04-1146-CD
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC
VS PRECISION FABRICATION & CONTROLS, etal

Freshtec Food vs Precison Fabrication et al
2004-1146-CD

Current Judge: Paul E. Cherry

Freshtec Food Processing Equipment International, vs. Precision Fabrication and Controls, Inc., Advanced Industrial Controls, Inc.

Civil Other

Date		Judge
01/05/2004	Certificate of Service, Motion to Consolidate Actions Pursuant to Pa.R.C.P. Upon Eugene J. Brew, Esq. Filed by s/David J. Hopkins, Esq.	Paul E. Cherry
07/28/2004	Filing: Civil Complaint In Equity Paid by: Hopkins Law Firm Receipt number: 1883563 Dated: 07/28/2004 Amount: $85.00 (Check) 4 Cert. to Atty.	No Judge
	Motion for Preliminary Injunction, filed by Atty. Hopkins 4 Cert. to Atty.	No Judge
07/29/2004	ORDER, filed. 4 Cert. to Atty. AND NOW, this 29th day of July, 2004, RE: Order of Court Granting Preliminary Injunction and hearing on Preliminary Injunction on Aug. 19, 2004.	No Judge
08/18/2004	Answer, filed by s/Eugene J. Brew. No cc.	Paul E. Cherry
	Response to Motion for Preliminary Injunction. Filed by s/Eugene J. Brew. No cc	Paul E. Cherry
08/20/2004	ORDER, NOW this 19th day of August, 2004, upon agreement of the parties, it is the ORDER of this Court that this Court's Order of July 29, 2004, granting preliminary injunction, remain in full force, effect pending hearing on the merits of this case. By the Court, Paul E. Cherry. 1 cc Atty Hopkins, 1 cc Atty Brew, 1 cc Def (Advanced Industrial 245 Chestnut Street, Bradford, PA 16701)	Paul E. Cherry
08/26/2004	Filing: Reissue Writ/Complaint Paid by: Hopkins, David J. (attorney for Freshtec Food Processing Equipment International,) Receipt number: 1885338 Dated: 08/26/2004 Amount: $7.00 (Check) No CC, 1 Compl. Reinstated to Shff.	Paul E. Cherry
09/10/2004	Transcript of Plaintiff's Petition For Preliminary Injunction, held August 19, 2004 before the Honorable Paul E. Cherry, Judge. Taken By Thomas D. Snyder, RPR Official Court Reporter. Original filed 7/28/04	Paul E. Cherry
09/20/2004	Sheriff Return: Sept. 8, 2004 Complaint returned "Not served" Marked not found. Costs: Shff. Hawkins $36.00, $34.00 McKean Co. Shff. Paid by Atty.	Paul E. Cherry
09/22/2004	Petition to Coordinate actions with McKean Co. case # 915 C.D. 2004, Pursuant to PA R.C.P. 213.1 filed by Atty. Hopkins. 2 CC to Atty. Hopkins	Paul E. Cherry
09/23/2004	Rule to Show Cause, AND NOW, this 22nd day of September, 2004, upon consideration of the attached Petition, a Rule is hereby issued upon Respondent, Precision Fabrication and Advanced Industrial Controls, Inc., to Show Cause why the Petition should not be granted. Rule Returnabble the 12th day of October, 2004, for filing written response. The matter of Precision Fabrication and Controls, Inc. vs. FreshTec Food Processing Equipment International, LLC filed in the Court of Common Pleas of McKean county is hereby stayed pending a resolution of this Petition to Coordinate Actions Pursuant to Pa.R.C.P. 213.1. BY THE COURT, /s/ Paul E. Cherry, Judge. 2 CC to Atty	Paul E. Cherry
10/06/2004	Motion For Summary Judgment or Partial Summary Judgment, on behalf of: Precision Fabrication & Controls, Inc., Filed by s/ Eugene J. Brew, Esq. No CC. Certificate of Mailing, to: Honorable Paul E. Cherry, Judge, and David J. Hopkins, Esq.	Paul E. Cherry

Current Judge: Paul E. Cherry

Freshtec Food Processing Equipment International, vs. Precision Fabrication and Controls, Inc., Advanced Industrial Controls, Inc.

Civil Other

Date			Judge
10/06/2004		Affidavit of Robert J. Stewart in Support of Defendant's Precision Fabrication and Controls, Inc., Motion for Summary Judgment or Partial Summary Judgment, on behalf of: Precision Fabrication & Controls, Inc. Filed by s/ Eugene J. Brew, Esquire. No CC. Certificate of Mailing, upon Honorable Paul E. Cherry, Judge, and David J. Hopkins, Esq.	Paul E. Cherry
		Answer To Petition to Coordinate Actions, on behalf of: Precision Fabrication & Controls, Inc. Filed by s/Eugene J. Brew, Esq. No CC. Certificate of Mailing, October 4, 2004 by mail to: Honorable Paul E. Cherry, Judge, and David J. Hopkins, Esquire.	Paul E. Cherry
10/08/2004		Order, filed. 3 certt. w/memo to Atty. Brew. AND NOW, this 7th day of October, 2004, Argument on Motion for Summary Judgmennt scheduled for Nov. 18, 2004.	Paul E. Cherry
10/26/2004		Order, AND NOW, this 25th day of October, 2004, it is the ORDER of the Court that argument on Attorney Brew's motion for Summary Judgment of Partial Summary Judgment filed in the above matter has been rescheduled from November 18, 2004 to Tuesday, November,9, 2004 at 1:30 p.m. BY THE COURT: Paul E. Cherry, Judge. 1 CC Attys: Hopkins, Brew	Paul E. Cherry
11/05/2004		Motion to Consolidate Actions Pursuant to Pa.R.C.P. 213 (a), filed by s/David J. Hopkins, Esq. No CC	Paul E. Cherry
		Affidavit Of Lawrence J. Salone in Opposition to Defendant Precision Fabrication and Controls, Inc.'s Motion for Summary Judgment or Partial Summary Judgment. Filed by s/David J. Hopkins, Esquire. 1CC Atty Hopkins	Paul E. Cherry
		Reply to Motion for Summary Judgment or Partial Summary Judgment, on behalf of Plaintiff, filed by s/David J. Hopkins, Esquire. No CC Certificate of Service, by 1st class mail and facsimile on the 5th day of Nov., 2004, to Eugene J. Brew, Esquire, and Advanced Industrial Controls, Inc.	Paul E. Cherry
		Affidavit of Service filed. Order of Court dated Oct. 7, 2004, mailed by U.S. Mail, to David J. Hopkins, Esq., and Advanced Industrial Controls, inc. Filed by s/Eugene J. Brew, Esq. 1CC to Atty.	Paul E. Cherry
		Certificate of Service, Motion to Consolidate Actions Pursuant to Pa.R.C.P. Upon Eugene J. Brew, Esq. Filed by s/David J. Hopkins, Esq. No CC	Paul E. Cherry
11/08/2004		Affidavit of Service filed on behalf of Precision Fabrication & Controls, Inc. Filed by s/ Eugene J. Brew, Esq. NoCC	Paul E. Cherry
11/09/2004		Certificate of Service, Affidavit of Lawrence J. Salone in Opposition to Defendant Precision Fabrication and Controls, Inc.'s Motion for Summary Judgment or Partial Summary Judgment filed on behalf of FreshTec Food Processing Equipment International, LLC, was forwarded by facsimile and first class mail, on the 5th day of Nov. 2004 to Eugene J. Brew, Esquire, and Advanced Industrial Controls, Inc. Filed by s/ David J. Hopkins, Esquire. No CC	Paul E. Cherry
11/15/2004		Motion for Sanctions filed by Atty. Brew. No cc.	Paul E. Cherry

Current Judge: Paul E. Cherry

Freshtec Food Processing Equipment International, vs. Precision Fabrication and Controls, Inc., Advanced Industrial Controls, Inc.

