

1600-1462-CD
PALMER SUPPLIES COMPANY -vs- CHEMTEC SOLUTIONS, INC. 8/1/19

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA, CIVIL DIVISION**

 PALMER SUPPLIES COMPANY,

CIVIL ACTION - LAW

Plaintiff,

No. 06-462-CJ

vs.

 CHEMTEC SOLUTIONS, INC., successor -
in-interest of FORMULATED SYSTEMS,
INC., and FORMULATED SYSTEMS, INC.,

COMPLAINT IN CIVIL ACTION

Defendants.

Filed on Behalf of Plaintiff,
PALMER SUPPLIES COMPANY

**COUNSEL OF RECORD FOR THIS
PARTY:**

John R. Keating, Esquire
PA I.D. No. 52779

VOLLMER RULONG & KEATING, P.C.
Suite 1212, Grant Building
330 Grant Street
Pittsburgh, PA 15219
(412) 391-2121
(412) 391-3578 Fax

Firm I.D. No. 916

FILED

APR 19 2003

William A. Shaw
Prothonotary

Palmer Supplies vs. Chemtec et al. - Complaint in Civil Action page 2

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA, CIVIL DIVISION**

PALMER SUPPLIES COMPANY,)	CIVIL ACTION - LAW
Plaintiff,		No.
vs.)	
CHEMTEC SOLUTIONS, INC., successor - in-interest of FORMULATED SYSTEMS, INC., and FORMULATED SYSTEMS, INC.,)	
Defendants.)	

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claim set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and 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 PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, THEN YOU SHOULD GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

**LAWYER REFERRAL SERVICE:
PENNSYLVANIA LAWYER REFERRAL SERVICE**
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

NOTICE TO DEFEND:
David S. Meholic, Court Administrator
CLEARFIELD COUNTY COURTHOUSE
Clearfield, PA 16830

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA, CIVIL DIVISION**

PALMER SUPPLIES COMPANY,) CIVIL ACTION - LAW
Plaintiff,)
vs.) No.
CHEMTEC SOLUTIONS, INC., successor -)
in-interest of FORMULATED SYSTEMS,)
INC., and FORMULATED SYSTEMS, INC.,)
Defendants.)

COMPLAINT IN CIVIL ACTION

PARTIES

1. Plaintiff, PALMER SUPPLIES COMPANY, (hereinafter "Plaintiff") is a corporation with offices at P.O. Box 74649, Cleveland, Ohio 44194.
2. Defendant, CHEMTEC SOLUTIONS, INC. (hereinafter Defendant, Chemtec) is a Pennsylvania Corporation which is believed to be the successor-in-interest of Formulated Systems, Inc. with its offices at Route 970, Sandy Ridge Highway, P.O. Box 202, Osceola Mills, Clearfield County, Pennsylvania 16666.
3. Defendant, FORMULATED SYSTEMS, INC. (hereinafter "Defendant, Formulated") is a corporation organized and doing business under the laws of the Commonwealth of Pennsylvania, with offices at 200 Shady Lane, P.O. Box 130, Philipsburg, Centre County, Pennsylvania 16866.

4. Plaintiff incorporates paragraphs 1 through 3 above as though set forth at length herein.

5. Between on or about November 10, 1997 and December 16, 1997, Plaintiff, at the request of Defendant, Formulated, sold and delivered certain goods at the times and in the amounts fully set forth on Plaintiff's invoices, true and correct copies of which are attached hereto, made a part hereof and marked as Exhibit "1" through "4".

6. The prices charged for the said goods were the fair, reasonable and market prices of the same at the time they were sold and delivered to Defendant, Formulated and further are the prices that it agreed to pay.

7. Defendant, Formulated and/or its successor in interest, (Chemtec) related entities made two (2) payments, one in the amount of \$1,000.00 and one in the amount of \$665.00 which have been credited toward the balance due.

8. Attached hereto, made a part hereof and marked as Exhibit "5" and Exhibit "6" are copies of the checks that were received.

9. Plaintiff has demanded payment of the balance due as set forth on Plaintiff's statement of Defendant, Formulated's account, a true and correct copy of which is attached hereto, made a part hereof and marked as Exhibit "7" of \$11,772.57 but it has failed or refused to pay the same.

10. By the terms of sale interest at the legal rate of 6% became due and payable from an average due date of January 1, 1998.

WHEREFORE, Plaintiff demands judgment in its favor and against the Defendant, FORMULATED SYSTEMS, INC. in the sum of \$11,772.57 plus interest at the legal rate of six percent (6%) per annum from an average due date of January 1, 1998 plus cost.

COUNT 2 - PALMER SUPPLIES vs. CHEMTEC SOLUTION, INC.

FACTS:

11. Plaintiff incorporates paragraphs 1 through 10 above as though set forth at length herein.

12. Defendant, CHEMTEC is the successor-in-interest of its co-Defendant, Formulated, at times operating out of the same location; having the same or virtually the same officers, directors and/or shareholders.

13. Defendant, CHEMTEC and its co-Defendant, Formulated commingled their financing and operations as reflected by the checks that CHEMTEC issued to Plaintiff to pay a portion of the debt that Formulated had incurred. Copies of the checks are attached as Exhibits "5" and "6".

14. Defendant, CHEMTEC and its co-Defendant, Formulated disregarded the corporate formalities and have opening intertwined their operations at least with respect to their dealings with the Plaintiff.

15. Defendant, CHEMTEC at least with regard to Plaintiff's claim, agreed to assume the liabilities of its co-Defendant, Formulated.

16. Plaintiff has demanded payment of the balance due as set forth on Plaintiff's statement of account, a true and correct copy of which is attached hereto, made a part hereof and marked as Exhibit "7" of \$11,772.57 but CHEMTEC has failed or refused to pay the same.

17. By the terms of sale interest at the legal rate of 6% became due and payable from an average due date of January 1, 1998.

18. Defendant, CHEMTEC is estopped to deny its liability to Plaintiff for the unpaid balance that is due as set forth above.

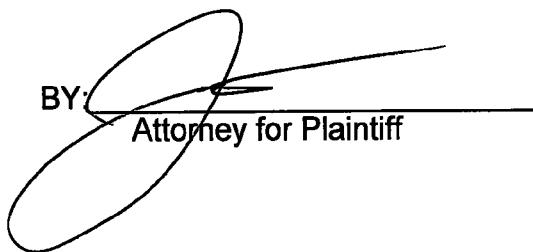
Palmer Supplies vs. Chemtec et al. - Complaint in Civil Action page 6

WHEREFORE, Plaintiff demands judgment in its favor and against the Defendant, CHEMTEC SOLUTIONS, INC. in the sum of \$11,772.57 plus interest at the legal rate of six percent (6%) per annum from an average due date of January 1, 1998 plus cost.

VOLLMER RULONG & KEATING, P.C.

BY:

Attorney for Plaintiff

A handwritten signature in black ink, appearing to read "J. R. Vollmer", is written over a horizontal line. To the left of the signature, the letters "BY:" are printed. To the right of the signature, the text "Attorney for Plaintiff" is printed.

ORIGINAL

Palmer Supplies Company
P.O. Box 74649
Cleveland, Ohio 44194-0732
(216) 631-2200 (800) 635-4822



INVOICE

Formulated Systems, Inc.
200 Shady Lane
Philipsburg
PA 16866

SHIPPED FROM WAREHOUSE		SHIPPED VIA WARD		FOB MCKEE'S ROCKS		DATE SHIPPED 11/10/97	
QUANTITY	UNITS PKG.	OUR ORDER NUMBER 3267	TERMS SEE BELOW	CUST. ACCT. NO. 00-C00950040	SALESMAN 11/12/97	INVOICE NO. 0101874-1	TOTAL
4.40		002-0059 ANCAMINE 2143 440 LB DR		440.00		3.220 B	1,416.800
		SHIP LOT # LA17F18153					
4.50		002-0064 ANCAMINE 2280 450 LB DR		450.00		2.470 B	1,111.500
		SHIP LOT # LA17I19176					
4.85		028-0001 NPCL 28 RESIN 485 LB CH DR		970.00		1.490 B	1,445.300

"WE HEREBY CERTIFY THAT THESE GOODS WERE PRODUCED IN COMPLIANCE WITH FAIR LABOR STANDARDS. AS AMENDED."

ORIGINAL

Palmer Supplies Company
P.O. Box 74649
Cleveland, Ohio 44194-0732
(216) 631-2200 (800) 635-4822



IMMOBIE

Formulated Systems, Inc.
200 Shady Lane
Philipsburg
PA 16616

Formulated Systems, Inc.
200 Shady Lane
Philipsburg
PA 16866

PAGE NO.
2

WAREHOUSE		WARD SHIPPED VIA		SEE BELOW		UNIT PRICE		PER		TOTAL	
QUANTITY	UNITSPKG.	SHIP. LOT	ITEM NO. & DESCRIPTION	69120950540	11/12/97	0101894-1					
1	20	1878128	FAX COA BOB PECK 814-342-6987								
										INVOICE TOTAL:	3,973.60
										NET 30 DAYS	

WE HEREBY CERTIFY THAT THESE GOODS WERE PRODUCED IN COMPLIANCE WITH FAIR LABOR STANDARDS.

ORIGINAL

Palmer Supplies Company
P.O. Box 74649
Cleveland, Ohio 44194-0732
(216) 631-2200 (800) 635-4822



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Formulated Systems, Inc.

200 Shady Lane

Philipsburg PA 16866

P 16866

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P Philipsburg
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PAGE NO.
1

WAREHOUSE	WARD	SHIPPED VIA	ITEM NO. & DESCRIPTION	QUANTITY	UNIT PRICE	PER	TOTAL
12/27/01	97	VERBAL PHOT	002-0065 SEE BELOW	4.50	450.00	3.170	1,426.500
			ANCAMINE 2286-450 LB DR				
			SHIP. LOT # LA16D142226				
			485 028-0001 NPEL 128 RESIN 485 LB CH DR	485	970.00	1.490	1,445.300
			SHIP. LOT # 1878128				
			FAX COA BOB PECK 814-342-6987				
			NET 30 DAYS				

EXHIBIT:

2

PAGE

"WE HEREBY CERTIFY THAT THESE GOODS WERE PRODUCED IN COMPLIANCE WITH FAIR LABOR STANDARDS, AS AMENDED."

ORIGINAL

Palmer Supplies Company
P.O. Box 74649
Cleveland, Ohio 44194-0732
(216) 631-2200 (800) 635-4822



INVOICE

Formulated Systems, Inc.		200 Shady Lane		PA 16866		Formulated Systems, Inc.		200 Shady Lane		PA 16866	
TO		TO		TO		TO		TO		TO	
WAREHOUSE		WARD		FOB		WAREHOUSE		WARD		FOB	
22701/97		VERBAL		FOB		22701/97		VERBAL		FOB	
QUANTITY		UNITS/PKG.		ITEM NO. & DESCRIPTION		QUANTITY		UNITS/PKG.		ITEM NO. & DESCRIPTION	
22701/97		VERBAL		SEE BELOW		22701/97		VERBAL		SEE BELOW	
DATE SHIPPED		FOLIO		DATE SHIPPED		FOLIO		DATE SHIPPED		FOLIO	
12/01/97		12/01/97		12/01/97		12/01/97		12/01/97		12/01/97	
INVOICE NO.		INVOICE NO.		INVOICE NO.		INVOICE NO.		INVOICE NO.		INVOICE NO.	
2,871.80		2,871.80		2,871.80		2,871.80		2,871.80		2,871.80	
INVOICE TOTAL:											
NET 30 DAYS											

WE HEREBY CERTIFY THAT THESE GOODS WERE PRODUCED IN COMPLIANCE WITH FAIR LABOR STANDARDS, AS AMENDED"

ORIGINAL



Palmer Supplies Company
P.O. Box 74649
Cleveland, Ohio 44194-0732
(216) 631-2200 (800) 635-4822

INVOICE

Formulated Systems, Inc.
200 Shady Lane
Philipsburg
PA 16866

PAGE NO.
1

Formulated Systems, Inc.
200 Shady Lane
Philipsburg
PA 16866

WAREHOUSE		WARD		ITEM NO. & DESCRIPTION		UNIT PRICE	PER	TOTAL
12/09/97	VERBAL PO# BUB	00003422	SEE BELOW	00003422	9/12/97			
485	028-0001 NPEL 128 RESIN 485 LB CH DR SHIP LOT # 1878128	970.00	1.490	1,445.300				
	SHIP OUT TODAY 12/9/97 IF POSSIBLE CUSTOMER NEEDS ASAP!!! FAX COA BOB PECK 814-342-6987							
				INVOICE TOTAL:	1,445.30			
				NET 30 DAYS				

"WE HEREBY CERTIFY THAT THESE GOODS WERE PRODUCED IN COMPLIANCE WITH FAIR LABOR STANDARDS, AS AMENDED."

ORIGINAL

Palmer Supplies Company
P.O. Box 74649
Cleveland, Ohio 44194-0732
(216) 631-2200 (800) 635-4822



INVOICE

Formulated Systems, Inc.
200 Shady Lane
Philipsburg PA 16866

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QUANTITY	UNITS/PKG.	ITEM NO. & DESCRIPTION	UNIT PRICE	PER	TOTAL
4 90		002-0192 ANCAMINE 2432 490 LB DR	490.00	3 . 620	B 1,773.800
		SHIP LOT # LA16H15157			
		FAX COA TO BOB PECK @ 814-342-6987			
		SHIP OUT TODAY 12/16/97 HOT RUSH!			
		EXHIBIT			INVOICE TOTAL:
					1,773.80
					NET 30 DAYS

WE HEREBY CERTIFY THAT THESE GOODS WERE PRODUCED IN COMPLIANCE WITH FAIR LABOR STANDARDS, AS AMENDED.

DEP DATE BOX ID BATCH ID SEQ MACH#
02-17-99 0074649 4221921 027 25 1

CHEMTEC SOLUTIONS, INC.

PHILIPSBURG, PA 16863-0134
PH 814-327-7221

Pay
to the
order of

Palmer Supplies

100

DATE 2/10/99

110

THE CNA
COUNTY NATIONAL BANK
CHICAGO BRANCH CHICAGO ILLINOIS

10

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EXHIBIT " _____ " PAGE _____

5

DEP DATE BOX ID BATCH ID SEQ MACH#
04-27-22 0223542 2321927 211 25 1

CHEMTEC SOLUTIONS, INC.

PO BOX 202
ROUTE 55-TOWNEHILL ROAD
OSCEOLA MILLS, PA 16646-0202
PH 814-336-7200

6277

60-477513 22

PAY TO THE ORDER OF Paulmen Supplies
\$ 665.00/00
DATE 4/30/99

DOLLARS 665.00



FOR 2000# 0863463

100000006277# 1031306278# 104862214#

100000066500#

100000066500#



EXHIBIT " 6 " PAGE 1

880153

Palmer Supplies Company

ACCOUNTS RECEIVABLE AGED INVOICE REPORT

ALL OPEN INVOICES INCLUDING PAID INVOICES - AGED AS OF: 09/01/99

DIVISION NO: 00 Distribution Sales

CUSTOMER/ INV DATE	INVOICE NO	DUE DATE	DISCOUNT AMOUNT	DISCOUNT AMOUNT	BALANCE	CURRENT	30 DAYS	60 DAYS	90 DAYS	120 DAYS	DAYS DELQ
											CONTACT:
C0095 11/12/97	ChemTec Solutions 0101874 - IN 12/12/97			CONTACT: Robert Peck 814-342-6987 .00	3,973.60		PHONE: (814) 342-3940			CREDIT LMT: .00	2,973.60 628
	COMMENT: SHOVEL WAREHOUSE: RICK PAYMNT REF: 6213 02/17/99			SALES PRS: 0040	1,000.00						
12/01/97	0102040 - IN 12/31/97				2,871.80						2,871.80 609
	COMMENT: SHOVEL WAREHOUSE: RICK 0102089 - IN 01/22/98			SALES PRS: 0040	1,773.80						1,773.80 587
12/23/97	0102111 - IN 01/22/98			SALES PRS: 0040	1,445.30						1,445.30 587
12/23/97	0102213 - IN 01/30/98			SALES PRS: 0040	1,462.77						1,462.77 579
01/09/98	0102237 - IN 02/08/98			SALES PRS: 0040	1,445.30						1,445.30 570
	COMMENT: AIR PROD CONFIRMED: DAWN 0102571 - CM			SALES PRS: 0040	200.00						200.00-
02/26/98	0856324 - IN 08/14/98			SALES PRS: 0040	1,111.50						
	PAYMNT REF: 5988 08/25/98 0863463 - IN 01/14/99			SALES PRS: 0040	1,111.50						
12/15/98	COMMENT: DELIVER BY 12/4 PAYMNT REF: 6277 04/27/99			SALES PRS: 0040	665.00						
				SALES PRS: 0040	665.00						
	CUSTOMER C0095 TOTALS:				.00	11,772.57					11,772.57
	DIVISION 00 TOTALS:				.00	11,772.57					11,772.57
	NUMBER OF CUSTOMERS:	1									
	REPORT TOTALS:				.00	11,772.57					11,772.57
	NUMBER OF CUSTOMERS:	1									

EXHIBIT " 7 " PAGE _____

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VERIFICATION

I, the undersigned, in my capacity as Corporate Accounting Manager of Palmer Supplies Company, Plaintiff herein, certify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge or information and belief. I make this Verification subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities, which provides that if I knowingly make false statements, I may be subject to criminal penalties.

Patricia Genson, CPA
Print or Type Name

Patricia Genson
Signature

17-07147

FEB 24 2000

FILED

APR 19 2000

1/2:00/00

William A. Shaw

Prothonotary PP

80-

BY

ATTY

2 CENT TO SHERIFF

JOHN R. KEATING

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PALMER SUPPLIES COMPANY

00-462-CD

VS

CHEMTEC SOLUTIONS, INC., SUCC-

COMPLAINT

SHERIFF RETURNS

NOW APRIL 20, 2000, DENNY NAU, SHERIFF OF CENTRE COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON FORMULATED SYSTEMS INC, DEFENDANT.

FILED

JUN 01 2000

019-491an

William A. Shaw

Prothonotary

NOW APRIL 27, 2000 ATTEMPTED TO SERVE THE WITHIN COMPLAINT ON FORMULATED SYSTEMS INC., DEFENDANT BY DEPUTIZING THE SHERIFF OF CENTRE COUNTY. THE RETURN OF SHERIFF NAU IS HERETO ATTACHED AND MADE A PART OF THIS RETURN MARKED "NOT FOUND", MOVED ABOUT 3 YEARS AGO.

NOW APRIL 28, 2000, DENNY NAU, SHERIFF OF CENTRE COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON CHEMTEC SOLUTIONS, INC., DEFENDANT.

