH & ASSOCIATES, P.C.

By: 

Joseph R. Lawrence, Esquire
Attorneys for Plaintiff
1500 Union Bank Building
306 Fourth Avenue
Pittsburgh, Pennsylvania 15222
Telephone: (412) 281-4333

U.S. POSTAL SERVICE **CERTIFICATE OF MAILING**
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, BUT NO
PROVIDE FOR INSURANCE—POSTMASTER

Received from **MCGRATH & ASSOCIATES,**
ATTORNEYS
1500 UNION BANK BUILDING
306 FOURTH AVENUE
PITTSBURGH, PENNSYLVANIA 15222

One piece of ordinary mail addressed to:
Robert Hughinbaugh
R.R. 1 Box 189B
Penfield, PA 15849

APR 6 1968
Pittsburgh, PA
U.S. POSTAGE
APR 6 1968
Pittsburgh, PA
FBI
FO BUREAU
APR 6 1968
Pittsburgh, PA

PS Form 3817, Mar. 1989

7-11-67

Willard Batty Lawrence
William Shaw
Fidelity
PC \$20.00

Not to Dr. Aughbaugh
Statement to atty Lawrence
ECP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COPY

THE SHERWIN-WILLIAMS
COMPANY,

ARBITRATION DIVISION

Plaintiff,

No.: 00-103-CD

vs.

ROBERT AUGHINBAUGH,

Defendant.

NOTICE OF ORDER, DECREE OR JUDGMENT

TO: () PLAINTIFF
 (X) DEFENDANT
 () ADDITIONAL DEFENDANT

You are hereby notified that an Order, Decree or Judgment was
entered in the above-captioned proceeding on May 1, 2000

() A copy of the Order or Decree is enclosed,

or

(X) The judgment is as follows: \$1,011.39, plus post-judgment
interest and costs.

William H. ...

Deputy

COPY

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
STATEMENT OF JUDGMENT

THE SHERWIN-WILLIAMS COMPANY,

Plaintiff

No. 00-103-CD

vs.

ROBERT AUGHINBAUGH,

Defendant(s)

Costs

Int. From

Entry \$ 20.00

Instrument Default Judgment

Date of Entry May 1, 2000

Expires May 1, 2005

Certified from the record this 1st day of May, 2000.

William A. Shaw, Prothonotary

SIGN BELOW FOR SATISFACTION

Received on _____, 20 ___, of defendant full
satisfaction of this Judgment, Debt, Interest and Costs and Prothonotary
is authorized to enter Satisfaction on the same.

Plaintiff/Attorney

JOSEPH R. LAWRENCE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
SHERWIN-WILLIAMS COMPANY, THE
VS
AUGHINBAUGH, ROBERT

00-103-CD

COMPLAINT

SHERIFF RETURNS

NOW FEBRUARY 25, 2000 AT 10:25 AM EST SERVED THE WITHIN
COMPLAINT ON ROBERT AUGHINBAUGH, DEFENDANT AT SHERIFF'S
OFFICE, MARKET ST., CLEARFIELD, CLEARFIELD COUNTY,
PENNSYLVANIA BY HANDING TO ROBERT AUGHINBAUGH A TRUE AND
ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO
HIM THE CONTENTS THEREOF.

SERVED BY: HAWKINS

26.32 SHFF. HAWKINS PAID BY: ATTY.
10.00 SURCHARGE PAID BY: ATTY.

SWORN TO BEFORE ME THIS

2nd DAY OF March 2000
William A. Shaw

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co., Clearfield, PA.

SO ANSWERS,

Chester A. Hawkins
by Marilyn Harr

CHESTER A. HAWKINS
SHERIFF

FILED

MAR 02 2000

112:59 P.m.

William A. Shaw

Prothonotary

E. Shaw

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

THE SHERWIN-WILLIAMS
COMPANY,

Plaintiff,

vs.

ROBERT AUGHINBAUGH,

Defendant.

ARBITRATION DIVISION

NO.: 00-103-CD

TYPE OF PLEADING:

MOTION TO VACATE JUDGMENT

FILED ON BEHALF OF:
THE SHERWIN-WILLIAMS COMPANY,
Plaintiff

COUNSEL OF RECORD FOR THIS PARTY:

Joseph R. Lawrence, Esquire
PA I.D. #65709

McGRATH & ASSOCIATES, P.C.
1500 Union Bank Building
306 Fourth Avenue
Pittsburgh, PA 15222
TELEPHONE NO.: (412) 281-4333

FIRM NO.: 025

FILED

MAY 16 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

THE SHERWIN-WILLIAMS
COMPANY,

ARBITRATION DIVISION

Plaintiff,

No.: 00-103-CD

vs.

ROBERT AUGHINBAUGH,

Defendant.

MOTION TO VACATE JUDGMENT

NOW COMES, Plaintiff, The Sherwin-Williams Company, by and through its attorneys, McGrath & Associates, P.C., and files this Motion to Vacate Judgment, and in support thereof states the follow:

1. On or about January 28, 2000, Plaintiff filed a Complaint in Civil Action against Defendant in the above-captioned case.

2. On or about March 29, 2000, Defendant filed a Chapter 7 Bankruptcy Petition in the United States Bankruptcy Court for the Middle District of Pennsylvania at Case No. 00-01297.