Civil Other

Date			Judge
11/16/2004		Order, AND NOW, this 16th day of Nov., 2004, upon consideration of the Defendant's motion for Sanctions, it is the ORDER of this Court that hearing be held with regard to said Motion on the 9th day of December, 2004, beginning at 10:00 a.m. in Courtroom 2 of the Clfd Co. Courthouse. It is the further Order of this Court that counsel for defendant, Eugene J. Brew, Esquire shall be permitted to participate via telephone. BY THE COURT, /s/ Paul E. Cherry, Judge. 4 CC & Memo Re: Service to Atty Brew.	Paul E. Cherry
11/18/2004		Order of Court, filed. cert. to Atty. Hopkins, Brew and Advanced Industrial NOW, this 9th day of November, 2004, Parties have reached agreement relative to the petition for consolidation, ORDERED that the matter filed to McKean County Court Docket # 915 CD 2004 shall be consolidated with all Clerarfield County matters filed to Dockets No. 04-1577-CD and 04-1146-CD. Futher ORDERED that all stays entered by this Court are hereby lifted. Plaintiff shall be responsible for any costs with the transfer.	Paul E. Cherry
11/24/2004		Affidavit of Service filed. copy of Order of Court dated Nov. 16, 2004 to David J. Hopkins, Esquire and Advanced Industrial Controls, Inc. No CC	Paul E. Cherry
12/09/2004		Order, NOW, this 9th day of December, 2004, this being the date set for hearing on Motion for Sanction s filed on behalf of Defendant Precision Fabrication and Controls, Inc. it is the ORDER of this Court that counsel for Plaintiff shall file complete answers to interrogatories and request for production of documents (first set) filed by Defendant within no more than 20 days from this date. BY THE COURT, /s/ Paul E. Cherry, Judge. Cert. to Hopkins & E. Brew	Paul E. Cherry
12/15/2004		Copy of whole record of Plaintiff and Defendant, as the same remains of record before the said Court at No. 915 CD 2004, filed by s/ Bonnie Moore Howard, Prothonotary, Commonwealth of Pennsylvania, County of McKean. No CC, Copy to 04-1577-CD	Paul E. Cherry
01/21/2005		Motion For Sanctions No. 2, filed by s/ Eugene J. Brew, Esquire. No CC 1/25/05 Letter to Eugene Brew, Esq., Re: Court will not address without a scheduling order.	Paul E. Cherry
01/24/2005		Request for Status Conference, filed by Atty. Brew 1 Cert. to Atty. 1/25/05 Letter to Eugene Brew, Esq., Re: Court will not address without a scheduling order.	Paul E. Cherry
01/27/2005		Order, AND NOW, this 26th day of Jan., 2005, it is the ORDER of the Court that a status conference in the above matter has been scheduled for Thursday, March 17, 2005 at 10:00 a.m. in Courtroom No. 2, Clfd. Co. Courthouse. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Brew.	Paul E. Cherry
01/31/2005		Motion for Sanction II: Defendant, Precision Fabrication and Controls, Inc. Motion for Sanctions Requesting Order Directing Responsive Answers to Interrogatories, filed by Atty. Brew. 1 CC To Atty.	Paul E. Cherry
		Amended Request for Status Conference filed by Atty. Brew. 1 CC to Atty.	Paul E. Cherry
		Request for Admissions, filed by s/Eugene J. Brew, Esq. No CC	Paul E. Cherry

Freshtec Food Processing Equipment International, vs. Precision Fabrication and Controls, Inc., Advanced Industrial Controls, Inc.

Civil Other

Date		Judge
02/01/2005	Order of Court, AND NOW, this 1st day of February, 2005, upon receipt of Plaintiff, Precision Fabrication and Controls, Inc.'s Motion for Sanctions II, Orderd: 1. Argument shall be heard on this Motion before the Court on March 17, 2005, at 10:00 a.m. 2. Counsel for Precision Fabrication and Controls, Inc. may participate in this Argument by telephone conference call. BY THE COURT: /s/Paul E. Cherry, Judge One CC Attorney Brew	Paul E. Cherry
	Order of Court, AND NOW, this 1st day of February, 2005, after Status Conference, it is Ordered: (See Original for details). A further status conference will be held on March 17, 2005. Counsel for Precision may participate by telephone conference call at 10:00 a.m. BY THE COURT: /s/Paul E. Cherry, Judge One CC Attorney Brew	Paul E. Cherry
02/03/2005	Answer To Motion for Sanctions No. 2, filed by s/ David J. Hopkins, Esquire. 1CC Atty Hopkins	Paul E. Cherry
02/07/2005	Amended Request for Admissions, filed by s/Eugene J. Brew, Esq. No CC	Paul E. Cherry
02/14/2005	Order, AND NOW, this 14th day of Feb., 2005, it is the ORDER of the Court that the status conference and Def. Motion for Sanction II in the above matter has been rescheduled from march 17, 2005 to Monday, March 28, 2005 at 2:30 p.m. in Courtroom No. 2, Clfd. Co. Courthouse. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Atty Hopkins, 1CC Atty Brew	Paul E. Cherry
03/09/2005	Certificate of Service, filed by Atty. Hopkins, no cert. copies. Served copy of Response to Amended Request for Admissions, upon Atty. Brew	Paul E. Cherry
03/29/2005	Order, NOW, this 28th day of March, 2005, it is Order that counsel for plaintiff shall within no more than 15 days from today's date, answer with specificity Question Nos. 7,8 and 9 of the Interrogatories and Request for Documents filed by Defendants. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Brew, 1CC Def. Advanced Ind.	Paul E. Cherry
03/30/2005	Order, status conference rescheduled for June 20, 2005 at 10:30 a.m. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Brew, Advanced Industrial	Paul E. Cherry
04/04/2005	Motion to Order Bond Posted, filed by s/Eugene J. Brew, Esq. No CC	Paul E. Cherry
04/06/2005	Motion for Sanctions III: Defendant, Precision Fabrication & Controls, Inc.'s Motion for Sanctions III Requesting an Order Directing Defendant to Answer Interrogatories, filed by s/Eugene Brew, Esq. No CC	Paul E. Cherry
04/11/2005	Order, AND NOW, this 8th day of April, 2005, upon receipt of Precision Fabrication & Control Inc.'s Motion for Sanctions III, IT IS ORDERED: 1. Argument shall be heard on this Motion before the Court on May 11, 2005 at 10:30 a.m. 2. Counsel for Precision Fabrication & Controls, Inc. May participate in this Argument by telephone conference call. BY THE COURT: /s/ Paul E. Cherry, Judge. 2CC Atty Brew	Paul E. Cherry

Current Judge: Paul E. Cherry

Freshtec Food Processing Equipment International, vs. Precision Fabrication and Controls, Inc., Advanced Industrial Controls, Inc.