NOW MAY 17, 2000 SERVED THE WITHIN COMPLAINT ON CHEMTEC SOLUTIONS, INC., DEFENDANT BY DEPUTIZING THE SHERIFF OF CENTRE COUNTY. THE RETURN OF SHERIFF NAU IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED ROBERT PECK, P.I.C.

45.93 SHFF. HAWKINS PAID BY: ATTY.

74.50 SHFF. NAU PAID BY: ATTY.

20.00 SURCHARGE PAID BY: ATTY.

SWORN TO BEFORE ME THIS

1st DAY OF June 2000

SO ANSWERS,

Chester A. Hawkins

by Marilynn Hays

CHESTER A. HAWKINS
SHERIFF

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

SHERIFF'S OFFICE

CENTRE COUNTY

Rm 101 Court House, Bellefonte, Pennsylvania, 16823 (814) 355-6803

SHERIFF SERVICE PROCESS RECEIPT, AND AFFIDAVIT OF RETURN

INSTRUCTIONS FOR SERVICE OF PROCESS: You must file one instruction sheet for each defendant. Please type or print legibly. Do not detach any copies.

1. Plaintiff(s)	2. Case Number								
Palmer Supplies Company	00-462-CD								
3. Defendant(s)	4. Type of Writ or Complaint:								
Chemtec solutions, Inc.	Notice and Complaint								
SERVE → Formulated Systems, Inc. AT 200 Shady Lane, Philipsburg, PA									
5. Name of Individual, Company, Corporation, Etc., to Serve or Description of Property to be Levied, Attached or Sold. 6. Address (Street or RFD, Apartment No., City, Boro, Twp., State and Zip Code)									
7. Indicate unusual service: <input type="checkbox"/> Reg Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Deputize <input type="checkbox"/> Post <input type="checkbox"/> Other									
Now, 20 I SHERIFF OF CENTRE COUNTY, PA., do hereby depose the Sheriff of County to execute this Writ and make return thereof according to law. This depose being made at the request and risk of the plaintiff. Sheriff of Centre County									
8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE									
NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN – Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriff's sale thereof.									
9. Print/Type Name and Address of Attorney/Originator	10. Telephone Number	11. Date							
	12. Signature								
SPACE BELOW FOR USE OF SHERIFF ONLY - DO NOT WRITE BELOW THIS LINE									
13. I acknowledge receipt of the writ or complaint as indicated above.	SIGNATURE of Authorized CCSD Deputy of Clerk and Title	14. Date Filed	15. Expiration/Hearing Date						
TO BE COMPLETED BY SHERIFF									
16. Served and made known to _____, on the _____ day of _____, 20____, at _____ o'clock, _____ m., at _____, County of Centre Commonwealth of Pennsylvania, in the manner described below:									
<input type="checkbox"/> Defendant(s) personally served. <input type="checkbox"/> Adult family member with whom said Defendant(s) resides(s). Relationship is _____ <input type="checkbox"/> Adult in charge of Defendant's residence. <input type="checkbox"/> Manager/Clerk of place of lodging in which Defendant(s) resides(s). <input type="checkbox"/> Agent or person in charge of Defendant's office or usual place of business. <input type="checkbox"/> _____ and officer of said Defendant company. <input type="checkbox"/> Other _____									
On the 27th day of April, 2000, at 4:50 o'clock, P. M.									
Defendant not found because: <input checked="" type="checkbox"/> Moved <input type="checkbox"/> Unknown <input type="checkbox"/> No Answer <input type="checkbox"/> Vacant <input type="checkbox"/> Other _____									
Remarks: Moved about 3 years ago.									
Advance Costs \$75.00	Docket 9.00	Service 5.00	Sur Charge	Affidavit 1.00	Mileage 21.00	Postage .50	Misc. 2.00	Total Costs 38.50	Costs Refund
17. AFFIRMED and subscribed to before me this 23				So Answer.					
20. day of May 2000				18. Signature of Dep. Sheriff					19. Date April 27, 2000
23.				21. Signature of Sheriff					22. Date
SHERIFF OF CENTRE COUNTY									
My Commission Expires in 2004 MY COMMISSION EXPIRES FIRST MONDAY				Amount Pd. _____					Page _____
24. I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE OF AUTHORIZED AUTHORITY AND TITLE.				25. Date Received					

SHERIFF'S OFFICE

CENTRE COUNTY

RM 402 COURT HOUSE, BELLEFONTE, PENNSYLVANIA 16823 (814) 355-6803

SHERIFF SERVICE PROCESS RECEIPT, and AFFIDAVIT OF RETURN				INSTRUCTIONS FOR SERVICE OF PROCESS: You must file one instruction sheet for each defendant. Please type or print legibly. Do Not detach any copies.					
1. PLAINTIFF/S/ <i>Palmer Supplies Company</i>				2. CASE NUMBER <i>06-162-00</i>					
3. DEFENDANT/S/ <i>Chemtec Solutions, Inc.</i>				4. TYPE OF WRIT OR COMPLAINT: <i>Complaint</i>					
SERVE  AT		5. NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO BE LEVIED, ATTACHED OR SOLD. <i>{</i>							
		6. ADDRESS (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code) <i></i>							
7. INDICATE UNUSUAL SERVICE: <input type="checkbox"/> REG. MAIL <input type="checkbox"/> CERTIFIED MAIL <input type="checkbox"/> DEPUTIZE <input type="checkbox"/> POST <input type="checkbox"/> OTHER									
Now, <u>19</u> , I SHERIFF OF CENTRE COUNTY, PA., do hereby depose the Sheriff of County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff.									
<small>SHERIFF OF CENTRE COUNTY</small>									
8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE									
<small>NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN — Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriff's sale thereof.</small>									
9. PRINT/TYPE NAME AND ADDRESS OF ATTORNEY/ORIGINATOR				10. TELEPHONE NUMBER			11. DATE		
							12. SIGNATURE		
SPACE BELOW FOR USE OF SHERIFF ONLY. DO NOT WRITE BELOW THIS LINE									
13. I acknowledge receipt of the writ or complaint as indicated above.		SIGNATURE of Authorized CCSD Deputy or Clerk and Title			14. Date Filed		15. Expiration/Hearing date		
TO BE COMPLETED BY SHERIFF									
16. Served and made known to <u>Robert Peck</u> on the <u>17th</u> day of <u>MAY</u> <i>10-2000</i> , at <u>1530</u> o'clock, <u>4RS</u> M., at <u>2R#1 Box 306 OSCOLA Mill</u> , County of Centre, Commonwealth of Pennsylvania, in the manner described below:									
<input type="checkbox"/> Defendant(s) personally served. <input type="checkbox"/> Adult family member with whom said Defendant(s) resides(s). Relationship is _____ <input type="checkbox"/> Adult in charge of Defendant's residence. <input type="checkbox"/> Manager/Clerk of place of lodging in which Defendant(s) resides(s). <input checked="" type="checkbox"/> Agent or person in charge of Defendant's office or usual place of business. <input type="checkbox"/> _____ and officer of said Defendant company. <input type="checkbox"/> Other _____									
On the _____ day of _____, 19 _____, at _____ o'clock, _____ M.									
Defendant not found because: <input type="checkbox"/> Moved <input type="checkbox"/> Unknown <input type="checkbox"/> No Answer <input type="checkbox"/> Vacant <input type="checkbox"/> Other _____									
Remarks:									
Advance Costs	Docket	Service	Sur Charge	Affidavit	Mileage	Postage	Misc.	Total Costs	Cost Due or Refund
				<u>2.50</u>	<u>22.50</u>	<u>1.00</u>	<u>1.00</u>	<u>36.00</u>	<u>19.50</u>
17. AFFIRMED and subscribed to before me this <u>23</u>				SO ANSWER <u>DAVID L. WATSON</u>					
20. day of <u>May 2000</u>				18. Signature of Dep. Sheriff <u>David L. Watson</u>					19. Date <u>5-17-00</u>
				21. Signature of Sheriff <u>David L. Watson</u>					22. Date <u></u>
23. <u>Notary Public</u> <i>Robert L. Daniel</i> MY COMMISSION EXPIRES MY COMMISSION EXPIRES FIRST MONDAY OF AUTHORIZED AUTHORITY AND TITLE.				SHERIFF OF CENTRE COUNTY					
24. I ACKNOWLEDGE RECEIPT OF SHERIFF'S RETURN SIGNATURE OF AUTHORIZED AUTHORITY AND TITLE.									25. Date Received



Sheriff's Office
Clearfield County

OFFICE (814) 765-2641
AFTER 4:00 P.M. (814) 765-1533

CLEARFIELD COUNTY FAX
(814) 765-6089

CHESTER A. HAWKINS
SHERIFF

SUITE 116
1 NORTH SECOND STREET - COURTHOUSE
CLEARFIELD, PENNSYLVANIA 16830

DARLENE SHULTZ

**MARGARET PUTT
OFFICE MANAGER**

**MARILYN HAMM
DEPT. CLERK**

**PETER F. SMITH
SOLICITOR**

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PALMER SUPPLIES COMPANY

NO. 00-462-CD

VS
CHEMTEC SOLUTIONS, INC. a1

ACTION: COMPLAINT

SERVE BY: 5/19/00

or

HEARING DATE:

SERVE: FORMULATED SYSTEMS, INC.

ADDRESS: 200 Shady Lane, Philipsburg, Pa.

Know all men by these presents, that I, CHESTER A. HAWKINS,
HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby
deputize the SHERIFF of CENTRE County to execute this writ.

This deputation being made at the request and risk of the plaintiff
this 20th day of APRIL 2000.

Respectfully,

John A. Hawkins
CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

MAKE REFUND PAYABLE TO: VOLLMER, RULONG & KEATING, Attorneys

4-25
P9.1235-AA
Pd. 75.0



Sheriff's Office Clearfield County

OFFICE (814) 765-2641
AFTER 4:00 P.M. (814) 765-1533

CLEARFIELD COUNTY FAX
(814) 765-6089

CHESTER A. HAWKINS
SHERIFF

SUITE 116
1 NORTH SECOND STREET - COURTHOUSE
CLEARFIELD, PENNSYLVANIA 16830

DARLENE SHULTZ
CHIEF DEPUTY
MARGARET PUTT
OFFICE MANAGER

MARILYN HAMM
DEPT. CLERK
PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PALMER SUPPLIES COMPANY

NO. 00-462-CD

VS
CHEMTEC SOLUTIONS, INC. al

ACTION: COMPLAINT

SERVE BY: 5/19/00

or

HEARING DATE:

SERVE: CHEMTEC SOLUTIONS INC.

ADDRESS: Rt. 970, Sandy Ridge Highway, Osceola Mills, Pa.
According to Post Office this is in Centre County....

Know all men by these presents, that I, CHESTER A. HAWKINS,
HIGH SHERIFF of CLEARFIELD COUNTY, State of Pennsylvania, do hereby
deputize the SHERIFF of CENTRE County to execute this writ.

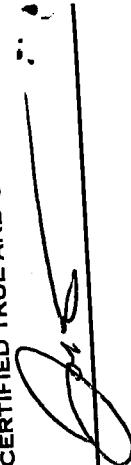
This deputation being made at the request and risk of the plaintiff
this 28th day of APRIL 2000.

Respectfully,

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY

MAKE REFUND PAYABLE TO: PLEASE USE THE ADVANCE I SENT YOU PREVIOUSLY ON DEFENDANT
FORMULATED SYSTEMS...

CERTIFIED TRUE AND CORRECT COPY



VOLLMER RULONG & KEATING, P.C.

ATTORNEYS AT LAW

SUITE 1212 GRANT BUILDING

330 GRANT STREET

PITTSBURGH, PENNSYLVANIA 15219

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA, CIVIL DIVISION**

PALMER SUPPLIES COMPANY,

Plaintiff,

vs.

**CHEMTEC SOLUTIONS, INC., successor -
in-interest of FORMULATED SYSTEMS,
INC., and FORMULATED SYSTEMS, INC.,**

Defendants.

CIVIL ACTION - LAW

No. 00-462-C

COMPLAINT IN CIVIL ACTION

**Filed on Behalf of Plaintiff,
PALMER SUPPLIES COMPANY**

**COUNSEL OF RECORD FOR THIS
PARTY:**

**John R. Keating, Esquire
PA I.D. No. 52779**

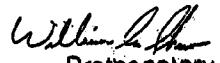
**VOLLMER RULONG & KEATING, P.C.
Suite 1212, Grant Building
330 Grant Street
Pittsburgh, PA 15219
(412) 391-2121
(412) 391-3578 Fax**

Firm I.D. No. 916

**I hereby certify this to be a true
and attested copy of the original
statement filed in this case.**

APR 19 2000

Attest:


**William J. Keating
Prothonotary**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA, CIVIL DIVISION

PALMER SUPPLIES COMPANY,) CIVIL ACTION - LAW
Plaintiff,)
vs.) No.
CHEMTEC SOLUTIONS, INC., successor -)
in-interest of FORMULATED SYSTEMS,)
INC., and FORMULATED SYSTEMS, INC.,)
Defendants.)

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claim set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and 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 PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, THEN YOU SHOULD GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

LAWYER REFERRAL SERVICE:
PENNSYLVANIA LAWYER REFERRAL SERVICE
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

NOTICE TO DEFEND:
David S. Meholick, Court Administrator
CLEARFIELD COUNTY COURTHOUSE
Clearfield, PA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA, CIVIL DIVISION

PALMER SUPPLIES COMPANY,) CIVIL ACTION - LAW
Plaintiff,)
vs.) No.
CHEMTEC SOLUTIONS, INC., successor -)
in-interest of FORMULATED SYSTEMS,)
INC., and FORMULATED SYSTEMS, INC.,)
Defendants.)

COMPLAINT IN CIVIL ACTION

PARTIES

1. Plaintiff, PALMER SUPPLIES COMPANY, (hereinafter "Plaintiff") is a corporation with offices at P.O. Box 74649, Cleveland, Ohio 44194.

2. Defendant, CHEMTEC SOLUTIONS, INC. (hereinafter Defendant, Chemtec) is a Pennsylvania Corporation which is believed to be the successor-in-interest of Formulated Systems, Inc. with its offices at Route 970, Sandy Ridge Highway, P.O. Box 202, Osceola Mills, Clearfield County, Pennsylvania 16666.

3. Defendant, FORMULATED SYSTEMS, INC. (hereinafter "Defendant, Formulated") is a corporation organized and doing business under the laws of the Commonwealth of Pennsylvania, with offices at 200 Shady Lane, P.O. Box 130, Philipsburg, Centre County, Pennsylvania 16866.

COUNT 1 - PALMER SUPPLIES vs. FORMULATED SYSTEMS, INC.

FACTS:

4. Plaintiff incorporates paragraphs 1 through 3 above as though set forth at length herein.

5. Between on or about November 10, 1997 and December 16, 1997, Plaintiff, at the request of Defendant, Formulated, sold and delivered certain goods at the times and in the amounts fully set forth on Plaintiff's invoices, true and correct copies of which are attached hereto, made a part hereof and marked as Exhibit "1" through "4".

6. The prices charged for the said goods were the fair, reasonable and market prices of the same at the time they were sold and delivered to Defendant, Formulated and further are the prices that it agreed to pay.

7. Defendant, Formulated and/or its successor in interest, (Chemtec) related entities made two (2) payments, one in the amount of \$1,000.00 and one in the amount of \$665.00 which have been credited toward the balance due.

8. Attached hereto, made a part hereof and marked as Exhibit "5" and Exhibit "6" are copies of the checks that were received.

9. Plaintiff has demanded payment of the balance due as set forth on Plaintiff's statement of Defendant, Formulated's account, a true and correct copy of which is attached hereto, made a part hereof and marked as Exhibit "7" of \$11,772.57 but it has failed or refused to pay the same.

10. By the terms of sale interest at the legal rate of 6% became due and payable from an average due date of January 1, 1998.

WHEREFORE, Plaintiff demands judgment in its favor and against the Defendant, FORMULATED SYSTEMS, INC. in the sum of \$11,772.57 plus interest at the legal rate of six percent (6%) per annum from an average due date of January 1, 1998 plus cost.

COUNT 2 - PALMER SUPPLIES vs. CHEMTEC SOLUTION, INC.

FACTS:

11. Plaintiff incorporates paragraphs 1 through 10 above as though set forth at length herein.

12. Defendant, CHEMTEC is the successor-in-interest of its co-Defendant, Formulated, at times operating out of the same location; having the same or virtually the same officers, directors and/or shareholders.

13. Defendant, CHEMTEC and its co-Defendant, Formulated commingled their financing and operations as reflected by the checks that CHEMTEC issued to Plaintiff to pay a portion of the debt that Formulated had incurred. Copies of the checks are attached as Exhibits "5" and "6".

14. Defendant, CHEMTEC and its co-Defendant, Formulated disregarded the corporate formalities and have opening intertwined their operations at least with respect to their dealings with the Plaintiff.

15. Defendant, CHEMTEC at least with regard to Plaintiff's claim, agreed to assume the liabilities of its co-Defendant, Formulated.

16. Plaintiff has demanded payment of the balance due as set forth on Plaintiff's statement of account, a true and correct copy of which is attached hereto, made a part hereof and marked as Exhibit "7" of \$11,772.57 but CHEMTEC has failed or refused to pay the same.

17. By the terms of sale interest at the legal rate of 6% became due and payable from an average due date of January 1, 1998.

18. Defendant, CHEMTEC is estopped to deny its liability to Plaintiff for the unpaid balance that is due as set forth above.

WHEREFORE, Plaintiff demands judgment in its favor and against the Defendant, CHEMTEC SOLUTIONS, INC. in the sum of \$11,772.57 plus interest at the legal rate of six percent (6%) per annum from an average due date of January 1, 1998 plus cost.

VOLLMER RULONG & KEATING, P.C.

BY:

Attorney for Plaintiff

ORIGINAL

Palmer Supplies Company
P.O. Box 74649
Cleveland, Ohio 44194-0732
(216) 631-2200 (800) 635-4822



INVOICE

Formulated Systems, Inc.
200 Shady Lane
Philipsburg PA 16866
11/10/97
0003267
VERBAL
SHIP LOT # LA17F18153
EXHIBIT 1
PAGE 1

PAGE NO.

1

WAREHOUSE	WARD	SHIPPED VIA	TERMS	ITEM NO. & DESCRIPTION	UNIT PRICE	DATE SHIPPED	INVOICE NO.
440	002-0059 ANCAMINE 2143 440 LB DR		SEE BELOW	00-000950040	440.00	11/12/97	0101874-1N
450	002-0064 ANCAMINE 2280 450 LB DR				450.00	3.220	B 1,416.800
485	SHIP LOT # LA17119176 028-0001 NPTEL 128 RESIN 485 LB CR DR				2.470	B 1,111.500	
					970.00	1.490	B 1,445.300
						NET 30 DAYS	

"WE HEREBY CERTIFY THAT THESE GOODS WERE PRODUCED IN COMPLIANCE WITH FAIR LABOR STANDARDS, AS AMENDED."

