

03-816-CD
CLEARFIELD EDUCATION FOUNDATION vs. NDC Builders, LLC

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CLEARFIELD EDUCATION
FOUNDATION, a Pennsylvania nonprofit
corporation and LOCK HAVEN
UNIVERSITY FOUNDATION, a
Pennsylvania nonprofit corporation

Owners
Plaintiffs,

vs.

NDC Builders, LLC, a Pennsylvania Limited
Liability Company

Contractor
Defendant.

CIVIL DIVISION

No: 03-816-CD

WAIVER OF LIENS STIPULATION

Code:

Filed on behalf of:

CLEARFIELD EDUCATION
FOUNDATION and LOCK HAVEN
UNIVERSITY FOUNDATION

Owners/Plaintiffs

Counsel of Record for Clearfield Education
Foundation:

Carl A. Belin, Jr.

Pa. I.D. No. 06805

Belin & Kubista

PO Box 1

Clearfield, PA 16830

(814) 765-8972

CERTIFICATE OF LOCATION

I HEREBY CERTIFY that the location of the
Real Estate affected by this lien waiver is:

Lock Haven University/Clearfield Campus
6264 Clearfield-Woodland Highway, Lawrence Township
Clearfield County, Clearfield, PA 16830


Carl A. Belin, Jr., Esq.
Attorney for Clearfield Education Foundation

FILED

JUN 05 2003

William A. Shaw
Prothonotary

WAIVER OF LIENS STIPULATION

THIS WAIVER OF LIENS STIPULATION (this "**Waiver of Liens**") is made on May 31, 2003 by NDC Builders, LLC, a Pennsylvania Limited Liability Company with offices at 340 Mansfield Avenue; Pittsburgh, PA 15220 (hereinafter the "**Contractor**").

WITNESSETH:

WHEREAS, Lock Haven University Foundation ("**the "Owner"**") ("**LHUF**") owns certain property located on Lock Haven University of Pennsylvania's campus in Lawrence Township, Clearfield County, Pennsylvania (the "**Property**"), and

WHEREAS, Clearfield Education Foundation ("**CEF**") is a licensee of the Property; and

WHEREAS, pursuant to a contract between CEF and the Contractor (the "**Construction Contract**"), the Contractor has agreed to supply labor and materials and perform construction work upon the Property (the "**Improvements**"); and

WHEREAS, both the Owners and the Contractor will benefit from the construction of the Improvements on the Property;

NOW, THEREFORE, in consideration of the foregoing premises, the covenants and agreements contained in the Construction Contract, and intending to be legally bound hereby, the Contractor, for itself, its successors and assigns, and all subcontractors, suppliers, materialmen, and other parties acting through or under it or them, does hereby covenant, stipulate, promise and agree as follows:

1. That no lien or right to file a lien or claim against the Improvements or any part or parts thereof shall accrue or exist in the Contractor or any subcontractor, supplier, materialmen, laborer or others concerned or connected therewith; that no mechanics' lien or claim or materialmen's lien or other lien or claim of any kind whatsoever shall be filed or maintained against the Improvements or the Property or any part or parts thereof or the appurtenances thereto, by the Contractor or by any subcontractors, suppliers, materialmen, laborers or others, for work done or for any tools, equipment, materials or supervision or other services furnished under any construction, drilling, or supply contract or any subcontract or any supplements or changes thereto, written or oral, or by any other party acting through or under them, or any of them, for and about the Improvements, the Property or any parts thereof, or on credit thereof; nor shall any claim or liability for such labor or materials or work performed arise, exist or be filed against any of the Owners, their respective successors (including successors in interest) or assigns, other than the legal claim of the Contractor against CEF pursuant to the Construction Contract.

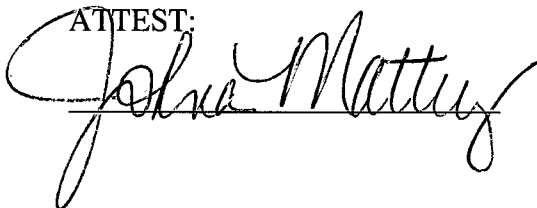
2. This Waiver of Liens Stipulation shall be an independent covenant and shall operate and be effective as well with respect to work done and materials and services furnished under any supplemental contract for extra work in connection with the Improvements. It is the full intent of the Contractor, for itself and for any sub-contractors, materialmen, suppliers, laborers or others claiming for themselves, or by, through or under the Construction Contract, that the right to file a mechanics' lien, under the provisions of Acts of Assembly in such cases made and provided, for work done or materials furnished in and about the erection, construction or repairs of the Improvements above described, is hereby waived.