Civil Other

Date		Judge
04/11/2005	Order, AND NOW, this 8th day of April, 2005, upon receipt of Plaintiff, Precision Fabrication & Controls, Inc.'s Motion to Require Bond, IT IS ORDERD: 1. Argument shall be heard on this motion before the Court on May 11, 2005 at 10:30 a.m. 2. Counsel for Precision Fabrication & Controls, Inc. may participate in this Argument by telephone conference call. BY THE COURT: /s/ Paul E. Cherry, Judge. 2CC Atty. Brew	Paul E. Cherry
05/09/2005	Praecipe For Entry of Appearance, filed on behalf of Precision Fabrication and Controls, Inc. enter Mutzabaugh & Saunders, LLP Filed by s/ Atty. Mutzabaugh. No CC	Paul E. Cherry
05/16/2005	Praecipe, Please list the above entitled matter for trial, filed by s/ Atty. Mutzabaugh. No CC, copy to C/A	Paul E. Cherry
05/19/2005	Order, AND NOW, this 18th day of May, 2005, following argument on Defendant's Motion to Require Bond and upon consideration of the same, it is the ORDER of this Court that said Motion is hereby GRANTED. Plaintiff shall post bond in the amount of $75,000.00 within no more than 10 days from today's date. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Brew, Mutzabaugh, Advanced Inc.	Paul E. Cherry
	Order, AND NOW, this 18th day of May, 2005, following argument on Defendant's Preliminary Objections and the timely receipt of Briefs and upon consideration of same, it is the ORDER of this Court that said Preliminary Objections and the timely receipt of Briefs and upon consideration of same, it is the ORDER of this Court that said Preliminary Objections be and are hereby DISMISSED. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Brew, Mutzabaugh, Advanced Industrial	Paul E. Cherry
	Order, AND NOW, this 19th day of May, 2005, it is the ORDER of this Court that hearing shall be held on the 11th and 12th days of July, 2005, beginning at 9:00 a.m. in Courtroom No. 2 of the Clfd. Co. Courthouse. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Brew, Mutzabaugh, Advanced Ind.	Paul E. Cherry
05/20/2005	Motion To Consolidate, filed by s/ David J. Hopkins, Esquire. No CC	Paul E. Cherry
05/24/2005	Order, AND NOW, this 23rd day of May, 2005, it is ORDERED that Plaintiff's Motion to Consolidate Court Filings, be and is hereby Granted, as follows: (see original). BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Atty. Hopkins	Paul E. Cherry
05/31/2005	Mail Returned, copies of Orders dated May 18 and 19, 2005. Addressed to Advanced Industrial Controls, Inc., 536 E. Main Street, Bradford PA 16701. Unable to Forward	Paul E. Cherry
06/01/2005	Order, AND NOW, this 31st day of May, 2005, it is the ORDER of the Court that Hearing has been rescheduled from July 11 and 12, 2005 to Wednesday, September 7, 2005 and Thursday, September 8, 2005 at 9:00 a.m. in Courtroom No. 2. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Brew, Mutzabaugh, Hopkins	Paul E. Cherry

Freshtec Food Processing Equipment International, vs. Precision Fabrication and Controls, Inc., Advanced Industrial Controls, Inc.

Civil Other

Date		Judge
06/20/2005	Order, NOW, this 20th day of June, 2005, following status conference, it is the Order of this Court that this Court's Order of May 18, 2005, be and is hereby vacated. Preliminary Infunction issued in this matter be and is hereby dissolved. All money presently being held in escrow shall be returned to Plaintiffs forthwith. Hearing scheduled for Sept. 7 and 8, 2005 is not longer necessary and is hereby cancelled. BY THE COURT: /s/ Paul E. Cherry, Judge. 2CC Attys: Hopkins, Brew, Mutzabaugh, Def. Advanced	Paul E. Cherry
06/27/2005	Motion For Jury Trial, filed by s/ Richard W. Mutzabaugh, Esquire. No CC	Paul E. Cherry
	Motion For Reconsideration, filed by s/ Richard W. Mutzabaugh, Esquire. No CC	Paul E. Cherry
06/29/2005	Mail Returned, Order dated June 20, 2005, mailed to Advanced Industrial Controls, Inc., 536 E. Main St, Bradford Pa, Not Deliverable as Addressed	Paul E. Cherry
	Order, And Now, this 28th day of June, 2005, upon consideration of the Motion from Precision Fabrication and Controls, Inc. for Reconsideration of this Court's Order consolidating the above cases, it is the ORDER of this Court that said Motion be and is hereby DENIED. By The Court: /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Brew, Mutzabaugh; 1CC Advanced	Paul E. Cherry
07/01/2005	Motion For Discovery Deadline, filed by s/Richard W. Mutzabaugh, Esquire. No CC	Paul E. Cherry
07/07/2005	Order, this 6th day of July, 2005, upon consideration of Motion by Precision for the establishment of a discovery deadline, it is ordered that discovery will close 90 days from the date of this order, after which discovery may not be sought without agreement of the parties or special leave of court. By The Court, /s/ Paul E. Cherry, Judge. 3CC Atty. Mutzabaugh	Paul E. Cherry
	Withdrawal of Appearance, on behalf of Precision Fabrication & Controls, Inc, in all 3 of the above pending actions. filed by s/ Eugene J. Brew, Esquire. no CC Copy to C/A	Paul E. Cherry
07/08/2005	Order of June 28, 2005 Returned, moved no forwarding address, addressed to Advanced Industrial Controls, Inc, 536 E. Main St. Bradford, PA 16701	Paul E. Cherry
08/04/2005	Order, NOW, this 4th day of August, 2005, following Pre-Trial Conference with regard to this matter, it is the Order of Court as follows: Jury Selection is scheduled for August 30, 2005 beginning at 9:00 a.m. in Courtroom No. 2. Trial is scheduled for Nov. 29, 30. and December 1, 2, 2005 beginning at 9:00 a.m. in Courtroom No. 2. (see original for further details). By The Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Mutzabaugh, Brew, Advanced Ind. Controls.	Paul E. Cherry
08/11/2005	Notice of Service of Interrogatories and Requests Production of Documents, served upon David J. Hopkins, Esquire, on August 9, 2005. Filed by s/ Richard W. Mutzabaugh, Esquire. 1CC to Atty.	Paul E. Cherry
08/17/2005	Order of August 4, 2005, mailed to Advanced Industrial Controls, Inc. returned by USPS.	Paul E. Cherry

Freshtec Food Processing Equipment International, vs. Precision Fabrication and Controls, Inc., Advanced Industrial Controls, Inc.

Civil Other

Date	Selected Items	Judge
08/31/2005	Order, this 30th day of August, 2005, following argument on Def.'s Motion in Limine; upon presentation of issues before the Court, it is the Order of this court that said motion is hereby granted. By The Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Mutzabaugh, Brew. 1CC Advanced Industrial	Paul E. Cherry
09/08/2005	Order of August 30, 2005, mailed to Advanced Industrial Controls, Inc. returned by USPS.	Paul E. Cherry
09/12/2005	Notice of Service of Requested for Admissions, filed. Requests for Admissions directed to FreshTec Food Processing Equipment International LLC, were served on David J. Hopkins on September 8, 2005, filed by s/ Richard Mutzabaugh Esq. No CC.	Paul E. Cherry
09/15/2005	Motion In Limine (Spoliation of Evidence), filed by s/ Richard W. Mutzabaugh, Esquire. No CC	Paul E. Cherry
09/19/2005	Order AND NOW, this 15th day of September 2005, it is the ORDER of the Court that argument on Attorney Mutzabaugh's Motion In Limine filed in the above matter has been scheduled for the 17th day of October 2005, at 3:30 p.m. in Courtroom No. 2. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC to Attys: Hopkins, Mutzabaugh, Brew and 1CC to Advanced Ind. at 536 E. Main St., Bradford, PA 16701	Paul E. Cherry
09/22/2005	Motion For Compliance, filed by s/ Richard W. Mutzabaugh, Esquire. No CC	Paul E. Cherry
09/28/2005	Order, NOW, this 23rd day of Sept., 2005, a hearing on the within Motion for Compliance is scheduled for the 17th day of October, 2005 aat 3:30 p.m. By The Court: /s/ Paul E. Cherry, Judge. 4CC Atty Mutzabaugh.	Paul E. Cherry
	Mail Return, Order, dated September 15, 2005, to Advanced Industrial Controls, Inc. at 536 E. Main St. Bradford, PA 16701, unable to Forward.	Paul E. Cherry
09/29/2005	Objection To Discovery Requests, filed by s/Richard W. Mutzabaugh, Esquire. No CC	Paul E. Cherry
10/03/2005	Order NOW, September 30, 2005, upon consideration of Precision's Objection to Discovery Requests, argument on said Objection is hereby scheduled for the 17th day of October 2005, at 3:30 p.m. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC atty Mutzabaugh.	Paul E. Cherry
	Motion For Sanctions, filed by s/ Richard W. Mutzabaugh, Esquire. No CC	Paul E. Cherry
	Motion In Limine, (Confidentiality Agreement), filed by s/ Richard W. Mutzabaugh, Esquire. No CC	Paul E. Cherry
	Certificate of Service, filed. I Hereby certify that I am this day serving a copy of the attached Order upon David J. Hopkins, Esq., on September 30, 2005, filed by s/ Richard W. Matzabaugh Esq. No CC.	Paul E. Cherry
10/05/2005	Answer And Counterclaim, filed by s/ Kimberly M. Kubista, Esquire. 2CC to Atty.	Paul E. Cherry
10/07/2005	Certificate of Service, filed. This day serving a copy of the attached Order upon David J. Hopkins Esq, filed by s/ Richard W. Matzabaugh Esq.	Paul E. Cherry
10/12/2005	Order AND NOW, this 11th day of October, 2005, it is the ORDER of the Court that argument on Attorney Mutzabaugh's Motion in Limine filed in the above matter has been scheduled for the 1st day of November, 2005, at 10:00 a.m. in Courtroom No. 2. BY THE COURT: /s/ Paul E. Cherry, Judge. 1Cc Attys: Hopkins, Mutzabaugh and Brew.	Paul E. Cherry