ORIGINAL

Palmer Supplies Company
P.O. Box 74649
Cleveland, Ohio 44194-0732
(216) 631-2200 (800) 635-4822



INVOICE

Formulated Systems, Inc.
200 Shady Lane
Philipsburg
PA

For
200
Phi
PA 16866

S Formulated Systems, Inc.
H 200 Shady Lane
P Philipsburg
PA 16866

2

WE HEREBY CERTIFY THAT THESE GOODS WERE PRODUCED IN COMPLIANCE WITH FAIR LABOR STANDARDS, AS AMENDED.

EXHIBIT

PAGE

ORIGINAL

Palmer Supplies Company
P.O. Box 74649
Cleveland, Ohio 44194-0732
(216) 681-2200 (800) 635-4822



INVOICE

Formulated Systems, Inc.
200 Shady Lane
Phillipsburg PA 16866

PAGE NO.
1

PA 16866

PA 16866

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ORIGINAL



Palmer Supplies Company
P.O. Box 74649
Cleveland, Ohio 44194-0732
(216) 631-2200 (800) 635-4822

INVOICE

S Formulated Systems, Inc.
O 200 Shady Lane
D Phillipsburg
T PA 16866
O

PAGE NO.
1

WAREHOUSE		WARD		ITEM NO. & DESCRIPTION		MCKEE'S FOB ROCKS		12/09/97	
QUANTITY	UNITS/PKG.	PO#	VERB#	SEE BELOW	UNIT PRICE	PER	TOTAL	PO#	VERB#
485	028-0001	970.00	1.490	NPEL 128 RESIN 485 LB CH DR			1,445.300		
	SHIP LOT # 1878128								
				SHIP OUT TODAY 12/9/97 IF POSSIBLE					
				CUSTOMER NEEDS ASAP!!!					
				FAX COA BOB PECK 814-342-6987					
								INVOICE TOTAL:	1,445.30
								NET 30 DAYS	

"WE HEREBY CERTIFY THAT THESE GOODS WERE PRODUCED IN COMPLIANCE WITH FAIR LABOR STANDARDS, AS AMENDED."

ORIGINAL

Palmer Supplies Company
P.O. Box 74649
Cleveland, Ohio 44194-0732
(216) 631-2200 (800) 635-4822



INVOICE

Formulated Systems, Inc.
200 Shady Lane
Philipsburg
PA 16866

S Formulated Systems, Inc.
H 200 Shady Lane
P Philipsburg
PA 16866

1

"WE HEREBY CERTIFY THAT THESE GOODS WERE PRODUCED IN COMPLIANCE WITH FAIR LABOR STANDARDS. AS AMENDED."

EXHIBIT _____ PAGE _____

KeyBank

DEP DATE BOX ID BATCH ID SEQ MACH#
02-17-99 0074649 4221921 627 25 1

CHEMTEC SOLUTIONS INC.
P.O. BOX 10
PHILIPSBURG, PA 16471-1000

PMT
TO THE
ORDER OF

Palmer Supplies

DATE 2/12/99

\$ 1000.00

6213

CNB
COMMERCIAL NATIONAL BANK
COMMERCIAL NATIONAL BANK

1000000.00

For

EXHIBIT " 5 " PAGE

DEP DATE BOX ID BATCH ID SEQ MACH#
04-32-99 01174549 4221927 011 25

CHEMTEC SOLUTIONS, INC.
PO BOX 202
ROUTE 45-JOHNSILL ROAD
OSCEOLA MILLS, PA 18848-0202
PH 814-336-7200

6277

00-0077013 PG

PAY TO THE ORDER OF Palmer Supplies
\$ 665.00/00
DATE 4/24/99

DOLLARS 665.00

CNB
COUNTY NATIONAL BANK
www.cnbbank.com

for Accts # 0863463
#000000062771# 10313062780: 104862281,0#
"000000665000"
short bank



EXHIBIT 6 PAGE 1

ACCOUNTS RECEIVABLE AGED INVOICE REPORT

ALL OPEN INVOICES INCLUDING PAID INVOICES - AGED AS OF: 09/01/99

DIVISION NO: 00 Distribution Sales

CUSTOMER/ INV DATE	INVOICE NO	INVOICE	DISCOUNT	DISCOUNT	BALANCE	CURRENT	30 DAYS	60 DAYS	90 DAYS	120 DAYS	DAYS
		DU DATE	DU DATE	AMOUNT			SALES PRS:	SALES PRS:	SALES PRS:	SALES PRS:	SALES PRS:
C0095 11/12/97	ChemTec Solutions 0101874 - IN 12/12/97	CONTACT: Robert Peck 814-342-6987 .00	3,973.60				PHONE: (814) 342-3940		CREDIT LMT: .00	2,973.60	628
	COMMENT: SHOVEL WAREHOUSE: RICK PAYMNT REF: 6213 02/17/99		1,000.00							2,871.80	609
12/01/97	0102040 - IN 12/31/97	.00	2,871.80							1,773.80	587
12/23/97	0102089 - IN 01/22/98	.00	1,773.80							1,445.30	587
12/23/97	0102111 - IN 01/22/98	.00	1,445.30							1,462.77	579
12/31/97	0102213 - IN 01/30/98	.00	1,462.77							1,445.30	570
01/09/98	COMMENT: AIR PROD CONFIRMED: DAWN 0102237 - IN 02/08/98	.00	1,445.30							1,445.30	570
02/26/98	COMMENT: CXL WAREHOUSE 0102571 - CM	.00	200.00							200.00	
07/15/98	0856324 - IN 08/14/98	.00	1,111.50								
	PAYMNT REF: 5988 08/25/98		1,111.50								
12/15/98	0863463 - IN 01/14/99	.00	665.00								
	COMMENT: DELIVER BY 12/4 PAYMNT REF: 6277 04/27/99		665.00								
	CUSTOMER C0095 TOTALS:	.00	11,772.57							.00	11,772.57
	DIVISION 00 TOTALS:	.00	11,772.57							.00	11,772.57
	NUMBER OF CUSTOMERS:	1									
	REPORT TOTALS:	.00	11,772.57							.00	11,772.57
	NUMBER OF CUSTOMERS:	1									

EXHIBIT " 7 " PAGE _____

VERIFICATION

I, the undersigned, in my capacity as Corporate Accounting Manager of Palmer Supplies Company, Plaintiff herein, certify that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge or information and belief. I make this Verification subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities, which provides that if I knowingly make false statements, I may be subject to criminal penalties.

Patricia Benson, CPA
Print or Type Name

Patricia Benson
Signature

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PALMER SUPPLIES COMPANY,
Plaintiff
Vs.

CHEMTEC SOLUTIONS, INC.,
Successor-in-interest of
FORMULATED SYSTEMS, INC.,
And FORMULATED SYSTEMS,
INC.,

Defendants

CIVIL DIVISION
No. 00 - 462 - CD

ANSWER AND COUNTERCLAIM

Filed on Behalf of:

Defendants, CHEMTEC SOLUTIONS,
INC., and FORMULATED SYSTEMS,
INC.

Counsel of Record for This
Party:

JOSEPH COLAVECCHI, ESQUIRE
Pa. I.D. #06810

COLAVECCHI RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

FILED

JUL 11 2000

William A. Shaw
Prothonotary

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PALMER SUPPLIES COMPANY,

Plaintiff : No. 00 - 462 - CD

Vs.

CHEMTEC SOLUTIONS, INC., Successor-
in-interest of FORMULATED SYSTEMS,
INC., and FORMULATED SYSTEMS, INC.,

Defendants:

NOTICE

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 this Counterclaim and Notice are served, by entering a written appearance personally or by attorney and 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 Counterclaim or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
Second and Market Streets
Clearfield, PA 16830
Phone 814/765-2641 Ex. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PALMER SUPPLIES COMPANY, :
Plaintiff : No. 00 - 462 - CD
:
vs. :
:
CHEMTEC SOLUTIONS, INC., Successor-:
in-Interest of FORMULATED SYSTEMS, :
INC., and FORMULATED SYSTEMS, INC.,:
Defendants:

ANSWER AND COUNTERCLAIM

NOW COMES, Chemtec Solutions, Inc., and Formulated Systems, Inc., who, through their attorney, Joseph Colavecchi, Esquire, file their Answer to the Complaint in this case and respectfully aver as follows:

1. Admitted.
2. Denied. Chemtec Solutions, Inc., is a Pennsylvania corporation having a mailing address of P.O. Box 202, Osceola Mills, Pennsylvania 16666 and is separate from Formulated Systems, Inc.
3. Denied. Formulated Systems, Inc., although a corporation, is no longer doing business but had a mailing address of 109 South Ninth Street, Philipsburg, Pennsylvania 16866.
4. This does not require an answer.
5. Admitted.
6. Admitted.

7. Denied. The payment of \$665.00 was based on an invoice directed to Chemtec and is separate and apart from everything alleged in the Complaint. The disbursement of \$1,000.00 was a payment made by Formulated (although the check was written on Chemtec) and which was applied by Plaintiff against the account where it claimed Formulated owed it money. Palmer credited this to the Formulated account.

8. It is admitted that the two checks that are attached to the Complaint are valid.

9. Denied. On the contrary, Defendants do not owe the amounts claimed in the Complaint and in fact owe nothing on this account because of the loss to Defendants as set out herein.

10. Denied.

WHEREFORE, Defendants asks that the Complaint be dismissed and that judgment be entered in favor of Defendants.

PALMER SUPPLIES COMPANY, PLAINTIFF vs. CHEMTEC SOLUTIONS, INC., Successor-in-Interest of FORMULATED SYSTEMS, INC. and FORMULATED SYSTEMS, INC., DEFENDANTS

11. This does not require an answer.

12. Denied. On the contrary, Chemtec has always been a separate corporation and Formulated has always been a separate corporation and they have never operated out of the same location.

13. Denied. On the contrary, although a check was written on the Chemtec account, this was a loan from Chemtec to Formulated.

14. Denied. On the contrary, as set out above, Chemtec made a loan to Formulated which allowed the payment of \$1,000 to Plaintiff.

15. Denied. As set out above, Chemtec and Formulated were always two separate companies with two separate locations.

16. It is denied that there is any amount owed by either Chemtec or Formulated to Plaintiff.

17. Denied for the reasons as set forth above.

18. Denied for the reasons as set forth above.

WHEREFORE, Defendants demand that the Complaint be dismissed and that judgment be entered in favor of Defendants.

COUNTERCLAIM

Formulated Systems, Inc., through their attorney, Joseph Colavecchi, Esquire, files this Counterclaim and respectfully avers as follows:

1. Plaintiff is Formulated Systems, Inc., a corporation organized and existing under the laws of the Commonwealth of Pennsylvania having its principal mailing address as 105 South Ninth Street, Philipsburg, Pennsylvania 16866.

2. Defendant is Palmer Supplies Company, a corporation having a mailing address of P. O. Box 74649, Cleveland, Ohio 44194.

3. Formulated Systems, Inc. was in the business of manufacturing epoxy flooring.

4. Formulated Systems, Inc. entered into a contract with Inter-Co Construction Company on August 27, 1997 to do certain work as described in the Subcontract Agreement No. 9720-06 for the sum of \$16,332.00. A copy of the Subcontract Agreement is attached hereto and marked Exhibit A.

5. Formulated Systems, Inc. then submitted a proposal dated November 3, 1997 to Inter-Co Construction Company to do additional work. This was accepted by Inter-Co Construction Company. An agreement was entered into by Change Order No. 9720-109 dated November 11, 1997 setting out the previous contract total of \$16,332.00 and the amount of the change order in the amount of \$31,564.00 for a revised contract total of \$47,896.00. This change order was signed by Formulated Systems, Inc. on December 23, 1997 and formally accepted by Inter-Co Construction Company on January 21, 1998. A copy of the Change Order No. 9720-109 is attached hereto and marked Exhibit B.

6. There was an additional change order, No. 9720-113; which amounted to a reduction of the square feet so that the cost deducted from the \$47,896.00 was reduced to \$45,422.00.

7. In addition, there was an add-on of Prime and Coat on 4,305.00 square feet of materials only which was in the amount of \$1,948.48 and made the total contract \$47,370.48.

8. The work was performed by Formulated Systems, Inc. both in October and November, 1997. In order to meet the deadline of December 1, 1997, Formulated Systems, Inc. worked over the Thanksgiving holidays to complete the job.

9. Formulated Systems, Inc. had ordered the epoxy curative materials from Palmer Supplies Company which was the sole distributor for their area and which it is alleged on information and belief purchased the epoxy curative from Air Products Corporation.

10. Formulated Systems, Inc. received the epoxy curative materials from Palmer Supplies Company and installed them on the job as per their contract with Inter-Co Construction Company, Inc. as set out above.

11. After the job had been completed by Formulated Systems, Inc., it was then inspected by Inter-Co Construction Company, Inc. at the end of November 1997, at which time Inter-Co Construction Company, Inc. rejected the work because of the faulty materials supplied by Palmer Supplies Company. The epoxy curative materials were defective.

12. The rejection by Inter-Co Construction Company, Inc. of this job was caused by the faulty epoxy curative materials as supplied by Palmer Supplies Company to Formulated Systems, Inc.

13. Formulated Systems, Inc. then had to incur additional time and expense and materials in order to do the work once again which

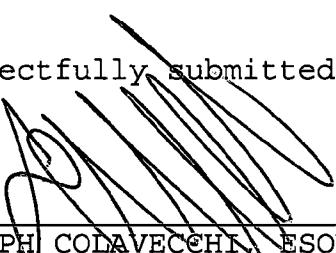
they did do and which resulted in the job being accepted by Inter-Co Construction Company, Inc. on March 28, 1998 and as shown on a copy of their acceptance agreement attached hereto and marked Exhibit C.

14. In order to do this additional work, Formulated Systems, Inc. incurred additional costs for labor and materials of \$17,000.00 which made the total cost of the job to Formulated Systems, Inc. \$64,370.48.

18. Inter-Co Construction Company, Inc. has refused to pay Formulated for this job because of the delay, all of which was caused through the faulty materials supplied to Formulated Systems, Inc. by Palmer Supplies Company.

WHEREFORE, Formulated Systems, Inc. demands judgment against Palmer in the amount of \$64,370.48 plus interest from March 28, 1998 to the present date, and costs.

Respectfully submitted,



JOSEPH COLAVECCHI, ESQUIRE
Attorney for Defendants

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

VERIFICATION

I verify that the statements made in this Answer and Counterclaim are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

FORMULATED SYSTEMS, INC.

By:


ROBERT PECK, President

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

Sub-Contract Agreement

THIS AGREEMENT, made this27TH..... day ofAUGUST..... A.D. 19.97...
by and between ..FORMULATED..SYSTEMS...INC...200..SHADY..LANE..PHILIPSBURG..PA..16866.....
hereinafter called the Sub-contractor and INTER-CO CONSTRUCTION CO, INC. 104 LIBERTY ST. W. PITTSTON, PA
18643 hereinafter called the Contractor.

For the consideration hereinafter named, the Sub-contractor covenants and agrees with the said Contractor as follows:

FIRST. The Sub-contractor will furnish all materials and labor, including all necessary scaffolding, and fully construct and in a good substantial, thorough and workmanlike manner perform and in every respect complete.....

FURNISH, DELIVER AND INSTALL AS PER PLANS, SPECIFICATION AND ADDENDA.
SPEC SECTION 3-B (FLOOR RESURFACING).

for the **INSTRUMENT SPECIALTIES**

in accordance with plans and specifications (details thereof to be furnished as required) as prepared by

Architects, and to the full satisfaction of said Architects. **SCHOONOVER AND VANDERHOOF**

The Sub-Contractor agrees to and is hereby bound by all terms of the Contract between the Owner and the Contractor for this project.

SECOND. The Sub-contractor will promptly begin said work as soon as he is notified by the Contractor that the ground is clear or the structure far enough advanced to allow the beginning of that portion included hereunder, and will carry forward and complete said work as rapidly as said Contractor may judge that the progress of the structure will permit, unless detained by other Sub-contractors; in which event he will promptly notify the Contractor in writing, who if satisfied that said delay is caused by others than said Sub-contractor hereunder will allow additional time sufficient in his judgment to make up the time so lost. This paragraph shall cover any extra work done or materials furnished under this contract.

THIRD. The Sub-contractor will furnish said materials, including all necessary scaffolding, and prosecute said work with due diligence, without delay, and will not in any manner, by delay or otherwise, interfere with the work of the Contractor, or other Sub-contractors, and should the said Contractor conclude that the said Sub-contractor is delaying said work, he shall so notify said Sub-contractor, who shall, within TWO days thereafter, furnish whatever materials are required by said Contractor, and employ additional men, as required by said Contractor, and in case said Sub-contractor fails to comply with said demand, the said Contractor shall have the right to furnish said materials and employ said additional men and charge the expense thereof against the said Sub-contractor and deduct same from this contract, and should the amount or balance due on said contract be insufficient, to collect said deficiency by legal process.

Exhibit

"A"

FOURTH. Should said Sub-contractor fail to begin, continue and complete the work as hereinbefore provided and should the Contractor suffer or permit said Sub-contractor to occupy more time than required under this agreement, in that event the said Sub-contractor hereby covenants and agrees to indemnify and save harmless the said Contractor from any loss or damages which he may be compelled to make good to the owner of said building, under or by virtue of the contract with the owner, for or on account of delay in the completion thereof, insofar as said delay was caused by the said Sub-contractor.

FIFTH. The Sub-contractor shall provide sufficient, safe and proper facilities at all times for the inspection of the work by the Architect, the Contractor or his authorized representatives. He shall, at once, remove all materials and take down and rebuild all portions of the work condemned by the Architect or Contractor, upon receiving notice in writing of such condemnation.

SIXTH. The Sub-contractor shall not employ any workmen whose employment on the building or improvement may be objected to by any of the other Sub-contractors, the Contractor, the Architect, or the Owner.

SEVENTH. No extra work or changes under this contract will be recognized or paid for, unless agreed to in writing before the work is done or the changes made; in which writing shall be specified in detail the extra work or changes desired, the price to be paid or the amount to be deducted, should said changes decrease the amount to be paid hereunder.

EIGHTH. The Sub-contractor hereby covenants and agrees to indemnify and save harmless the Contractor from any and all manner of claims or suits for infringements of patents or violation of patent rights, including all costs and expenses to which the Contractor may be put in defending any actions that may arise under this clause of the contract.