3. Unaware of Defendant's filing of a Bankruptcy Petition, Plaintiff filed a Praeclipe for Default Judgment with the Court of Common Pleas of Clearfield County on May 1, 2000 against Defendant.

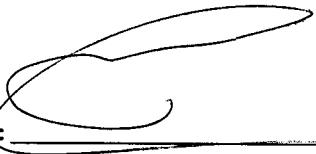
4. In accordance with Section 362 of the Bankruptcy Code, the filing of a Bankruptcy Petition operates as a stay which prohibits the commencement or continuation that was or could have been commenced before the commencement of the bankruptcy case.

5. Accordingly, the Judgment entered against the Defendant in the above-captioned case should be vacated.

WHEREFORE, Plaintiff, The Sherwin-Williams Company, respectfully requests that the Default Judgment which was entered on May 1, 2000 in the above-captioned case be vacated.

Respectfully Submitted,

McGRATH & ASSOCIATES, P.C.

By: 

Joseph R. Lawrence, Esquire
PA I.D. No. 65709
Attorneys for Plaintiff
1500 Union Bank Building
306 Fourth Avenue
Pittsburgh, PA 15222

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

THE SHERWIN-WILLIAMS
COMPANY,

ARBITRATION DIVISION

Plaintiff,

No.: 00-103-CD

vs.

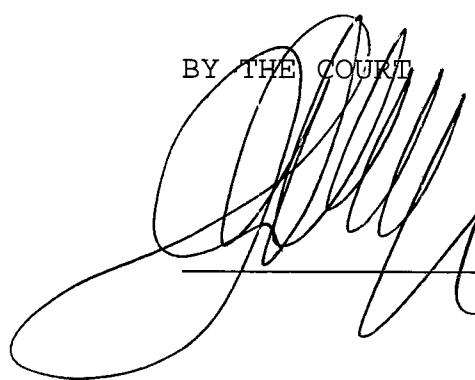
ROBERT AUGHINBAUGH,

Defendant.

ORDER OF COURT

AND NOW, to-wit, this 17th day of ^{May} April, 2001, upon consideration of the foregoing Motion to Vacate Judgment filed by Plaintiff, The Sherwin-Williams Company, it is hereby ORDERED, ADJUDGED and DECREED that the Default Judgment entered on May 1, 2000 in the above-captioned case, is hereby **VACATED**.

BY THE COURT



J.

FILED

MAY 17 2001

William A. Shaw
Prothonotary

CERTIFICATE OF SERVICE

I, Joseph R. Lawrence, Esquire, hereby certifies that the foregoing Motion to Vacate Judgment was served upon the following parties this 14th day of May, 2001 by U.S. First Class Mail, postage pre-paid.

ROBERT N. AUGHINBAUGH
R.R. 1 Box 189B1
Penfield, PA 15849

Donald M. Hahn
Novak, Stover & Furst
P.O. Box 209
122 E. High Street
Bellefonte, PA 16823

McGRATH & ASSOCIATES, P.C.

By: _____
Joseph R. Lawrence, Esquire
PA I.D. No. 65709
Attorneys for Plaintiff
1500 Union Bank Building
306 Fourth Avenue
Pittsburgh, PA 15222

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

THE SHERWIN-WILLIAMS
COMPANY,

Plaintiff,

vs.

ROBERT AUGHINBAUGH,

Defendant.

ARBITRATION DIVISION

NO.: 00-103-CD

TYPE OF PLEADING:

SUGGESTION OF BANKRUPTCY

FILED ON BEHALF OF:
THE SHERWIN-WILLIAMS COMPANY,
Plaintiff

COUNSEL OF RECORD FOR THIS PARTY:

Joseph R. Lawrence, Esquire
PA I.D. #65709

McGRATH & ASSOCIATES, P.C.
1500 Union Bank Building
306 Fourth Avenue
Pittsburgh, PA 15222

TELEPHCNE NO.: (412) 281-4333

FIRM NO.: 025

FILED

MAY 31 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

THE SHERWIN-WILLIAMS
COMPANY,

ARBITRATION DIVISION

Plaintiff,

No.: 00-103-CD

vs.

ROBERT AUGHINBAUGH,

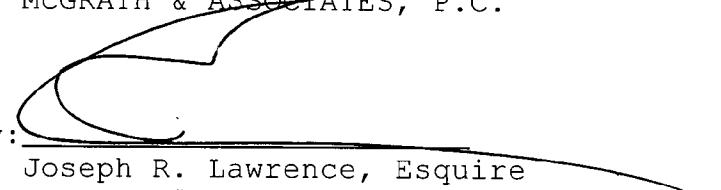
Defendant.

SUGGESTION OF BANKRUPTCY

TO PROTHONOTARY:

Please be advised that Defendant, Robert Aughinbaugh, filed a bankruptcy petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Middle District of Pennsylvania on March 29, 2000 at Case No.00-01297.

McGRATH & ASSOCIATES, P.C.

By: 

Joseph R. Lawrence, Esquire
PA I.D. #65709
1500 Union Bank Building
306 Fourth Avenue
Pittsburgh, Pennsylvania 15222
(412) 281-4333
Firm No.: 025