CLEARFIELD COUNTY PROTHONOTARY
P.O. BOX 549
CLEARFIELD, PA 16830

Attorney: Ammerman & Marshall

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Freshtec Food Processing Equipment International, vs. Precision Fabrication and Controls, Inc., Advanced Industrial Controls, Inc.

Civil Other

Date	Selected Items	Judge
10/12/2005	Order AND NOW, this 11th day of October, 2005, it is the ORDER of the Court that argument on Attorney Mutzabaugh's Motion for Sanctions filed in the above matter has been scheduled for the 1st day of November 2005 at 10:00 a.m. in Courtroom No. 2. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC Attys: Hopkins, Mutzabaugh, Brew.	Paul E. Cherry

10-18-05 Order, dated 10-17-05

11-02-05 order, dated 11-1-05
11-02-05 order, dated 11-1-05
11-02-05 order, dated 11-1-05
11-21-05 order, dated 11-22-05
11-23-05 Stipulation

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CLEARFIELD, PA 16830

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IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,
A Pennsylvania limited liability company,
Plaintiff,

v.

PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.
Defendants.

No. 2004-1146-CD

Type of Pleading: Complaint in Equity

Filed on behalf of: FreshTec Food Processing Equipment International, LLC, Plaintiff

Counsel of Record for this party:

HOPKINS HELTZEL, LLP

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE
Attorney at Law
Supreme Court No. 83998

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED
JUL 28 2004
03:45
William A. Shaw
Prothonotary/Clerk of Courts
4 Cert to Att

Reinstated Aug 26, 2004 Document
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Deputy Prothonotary

Document
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for service.

Deputy Prothonotary

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

NOTICE

TO: Defendants

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 Complaint is 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 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.

Office of the Court Administrator
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830
(814) 765-2641 (ext. 5982)

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

COMPLAINT IN EQUITY

AND NOW, comes the Plaintiff, FreshTec Food Processing Equipment International, LLC (hereinafter "Plaintiff" or "FreshTec"), by and through its undersigned counsel, and files the within Complaint in Equity as follows:

1. Plaintiff is a Pennsylvania limited liability company with its principal place of business at P.O. Box 585, DuBois, Pennsylvania 15801. FreshTec is engaged in the business of designing and selling machines to the food processing industry.

2. Defendant, Precision Fabrication and Controls, Inc. (hereinafter "Precision") is a Pennsylvania corporation, whose principal place of business is located at 195 Chestnut Street, P.O. Box 331, Bradford, Pennsylvania 16701. Precision is in the business of manufacturing machines for the food processing industry.

3. Defendant, Advanced Industrial Controls, Inc. (hereinafter "AIC") was a Pennsylvania corporation, whose principal place of business was located at 245 Chestnut Street, Bradford, Pennsylvania 16701.

4. Plaintiff provided Defendants with certain confidential information including designs, blueprints, CAD files, drawings and specifications relating to the construction of machinery for Plaintiff's customers (the "Confidential Information") for use in the food processing business. Defendants use such Confidential Information to construct machinery which it then sells and delivers to Plaintiff.

5. Plaintiff[1] ordered such machinery from AIC pursuant to the following purchase orders, and was invoiced fifteen (15) times by Precision on the dates and in the amounts indicated below:

Purchase Order No.[2]	Invoice No.	Date	Amount
4063	1042	5/19/04	$31,596.00
4030	1054	5/25/04	$12,950.00
4001	1075	6/1/04	$28,836.00
4063	1076	6/9/04	$5,640.00
4030	1077	6/8/04	$8,400.00
4137	1079	6/10/04	$150.00
4075	1080	6/10/04	$1,560.00
4028	1090	6/15/04	$7,560.00
4062	1091	6/16/04	$3,240.00
4072	1108	6/25/04	$6,480.00
4028	1119	7/7/04	$1,900.00
4062	1120	7/7/04	$1,900.00
4073	1127	7/13/04	$19,440.00
4072	1135	7/19/04	$1,900.00
4073	1136	7/19/04	$1,900.00

Copies of said purchase orders are attached hereto as Exhibit "A". Copies of said invoices are attached hereto as Exhibit "B".

6. Payment on said invoices is due 30 days from the date of the invoice.

7. All original orders for the machines were taken by Defendant AIC.

[1] Several purchase orders were initiated by Plaintiff's predecessor in interest, Backus USA, Inc.
[2] Purchase order numbers reference the last four digits indicated under "Purchase Order #" on the attached forms.

8. During the course of these transactions, AIC's operations were taken over by Defendant and said machines were delivered to FreshTec by Precision.

9. Plaintiff was not notified and has no formal knowledge of the legal relationship, if any, between Defendants Precision and AIC.

10. All invoices received by Plaintiff were on Precision letterhead and indicated payment should be made to Precision.

11. Following Precision's takeover of AIC's operations, Plaintiff began to experience significant delays in the scheduled delivery of the machinery referenced in 11 of the 14 invoices (invoices numbered 1042; 1054; 1075; 1076; 1077; 1090; 1091; 1108; 1119; 1120; 1127).

12. Plaintiff's customers were extremely dissatisfied with such delays and notified Plaintiff of their dissatisfaction.

13. Plaintiff's business is highly competitive and its success is largely due to the successful management of personal relationships with its customers.

14. Delays in scheduled delivery of the machinery detrimentally impacted Plaintiff's relationships with its customers.

15. Additionally, several pieces of machinery were defective and required repairs. Invoice number 1054 included machinery that broke welds and cost $1,800 in repairs as well as travel costs to Canada; machinery included on invoice number 1077 also broke welds and resulted in shipping and repair costs of approximately $2,220; machinery included on invoice 1090 broke welds and was repaired by the customer who sent the bill for $2,800 to Plaintiff.

16. Such defects in machinery performance were detrimental to Plaintiff's ongoing business relationships with these customers.

17. On or about July 7, 2004 Benjamin Brechtel, Vice President of Precision sent an email to Larry Salone, Plaintiff's President indicating his understanding regarding FreshTec's concerns with the timeliness of deliveries. Mr. Brechtel indicated that Precision intended to improve scheduling, manpower and preparation for the work and also indicated he agreed with financial retention penalties for missed delivery dates on future orders. In addition Mr. Brechtel requested that Mr. Salone respond with respect to the status of outstanding matters. A copy of the July 7, 2004 email is attached hereto as Exhibit "C".

18. On July 22, 2004, Mr. Brechtel again contacted Plaintiff, indicating that he had made verbal attempts to resolve past due payment issues with Mr. Salone, and alternatively Mr. Salone's counsel. He indicated that his messages had not been returned and past due payment issues had not been resolved. He further indicated in said correspondence that payment for all invoices, including those not yet due, was demanded by July 28, 2004. A copy of the July 22, 2004 letter is attached hereto as Exhibit "D".