NINTH. The Sub-contractor agrees to indemnify and save harmless the Owner and General Contractor against loss or expense by reason of the liability imposed by law upon the Owner or General Contractor for damage because of bodily injuries, including death at any time resulting therefrom; accidentally sustained by any person or persons or on account of damage to property arising out of or on account of or in consequence of the performance of this contract, whether or not such injuries to persons or damage to the property are due or claimed to be due to any negligence of the Sub-contractor, his employees, his agents or servants.

TENTH. The Sub-contractor shall protect and indemnify said Contractor against any loss or damage suffered by any one arising through the negligence of the Sub-contractor, or those employed by him or his agent or servants; he shall bear any expense which the Contractor may have by reason thereof, or on account of being charged therewith; and if there are any such injuries to persons or property unsettled for, when the work herein provided for is finished, final settlement between the Contractor and Sub-contractor shall be deferred until such claims are adjusted or suitable special indemnity acceptable to the Contractor is provided by the Sub-contractor.

ELEVENTH. The Sub-contractor shall take out and pay for Employers' Liability or Workmen's Compensation insurance as required by the State in which this work is performed, also Public Liability and Property Damage insurance, in amounts to be agreed upon by the Contracting parties. Upon signature of this contract the Sub-contractor must submit certificate of insurance to include Owners' or Contractors' Protective Liability.

TWELFTH. The Sub-contractor shall pay all Sales Taxes, Use Taxes, Excise Taxes, Local Taxes, Old Age Benefit and Unemployment Compensation Taxes upon the material and labor furnished under this contract, as required by the Statutes of the United States Government and the State and City in which this work is performed.

THIRTEENTH. This contract shall not be assigned by the Sub-contractor. Any attempt to assign the contract shall operate as an instant forfeiture and repudiation thereof by the Sub-contractor and the rights of the parties shall be determined in the same manner as though the Sub-contractor had at the time of such attempted assignment failed and refused to continue to perform the contract.

FOURTEENTH. It is expressly UNDERSTOOD AND AGREED by and between the parties hereto that time is and shall be considered the essence of the contract on the part of the said Sub-contractor, and in the event that the said Sub-contractor shall fail in the performance of the entire work to be performed under this contract, by and at the time or times herein mentioned or referred to, the said Sub-contractor shall pay unto the said Contractor, as and for liquidated damages, and not as a penalty, in view of the difficulty of estimating such damages with exactness, is hereby expressed, fixed, computed, determined and agreed upon as the damages which will be suffered by the Contractor by reason of such default; and it is understood and agreed by the parties of this contract that the liquidated damages hereinbefore mentioned are in lieu of the actual damages arising from such breach of this Contract, which said sum the said Contractor shall have the right to deduct from any moneys otherwise due or to become due to the said Sub-contractor, or to sue for and recover compensation or damages for the non-performance of this contract at the time or times herein stipulated or provided for.

The Sub-contractor knows that the Contractor must have his contract performed on or before the
..... day of; and it is therefore understood and agreed that the
work provided for herein shall be entirely completed

.....
.....
COMPLETE BY SEPTEMBER 29, 1997.
.....
.....

and to that end the Sub-contractor will perform sufficient work: so that the project will not be delayed in any way by this Sub-contractor and that this Sub-contractor will start his work when so notified and will not delay any other work on this project.
.....
.....
.....

No allowance for time will be made Sub-contractor for delay in preparing his drawings or in securing approval of Architect hereto when such drawings are not properly prepared for approval of Architect.

When extension of time for strikes or fire casualties has been granted Contractor by Architect or Owner, the same extension will be granted said Sub-contractor.

FIFTEENTH. The Sub-contractor further agrees that he will within ten days from date provide the Contractor with a bond in the conditioned for the faithful performance of this contract in all its particulars, duly executed with Surety company acceptable to the Contractor, as surety, and in the form and contents acceptable to the Contractor.

SIXTEENTH. We reserve the right to void this Contract if your products are not approved by the Architects. Please submit 7 copies of shop drawings and all samples and catalog cuts, as called for by specifications, for approval as soon as possible. Samples are to be delivered to Job Site.

IN CONSIDERATION WHEREOF, the said Contractor agrees that he will pay to the said Sub-contractor the sum of **SIXTEEN**
THOUSAND THREE HUNDRED THIRTY TWO DOLLARS (\$16,332.00) for said materials and work, said amount to be paid as follows: Ninety per cent. (90%) of all labor and material which has been placed in position and for which payment has been made by said "Owner" to said Contractor, to be the last payment, which the said Contractor shall pay to said Sub-contractor immediately after said materials and labor installed by said Sub-Contractor have been completed, approved by the said Architect, and final payment received by the Contractor and satisfactory evidence furnished to Contractor by Sub-Contractor that all labor and material accounts for use on this particular work have been paid in full.

.....
INTER-CO CONSTRUCTION COMPANY, INC., WILL COMPLY BY
AND STRICTLY INFORCE OSHA STANDARD 29CFR 1926.59
.....

.....
PLEASE NOTE: ALL SUBCONTRACTORS MUST SUBMIT MATERIAL SAFETY DATA SHEETS
TO OUR OFFICE PRIOR TO DELIVERY OF MATERIAL TO JOBSITE.
.....
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.....
.....

.....
Applications for payment on this project will generally be submitted monthly for the period ending the 20TH
of each month. Only Sub-Contractors invoices received before the 15TH of each month will be considered in the applications for payment.

It is further understood and agreed that no payment on account shall operate as an approval of said work or materials, or any part thereof.

All negotiations and agreements prior to the date of this memorandum are merged herein. We have read and fully understand this agreement.

The Contractor and the Sub-contractor for themselves, their successors, executors, administrators and assigns, hereby agree to the full performance of the covenants of the agreement.

IN WITNESS WHEREOF, they have executed this agreement the day and date written above.

Witness:

Stephene Durr

FORMULATED SYSTEMS, INC.

Sub-Contractor

Phil Goff

By

INTER-CO CONSTRUCTION COMPANY, CO.

Contractor

Ron Russell

By

9-12-97

**INTER-CO
CONSTRUCTION
COMPANY, INC.**

104 LIBERTY STREET
WEST Pittston, PA 18643
(717) 655-6963

TO **FORMULATED SYSTEMS INC**
200 SHADY LANE
PHILIPSBURG, PA 16866

CHANGE ORDER

Number 9720-109

PHONE	DATE
11-11-97	
JOB NAME/LOCATION	
INSTRUMENT SPECIALTIES	
EXISTING CONTRACT NO.	
9720-06 DATE OF EXISTING CONTRACT	
8-27-97	

Please revise your Purchase Order/Contract, as listed below, for changes made at the above referenced project.

FURNISH LABOR MATERIALS AND EQUIPMENT TO PREPARE, PRIME, AND APPLY TEXTURED COATING
TO 20,875 SQUARE FEET OF FLOOR AREA IN THE MANUFACTURING AREA AS PER YOUR QUOTE ON
11-03-97

1-6-97

Please sign both copies of this change order and return them to our office. We will then return one fully executed copy to you for your files. NOTE: This Change Order becomes part of and in conformance with the existing contract.

DATE 12/23/97	PREVIOUS CONTRACT TOTAL \$ 16332 00
AUTHORIZED SIGNATURE (CONTRACTOR) <i>Robert F. Lee</i>	AMOUNT OF CHANGE ORDER \$ 31,564 00
	REVISED CONTRACT TOTAL \$ 47,896 00

ACCEPTED The above prices and specifications of this Change Order are satisfactory and accepted. All work to be performed under the conditions as specified in original contract, otherwise stipulated.

"B"

DATE OF ACCEPTANCE
1-21-98

Signature
Ken

02-26-93 12:18

814 342 6997

PSI

P.MI

AUTHORITY OF APPROVAL AND COMPLETION OF INSTALLATION

To:
Formulated Systems, Inc.

Date: 3/28/98Location: IS FRONT BLDG

Order or Contract Number _____

I, the undersigned, have inspected all areas to receive installation of materials set forth in the above contract and grant Formulated Systems, Inc. final approval and total acceptance of the installation.

ProTressent Specialty Co
Company Name

Carl A. Lund
Signature of Authorized Agent

Mgmt.
Title

Exhibit

"C"

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
CIVIL DIVISION
No. 00 - 462 - CD

PALMER SUPPLIES COMPANY, Plaintiff

vs.

CHEMTEC SOLUTIONS, INC.,
Successor-in-interest of
FORMULATED SYSTEMS, INC., and
FORMULATED SYSTEMS, INC. Defendants

ANSWER AND COUNTERCLAIM

NOTICE TO PLAINTIFF:

YOU are hereby notified
that you are required to file
an Answer to the within Counter-
claim within (20) days after
service upon you or judgment
may be entered against you.

JOSEPH COLAVECCHI, ESQUIRE
Attorney for Defendants

Colavecchi
Ker

FILED

JUL 11 2000

010:00 A.M.
William A. Shaw
Prothonotary

COLAVECCHI & RYAN

ATTORNEYS AT LAW
221 E. MARKET STREET
(ACROSS FROM COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA. 16830

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA, CIVIL DIVISION**

PALMER SUPPLIES COMPANY,

CIVIL ACTION - LAW

Plaintiff,

vs.

CHEMTEC SOLUTIONS, INC., successor -
in-interest of FORMULATED SYSTEMS,
INC., and FORMULATED SYSTEMS, INC.,

Defendants.

No. 00-462-CD

**ACCEPTANCE OF SERVICE OF
COMPLAINT BY DEFENDANT,
FORMULATED SYSTEMS, INC.**

Filed on Behalf of Plaintiff,
PALMER SUPPLIES COMPANY

COUNSEL OF RECORD FOR THIS
PARTY:

John R. Keating, Esquire
PA I.D. No. 52779
VOLLMER RULONG & KEATING, P.C.
Suite 1212, Grant Building
330 Grant Street
Pittsburgh, PA 15219
(412) 391-2121
(412) 391-3578 Fax
Firm I.D. No. 916

Filed on Behalf of Defendant,
FORMULATED SYSTEMS, INC.

COUNSEL OF RECORD FOR THIS
PARTY:

Joseph Colavecchi, Esquire
PA I.D. NO. 06810
COLAVECCHI RYAN & COLAVECCHI
221 E. Market Street
Clearfield, PA 16830
(814) 765-1566
(814) 765-4570 Fax

FILED

JUL 14 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA, CIVIL DIVISION

PALMER SUPPLIES COMPANY,) CIVIL ACTION - LAW
Plaintiff,)
vs.) No. 00-462-CD
CHEMTEC SOLUTIONS, INC., successor -)
in-interest of FORMULATED SYSTEMS,)
INC., and FORMULATED SYSTEMS, INC.,)
Defendants.)

ACCEPTANCE OF SERVICE OF COMPLAINT BY
DEFENDANT, FORMULATED SYSTEMS, INC.

I accept service of the Complaint in Civil Action on behalf of Defendant,
FORMULATED SYSTEMS, INC. and certified that I am authorized to do so.

Dated: June 1st, 2000

COLAVECCHI RYAN & COLAVECCHI

BY: 

Joseph Colavecchi, Esquire
221 E. Market Street
Clearfield, PA 16830
(814) 765-1566
(814) 765-4570 Fax

Attorneys for Defendant,
Formulated Systems, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PALMER SUPPLIES COMPANY,
Plaintiff

CIVIL DIVISION

vs.

No. 00 - 462 - CD

CHEMTEC SOLUTIONS, INC.,
Successor-in-Interest of
FORMULATED SYSTEMS, INC.,
and FORMULATED SYSTEMS,
INC.,

Defendants

AMENDED ANSWER AND COUNTERCLAIM

Filed on Behalf of:

Defendants, CHEMTEC SOLUTIONS,
INC. and FORMULATED SYSTEMS,
INC.

Counsel of Record for This
Party:

JOSEPH COLAVECCHI, ESQUIRE
Pa. I. D. #06810

Colavecchi, Ryan & Colavecchi
221 East Market Street
P. O. Box 131
Clearfield, PA 16830

814/765-1566

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

FILED

SF 2 ~ 2000

**William A. Shaw
Prothonotary**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PALMER SUPPLIES COMPANY, :
Plaintiff : No. 00 - 462 - CD
:
vs. :
:
CHEMTEC SOLUTIONS, INC., Successor- :
in-Interest of FORMULATED SYSTEMS, :
INC., and FORMULATED SYSTEMS, INC., :
Defendants:

NOTICE

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 this Amended Counterclaim and Notice are served, by entering a written appearance personally or by attorney and 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 Amended Counterclaim or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
Second and Market Streets
Clearfield, PA 16830
Phone 814/765-2641 Ex. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PALMER SUPPLIES COMPANY, :
Plaintiff :
:
vs. :
: No. 00 - 462 - CD
CHEMTEC SOLUTIONS, INC., Successor- :
in-Interest of FORMULATED SYSTEMS, :
INC., and FORMULATED SYSTEMS, INC., :
Defendants:

AMENDED ANSWER AND COUNTERCLAIM

NOW, COMES Chemtec Solutions, Inc., and Formulated Systems, Inc., who, through their attorney, Joseph Colavecchi, Esquire, file their Amended Answer to the Complaint in this case and respectfully aver as follows:

1. Admitted.
2. Denied. Chemtec Solutions, Inc., is a Pennsylvania corporation having a mailing address of P.O. Box 202, Osceola Mills, Pennsylvania 16666 and is separate from Formulated Systems, Inc.
3. Denied. Formulated Systems, Inc., although a corporation, is no longer doing business but had a mailing address of 109 South Ninth Street, Philipsburg, Pennsylvania 16866.
4. This does not require an answer.
5. Admitted.
6. Admitted.

7. Denied. The payment of \$665.00 was based on an invoice directed to Chemtec and is separate and apart from everything alleged in the Complaint. The disbursement of \$1,000.00 was a payment made by Formulated (although the check was written on Chemtec) and which was applied by Plaintiff against the account where it claimed Formulated owed it money. Palmer credited this to the Formulated account.

8. It is admitted that the two checks that are attached to the Complaint are valid.

9. Denied. On the contrary, Defendants do not owe the amounts claimed in the Complaint and in fact owe nothing on this account because of the loss to Defendants as set out herein.

10. Denied.

WHEREFORE, Defendants asks that the Complaint be dismissed and that judgment be entered in favor of Defendants.

PALMER SUPPLIES COMPANY, PLAINTIFF vs.
CHEMTEC SOLUTIONS, INC., Successor-in-Interest
of FORMULATED SYSTEMS, INC. and
FORMULATED SYSTEMS, INC., DEFENDANTS

11. This does not require an answer.

12. Denied. On the contrary, Chemtec has always been a separate corporation and Formulated has always been a separate corporation and they have never operated out of the same location.

13. Denied. On the contrary, although a check was written on the Chemtec account, this was a loan from Chemtec to Formulated.

14. Denied. On the contrary, as set out above, Chemtec made a loan to Formulated which allowed the payment of \$1,000 to Plaintiff.

15. Denied. As set out above, Chemtec and Formulated were always two separate companies with two separate locations.

16. It is denied that there is any amount owed by either Chemtec or Formulated to Plaintiff.

17. Denied for the reasons as set forth above.

18. Denied for the reasons as set forth above.

WHEREFORE, Defendants demand that the Complaint be dismissed and that judgment be entered in favor of Defendants.

AMENDED COUNTERCLAIM

Formulated Systems, Inc., through its attorney, Joseph Colavecchi, Esquire, files this Amended Counterclaim and respectfully avers as follows:

1. Plaintiff is Formulated Systems, Inc., a corporation organized and existing under the laws of the Commonwealth of Pennsylvania having its principal mailing address as 105 South Ninth Street, Philipsburg, Pennsylvania 16866.

2. Defendant is Palmer Supplies Company, a corporation having a mailing address of P. O. Box 74649, Cleveland, Ohio 44194.

3. Formulated Systems, Inc. was in the business of manufacturing epoxy flooring.

4. Formulated Systems, Inc. entered into a contract with Inter-Co Construction Company on August 27, 1997 to do certain work as described in the Subcontract Agreement No. 9720-06 for the sum of \$16,332.00. A copy of the Subcontract Agreement is attached hereto and marked Exhibit "A".

5. Formulated Systems, Inc. then submitted a proposal dated November 3, 1997 to Inter-Co Construction Company to do additional work. This was accepted by Inter-Co Construction Company. An agreement was entered into by Change Order No. 9720-109 dated November 11, 1997 setting out the previous contract total of \$16,332.00 and the amount of the change order in the amount of \$31,564.00 for a revised contract total of \$47,896.00. This change order was signed by Formulated Systems, Inc. on December 23, 1997 and formally accepted by Inter-Co Construction Company on January 21, 1998. A copy of the Change Order No. 9720-109 is attached hereto and marked Exhibit "B".

6. There was an additional change order, No. 9720-113, which amounted to a reduction of the square feet so that the cost deducted from the \$47,896.00 was reduced to \$45,422.00.

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

7. In addition, there was an add-on of Prime and Coat on 4,305.00 square feet of materials only which was in the amount of \$1,948.48 and made the total contract \$47,370.48.

8. The work was performed by Formulated Systems, Inc. both in October and November, 1997. In order to meet the deadline of December 1, 1997, Formulated Systems, Inc. worked over the Thanksgiving holidays to complete the job.

9. Formulated Systems, Inc. ordered the epoxy curative materials, being Ancamine 2143 from Palmer Supplies Company, said order having been on or about November 12, 1997, as shown on Invoice No. 0101874-IN, this being a curative material that Palmer Supplies Company sold and for which it was the sole distributor for its area and which it is alleged on information and belief that Palmer Supplies Company purchased from Air Products Corporation. Defendant had purchased this Ancamine 2143 on a number of other occasions and had no problems with it.

10. Formulated Systems, Inc. received the epoxy curative materials, being Ancamine 2143, from Palmer Supplies Company on or about November 12, 1997, and then installed the Ancamine 2143 on the job as per its contract with Inter-Co Construction Company, Inc. as set out above.

11. While Formulated Systems, Inc. was installing it, they found problems with the Ancamine 2143. When Defendant started

having problems with Ancamine 2143, Defendant notified Palmer Supplies Company. When Palmer Supplies Company was made aware of the type of problem that Defendant was having, Palmer Supplies Company suggested that Defendant use Ancamine 2286.

The original Ancamine 2143 had an apparent problem right from the beginning. After it had been installed, the work was rejected by Inter-Co Construction Company, Inc. because of the faulty materials of Ancamine 2143. After this was called to Palmer Supplies Company's attention, it then recommended Ancamine 2286.