3. In order to give the Owners and Licensees full power and authority to protect themselves, and the Improvements and the Property against any and all claims filed by the Contractor, or by any subcontractor, supplier, materialman, or anyone acting under or through any of them in violation of the foregoing covenant, the Contractor, for itself, its successors and assigns, and all such persons, hereby irrevocably authorizes and empowers any attorney of any Court of Common Pleas of the Commonwealth of Pennsylvania to appear for it, them or any of them, in any such Court as Attorney for it or them, and in his, its or their name, mark satisfied of record, at the cost and expense of the Contractor or of any such subcontractor, supplier, laborer or materialman, or in its or their names, any and all mechanics' liens or claims or materialmen's liens or claims or other liens or claims of any kind whatsoever filed or maintained against the Improvements or the Property or any parts thereof or the appurtenances thereto, and for such act or acts this shall be good and sufficient warrant and authority and a reference to the Court and to the docket in which and where this instrument shall have been filed shall be a sufficient exhibit of the authority herein contained to warrant such action, and the Contractor, for itself and all subcontractors, laborers and materialmen, does hereby release all errors and defects whatsoever in the entry of any such satisfaction or the exercise of the authority hereby conferred. In the event that any court of competent jurisdiction shall determine that any part of the provisions of this paragraph are void or unenforceable in accordance with its terms, both parties hereto expressly consent and agree that this paragraph may be modified by said Court such that the offending provision shall be of no further force and effect but the remainder of this paragraph, if any, and of this Waiver of Liens Stipulation and all other terms and conditions hereof shall continue to be binding on the parties hereto and all parties claiming under or through them.

4. THIS WAIVER OF LIENS STIPULATION will be filed in the office of the Prothonotary of Clearfield County, Pennsylvania, pursuant to the provisions of the Act of August 23, 1963, P.L. 1175, No. 497, as supplemented and amended, and the receipt for such filing will be delivered to the Owners and Licensees.

IN WITNESS WHEREOF, the Contractor has duly executed this Waiver of Liens Stipulation as of the date first above written.

ATTEST:



NDC BUILDERS, LLC

By: 

Title: President

CONTRACTOR'S ACKNOWLEDGEMENT

COMMONWEALTH OF PENNSYLVANIA)

COUNTY OF Allegheny) SS:
)

BEFORE ME, a Notary Public of the Commonwealth of Pennsylvania, personally appeared Gregory A. Hand, who acknowledged himself to be the President of NDC Builders, a Pennsylvania Limited Liability Company, and that he, as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of such _____ by himself as such officer.

[AND HE FURTHER ACKNOWLEDGED THAT, as of this 31 day of May, 2003, no work had begun upon the property of the Owners referred to in the foregoing instrument at 6264 Clearfield - Woodland Highway Clearfield Clearfield County, Pennsylvania by him or by anyone else, nor had any other work been done upon said ground nor had materials of any kind been ordered or delivered upon the ground.]

ATTEST:

John D. Mattiuz

NDC BUILDERS, LLC

By: [Signature]
Title: President

SWORN TO AND SUBSCRIBED before me this 31 day of May, 2003.

John D. Mattiuz
Notary Public

[Notarial Seal]

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
John D. Mattiuz, Notary Public
Greentree Boro, Allegheny County
My Commission Expires May 5, 2007
Member, Pennsylvania Association Of Notaries

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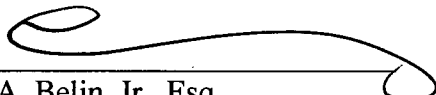
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Attorney for Clearfield Education Foundation

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Cifd. Education

01/11/2008
JUN 05 2008

pd. 2000

2 CC Cifd. Education

William A. Shaw
Prothonotary