19. In the July 22, 2004 letter, Mr. Brechtel further indicated that if these issues were not resolved and payment was not received by July 28, 2004, Precision would take further action in the form of placing "liens" against all equipment and encumbrances on outstanding receivables with FreshTec's customers holding equipment associated with the outstanding payment. He further indicated that "all facilities of which equipment is located shall be notified of such liens immediately."

20. Subsequently, David J. Hopkins, Esquire, counsel for Plaintiff, contacted Mr. Brechtel by telephone in an attempt to resolve the past-due payment issues.

21. On July 27, 2004, Mr. Hopkins, sent a letter to Mr. Brechtel enclosing confidentiality and non-compete agreement as well as providing comments on the invoices sent to FreshTec. With respect to such invoices, Mr. Hopkins indicated that FreshTec was willing to make payment, subject to certain withholdings to account for repairs and returns caused by defective machinery. Additionally, Mr. Hopkins indicated that several of the invoices were not due until August 2004, and as such, demanding payment at the present time was premature. A copy of the July 27, 2004 letter is attached hereto as Exhibit "E".

22. In the July 27, 2004 letter, Mr. Hopkins also asserted FreshTec's concern that because it had initially ordered the machines from AIC, it would be liable for payment to AIC and not Precision. As such, Mr. Hopkins indicated that FreshTec would require an opinion letter from Precision's counsel indemnifying it from any liability to AIC which could result from its payments to Precision.

23. The July 27, 2004, also clearly indicated that FreshTec was willing and able to pay 10 of the 15 invoices; that four of the remaining five invoices would not be due until August; and that the fifth invoice was in dispute.

24. As of the present date, FreshTec has received no affirmative response to Mr. Hopkins' letter.

25. Upon information and belief, Precision is now unlawfully attempting to contact FreshTec's customers to advise them that FreshTec is defaulting on its payment obligations notwithstanding FreshTec's efforts to resolve the payment issues.

COUNT ONE – ENTRY OF DECREE

26. Paragraphs 1 through 25 above are hereby incorporated as though set forth fully herein.

27. Plaintiff has not been advised of the legal relationship, if any, existing between AIC and Precision. Plaintiff, however, was directed to make payments to Precision for equipment ordered from AIC.

28. As a result, it is unclear to Plaintiff who is the proper party to receive payment for machinery received pursuant to several of the invoices.

29. Plaintiff is concerned that it may incur liability to AIC upon making payment to Precision.

30. Consequently, Plaintiff seeks this Court's decree indicating the proper party for payment. Pending entry of such decree, Plaintiff requests that this Court establish an escrow account into which Plaintiff shall pay all funds due and owing less the adjustments indicated in the July 27, 2004 letter from Mr. Hopkins.

WHEREFORE, Plaintiff, FreshTec Food Processing Equipment International, LLC respectfully requests that this Honorable Court enter a decree directing that funds due and owing pursuant to the invoices, totaling $91,012.00, be placed in an escrow account pending this Honorable Court's Order indicating the proper party to receive payment.

COUNT TWO – DEFAMATION

31. Paragraphs 1 through 30 above are hereby incorporated as though set forth fully herein.

32. Defendant has indicated that it will advise FreshTec's customers in the food processing industry who are currently using products received from FreshTec that FreshTec has not satisfied its payment obligations.

33. Plaintiff's business is highly competitive and its success is largely due to the successful management of personal relationships with its customers.

34. Any such statements, given FreshTec's efforts to resolve these payment issues, are false, are materially false and misleading, and detrimental to its business reputation and goodwill with its customers.

35. Given Plaintiffs' efforts to resolve the payment issues with Defendant, any statements made to FreshTec's customers have been made without justification for the sole purpose of causing injury to Plaintiff's business reputation and good will.

36. As a direct result of Defendant's actions Plaintiff has suffered and will continue to suffer immediate and irreparable harm, which harm is likely to continue and cannot be adequately remedied at law.

WHEREFORE, Plaintiff requests that an injunction issue preliminarily until final hearing and permanently thereafter, enjoining defendant from disparaging the reputation and good will of Plaintiff.

COUNT THREE

TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONSHIPS

37. Paragraphs 1 through 36 above are hereby incorporated as though set forth fully herein.

38. Defendant has indicated it will contact FreshTec's customers to notify them of FreshTec's failure to pay the invoices.

39. As set forth herein, these statements are materially false and misleading.

40. Any such false statements made to Plaintiff's customers will induce these customers to terminate their relationship with Plaintiff, and constitutes unlawful interference with Plaintiff's business relationships.

41. As a direct and proximate result of such unlawful interference, Plaintiff has and will suffer substantial financial injury and harm.

42. Such conduct constitutes intentional, improper, and non-privileged interference with Plaintiff's business and its contractual relationships with its customers.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in its favor and against Defendant.

COUNT FOUR – SPECIFIC PERFORMANCE

43. Paragraphs 1 through 42 above are hereby incorporated as though set forth fully herein.

44. Backus USA, Inc., the predecessor in interest to FreshTec, entered into a confidentiality agreement and non-compete agreement with AIC relating to all Confidential Information relating to the construction of machines by Precision for FreshTec.

45. While such agreements were between Backus and AIC, the ongoing relationship between FreshTec and Precision has likewise required FreshTec to divulge such Confidential Information in connection with the construction of the ordered machinery.

46. Should such Confidential Information be divulged, Plaintiff will suffer irreparable damage to its reputation as well as the loss of existing accounts and customers.

47. Plaintiff has requested that the Confidential Information be returned.

48. Defendant has failed to return said items to FreshTec.

49. As Plaintiff has no present agreement with Precision relating to such Confidential Information, Plaintiff has no adequate remedy at law and justice requires that this Honorable Court exercise its equitable jurisdiction to order the return of such Confidential Information to FreshTec.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court order Defendant to return all Confidential Information to Plaintiff.

Respectfully submitted,

HOPKINS HELTZEL LLP

David J. Hopkins, Esquire
Attorney for Plaintiff

A

Backus USA, Inc.

P.O. Box 585 DuBois, PA 15801 Phone: 814-375-6999 Fax: 814-375-6909

Company Name:
AIC
814-368-3887
FAX 814-369-8044

Type of Equipment:
yes New Equipment
_____ Spare Parts
_____ Warranty, please explain in special instructions.

Purchase Order # 0330040 63

SHIP TO:
PICK-UP

BILL TO:
BACKUS USA
PO BOX 585
DUBOIS PA 15801

PAYMENT METHOD

Check		Amt. enclosed	
Credit card		Card type	
		Card number	
On account		Account no.	
COD			
Tax exempt	X	Exemption no.	

Purchase order number	
Substitutions allowed?	
Backorder allowed?	
Ship via	
(if ovemited, please explain in special instructions below)	
FOB destination	
Date ordered	03-30-04
Delivery Date Requested By	2-3 WEEKS

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
1	CONTROL BOXES AND PUMPS FOR DELMONT WASHLINE CHILLERS PER QUOTE 1634-REV 3 WITH STANDS	EA	1	$14,000.00	$14,000.00

SUBTOTAL	$14,000.00
Shipping charges	
Handling charges	
Insurance	
Tax	
TOTAL DUE	$14,000.00

DAVID KNOX 03-30-04
Ordered by and Date

Approved by and Date

Tax rate 0 %

SPECIAL INSTRUCTIONS
CONTROLS AND PUMPS FOR CHILLERS DELMONTE

Backus USA, Inc.

P.O. Box 585 DuBois, PA 15801 Phone: 814-375-6999 Fax 814-375-6909

Company Name:

AIC

Type of Equipment:

XXX New Equipment
_____ Spare Parts
_____ Warranty, please explain in special instructions

Purchase Order # 4021904030

2-24-04
OK
DK

SHIP TO: TBD

BILL TO: Backus USA
PO Box 585
DuBois, PA., 15801

PAYMENT METHOD

Check		Amt. enclosed	
Credit card		Card type	
		Card number	
On account	XX	Account no.	
COD			
Tax exempt	X	Exemption no.	