12. As stated, the original rejection by Inter-Co Construction Company, Inc. was because of the faulty materials of Ancamine 2143 which is an epoxy curative material supplied by Palmer Supplies Company. After Palmer Supplies Company supplied the Ancamine 2286, Defendant was unable to reinstall and redo the work until January 1998. The Ancamine 2286 was actually received in December, but Defendant was unable to reinstall it until January 1998.

13. As a result of the faulty Ancamine 2143, it was necessary for Formulated Systems, Inc. to incur additional time, expense, and materials in order to do this work once again which it did so utilizing Ancamine 2286 and which resulted in the job being accepted by Inter-Co Construction Company, Inc. on March 28, 1998 and as shown on a copy of its acceptance agreement attached hereto and marked Exhibit C.

14. Palmer Supplies Company failed to give Defendant credit for the faulty Ancamine 2143 which it billed to Defendant and which had caused Defendant considerable damage and which was faulty material.

In order to do this additional work for Inter-Co Construction Company, Inc. using the Ancamine 2286, Formulated Systems, Inc. incurred additional costs as follows:

2 drums of Ancamine 2286 hardener @\$1426.50
per drum = \$ 2,853.00

4 drums of NPEL 128 resin @\$722.65 per drum = \$ 2,890.60

These materials were ordered to replace the products originally installed that were defective.

Freight of the above products is: \$ 478.40
(this includes freight into Defendant's facility and to the Instrument Speciality job)

Subcontractor's costs for re-preparation and installation: \$ 5,240.00

TOTAL ADDITIONAL COSTS: \$11,462.00

This made the total costs of the job to Formulated Systems, Inc. at \$58,832.48.

18. Inter-Co Construction Company, Inc. has refused to pay Formulated for this job because of the delay, all of which was caused through the faulty materials supplied to Formulated Systems, Inc. by Palmer Supplies Company.

19. It is alleged on information and belief that Palmer Supplies Company caused this problem because of the way it stored its Ancamine 2143. It is further alleged on information and belief that Palmer Supplies Company was aware that it had a problem with Ancamine 2143. Palmer Supplies Company switched Defendant to Ancamine 2286 without arguing about it because of the earlier problems Palmer Supplies Company had obviously had with the defective Ancamine 2143.

WHEREFORE, Chemtec Solutions, Inc., Successor-in-Interest of Formulated Systems, Inc., and Formulated Systems, Inc. demand judgment against Palmer Supplies Company in the amount of Fifty-Eight Thousand Eight Hundred Thirty-Two and 48/100 (\$58,832.48) Dollars plus interest from March 28, 1998 to the present date, and costs.

Respectfully submitted,



JOSEPH COLAVECCHI, ESQUIRE
Attorney for Defendants

VERIFICATION

I verify that the statements made in this Amended Answer and Counterclaim are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

CHEMTEC SOLUTIONS, INC. and
FORMULATED SYSTEMS, INC.

By:


Robert Peck, President


Date

9/22/00

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

Sub-Contract Agreement

THIS AGREEMENT, made this27TH..... day ofAUGUST..... A.D. 19.97.....
by and between ..FORMULATED.. SYSTEMS...INC...200..SHADY..LANE...PHILIPSBURG..PA....16866.....
hereinafter called the Sub-contractor and INTER-CO CONSTRUCTION CO, INC. 104 LIBERTY ST. W. PITTSTON, PA
18643 hereinafter called the Contractor.

For the consideration hereinafter named, the Sub-contractor covenants and agrees with the said Contractor as follows:

FIRST. The Sub-contractor will furnish all materials and labor, including all necessary scaffolding, and fully construct and in a good substantial, thorough and workmanlike manner perform and in every respect complete.....

.....FURNISH.. DELIVER.. AND.. INSTALL.. AS.. PER.. PLANS.. SPECIFICATION AND ADDENDA..
.....SPEC.. SECTION.. 3-B..(..FLOOR.. RESUREACING)..

for theINSTRUMENT.. SPECIALTIES.....

in accordance with plans and specifications (details thereof to be furnished as required) as prepared by

Architects, and to the full satisfaction of said Architect.SCHOONOVER AND VANDERHOOF

The Sub-Contractor agrees to and is hereby bond by all terms of the Contract between the Owner and the Contractor for this project.

SECOND. The Sub-contractor will promptly begin said work as soon as he is notified by the Contractor that the ground is clear or the structure far enough advanced to allow the beginning of that portion included hereunder, and will carry forward and complete said work as rapidly as said Contractor may judge that the progress of the structure will permit, unless detained by other Sub-contractors; in which event he will promptly notify the Contractor in writing, who (if satisfied that said delay is caused by others than said Sub-contractor hereunder) will allow additional time sufficient in his judgment to make up the time so lost. This paragraph shall cover any extra work done or materials furnished under this contract.

THIRD. The Sub-contractor will furnish said materials, including all necessary scaffolding, and prosecute said work with due diligence, without delay, and will not in any manner, by delay or otherwise, interfere with the work of the Contractor, or other Sub-contractors, and should the said Contractor conclude that the said Sub-contractor is delaying said work, he shall so notify said Sub-contractor, who shall, within.....TWO.....days thereafter, furnish whatever materials are required by said Contractor, and employ additional men, as required by said Contractor, and in case said Sub-contractor fails to comply with said demand, the said Contractor shall have the right to furnish said materials and employ said additional men and charge the expense thereof against the said Sub-contractor and deduct same from this contract, and should the amount or balance due on said contract be insufficient, to collect said deficiency by legal process.

Exhibit

A

FOURTH. Should said Sub-contractor fail to begin, continue and complete the work as hereinbefore provided and should the Contractor suffer or permit said Sub-contractor to occupy more time than required under this agreement, in that event the said Sub-contractor hereby covenants and agrees to indemnify and save harmless the said Contractor from any loss or damages which he may be compelled to make good to the owner of said building, under or by virtue of the contract with the owner, for or on account of delay in the completion thereof, insofar as said delay was caused by the said Sub-contractor.

FIFTH. The Sub-contractor shall provide sufficient, safe and proper facilities at all times for the inspection of the work by the Architect, the Contractor or his authorized representatives. He shall, at once, remove all materials and take down and rebuild all portions of the work condemned by the Architect or Contractor, upon receiving notice in writing of such condemnation.

SIXTH. The Sub-contractor shall not employ any workmen whose employment on the building or improvement may be objected to by any of the other Sub-contractors, the Contractor, the Architect, or the Owner.

SEVENTH. No extra work or changes under this contract will be recognized or paid for, unless agreed to in writing before the work is done or the changes made; in which writing shall be specified in detail the extra work or changes desired, the price to be paid or the amount to be deducted, should said changes decrease the amount to be paid hereunder.

EIGHTH. The Sub-contractor hereby covenants and agrees to indemnify and save harmless the Contractor from any and all manner of claims or suits for infringements of patents or violation of patent rights, including all costs and expenses to which the Contractor may be put in defending any actions that may arise under this clause of the contract.

NINTH. The Sub-contractor agrees to indemnify and save harmless the Owner and General Contractor against loss or expense by reason of the liability imposed by law upon the Owner or General Contractor for damage because of bodily injuries, including death at any time resulting therefrom; accidentally sustained by any person or persons or on account of damage to property arising out of or on account of or in consequence of the performance of this contract, whether or not such injuries to persons or damage to the property are due or claimed to be due to any negligence of the Sub-contractor, his employees, his agents or servants.

TENTH. The Sub-contractor shall protect and indemnify said Contractor against any loss or damage suffered by any one arising through the negligence of the Sub-contractor, or those employed by him or his agent or servants; he shall bear any expense which the Contractor may have by reason thereof, or on account of being charged therewith; and if there are any such injuries to persons or property unsettled for, when the work herein provided for is finished, final settlement between the Contractor and Sub-contractor shall be deferred until such claims are adjusted or suitable special indemnity acceptable to the Contractor is provided by the Sub-contractor.

ELEVENTH. The Sub-contractor shall take out and pay for Employers' Liability or Workmen's Compensation insurance as required by the State in which this work is performed, also Public Liability and Property Damage insurance, in amounts to be agreed upon by the Contracting parties. Upon signature of this contract the Sub-contractor must submit certificate of insurance to include Owners' or Contractors' Protective Liability.

TWELFTH. The Sub-contractor shall pay all Sales Taxes, Use Taxes, Excise Taxes, Local Taxes, Old Age Benefit and Unemployment Compensation Taxes upon the material and labor furnished under this contract, as required by the Statutes of the United States Government and the State and City in which this work is performed.

THIRTEENTH. This contract shall not be assigned by the Sub-contractor. Any attempt to assign the contract shall operate as an instant forfeiture and repudiation thereof by the Sub-contractor and the rights of the parties shall be determined in the same manner as though the Sub-contractor had at the time of such attempted assignment failed and refused to continue to perform the contract.

FOURTEENTH. It is expressly UNDERSTOOD AND AGREED by and between the parties hereto that time is and shall be considered the essence of the contract on the part of the said Sub-contractor, and in the event that the said Sub-contractor shall fail in the performance of the entire work to be performed under this contract, by and at the time or times herein mentioned or referred to, the said Sub-contractor shall pay unto the said Contractor, as and for liquidated damages, and not as a penalty, in view of the difficulty of estimating such damages with exactness, is hereby expressed, fixed, computed, determined and agreed upon as the damages which will be suffered by the Contractor by reason of such default; and it is understood and agreed by the parties of this contract that the liquidated damages hereinbefore mentioned are in lieu of the actual damages arising from such breach of this Contract, which said sum the said Contractor shall have the right to deduct from any moneys otherwise due or to become due to the said Sub-contractor, or to sue for and recover compensation or damages for the non-performance of this contract at the time or times herein stipulated or provided for.

The Sub-contractor knows that the Contractor must have his contract performed on or before the day of; and it is therefore understood and agreed that the work provided for herein shall be entirely completed

COMPLETE BY SEPTEMBER 29, 1997

and to that end the Sub-contractor will perform sufficient work; so that the project will not be delayed in any way by this Sub-contractor and that this Sub-contractor will start his work when so notified and will not delay any other work on this project.

No allowance for time will be made Sub-contractor for delay in preparing his drawings or in securing approval of Architect hereto when such drawings are not properly prepared for approval of Architect.

When extension of time for strikes or fire casualties has been granted Contractor by Architect or Owner, the same extension will be granted said Sub-contractor.

FIFTEENTH. The Sub-contractor further agrees that he will within ten days from date provide the Contractor with a bond in the conditioned for the faithful performance of this contract in all its particulars, duly executed with Surety company acceptable to the Contractor, as surety, and in the form and contents acceptable to the Contractor.

SIXTEENTH. We reserve the right to void this Contract if your products are not approved by the Architects. Please submit 7 copies of shop drawings and all samples and catalog cuts, as called for by specifications, for approval as soon as possible. Samples are to be delivered to Job Site.

SIXTEEN
IN CONSIDERATION WHEREOF, the said Contractor agrees that he will pay to the said Sub-contractor the sum of
THOUSAND THREE HUNDRED THIRTY TWO DOLLARS (\$16,332.00) for said materials and work, said amount to be paid as follows: Ninety per cent. (90%) of all labor and material which has been placed in position and for which payment has been made by said "Owner" to said Contractor, to be the last payment, which the said Contractor shall pay to said Sub-contractor immediately after said materials and labor installed by said Sub-Contractor have been completed, approved by the said Architect, and final payment received by the Contractor and satisfactory evidence furnished to Contractor by Sub-Contractor that all labor and material accounts for use on this particular work have been paid in full.

INTER-CO CONSTRUCTION COMPANY, INC., WILL COMPLY BY
AND STRICTLY INFORCE OSHA STANDARD 29CFR 1926.59

PLEASE NOTE: ALL SUBCONTRACTORS MUST SUBMIT MATERIAL SAFETY DATA SHEETS
TO OUR OFFICE PRIOR TO DELIVERY OF MATERIAL TO JOBSITE.

Applications for payment on this project will generally be submitted monthly for the period ending the 20TH of each month. Only Sub-Contractors invoices received before the 15TH of each month will be considered in the applications for payment.

It is further understood and agreed that no payment on account shall operate as an approval of said work or materials, or any part thereof.

All negotiations and agreements prior to the date of this memorandum are merged herein. We have read and fully understand this agreement.

The Contractor and the Sub-contractor for themselves, their successors, executors, administrators and assigns, hereby agree to the full performance of the covenants of the agreement.

IN WITNESS WHEREOF, they have executed this agreement the day and date written above.

Witness:

Stephene Baron

FORMULATED SYSTEMS, INC.

Sub-Contractor

Phil G.

By

INTER-CO CONSTRUCTION COMPANY, CO.

Contractor

Ron Bell Inc.

By

9-12-97

**INTER-CO
CONSTRUCTION
COMPANY, INC.**

104 LIBERTY STREET
WEST Pittston, PA 18643
(717) 655-6963

CHANGE ORDER

Number 9720-109

TO FORMULATED SYSTEMS INC
200 SHADY LANE
PHILIPSBURG, PA 16866

PHONE	DATE
11-11-97	
JOB NAME/LOCATION	
INSTRUMENT SPECIALTIES	
EXISTING CONTRACT NO.	
9720-06	DATE OF EXISTING CONTRACT
8-27-97	

Please revise your Purchase Order/Contract, as listed below, for changes made at the above referenced project.

FURNISH LABOR MATERIALS AND EQUIPMENT TO PREPARE, PRIME, AND APPLY TEXTURED COATING
TO 20,875 SQUARE FEET OF FLOOR AREA IN THE MANUFACTURING AREA AS PER YOUR QUOTE ON
11-03-97

1-6-98

Please sign both copies of this change order and return them to our office. We will then return one fully executed copy to you for your files. NOTE: This Change Order becomes part of and in conformance with the existing contract.

DATE	PREVIOUS CONTRACT TOTAL	\$ 16332	00
12/23/97	AMOUNT OF CHANGE ORDER	\$ 31,564	00
AUTHORIZED SIGNATURE (CONTRACTOR)	REVISED CONTRACT TOTAL	\$ 47,896	00

ACCEPTED — The above prices and specifications of this Change Order are satisfactory and accepted. All work to be performed under conditions as specified in original contract stipulated.

B

Signature

1-21-98
Ran N. Miller

AUTHORITY OF APPROVAL AND COMPLETION OF INSTALLATION

To:
Formulated Systems, Inc.

Date: 3/28/98

Location: 10 FRONT BLDG

Order or Contract Number _____

I, the undersigned, have inspected all areas to receive installation of materials set forth in the above contract and grant Formulated Systems, Inc. final approval and total acceptance of the installation.

Instrument Specialty Co
Company Name

Carl A. Schul
Signature of Authorized Agent

M.A.S.
Title

Exhibit

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION
NO. 00-462-CD

PALMER SUPPLIES COMPANY, Plaintiff

vs.

CHEMTEC SOLUTIONS, INC.,
Successor-in-Interest of
FORMULATED SYSTEMS, INC., and
FORMULATED SYSTEMS, INC.,
Defendants

AMENDED ANSWER AND COUNTERCLAIM

NOTICE TO DEFEND:

YOU are hereby notified that
you are required to file an
Answer to the within Amended
Answer and Counterclaim within
twenty (20) days from service
upon you or judgment may be
entered against you.

John Colavecchi
JOSEPH COLAVECCHI, ESQUIRE
Attorney for Defendants

FILED 3 OC
OCT 10 2000
SFT 26 2000
William A. Shaw
Prothonotary

COLAVECCHI
RYAN & COLAVECCHI

ATTORNEYS AT LAW
221 EAST MARKET STREET
(ACROSS FROM COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA 16830

CP

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA, CIVIL DIVISION**

PALMER SUPPLIES COMPANY,

CIVIL ACTION - LAW

Plaintiff,

No. 00-462-CD

vs.

CHEMTEC SOLUTIONS, INC., successor -
in-interest of FORMULATED SYSTEMS,
INC., and FORMULATED SYSTEMS, INC.,

**PLAINTIFF'S PRELIMINARY
OBJECTIONS TO ANSWER AND
COUNTERCLAIM**

Defendants.

Filed on Behalf of Plaintiff,
PALMER SUPPLIES COMPANY

**COUNSEL OF RECORD FOR THIS
PARTY:**

John R. Keating, Esquire
PA I.D. No. 52779

VOLLMER RULONG & KEATING, P.C.
Suite 1212, Grant Building
330 Grant Street
Pittsburgh, PA 15219
(412) 391-2121
(412) 391-3578 Fax

Firm I.D. No. 916

FILED

AUG 09 2000

William A. Shaw
Notary

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA, CIVIL DIVISION**

PALMER SUPPLIES COMPANY,)	CIVIL ACTION - LAW
Plaintiff,)	
vs.)	No. 00-462-CD
CHEMTEC SOLUTIONS, INC., successor - in-interest of FORMULATED SYSTEMS, INC., and FORMULATED SYSTEMS, INC.,)	
Defendants.)	

PLAINTIFF'S PRELIMINARY OBJECTIONS TO ANSWER AND COUNTERCLAIM

AND NOW, comes plaintiff, PALMER SUPPLIES COMPANY (hereinafter "Plaintiff") by and through its attorneys, John R. Keating, Esquire and VOLLMER RULONG & KEATING, P.C., and files the following Preliminary Objections to the Answer and Counterclaim filed on behalf of Defendants, CHEMTEC SOLUTIONS, INC., successor -in-interest of FORMULATED SYSTEMS, INC., and FORMULATED SYSTEMS, INC. (hereinafter "Defendants") pursuant to Pa. R.C.P. 1028 and avers as follows:

1. On or about April 19, 2000, Plaintiff, through its counsel, filed a complaint against the Defendants alleging that defendants are liable to plaintiff for an unpaid balance due for goods sold and delivered between on or about November 10, 1997 and December 16, 1997.
2. On or about July 11, 2000 Defendants filed an Answer and Counterclaim, denying the averments of Plaintiff's complaint and asserting a counterclaim based on their alleged receipt of damaged goods from Plaintiff. A copy of Defendants' Answer and Counterclaim is attached hereto as Exhibit "A".
3. On July 27, 2000, Plaintiff's counsel wrote the attorney for Defendants,

Joseph Colavecchi, Esquire, explaining that the averments of the Answer and Counterclaim fail to identify the specific product or material it claims to have been defective when Plaintiff sold it to the Defendants. A copy of Defendants' Answer and Counterclaim is attached hereto as Exhibit "B".

4. The Defendants entire counterclaim is predicated on damages it claims to have incurred as a result of its having used "..the proxy curative materials from Palmer Supplies Company" (Exhibit "A" paragraph 9) that it claims to have been defective. (Exhibit "A" paragraph 11).

5. During the period of 1994 through 1998, Plaintiff sold ten (10) different types of epoxy curatives to the Defendants, some on multiple occasions.

6. Plaintiff cannot effectively respond to the Defendants' counterclaim since it has no idea about which of the epoxy curatives is alleged to have caused the problems that the Defendants' experienced.

7. Further, Plaintiff is a seller of the curatives, not their manufacturer. If there is/was a defect, Plaintiff may have a claim against the manufacturer who could be named as an additional party to the litigation.

**I. PRELIMINARY OBJECTION RAISING INSUFFICIENT SPECIFICITY
OF DEFENDANTS' ANSWER AND COUNTERCLAIM TO
PURSUANT TO PA R. C. P. 1028(a)(3)**

8. The averments in paragraphs 1 through 7 are incorporated herein by reference as if fully set out herein.

9. It is clear from the shortcomings of the Defendants' pleading that plaintiff has not been provided with sufficient facts to permit it to file a reply to the Answer and Counterclaim.

10. Pa. R. C. P. 1019(a) requires that "the material facts on which a cause of action or defense is based shall be stated in a concise and summary form."

11. The Defendants' Answer and Counterclaim fails to disclose, (1) the identify of the product it claims to have been defective when purchased and/or (2) the date when the product was purchased.

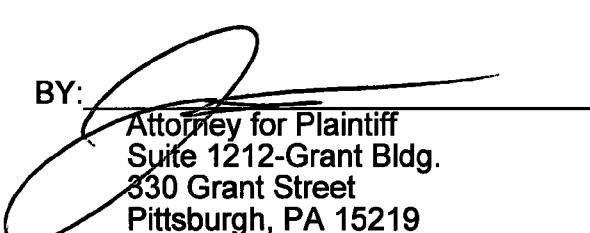
12. The subject Answer and Counterclaim fails to set forth with sufficient specificity the nature or circumstances of any alleged defense to Plaintiff's claim or in support of their counterclaim to allow plaintiff to adequately prepare a response.

13. Frankly, Defendants' have failed to even show that the subject epoxy curative was purchased from the Plaintiff to begin with.

14. In short, the Answer and Counterclaim is vague and ambiguous at best.

WHEREFORE, Plaintiff respectfully requests that this court to sustain its objection and to strike the original Answer and Counterclaim and to enter an order directing the Defendants to file an amended answer to more specifically plead the averments of its alleged defense and counterclaim.

Respectfully submitted,
VOLLMER RULONG & KEATING, P.C.

BY: 

Attorney for Plaintiff
Suite 1212-Grant Bldg.
330 Grant Street
Pittsburgh, PA 15219
(412)391-2121
(412)391-3578 fax

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PALMER SUPPLIES COMPANY,
Plaintiff

Vs.

CHEMTEC SOLUTIONS, INC.,
Successor-in-interest of
FORMULATED SYSTEMS, INC.,
And FORMULATED SYSTEMS,
INC.,

Defendants

CIVIL DIVISION

NO. 00 - 462 - CD

ANSWER AND COUNTERCLAIM

Filed on Behalf of:

Defendants, CHEMTEC SOLUTIONS,
INC., and FORMULATED SYSTEMS,
INC.

Counsel of Record for This
Party:

JOSEPH COLAVECCHI, ESQUIRE
Pa. I.D. #06810

COLAVECCHI RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

JUL 1 2000

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

Attest:

William J. Ryan
Prothonotary

EXHIBIT " A " PAGE 1

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PALMER SUPPLIES COMPANY, :
Plaintiff : No. 00 - 462 - CD
:
Vs. :
:
CHEMTEC SOLUTIONS, INC., Successor-:
in-interest of FORMULATED SYSTEMS, :
INC., and FORMULATED SYSTEMS, INC.,:
Defendants:

NOTICE

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 this Counterclaim and Notice are served, by entering a written appearance personally or by attorney and 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 Counterclaim or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P.O. BOX 131
CLEARFIELD, PA

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
Second and Market Streets
Clearfield, PA 16830
Phone 814/765-2641 Ex. 5982

EXHIBIT A PAGE 2

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PALMER SUPPLIES COMPANY, :
Plaintiff : No. 00 - 462 - CD
:
vs. :
:
CHEMTEC SOLUTIONS, INC., Successor-:
in-Interest of FORMULATED SYSTEMS, :
INC., and FORMULATED SYSTEMS, INC., :
Defendants:

ANSWER AND COUNTERCLAIM

NOW COMES, Chemtec Solutions, Inc., and Formulated Systems, Inc., who, through their attorney, Joseph Colavecchi, Esquire, file their Answer to the Complaint in this case and respectfully aver as follows:

1. Admitted.
2. Denied. Chemtec Solutions, Inc., is a Pennsylvania corporation having a mailing address of P.O. Box 202, Osceola Mills, Pennsylvania 16666 and is separate from Formulated Systems, Inc.
3. Denied. Formulated Systems, Inc., although a corporation, is no longer doing business but had a mailing address of 109 South Ninth Street, Philipsburg, Pennsylvania 16866.
4. This does not require an answer.
5. Admitted.
6. Admitted.

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RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

EXHIBIT " A " PAGE 3

7. Denied. The payment of \$665.00 was based on an invoice directed to Chemtec and is separate and apart from everything alleged in the Complaint. The disbursement of \$1,000.00 was a payment made by Formulated (although the check was written on Chemtec) and which was applied by Plaintiff against the account where it claimed Formulated owed it money. Palmer credited this to the Formulated account.

8. It is admitted that the two checks that are attached to the Complaint are valid.

9. Denied. On the contrary, Defendants do not owe the amounts claimed in the Complaint and in fact owe nothing on this account because of the loss to Defendants as set out herein.

10. Denied.

WHEREFORE, Defendants asks that the Complaint be dismissed and that judgment be entered in favor of Defendants.

PALMER SUPPLIES COMPANY, PLAINTIFF vs. CHEMTEC SOLUTIONS, INC., Successor-in-Interest of FORMULATED SYSTEMS, INC. and FORMULATED SYSTEMS, INC., DEFENDANTS

11. This does not require an answer.

12. Denied. On the contrary, Chemtec has always been a separate corporation and Formulated has always been a separate corporation and they have never operated out of the same location.

13. Denied. On the contrary, although a check was written on the Chemtec account, this was a loan from Chemtec to Formulated.

14. Denied. On the contrary, as set out above, Chemtec made a loan to Formulated which allowed the payment of \$1,000 to Plaintiff.

15. Denied. As set out above, Chemtec and Formulated were always two separate companies with two separate locations.

16. It is denied that there is any amount owed by either Chemtec or Formulated to Plaintiff.

17. Denied for the reasons as set forth above.

18. Denied for the reasons as set forth above.

WHEREFORE, Defendants demand that the Complaint be dismissed and that judgment be entered in favor of Defendants.

COUNTERCLAIM

Formulated Systems, Inc., through their attorney, Joseph Colavecchi, Esquire, files this Counterclaim and respectfully avers as follows:

1. Plaintiff is Formulated Systems, Inc., a corporation organized and existing under the laws of the Commonwealth of Pennsylvania having its principal mailing address as 105 South Ninth Street, Philipsburg, Pennsylvania 16866.

2. Defendant is Palmer Supplies Company, a corporation having a mailing address of P. O. Box 74649, Cleveland, Ohio 44194.

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
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P. O. BOX 131
CLEARFIELD, PA

3. Formulated Systems, Inc. was in the business of manufacturing epoxy flooring.

4. Formulated Systems, Inc. entered into a contract with Inter-Co Construction Company on August 27, 1997 to do certain work as described in the Subcontract Agreement No. 9720-06 for the sum of \$16,332.00. A copy of the Subcontract Agreement is attached hereto and marked Exhibit A.

5. Formulated Systems, Inc. then submitted a proposal dated November 3, 1997 to Inter-Co Construction Company to do additional work. This was accepted by Inter-Co Construction Company. An agreement was entered into by Change Order No. 9720-109 dated November 11, 1997 setting out the previous contract total of \$16,332.00 and the amount of the change order in the amount of \$31,564.00 for a revised contract total of \$47,896.00. This change order was signed by Formulated Systems, Inc. on December 23, 1997 and formally accepted by Inter-Co Construction Company on January 21, 1998. A copy of the Change Order No. 9720-109 is attached hereto and marked Exhibit B.

6. There was an additional change order, No. 9720-113, which amounted to a reduction of the square feet so that the cost deducted from the \$47,896.00 was reduced to \$45,422.00.

7. In addition, there was an add-on of Prime and Coat on 4,305.00 square feet of materials only which was in the amount of \$1,948.48 and made the total contract \$47,370.48.

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

8. The work was performed by Formulated Systems, Inc. both in October and November, 1997. In order to meet the deadline of December 1, 1997, Formulated Systems, Inc. worked over the Thanksgiving holidays to complete the job.

9. Formulated Systems, Inc. had ordered the epoxy curative materials from Palmer Supplies Company which was the sole distributor for their area and which it is alleged on information and belief purchased the epoxy curative from Air Products Corporation.

10. Formulated Systems, Inc. received the epoxy curative materials from Palmer Supplies Company and installed them on the job as per their contract with Inter-Co Construction Company, Inc. as set out above.

11. After the job had been completed by Formulated Systems, Inc., it was then inspected by Inter-Co Construction Company, Inc. at the end of November 1997, at which time Inter-Co Construction Company, Inc. rejected the work because of the faulty materials supplied by Palmer Supplies Company. The epoxy curative materials were defective.

12. The rejection by Inter-Co Construction Company, Inc. of this job was caused by the faulty epoxy curative materials as supplied by Palmer Supplies Company to Formulated Systems, Inc.

13. Formulated Systems, Inc. then had to incur additional time and expense and materials in order to do the work once again which

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CLEARFIELD, PA

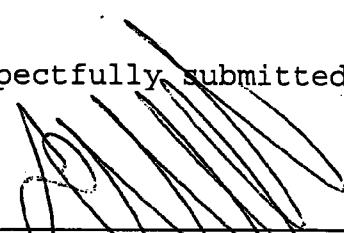
they did do and which resulted in the job being accepted by Inter-Co Construction Company, Inc. on March 28, 1998 and as shown on a copy of their acceptance agreement attached hereto and marked Exhibit C.

14. In order to do this additional work, Formulated Systems, Inc. incurred additional costs for labor and materials of \$17,000.00 which made the total cost of the job to Formulated Systems, Inc. \$64,370.48.

18. Inter-Co Construction Company, Inc. has refused to pay Formulated for this job because of the delay, all of which was caused through the faulty materials supplied to Formulated Systems, Inc. by Palmer Supplies Company.

WHEREFORE, Formulated Systems, Inc. demands judgment against Palmer in the amount of \$64,370.48 plus interest from March 28, 1998 to the present date, and costs.

Respectfully submitted,



JOSEPH COLAVECCHI, ESQUIRE
Attorney for Defendants

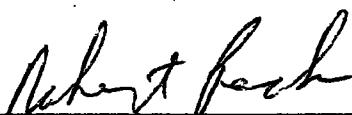
LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

VERIFICATION

I verify that the statements made in this Answer and Counterclaim are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

FORMULATED SYSTEMS, INC.

By:


ROBERT PECK, President

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

Sub-Contract Agreement

THIS AGREEMENT, made this 27TH day of AUGUST A.D. 19.97, by and between ..FORMULATED..SYSTEMS...INC...200..SHADY LANE..PHILIPSBURG..PA..16866..... hereinafter called the Sub-contractor and INTER-CO CONSTRUCTION CO, INC. 104 LIBERTY ST. W. PITTSTON, PA 18643 hereinafter called the Contractor.

For the consideration hereinafter named, the Sub-contractor covenants and agrees with the said Contractor as follows:

FIRST. The Sub-contractor will furnish all materials and labor, including all necessary scaffolding, and fully construct and in a good substantial, thorough and workmanlike manner perform and in every respect complete.....

.....FURNISH..DELIVER..AND..INSTALL..AS..PER..PLANS..SPECIFICATION AND ADDENDA.....
.....SPEC..SECTION..3-B..(..FLOOR..RESURFACING).....

.....for the ..INSTRUMENT..SPECIALTIES.....

.....in accordance with plans and specifications (details thereof to be furnished as required) as prepared by

.....Architects, and to the full satisfaction of said Architect.SCHOONOVER AND VANDERHOOF.....

.....The Sub-Contractor agrees to and is hereby bond by all terms of the Contract between the Owner and the Contractor for this project.

SECOND. The Sub-contractor will promptly begin said work as soon as he is notified by the Contractor that the ground is clear or the structure far enough advanced to allow the beginning of that portion included hereunder, and will carry forward and complete said work as rapidly as said Contractor may judge that the progress of the structure will permit, unless detained by other Sub-contractors; in which event he will promptly notify the Contractor in writing, who is satisfied that said delay is caused by others than said Sub-contractor hereunder, will allow additional time sufficient in his judgment to make up the time so lost. This paragraph shall cover any extra work done or materials furnished under this contract.

THIRD. The Sub-contractor will furnish said materials, including all necessary scaffolding, and prosecute said work with due diligence, without delay, and will not in any manner, by delay or otherwise, interfere with the work of the Contractor, or other Sub-contractors, and should the said Contractor conclude that the said Sub-contractor is delaying said work, he shall so notify said Sub-contractor, who shall, within.....TWO.....days thereafter, furnish whatever materials are required by said Contractor, and employ additional men, as required by said Contractor, and in case said Sub-contractor fails to comply with said demand, the said Contractor shall have the right to furnish said materials and employ said additional men and charge the expense thereof against the said Sub-contractor and deduct same from this contract, and should the amount or balance due on said contract be insufficient, to collect said deficiency by legal process.

Exhibit

" A "

EXHIBIT " A "

" PAGE

10

FOURTH. Should said Sub-contractor fail to begin, continue and complete the work as hereinbefore provided and should the Contractor suffer or permit said Sub-contractor to occupy more time than required under this agreement, in that event the said Sub-contractor hereby covenants and agrees to indemnify and save harmless the said Contractor from any loss or damages which he may be compelled to make good to the owner of said building, under or by virtue of the contract with the owner, for or on account of delay in the completion thereof, insofar as said delay was caused by the said Sub-contractor.

FIFTH. The Sub-contractor shall provide sufficient, safe and proper facilities at all times for the inspection of the work by the Architect, the Contractor or his authorized representatives. He shall, at once, remove all materials and take down and rebuild all portions of the work condemned by the Architect or Contractor, upon receiving notice in writing of such condemnation.

SIXTH. The Sub-contractor shall not employ any workmen whose employment on the building or improvement may be objected to by any of the other Sub-contractors, the Contractor, the Architect, or the Owner.

SEVENTH. No extra work or changes under this contract will be recognized or paid for, unless agreed to in writing before the work is done or the changes made; in which writing shall be specified in detail the extra work or changes desired, the price to be paid or the amount to be deducted, should said changes decrease the amount to be paid hereunder.

EIGHTH. The Sub-contractor hereby covenants and agrees to indemnify and save harmless the Contractor from any and all manner of claims or suits for infringements of patents or violation of patent rights, including all costs and expenses to which the Contractor may be put in defending any actions that may arise under this clause of the contract.

NINTH. The Sub-contractor agrees to indemnify and save harmless the Owner and General Contractor against loss or expense by reason of the liability imposed by law upon the Owner or General Contractor for damage because of bodily injuries, including death at any time resulting therefrom; accidentally sustained by any person or persons or on account of damage to property arising out of or on account of or in consequence of the performance of this contract, whether or not such injuries to persons or damage to the property are due or claimed to be due to any negligence of the Sub-contractor, his employees, his agents or servants.

TENTH. The Sub-contractor shall protect and indemnify said Contractor against any loss or damage suffered by any one arising through the negligence of the Sub-contractor, or those employed by him or his agent or servants; he shall bear any expense which the Contractor may have by reason thereof, or on account of being charged therewith; and if there are any such injuries to persons or property unsettled for, when the work herein provided for is finished, final settlement between the Contractor and Sub-contractor shall be deferred until such claims are adjusted or suitable special indemnity acceptable to the Contractor is provided by the Sub-contractor.

ELEVENTH. The Sub-contractor shall take out and pay for Employers' Liability or Workmen's Compensation insurance as required by the State in which this work is performed, also Public Liability and Property Damage insurance, in amounts to be agreed upon by the Contracting parties. Upon signature of this contract the Sub-contractor must submit certificate of insurance to include Owners' or Contractors' Protective Liability.

TWELFTH. The Sub-contractor shall pay all Sales Taxes, Use Taxes, Excise Taxes, Local Taxes, Old Age Benefit and Unemployment Compensation Taxes upon the material and labor furnished under this contract, as required by the Statutes of the United States Government and the State and City in which this work is performed.

THIRTEENTH. This contract shall not be assigned by the Sub-contractor. Any attempt to assign the contract shall operate as an instant forfeiture and repudiation thereof by the Sub-contractor and the rights of the parties shall be determined in the same manner as though the Sub-contractor had at the time of such attempted assignment failed and refused to continue to perform the contract.

FOURTEENTH. It is expressly UNDERSTOOD AND AGREED by and between the parties hereto that time is and shall be considered the essence of the contract on the part of the said Sub-contractor, and in the event that the said Sub-contractor shall fail in the performance of the entire work to be performed under this contract, by and at the time or times herein mentioned or referred to, the said Sub-contractor shall pay unto the said Contractor, as and for liquidated damages, and not as a penalty, in view of the difficulty of estimating such damages with exactness, as hereby expressed, fixed, computed, determined and agreed upon as the damages which will be suffered by the Contractor by reason of such default; and it is understood and agreed by the parties of this contract that the liquidated damages hereinbefore mentioned are in lieu of the actual damages arising from such breach of this Contract, which said sum the said Contractor shall have the right to deduct from any moneys otherwise due or to become due to the said Sub-contractor, or to sue for and recover compensation or damages for the non-performance of this contract at the time or times herein stipulated or provided for.

The Sub-contractor knows that the Contractor must have his contract performed on or before the
..... day of; and it is therefore understood and agreed that the
work provided for herein shall be entirely completed

COMPLETE BY SEPTEMBER 29, 1997.

and to that end the Sub-contractor will perform sufficient work: so that the project will not be delayed in any way by this Sub-contractor and that this Sub-contractor will start his work when so notified and will not delay any other work on this project.

No allowance for time will be made Sub-contractor for delay in preparing his drawings or in securing approval of Architect hereto when such drawings are not properly prepared for approval of Architect.

When extension of time for strikes or fire casualties has been granted Contractor by Architect or Owner, the same extension will be granted said Sub-contractor.

SIXTEENTH. We reserve the right to void this Contract if your products are not approved by the Architects. Please submit.....7..... copies of shop drawings and all samples and catalog cuts, as called for by specifications, for approval as soon as possible. Samples are to be delivered to Job Site.