Purchase order number	
Substitutions allowed?	No
Backorder allowed?	No
Ship via	TBA
(if overnited, please explain in special instructions below)	
FOB destination	
Date ordered	February 24, 2004
Delivery Date Requested By	TBA

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
	Per attached quote				
					0.00
001	Spin Dryer	ea.	3	6,000.00	18,000.00
002	GWT 2000/500	ea.	1	12,500.00	12,500.00
					0.00
					0.00
					0.00
	Per attached quotation sheets				0.00
					0.00
					0.00
					0.00
	All prices in USD				0.00
					0.00
					0.00
					0.00
					0.00
					0.00

SUBTOTAL	30,500.00
Shipping charges	0.00
Handling charges	0.00
Insurance	
Tax rate 0 % Tax	0.00
TOTAL DUE	30,500.00

Larry Salone 2/24/04
Ordered by and Date

Larry Salone 2/24/04
Approved by and Date

SPECIAL INSTRUCTIONS

FreshTec, LLC.

P.O. Box 585 DuBois, PA 15801 Phone: 814-375-6999 Fax: 814-375-6909

Company Name:

AIC

Type of Equipment:

XXX New Equipment
_____ Spare Parts
_____ Warranty, please explain in special instructions.

Purchase Order # 0108004001

SHIP TO: TBA

BILL TO: FreshTec, LLC
PO Box 585
DuBois, PA., 15801

PAYMENT METHOD

Check		Amt. enclosed	
Credit card		Card type	
		Card number	
On account	XX	Account no.	
COD			
Tax exempt	X	Exemption no.	

Purchase order number	
Substitutions allowed?	No
Backorder allowed?	No
Ship via	TBA
(if overnited, please explain in special instructions below)	
FOB destination	
Date ordered	January 08, 2004
Delivery Date Requested By	TBA

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
	Per Quotation #1598 and #1588 - Rev. 1				
001	GWT4000/1100, specs per quote	ea	4	24,030.00	96,120.00
002	GWT 2000/500, specs per quote	ea	2	11,250.00	22,500.00
003	Spin dryer, specs per quote	ea.	5	5,400.00	27,000.00
004	GWT 3000/800, specs per quote	ea	1	15,675.00	15,675.00
005	Removable screen, specs per quote	ea	1	1,045.00	1,045.00
006	Extra screen, specs per quote	ea	1	570.00	570.00
007	32 cut 16 blade stand alone slicer, specs pe	ea.	1	5,700.00	5,700.00
					0.00
	Items 001 through 003 reflect 10% discount				0.00
	Items 004-007 and (1) one of 003 is for				0.00
	the trade show.				0.00
					0.00
					0.00
					0.00
					0.00
					0.00

SUBTOTAL	168,610.00
Shipping charges	0.00
Handling charges	0.00
Insurance	
Tax rate 0 % Tax	0.00
TOTAL DUE	168,610.00

Larry Salone 1/8/04
Ordered by and Date

Larry Salone 1/8/04
Approved by and Date

SPECIAL INSTRUCTIONS Del Monte F 2004 IFPA

Show

Backus USA, Inc.

P. O. Box 585, DuBois, PA 15801 Phone 814-375-6999 Fax 814-375-6909

Precision
245 Chestnut Street
Bradford, PA 16701
Attention: J.R.
Phone: 814-368-3887
Fax: 814-368-8044

Purchase Order # 060904137

SHIP TO: Dominos Pizza
860 Pickens Industrial Drive
Marietta, GA 30062

BILL TO: Backus USA, Inc.
P.O. Box 585
DuBois, PA 15801

PAYMENT METHOD

Check		*Amt. enclosed*	
Credit card		*Card type*	
		Card number	
On account	x	*Account no.*	
COD			
Tax exempt	x	*Exemption no.*	

Purchase order number	060904137
Substitutions allowed?	No
Backorder allowed?	
Ship via	
FOB destination	
Date ordered	June 09, 2004

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
001	3000/800 ss washline 240v-460v upgrade	each	1	150.00	150.00

SUBTOTAL	150.00
Shipping charges	
Handling charges	
Insurance	
Tax	
TOTAL DUE	150.00

David Knox

Ordered by

Larry Salone

Approved by

Tax rate 0 %

SPECIAL INSTRUCTIONS

Upgrade for the 3000/800 ss washline for Dominos Pizza, GA

MH 1079

Backus USA, Inc.

P. O. Box 585, DuBois, PA 15801 Phone 814-375-6999 Fax 814-375-6909

AIC
536 East Main Street
Bradford, PA 16701
Attention: Tom
Phone: 814-368-3887
Fax: 814-368-8044

Purchase Order # 41204075

SHIP TO:

BILL TO: FreshTec Intl.
P.O. Box 585
DuBois, PA 15801

PAYMENT METHOD

Check		*Amt. enclosed*	
Credit card		*Card type*	
		Card number	
On account	x	*Account no.*	
COD			
Tax exempt	x	*Exemption no.*	

Purchase order number	041204075
Substitutions allowed?	No
Backorder allowed?	
Ship via	
FOB destination	
Date ordered	April 12, 2004

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
001	GWT 3000/800 washline chiller control system See attached Quote: #1643	each	1	2,600.00	2,600.00

SUBTOTAL	2,600.00
Shipping charges	
Handling charges	
Insurance	
Tax	
TOTAL DUE	2,600.00

Tax rate 0 %

Tina Wilt
Ordered by

Larry Salone
Approved by

SPECIAL INSTRUCTIONS

Backus USA, Inc.

P.O. Box 585 DuBois, PA 15801 Phone: 814-375-6999 Fax: 814-375-6909

Company Name:

AIC

Type of Equipment:

XXX New Equipment
_____ Spare Parts
_____ Warranty, please explain in special instructions.

Purchase Order # 021904028

SHIP TO: TBD

BILL TO: Backus USA
PO Box 585
DuBois, PA 15801

PAYMENT METHOD

Check		Amt. enclosed	
Credit card		Card type	
		Card number	
On account	XX	Account no.	
COD			
Tax exempt	X	Exemption no.	

Purchase order number	
Substitutions allowed?	No
Backorder allowed?	No
Ship via	TBA
(if overnited, please explain in special instructions below)	
FOB destination	
Date ordered	February 24, 2004
Delivery Date Requested By	TBA

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
	Per attached quote				
					0.00
001	Bin Dumper — Del Monte Fl & Md.	ea	2	5,400.00	10,800.00
					0.00
					0.00
					0.00
					0.00
					0.00
	Per attached quotation sheets				0.00
					0.00
					0.00
					0.00
	All prices in USD				0.00
					0.00
					0.00
					0.00
					0.00

	SUBTOTAL	10,800.00
	Shipping charges	0.00
	Handling charges	0.00
	Insurance	
Tax rate 0 %	Tax	0.00
	TOTAL DUE	10,800.00

Larry Salone — 2/24/04
Ordered by and Date

Larry Salone — 2/24/04
Approved by and Date

SPECIAL INSTRUCTIONS

Backus USA, Inc.

P.O. Box 585 DuBois, PA 15801 Phone: 814-375-5999 Fax: 814-375-6909

Company Name:
AIC
814-368-3887
FAX 814-369-8044

Type of Equipment:
yes New Equipment
_____ Spare Parts
_____ Warranty, please explain in special instructions.

Purchase Order # 033004062

SHIP TO:
PICK-UP

BILL TO:
BACKUS USA
PO BOX 585
DUBOIS PA 15801

PAYMENT METHOD

Check		Amt. enclosed	
Credit card		Card type	
		Card number	
On account		Account no.	
COD			
Tax exempt	X	Exemption no.	