IN CONSIDERATION WHEREOF, the said Contractor agrees that he will pay to the said Sub-contractor the sum of **SIXTEEN THOUSAND THREE HUNDRED THIRTY TWO DOLLARS (\$16,332.00)** for said materials and work, said amount to be paid as follows: Ninety per cent. (90%) of all labor and material which has been placed in position and for which payment has been made by said "Owner" to said Contractor, to be the last payment, which the said Contractor shall pay to said Sub-contractor immediately after said materials and labor installed by said Sub-Contractor have been completed, approved by the said Architect, and final payment received by the Contractor and satisfactory evidence furnished to Contractor by Sub-Contractor that all labor and material accounts for use on this particular work have been paid in full.

INTER-CO. CONSTRUCTION COMPANY, INC., WILL COMPLY BY
AND STRICTLY INFORCE OSHA STANDARD 29CFR 1926.59

.....PLEASE NOTE: ALL SUBCONTRACTORS MUST SUBMIT MATERIAL SAFETY DATA SHEETS TO OUR OFFICE PRIOR TO DELIVERY OF MATERIAL TO JOBSITE.....

Applications for payment on this project will generally be submitted monthly for the period ending the 20TH of each month. Only Sub-Contractors' invoices received before the 15TH of each month will be considered in the applications for payment.

It is further understood and agreed that no payment on account shall operate as an approval of said work or materials, or any part thereof.

All negotiations and agreements prior to the date of this memorandum are merged herein. We have read and fully understand this agreement.

The Contractor and the Sub-contractor for themselves, their successors, executors, administrators and assigns, hereby agree to the full performance of the covenants of the agreement.

IN WITNESS WHEREOF, they have executed this agreement the day and date written above.

Witness:

Stephene Bivin

FORMULATED SYSTEMS, INC.

Sub-Contractor

Phil G

By

INTER-CO CONSTRUCTION COMPANY, CO.

Contractor

Ron Kuhl

By

9-12-97

EXHIBIT "A" PAGE 13

**INTER-CO
CONSTRUCTION
COMPANY, INC.**

104 LIBERTY STREET
WEST Pittston, PA 18643
(717) 655-6963

TO FORMULATED SYSTEMS INC
200 SHADY LANE
PHILIPSBURG, PA 16866

CHANGE ORDER

Number 9720-109

PHONE	DATE
11-11-97	
JOB NAME/LOCATION	
INSTRUMENT SPECIALTIES	
EXISTING CONTRACT NO.	
9720-06 DATE OF EXISTING CONTRACT	
8-27-97	

Please revise your Purchase Order/Contract, as listed below, for changes made at the above referenced project.

FURNISH LABOR MATERIALS AND EQUIPMENT TO PREPARE, PRIME, AND APPLY TEXTURED COATING

TO 20,875 SQUARE FEET OF FLOOR AREA IN THE MANUFACTURING AREA AS PER YOUR QUOTE ON

11-03-97

1-1-97

Please sign both copies of this change order and return them to our office. We will then return one fully executed copy to you for your files. NOTE: This Change Order becomes part of and in conformance with the existing contract.

DATE <i>12/08/97</i>	EXHIBIT "A" PAGE 14	PREVIOUS CONTRACT TOTAL \$ 16332 00
AUTHORIZED SIGNATURE (CONTRACTOR) <i>Robert Peck</i>		AMOUNT OF CHANGE ORDER \$ 31,564 00
		REVISED CONTRACT TOTAL \$ 47,896 00

ACCEPTED — The above prices and specifications of this Change Order are satisfactory and accepted. All work to be performed under this Change Order will be performed under the same conditions as specified in original contract unless otherwise stipulated.

Exhibit "B"

Signature

1-21-98
Robert Peck

07-06-93 12:18

814 342 6997

PSI

P.M.

AUTHORITY OF APPROVAL AND COMPLETION OF INSTALLATION

To:
Formulated Systems, Inc

Date: 3/28/98Location: IS Front BLDG

Order or Contract Number: _____

I, the undersigned, have inspected all areas to receive installation of materials set forth in the above contract and grant Formulated Systems, Inc. final approval and total acceptance of the installation.

ProTreatment Specialty Co
Company Name

Calvin J. Loh
Signature of Authorized Agent

M.A.T.
Title

EXHIBIT A PAGE 15

Exhibit

"C"

VOLLMER RULONG & KEATING, P.C.
Attorneys at Law

Suite 1212, The Grant Building
330 Grant Street
Pittsburgh, PA 15219
Telephone: (412) 391-2121
Facsimile: (412) 391-3578
www.vollmerlaw.com

*Charles J. Vollmer
Roger G. Rulong, Jr.
John R. Keating *
Pamela J. Royesky*

** Also admitted in West Virginia*

July 27, 2000

VIA FAX

Joseph Colavecchi, Esquire
COLAVECCHI RYAN & COLAVECCHI
221 E. Market Street
Clearfield, PA 16830

Our File No: 5023

In re: **Palmer Supplies Company**
Vs: **Chemtec Solutions, Inc. successor-in-**
interest of Formulated Systems, Inc.
and Formulated Systems, Inc.
No: **00-462-CD**

Dear Mr. Colavecchi:

My client tells me that there were a number of transactions between the parties during the relevant time periods involved in the captioned litigation. Your client has not indicated what specific product it claims to have been faulty. To avoid my having to filing preliminary objections to your clients' Answer and Counterclaim, please have your client provide us with the name, type and quantity of product it claims to have been defective. If your client provides this information, we will be able to file a specific reply to the allegations of the answer. I look forward to your prompt response.

Yours very truly,
VOLLMER RULONG & KEATING, P.C.


John R. Keating
jkeating@vollmerlaw.com

JRK/lb

EXHIBIT " B " PAGE _____

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA, CIVIL DIVISION**

PALMER SUPPLIES COMPANY,)	CIVIL ACTION - LAW
Plaintiff,)	
vs.)	No. 00-462-CD
CHEMTEC SOLUTIONS, INC., successor - in-interest of FORMULATED SYSTEMS, INC., and FORMULATED SYSTEMS, INC.,)	
Defendants.)	

ORDER OF COURT

AND NOW this _____ day of _____, 2000, upon consideration of Plaintiff's Preliminary Objections to Answer and Counterclaim raising insufficient specificity of pleading, it is hereby:

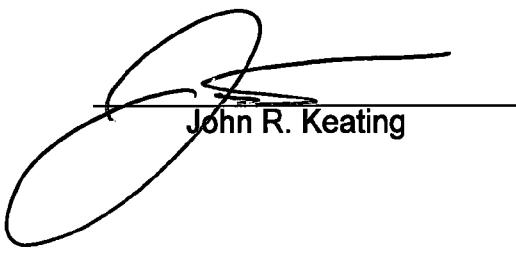
ORDERED that plaintiff's Objections are sustained and the Answer and Counterclaim filed in this matter stricken. Defendants shall file a more specific Answer within twenty days of the date of this Order specifically identify the product or products they claim to have been defective when purchased from Plaintiff.

J.

CERTIFICATE OF SERVICE

I, the undersigned counsel do hereby certify that a true and correct copy of the foregoing Plaintiff's Preliminary Objections to Answer and Counterclaim were served this 7th day of August, 2000 by first class mail, postage pre-paid addressed as follows:

Joseph Colavecchi, Esquire
COLAVECCHI RYAN & COLAVECCHI
221 E. Market Street
Clearfield, PA 16830


John R. Keating

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA, CIVIL DIVISION**

PALMER SUPPLIES COMPANY,

Plaintiff,

vs.

CHEMTEC SOLUTIONS, INC., successor -
in-interest of FORMULATED SYSTEMS,
INC., and FORMULATED SYSTEMS, INC.,

Defendants.

CIVIL ACTION - LAW

No. 00-462-CD

**REPLY TO AMENDED ANSWER
AND COUNTERCLAIM AND NEW
MATTER TO COUNTERCLAIM**

Filed on Behalf of Plaintiff,
PALMER SUPPLIES COMPANY

**COUNSEL OF RECORD FOR THIS
PARTY:**

John R. Keating, Esquire
PA I.D. No. 52779

VOLLMER RULONG & KEATING, P.C.
Suite 1212, Grant Building
330 Grant Street
Pittsburgh, PA 15219
(412) 391-2121
(412) 391-3578 Fax

Firm I.D. No. 916

000
shaw
ary

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA, CIVIL DIVISION**

PALMER SUPPLIES COMPANY,) CIVIL ACTION - LAW
Plaintiff,)
vs.) No. 00-462-CD
CHEMTEC SOLUTIONS, INC., successor -)
in-interest of FORMULATED SYSTEMS,)
INC., and FORMULATED SYSTEMS, INC.,)
Defendants.)

NOTICE TO PLEAD

You are hereby notified to file a written response to the enclosed Reply to Answer and Counterclaim and New Matter to Counterclaim within twenty (20) days from service hereof or a judgment may be entered against you.

Respectfully submitted,
VOLLMER RULONG & KEATING, P.C.

BY: 

Attorney for Plaintiff
Suite 1212-Grant Bldg.
330 Grant Street
Pittsburgh, PA 15219
(412)391-2121
(412)391-3578 fax

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA, CIVIL DIVISION**

PALMER SUPPLIES COMPANY,) CIVIL ACTION - LAW
Plaintiff,)
vs.) No. 00-462-CD
CHEMTEC SOLUTIONS, INC., successor -)
in-interest of FORMULATED SYSTEMS,)
INC., and FORMULATED SYSTEMS, INC.,)
Defendants.)

**REPLY TO AMENDED ANSWER AND COUNTERCLAIM AND
NEW MATTER TO COUNTERCLAIM**

AND NOW, comes plaintiff, PALMER SUPPLIES COMPANY (hereinafter "Plaintiff") by and through its attorneys, John R. Keating, Esquire and VOLLMER RULONG & KEATING, P.C., and files the following Reply to Amended Answer and Counterclaim and New Matter to Counterclaim and avers as follows:

REPLY TO ANSWER

1 - 18. Plaintiff incorporates herein by reference, Paragraphs 1 through 18 of its Complaint in Civil Action as though set forth at length.

REPLY TO COUNTERCLAIM

1. Admitted.
2. Admitted.
3. Admitted.
4. Denied. The averments of Paragraph 4 of Counterclaim Plaintiffs'

Amended Answer and Counterclaim are denied. After reasonable investigation, Counterclaim Defendant is without knowledge, information or belief sufficient to permit a formal response to the allegations and the same are therefore denied. The document attached to the Amended Answer as Exhibit "A" speaks for itself. The fact that the

Counterclaim Plaintiff entered into a contract with a third party is irrelevant to the issues at hand.

5. Denied. The averments of Paragraph 5 of Counterclaim Plaintiffs' Amended Answer and Counterclaim are denied. After reasonable investigation, Counterclaim Defendant is without knowledge, information or belief sufficient to permit a formal response to the allegations and the same are therefore denied. The Counterclaim Defendant was not a party to the contract referenced in the counterclaim and has no way of knowing if the allegations contained therein are true. The document attached to the Amended Answer as Exhibit "B" speaks for itself. The fact that the Counterclaim Plaintiffs entered into a contract with a third party, or that the same was amended after it was originally proposed is irrelevant to the issues at hand.

6. Denied. The averments of Paragraph 6 of Counterclaim Plaintiffs' Amended Answer and Counterclaim are denied. After reasonable investigation, Counterclaim Defendant is without knowledge, information or belief sufficient to permit a formal response to the allegations and the same are therefore denied. The Counterclaim Defendant was not a party to the contract referenced in the counterclaim and has no way of knowing if the allegations contained therein are true.

7. Denied. The averments of Paragraph 7 of Counterclaim Plaintiffs' Amended Answer and Counterclaim are denied. After reasonable investigation, Counterclaim Defendant is without knowledge, information or belief sufficient to permit a formal response to the allegations and the same are therefore denied. The Counterclaim Defendant was not a party to the contract referenced in the counterclaim and has no way of knowing if the allegations contained therein are true.

8. Denied. The averments of Paragraph 8 of Counterclaim Plaintiffs' Amended Answer and Counterclaim are denied. After reasonable investigation, Counterclaim Defendant is without knowledge, information or belief sufficient to permit

a formal response to the allegations and the same are therefore denied. The Counterclaim Defendant was not a party to the contract referenced in the counterclaim and has no way of knowing if the allegations contained therein are true. Further, Counterclaim Defendant has no knowledge or concern about the time period in which the Counterclaim Plaintiffs perform the work that involves a contract entered with a third party.

9. Admitted in part and Denied in Part. The averments of Paragraph 9 of Counterclaim Plaintiffs' Amended Answer and Counterclaim are admitted in part and denied in part. It is denied that the Counterclaim Plaintiffs ordered Ancamine 2143 from Counterclaim Defendant on November 12, 1997. It is admitted, however, that such product was ordered on November 10, 1997. It is also admitted that the Counterclaim Plaintiffs' had ordered the same from the Counterclaim Defendant on other occasions. It is admitted that the Counterclaim Defendant purchased the Ancamine 2143 from Air Products Corporation. It is admitted that Counterclaim Defendant is the sole distributor for Ancamine 2143 in "its" area but denied that it is the only distributor from whom the Counterclaim Plaintiffs' can and do purchase Air Products Corporations' products.

10. Admitted in part and Denied in Part. The averments of Paragraph 10 of Counterclaim Plaintiffs' Amended Answer and Counterclaim are admitted in part and denied in part. It is admitted that the Counterclaim Plaintiffs received Ancamine 2143 from Counterclaim Defendant on or about November 12, 1997. After reasonable investigation, Counterclaim Defendant is without knowledge, information or belief sufficient to permit a formal response to the allegations and the same are therefore denied. The Counterclaim Defendant was not a party to the contract referenced in the counterclaim and has no way of knowing if the Ancamine 2143 was used on the job identified in the Counterclaim Plaintiffs' Amended Answer and Counterclaim.

Counterclaim Plaintiffs purchased four (4) different lots of Ancamine 2143 in 1997. Counterclaim Defendant cannot possibly determine which batch the Counterclaim Plaintiffs used on any given job.

11. Denied. The averments of Paragraph 11 of Counterclaim Plaintiffs' Amended Answer and Counterclaim are denied. After reasonable investigation, Counterclaim Defendant is without knowledge, information or belief sufficient to permit a formal response to the allegations and the same are therefore denied. The Counterclaim Plaintiffs' have not indicated what "problems" they claim to have found with the Ancamine 2143. The "problem" could have been the Counterclaim Plaintiffs' use of an incorrect product for the type of work that was being performed. It is also denied that the Counterclaim Plaintiffs' notified the Counterclaim Defendant of any problems involving the Ancamine 2143. The first notice of an alleged problem was the original answer that the Counterclaim Plaintiffs' filed in this case. By way of further response, Counterclaim Defendant never notified the Counterclaim Plaintiffs' that they could or should us Ancamine 2286.

After reasonable investigation, Counterclaim Defendant is without knowledge, information or belief sufficient to permit a formal response to the allegations that Inter-Co Construction Company, Inc. rejected the work. Even if it rejected the work, it is denied that the Ancamine 2143 which was sold to Counterclaim Plaintiffs was the cause. Again, the Counterclaim Plaintiffs never notified the Counterclaim Defendant of any problem with the product. Neither the Counterclaim Defendant or its supplier, Air Products Corporation received any complaints from the Counterclaim Plaintiffs or any other customer that purchased Ancamine 2143 from the same lot that was sold in the case at bar.

12. Admitted in part and denied in part. The averments of Paragraph 12 of Counterclaim Plaintiffs' Amended Answer and Counterclaim are admitted in part and

denied in part. After reasonable investigation, Counterclaim Defendant is without knowledge, information or belief sufficient to permit a formal response to the allegations and the same are therefore denied. The Counterclaim Plaintiffs' have not indicated what "problems" they claim to have found with the Ancamine 2143. The Counterclaim Defendant has no way of knowing why Inter-Co Construction rejected the Counterclaim Plaintiff's work. It is denied that there was anything wrong with the Ancamine 2143 that had been sold. Again, the Counterclaim Plaintiffs never notified the Counterclaim Defendant of any problem with the product. Neither the Counterclaim Defendant or its supplier, Air Products Corporation received any complaints from any other customer that purchased Ancamine 2143 from the same lot that was sold in the case at bar. The first notice of an alleged problem was the original answer that the Counterclaim Plaintiffs' filed in this case.

It is admitted that the Counterclaim Defendant sold Ancamine 2286 to the Counterclaim Plaintiff as reflected on Exhibit "2" of the complaint in this case. The product was ordered and shipped on December 1, 1997 for delivery on December 2, 1997. As for the remaining averments of paragraph 12 of the Counterclaim Plaintiffs Answer and Counterclaim, the same are denied. After reasonable investigation, Counterclaim Defendant is without knowledge, information or belief sufficient to permit a formal response to the allegations that the Counterclaim Plaintiffs' were unable to "reinstall it until January 1988". The Counterclaim Plaintiffs' have not explained their delay in performing their contract with their customer, Inter-Co Construction until January of 1998. They had the Ancamine 2286 product in hand on December 2, 1997. By their own admission, the Counterclaim Plaintiff's sat on the materials for over a month before performing the "reinstall" in January of 1998. They are estopped to blame any delay on the Counterclaim Defendant.

13. Denied. The averments of Paragraph 13 of Counterclaim Plaintiffs' Amended Answer and Counterclaim constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, they are denied. After reasonable investigation, Counterclaim Defendant is without knowledge, information or belief sufficient to permit a formal response to the allegations and the same are therefore denied. As set forth in the preceding paragraphs, the Counterclaim Plaintiffs have not indicated in any fashion, what "problem" was found with the product, nor have they indicated what fault might have existed with the product. The Counterclaim Plaintiffs' have not explained their delay in performing their contract with their customer, Inter-Co Construction until January of 1998. They had the Ancamine 2286 product in hand on December 2, 1997. By their own admission, the Counterclaim Plaintiff's sat on the materials for over a month before performing the "reinstall" in January of 1998. They are estopped to blame any delay or resulting cost on the Counterclaim Defendant. The Counterclaim Plaintiffs have not show that the Counterclaim Defendant or its product had anything to do with their failure to perform their contract with Inter-Co. It is also denied that Exhibit "C" is a copy of the acceptance agreement from Inter-Co. pertaining to the job in question.

14. Denied. The averments of Paragraph 14 of Counterclaim Plaintiffs' Amended Answer and Counterclaim constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, they are denied. It is true that the Counterclaim Defendant has not given a credit to the Counterclaim Plaintiffs for the Ancamine 2143 or related materials simply because a credit was not due to be issued. The Counterclaim Plaintiffs have not indicated in any fashion, what "problem" was found with the product, nor have they indicated what fault might have existed with the product. The Counterclaim Plaintiffs never notified the Counterclaim Defendant of any problem with the product prior to the commencement of this action. Countless

reasons were given for the Counterclaim Plaintiffs' failure to pay for the products it had purchased but never was a claim made about there being a problem with the materials. Neither the Counterclaim Defendant or its supplier, Air Products Corporation received any complaints from any other customer that purchased Ancamine 2143 from the same lot that was sold in the case at bar.