Purchase order number	
Substitutions allowed?	
Beckorder allowed?	
Ship via	
(if ovemited, please explain in special instructions below)	
FOB destination	
Date ordered	03-30-04
Delivery Date Requested By	4 WEEKS

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
1	BIN DUMPER PER QUOTE #1636 WITH A 60" DISCHARGE HEIGHT AND TO FEED A 30" WIDE CONVEYOR LOAD POSITION AT FLOOR LEVEL VOLTAGE TO BE 480 VAC 3PH 60Hz	EA	1	$5,400.00	$5,400.00
	NOTE: USE MATERIAL FROM PREVIOUS (6) BIN DUMPER ORDER DELIVERY TO BE 4 WEEKS FROM ORDER				

DAVID KNOX 03-30-04
Ordered by and Date

Approved by and Date

SUBTOTAL	$5,400.00
Shipping charges	
Handling charges	
Insurance	
Tax rate 0 % Tax	
TOTAL DUE	$5,400.00

SPECIAL INSTRUCTIONS
BIN DUMPER FOR COASTAL SUNBELT

Backus USA, Inc.

P.O. Box 585 DuBois, PA 15801 Phone: 814-375-6999 Fax: 814-375-6909

Company Name:
AIC
814-368-3887
FAX 814-369-8044

Type of Equipment:
yes ___ New Equipment
_____ Spare Parts
_____ Warranty, please explain in special instructions.

Purchase Order # 040804072

SHIP TO:
CURRIN TBA

BILL TO:
BACKUS USA
PO BOX 585
DUBOIS PA 15801

PAYMENT METHOD

Check		Amt. enclosed	
Credit card		Card type	
		Card number	
On account		Account no.	
COD			
Tax exempt	X	Exemption no.	

Purchase order number	
Substitutions allowed?	
Backorder allowed?	
Ship via	
(if overruled, please explain in special instructions below)	
FOB destination	
Date ordered	4-8-04
Delivery Date Requested By	3 WEEKS

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
1	BIN DUMPER PER QUOTE #1636 WITH 60" DISCHARGE HEIGHT FLOOR LEVEL LOAD DISCHARGE TO CLOSE TO 40" 208VAC 3PH 60 Hz	EA	2	$5,400.00	$10,800.00

DAVID KNOX 04-08-04
Ordered by and Date

Approved by and Date 4/8/04

SUBTOTAL	$10,800.00
Shipping charges	
Handling charges	
Insurance	
Tax rate 0 % Tax	
TOTAL DUE	$10,800.00

SPECIAL INSTRUCTIONS
BIN DUMPERS FOR DEAN HOPKINS

Backus USA, Inc.

P.O. Box 585 DuBois, PA 15801 Phone: 814-375-6999 Fax: 814-375-6909

Company Name:
AIC
814-368-3887
FAX 814-369-8044

Type of Equipment:
yes New Equipment
_____ Spare Parts
_____ Warranty, please explain in special instructions.

Purchase Order # 040804073

SHIP TO:
EASYTRAY TBA

BILL TO:
BACKUS USA
PO BOX 585
DUBOIS PA 15801

PAYMENT METHOD

Check		Amt. enclosed	
Credit card		Card type	
		Card number	
On account		Account no.	
COD			
Tax exempt	X	Exemption no.	

Purchase order number	
Substitutions allowed?	
Backorder allowed?	
Ship via	
(if overmited, please explain in special instructions below)	
FOB destination	
Date ordered	4-8-04
Delivery Date Requested By	JUNE 10 2004

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
1	BIN DUMPER PER QUOTE #1635 WITH 60" DISCHARGE HEIGHT FLOOR LEVEL LOAD DISCHARGE TO CLOSE TO 40" 460VAC 3PH 60Hz	EA	6	$5,400.00	$32,400.00

DAVID KNOX 04-08-04
Ordered by and Date

Approved by and Date 4/8/04

SUBTOTAL	$32,400.00
Shipping charges	
Handling charges	
Insurance	
Tax rate 0 % Tax	
TOTAL DUE	$32,400.00

SPECIAL INSTRUCTIONS
BIN DUMPERS FOR EASYTRAY

368-7320

Precision Fabrication & Controls, Inc.
195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

To:	Freshtec International P.O. Box 585 Dubois, PA 15801	**From:**	Benjamin D. Brechtel
Fax:	(814) 375-0707 (814) 375-5035	**Pages:**	1
Phone:	(814) 375-0700	**Date:**	7/22/04
Re:	Past Due Payment	**CC:**	David Hopkins, Freshtec Legal Representation Robert Stewart, President - Precision Fabrication & Controls, Inc. Gene Brew, Precision Legal Representation

I personally have made verbal attempts to bring closure to past due payment issues with Mr. Larry Salone in which he indicated that payment shall be satisfied by Mr. David Hopkins in Larry's absence while on vacation. I have further made several telephone calls and left messages with the secretarial staff of Mr. Hopkins each day between the dates of 7/14/04 and 7/22/04. His staff has indicated his presence in the office and that my messages have been given to him several times throughout the day. Mr. Hopkins has elected to avoid my calls and this issue of past due payment with Freshtec International.

Please take notice that payment for all past due invoices in the total amount of $107,012.00 is demanded by 7/28/04. In addition, there is also $27,040.00 that will be coming due in the next few days, a copy of the receivables aging is attached. There is also $13,300.00 for engineering scope changes and modifications on bin dumpsters per Larry's request that will be invoiced later this week. If resolution and fulfillment of payment is not satisfied by 7/28/04, further action shall be taken in the form of Liens against all equipment and encumbrances places on outstanding receivables with Freshtecs' customers associated with the outstanding payments. All facilities of which equipment is located shall be notified of such Liens immediately.

Freshtec representation can reach myself or Mr. Robert Stewart in the office or by cell at any time to arrange a payment transaction either by check or wire transfer.

Regards,

Benjamin D. Brechtel, Vice President
Precision Fabrication & Controls, Inc.
195 Chestnut Street
Bradford, PA 16701
PH: (814) 368-7320
CELL: (814) 541-1252
FX: (814) 368-8044

7/22/2004 15:15 8143688048 PRECISION PAGE 01/01

FAX COVER SHEET

Backus USA, Inc.
P. O. Box 585
DuBois, PA 15801

Phone 814-375-6999
Fax 814-375-6909

SEND TO	[redacted]
Company name Hopkins Law Firm	*From* Larry Salone
Attention Dave Hopkins	*Date* 7/27/04
Office location DuBois	*Office location* DuBois, PA
Fax number 814-375-5035	*Phone number* 814-375-0300

☐ ***Urgent*** ☐ ***Reply ASAP*** ☐ ***Please comment*** ☒ ***Please review*** ☒ ***For your information***

Total pages, including cover: 9

COMMENTS [redacted]

Dear David Hopkins,

The following are the Purchase Orders requested by Bobbie for you

If you have any questions please feel free to contact the office.

Thank You,

Tina

Date	Invoice #
5/19/04	1042

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Del mente

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
10024	10804001-33004063	2	5/14/04	5/14/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	GWT 4000/1100 Stainless Steel Washline-PO#010804001		$14,418.00	EA	2	$28,836.00
2	4000/1100 Chiller Control Panel With (4) 3hp G&L pumps ~~5 hole~~	PO#033004063	$2,760.00	EA	1	$2,760.00

To Whom It May Concern:

We will not pay off of an invoice like this. This was discussed with Rob previously.

I want the invoice to show the total amount minus any amts that were paid + then the remaining amt due.