The Counterclaim Plaintiffs are estopped to claim that they were damaged by having to "purchase" Ancamine 2286 when there has been no showing that the need for the product had anything to do with the Counterclaim Defendant. In addition, they cannot make a claim for the cost of the Ancamine 2286 or even the Ancamine 2143 since they have not paid Plaintiff for either.

As for the total cost that the Counterclaim Plaintiffs claim to have incurred in performing the InterCo job, the same must be denied. After reasonable investigation, Counterclaim Defendant is without knowledge, information or belief sufficient to permit a formal response to the allegations that the Counterclaim Plaintiffs' cost for performing the job were \$58,832.48. Even if that figure is correct, it is totally irrelevant to the case at bar.

15. - 17. [Counterclaim Plaintiffs' have not used these numbers]

18. Denied. The averments of Paragraph 18 of Counterclaim Plaintiffs' Amended Answer and Counterclaim constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, they are denied. After reasonable investigation, Counterclaim Defendant is without knowledge, information or belief sufficient to permit a formal response to the allegations that the Counterclaim Plaintiffs was denied payment by its customer, Inter-Co Construction for work that they had performed. To the extent the Counterclaim Plaintiffs' are claiming that the Counterclaim Defendant is in anyway responsible for their failure to perform their contract with Inter-Co. Construction, the same are denied. The Counterclaim

Defendant have not sold a defective product to the Counterclaim Plaintiffs. If there was a problem with their job, it was caused solely by their failure to perform.

19. Denied. The averments of Paragraph 19 of Counterclaim Plaintiffs' Amended Answer and Counterclaim constitute conclusions of law to which no response is required. To the extent a response is deemed necessary, they are denied. For the reasons set forth in the preceding paragraphs 1 through 14 which are incorporated herein by reference as though set forth at length, it is denied that the Counterclaim Defendant improperly stored any of the materials that were sold to the Counterclaim Plaintiffs. It is denied that the Counterclaim Defendant had any knowledge of a defect in the Ancamine 2143 that had been sold to the Counterclaim Plaintiffs. It is also denied that the Counterclaim Defendant suggested to the Counterclaim Plaintiffs that they use Ancamine 2286. Counterclaim Defendant has no record of any conversations taking place with the Counterclaim Plaintiffs about an alleged defect or of the need for them to use Ancamine 2286.

WHEREFORE, Counterclaim Defendant, requests judgment in its favor and against Counterclaim Plaintiffs on Counterclaim Plaintiffs alleged counterclaim and in its favor and against the Defendant in the principal sum of \$11,772.57 plus interest at the legal rate of six percent (6%) per annum from an average due date of January 1, 1998 plus cost as prayed for in its complaint.

NEW MATTER TO COUNTERCLAIM

20. Counterclaim Defendant incorporates herein by reference, Paragraphs 1 through 18 of its Complaint in Civil Action and 1 through 19 above as though set forth at length.

21. Counterclaim Plaintiffs have failed to state a claim upon which relief may be granted.

22. Counterclaim Plaintiffs are estopped to deny owing the balance that has been demanded in the complaint in civil action that was filed of record with this court. The Counterclaim Plaintiffs never notified the Counterclaim Defendant of any problem that might have been experienced with the Ancamine 2143 product that had been purchased. The only noted dispute involved a color change question which resulted in a \$200.00 credit to the Counterclaim Plaintiffs.

23. Counterclaim Plaintiffs failed to mitigate the damages they claim have incurred as a result of their delay in meeting their contractual obligations to their customer, Inter-Co. Construction Company, Inc. They sat on the Ancamine 2286 product from December 2, 1997 until January 28, 1998 before completing the installation that they had been requested to perform.

24. Counterclaim Plaintiffs failure to pay from the product at issue in the complaint has been in bad faith.

25. Counterclaim Defendant has reviewed its records and those of its supplier, Air Products Corporation and has no record of any complaints being received from the Counterclaim Plaintiffs OR ANY OTHER CUSTOMER who had purchased the same Ancamine 2143 from the same lot.

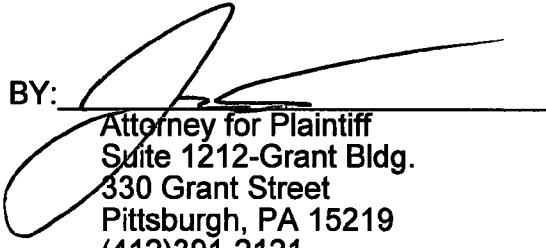
26. If there was a problem with the Ancamine 2143, it was a result of the Counterclaim Plaintiffs failure to store and maintain the materials properly after the same had been delivered.

27. The Counterclaim Plaintiffs have not shown and cannot show how the Counterclaim Defendant is responsible for the Counterclaim Plaintiffs failure to keep to their contract with their customer - Inter-Co. Construction Company, Inc.

WHEREFORE, Counterclaim Defendant, requests judgment in its favor and against Counterclaim Plaintiffs on Counterclaim Plaintiffs alleged counterclaim and in its

favor and against the Defendant in the principal sum of \$11,772.57 plus interest at the legal rate of six percent (6%) per annum from an average due date of January 1, 1998 plus cost as prayed for in its complaint.

Respectfully submitted,
VOLLMER RULONG & KEATING, P.C.

BY: 

Attorney for Plaintiff
Suite 1212-Grant Bldg.
330 Grant Street
Pittsburgh, PA 15219
(412)391-2121
(412)391-3578 fax

UNSWORN VERIFICATION

I, JOSEPH D LYKINS III, state that I am the PRESIDENT of Plaintiff, **PALMER SUPPLIES COMPANY** the Plaintiff herein. I have reviewed the annexed Reply to Answer and Counterclaim and believe the facts contained therein are true and correct to the best of my knowledge, information and belief. I believe that the corporation will be able to prove these facts at trial. This declaration is made by me with the knowledge that it is subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

PALMER SUPPLIES COMPANY

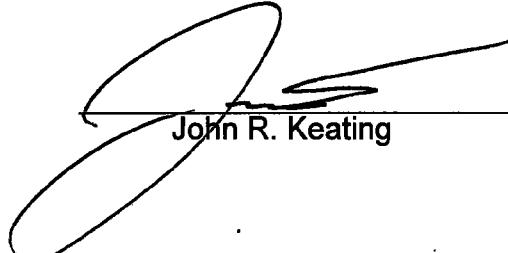
BY: 

TITLE: President

CERTIFICATE OF SERVICE

I, the undersigned counsel do hereby certify that a true and correct copy of the foregoing Plaintiff's Reply to Amended Answer and Counterclaim and New Matter to Counterclaim was served this 20th day of October, 2000 by first class mail, postage pre-paid addressed as follows:

Joseph Colavecchi, Esquire
COLAVECCHI RYAN & COLAVECCHI
221 E. Market Street
Clearfield, PA 16830


John R. Keating

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PALMER SUPPLIES COMPANY,
Plaintiff

CIVIL DIVISION

No. 00 - 462 - CD

vs.

CHEMTEC SOLUTIONS, INC.,
Successor-in-Interest of
FORMULATED SYSTEMS, INC.,
and FORMULATED SYSTEMS,
INC.,

REPLY TO NEW MATTER TO
COUNTERCLAIM

Defendants

Filed on Behalf of:

Defendants, CHEMTEC SOLUTIONS,
INC. and FORMULATED SYSTEMS,
INC.

Counsel of Record for This
Party:

JOSEPH COLAVECCHI, ESQUIRE
Pa. I. D. #06810

Colavecchi, Ryan & Colavecchi
221 East Market Street
P. O. Box 131
Clearfield, PA 16830

814/765-1566

FILED

NOV 21 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PALMER SUPPLIES COMPANY,

Plaintiff : No. 00 - 462 - CD

vs.

CHEMTEC SOLUTIONS, INC., Successor-:
in-Interest of FORMULATED SYSTEMS :
INC., and FORMULATED SYSTEMS, INC.,:
Defendants:

REPLY TO NEW MATTER TO COUNTERCLAIM

Chemtec Solutions, Inc., successor-in-interest of Formulated Systems, Inc., and Formulated Systems, Inc., Defendants in the above-captioned case and Plaintiffs on the Counterclaim file their Reply to the New Matter to Counterclaim of Palmer Supplies Company and respectfully avers as follows:

20. This does not require a reply.

21. Denied for reasons as set forth in the Counterclaim.

22. Denied. Robert Peck notified Joe Mascia of Palmer Supplies by telephone about the problem and later problems with Anca 2143. Joe Mascia led Robert Peck to believe that the problem was with storage at his facility and not of Palmer Supplies or Air Products. It was not until the next shipment that was checked by Robert Peck at which time he found 8" of slush in the bottom of the drum. He again called Joe Mascia who advised him that it would not cause a "functional" problem and to heat the product to restore it.

While it may have been functional, it was the crystals that caused the problems associated with the non-approval by Inter-Co Construction. Plaintiff on the Counterclaim received no credit for the material from Palmer Supply which he believeid was due to the outstanding invoices pertaining to Inter-Co.

23. Denied. The products are warranted for six months or longer depending on the type of product. Plaintiffs on the Counterclaim did not sit on this problem. From December 2, 1997, to January 28, 1998, Plaintiffs on the Counterclaim spent a great deal of effort and expense in first determining the nature of the problem so that it was not repeated. Plaintiffs on the Counterclaim then had to wait for the right scheduling at which time they did then perform the requested installation.

24. Denied. On the contrary, Plaintiffs on the Counterclaim should have at least been issued credit for product and for this reason, alone, the failure to pay could not have been in bad faith. It is further alleged on information and belief that the buyout of Joe Mascia by Palmer was one of the reasons this was buried so that it would not interfere with the negotiations.

25. Denied. Air Products would not have any records of this product being defective as it was the incorrect storage of this material by Palmer Supplies that led to its crystallization. Air Products did not have any record of problems prior to that when Plaintiffs on the Counterclaim did get a credit and replacement for this product. Air Products appears to have little control over how

their distributors store and ship their products even though Plaintiff on the Counterclaim was given a certificate of analysis by them to prove the product was acceptable, when it was not.

26. Denied. As set out above, this was the position taken by Joe Mascia as a defense for shipping defective product. It was when Plaintiffs on the Counterclaim checked a drum immediately after arrival that they found it was being shipped in this manner. It is alleged on information and belief that Joe Mascia was aware of these storage problems and continued to ship the product.

27. Denied for the reasons as set out above.

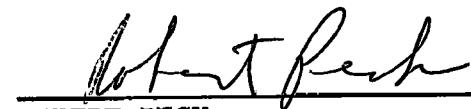
WHEREFORE, Plaintiffs on the Counterclaim ask that the New Matter be dismissed and that judgment be entered in favor of Plaintiffs on the Counterclaim, together with interest and costs.

Respectfully submitted,

JOSEPH COLAVECCHI, ESQUIRE
Attorney for Defendants and
Plaintiffs on the Counterclaim

VERIFICATION

I verify that the statements made in this Reply to New Matter to Counterclaim are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.


Robert Peck
ROBERT PECK

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
CIVIL DIVISION
No. 00 - 462 - CD

PALMER SUPPLIES COMPANY, Plaintiff

vs.

CHEMTEC SOLUTIONS, INC.,
Successor-in-interest of
FORMULATED SYSTEMS, INC., and
FORMULATED SYSTEMS, INC. ~~Defendants~~

REPLY TO NEW MATTER TO
COUNTERCLAIM

NY 21 2000
Oct 23, 2000
Colavecchi

COLAVECCHI
RYAN & COLAVECCHI
ATTORNEYS AT LAW
221 EAST MARKET STREET
(ACROSS FROM COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PALMER SUPPLIES COMPANY,
Plaintiff

vs.

CHEMTEC SOLUTIONS, INC.,
Successor-in-Interest of
FORMULATED SYSTEMS, INC., and
FORMULATED SYSTEMS, INC.,
Defendants

CIVIL DIVISION

No. 00 - 462 - CD

PRAECIPE TO DISCONTINUE

Filed on Behalf of:

Defendant, CHEMTEC SOLUTIONS,
INC., Successor-in-Interest of
FORMULATED SYSTEMS, INC., and
FORMULATED SYSTEMS, INC.

Counsel of Record for This
Party:

JOSEPH COLAVECCHI, ESQUIRE
Pa. I.D. #06810

COLAVECCHI & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

FILED

JAN 16 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

PALMER SUPPLIES COMPANY, :
Plaintiff :
:
vs. : No. 00 - 462 - CD
:
CHEMTEC SOLUTIONS, INC., :
Successor-in-Interest of :
FORMULATED SYSTEMS, INC., :
and FORMULATED SYSTEMS, :
INC., :
Defendants :

PRAECIPE TO DISCONTINUE

TO: WILLIAM SHAW, PROTHONOTARY

Please mark the record as to the Counterclaim filed by
Defendants in the above-captioned action discontinued, settled and
ended for all time.



JOSEPH COLAVECCHI, ESQUIRE
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION
No. 00 - 462 - CD

PALMER SUPPLIES COMPANY, Plaintiff

vs.

CHEMETEC SOLUTIONS, INC.,
Successor-in-Interest of
FORMULATED SYSTEMS, INC., and
FORMULATED SYSTEMS, INC.,
Defendants

PRAECLipe TO DISCONTINUE

FILED

0 2:22 Bat No Cc/One
JAN 16 2003

William A. Shaw
Prothonotary

COLAVECCHI
RYAN & COLAVECCHI

ATTORNEYS AT LAW
221 EAST MARKET STREET
(ACROSS FROM COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA 16830

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Y
DO
C

Palmer Supplies Company

Vs.
Chemtec Solutions, Inc.
Formulated Systems

No. 2000-00462-CD

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on January 16, 2003 marked:

Discontinued, Settled, and Ended as to the COUNTERCLAIM ONLY filed on behalf of the Defendants.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 16th day of January A.D. 2003.



William A. Shaw, Prothonotary

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA, CIVIL DIVISION**

PALMER SUPPLIES COMPANY

**CIVIL ACTION - LAW
NO. 00-462-CD**

**Plaintiff,
vs.**

**PRAECIPE TO SETTLE AND
DISCONTINUE**

**CHEMTEC SOLUTIONS, INC.
successor in interest of
FORMULATED SYSTEMS, INC.
And FORMULATED SYSTEMS, INC.**

**Filed on behalf of Plaintiff
PALMER SUPPLIES COMPANY**

Defendants

**COUNSEL OF RECORD FOR THIS
PARTY:
John R. Keating, Esquire**

PA I.D. No. 52779

**VOLLMER RULONG & KEATING, P.C.
Suite 1212-Grant Building
330 Grant Street
Pittsburgh, PA 15219
(412) 391-2121
(412)391-3578 fax
Firm I.D. No. 916**

FILED

JAN 21 2003

**William A. Shaw
Prothonotary**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PALMER SUPPLIES COMPANY)
Plaintiff)
vs.) No. 00-462-CD
CHEMTEC SOLUTIONS, INC.)
successor in interest of)
FORMULATED SYSTEMS, INC.)
and FORMULATED SYSTEMS, INC.)
Defendants)

PRAECIPE TO SETTLE AND DISCONTINUE

TO THE PROTHONOTARY:

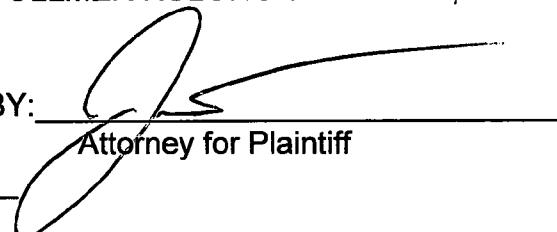
Please settle and discontinue the action filed in the above-captioned matter and mark it off the docket.

Sworn to and Subscribed
before me this 16 th day
of January, 2003

Linda Boyle
Notary Public

My Commissioned and Seal
Linda Boyle, Notary Public
Pittsburgh, Allegheny County
My Commission Expires June 2, 2008
Member, Pennsylvania Association of Notaries

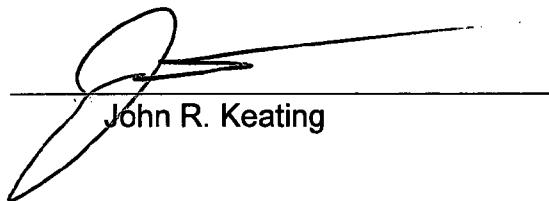
VOLLMER RULONG & KEATING, P.C.

BY: 

Attorney for Plaintiff

COST PAYMENT VERIFICATION

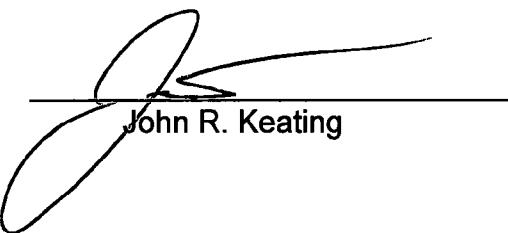
I UNDERSTAND THAT THE ABOVE ACTION CANNOT BE FILED AND DOCKETED
UNTIL ALL COSTS HAVE BEEN PAID. INCLUDING SHERIFF'S COSTS; AND
HEREBY VERIFY THAT ALL COSTS HAVE BEEN PAID. I UNDERSTAND THAT
FALSE STATEMENTS HEREIN ARE MADE SUBJECT TO THE PENALTIES OF 18
Pa. C.S. SEC. 4904 RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES.


John R. Keating

CERTIFICATE OF SERVICE

I, the undersigned counsel do hereby certify that a true and correct copy of the foregoing Praecipe to Settle and Discontinue was served this 10th day of January, 2003 by first class, U.S. mail, postage prepaid to the following address:

Joseph Colavecchi, Esquire
Colavecchi Ryan & Colavecchi
221 E. Market Street
Clearfield, PA 16830


John R. Keating

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

COPY

CIVIL DIVISION

Palmer Supplies Company

Vs.

No. 2000-00462-CD

Chemtec Solutions, Inc. successor in
interest of Formulated Systems, Inc.
and Formulated Systems, Inc.

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County
and Commonwealth aforesaid do hereby certify that the above case was on January 21,
2003, marked:

Settled and Discontinued

Record costs in the sum of \$220.43 have been paid in full by John R. Keating, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at
Clearfield, Clearfield County, Pennsylvania this 21st day of January A.D. 2003.

William A. Shaw, Prothonotary