Thank You
Renelle
Faxed 6-1-04

RIC

AIC
file
Pls hold

Date	Invoice #
5/25/2004	1054

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
43882-01	021904030	2	3/2/04	5/24/05	Net 30 days	1012	003
Shipping Instructions: Customer pick up							

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	1	Stainless Steel Spin Dryer With Control Panel	$4,200.00	EA	1	$4,200.00
2	1	GWT 2000/500 Stainless Steel Washline With Panel	$8,750.00	EA	1	$8,750.00

DOWN PAYMENT OF $9,150.00 RECEIVED ON CHECK#1090
DATED 3/17/04 TO AIC. TOTAL SHIPPED AMOUNT OF
PO#021904030 WILL BE $30,500.00. THE REMAINDER OF THIS
ORDER IS ESTIMATED TO BE SHIPPED AND BILLED 5/28/04.

copy 1 pg
6-1-04

A.J. Lanzerotta equipment

Sales Amount	$12,950.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$12,950.00**

Date	Invoice #
6/1/04	1075

Precision Fabrication & Controls, Inc.
195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
10024	10804001	2	5/14/04	5/14/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	GWT 4000/1100 Stainless Steel Washline-PO#010804001		$24,030.00	EA	2	$48,060.00
	Down payment received on Item #1 Paid on 2/11/04 on Check #1021					
	on AIC Invoice #76127.		-$9,612.00	EA	2	-$19,224.00

Sales Amount	$28,836.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$28,836.00**

Okay to pay 6-7-04 RC

Date	Invoice #
6/9/04	1076

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 Fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Chillers Delmarte

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
10046	033004063	2	6/1/04	6/1/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	GWT 4000/1100 Stainless Steel Washline-Chiller Control System		$4,600.00	EA	1	$4,600.00
2	GWT 2000/500 Stainless Steel Washline		$2,400.00	EA	2	$4,800.00
3	GWT 4000/1100 Stainless Steel Washline-Downpayment 4/28/04		-$1,840.00	EA	1	-$1,840.00
4	GWT 2000/500 Stainless Steel Washline-Downpayment 4/28/04		-$960.00	EA	2	-$1,920.00
		Ref.: Quote #1005 Dated 4/19/04				
	This order consisted of: (4) 3 HP G&L Pumps					
		Stainless Steel 16" x 16" x 6" stand alone				
		chiller motor starter panel mounted on				
		48" Hx 1-1/2" square tubing frame and 4"				
		mounting pads to control (2) washlines				
		complete with UL/CUL 508A Industrial Control				
		Panel testing and labeling.				
		(2) 2 HP G&L Pumps. Stainless steel				
		16" x 16" x 6" stand alone chiller motor				
		starter panel mounted on 48" H x 1-1/2"				
		square tubing frame and 4" mounting pads				
		complete with UL/CUL 508A Industrial Control				
		Panel testing and labeling.				

Sales Amount	$5,640.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$5,640.00**

Okay to pay
RLT
06-17-04

Date	Invoice #
6/8/04	1077

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
43882-01	021904030	2	3/2/04	5/24/05	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	1	Stainless Steel Spin Dryer With Control Panel	$4,200.00	EA	2	$8,400.00

DOWN PAYMENT OF $9,150.00 RECEIVED ON CHECK#1090
DATED 3/17/04 TO AIC.
ON 5/25/04 INVOICE#1054 PRECISION BILLED $12,950.00.
THIS IS THE REMANDER OF PO#3021904030. FOR A TOTAL OF
$30,500.00.
1 SHIPPED TO JESSUP, MD.
1 SHIPPED TO PLANT CITY, FL

Sales Amount	$8,400.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$8,400.00**

okay to pay
RLT
060704

Date	Invoice #
6/10/04	1079

Precision Fabrication & Controls, Inc.
195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
10057	060904137	2	6/8/04	6/8/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	300/800	Stainless steel washline 240V to 460V AC upgrade.	$150.00	EA	1	$150.00

OKAY to pay RL 06-17-04

Sales Amount	$150.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$150.00**

Date	Invoice #
6/10/04	1080

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
10056	041204075	2	4/9/04	6/9/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	GWT3000/800	GWT3000/800 Stainless Steel Washline	$2,600.00	EA	1	$2,600.00
		Chiller Control System Adder:				
2	DOWNPAYMENT	40% Downpayment-Paid 4-28-04	-$1,040.00	EA	1	-$1,040.00
		* (2) 3 HP G & L Pumps * Stainless steel 16"x16"x6" stand alone chiller motor starter panel mounted on 48"Hx1-1/2"x1-1/2" square tubing frame and 4" mounting pads complete with UL/CUL 508A Industrial Control Panel testing and labeling.				
		Ref: Precision Quote #1007 dated 4/19/04				

Sales Amount	$1,560.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$1,560.00**

DCAY to pay
RCT 06-17-04

To customer
202 SS-Stake Lunch

Date	Invoice #
6/15/04	1090

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 Fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
43881	021904028	2	6/15/04	6/15/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1		(2) Bin Dumpers with 60" discharge height and 48" dishcarge width 230V AC.	$5,400.00	EA	2	$10,800.00
		DOWN PAYMENT OF $3,240.00 RECEIVED ON CHECK#1089 DATED 3/17/04.	-$3,240.00	EA	1	-$3,240.00

Sales Amount	$7,560.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$7,560.00**

Bin Dumpers for FL + MD OK

6-21-04 RCT

Date	Invoice #
6/16/04	1091

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
10012	033004062	2	4/28/04	6/16/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	1 Bin dumper with 60" discharge height and 30" discharge width 460V AC		$5,400.00	EA	1	$5,400.00
2	DOWN PAYMENT OF $2160.00 RECEIVED ON CHECK#402 DATED 4/28/04.		$2,160.00	EA	1	$2,160.00
	NOTE: Additional upcharges to follow based on Engineering Scope changes authorized by Larry Salone on 6/11/04.					

Coastal Sunbelt

Sales Amount	$7,560.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	$7,560.00

$ 3240.00

6-21-04 plt

Date	Invoice #
6/25/04	1108

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
10079	040804072	2	4/19/04	6/25/04	Net 30 days	1012	003

Shipping Instructions: ROADWAY EXPRESS

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	Bin Dumper	Bin dumper per quote#1010 with 60" discharge height floor level load discharge to close to 30" 230 VAC 3 PH 60 Hz.	$6,480.00	EA	1	$6,480.00
		Ref: J106 Quote: #1010				

— DP of $4,320.00 (for 2 bin machines)

L/R, We were quoted $5,400.00 usd/each machine
Inv came as $6480.00 usd/ " "
Also DP made of 40% V#407, $4,320.00 on 4-28-04.

Sales Amount	$6,480.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$6,480.00**

Date	Invoice #
7/7/04	1119

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 Fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
Upcharge	021904028	2	7/7/04	7/7/04	Net 30 days	1012	003

Shipping Instructions:

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	UPCHARGES	Additional upcharges based on engineering scope changes which were authorized by Larry Salone on 6/11/04.	$1,900.00	EA	1	$1,900.00
		NEMA 4, 3 H.P., 230/460V AC, 3P, 60HZ electrical motor starter.	$400.00			
		Bead blast satin finish.	$300.00			
		Labor and materials to accommodate discharge height of 60" & tapered discharge shute width of 48" which enlarged the hopper and frame size.	$1,200.00			
		Ref:Quote#1636 PO#021904028				

By Dumper for FLYNN DUMPER

Sales Amount	$1,900.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$1,900.00**

Date	Invoice #
7/7/04	1120

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
Upcharge	033004062	2	7/7/04	7/7/04	Net 30 days	1012	003

Shipping Instructions:

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	UPCHARGES	Additional upcharges based on engineering scope changes which were authorized by Larry Salone on 6/11/04.	$1,900.00	EA	1	$1,900.00
		NEMA 4, 3 H.P., 230/460V AC, 3P, 60HZ electrical motor starter.	$400.00			
		Bead blast satin finish.	$300.00			
		Labor and materials to accommodate discharge height of 60" & tapered discharge shute width of 30" which enlarged the hopper and frame size.	$1,200.00			
		Ref:Quote#1004 PO#033004062				

Coated Sanitary Finish

Sales Amount	$1,900.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$1,900.00**

Date	Invoice #
7/13/04	1127



195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
10087	040804073	2	4/8/04	7/10/04	Net 30 days	1012	003
Shipping Instructions: RoadWay							

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	BINDUMPER	Stainless Steel Bin Dumper	$5,400.00	EA	6	$32,400.00
		40% Downpayment-Paid 4/28/04 Ck#406	-$12,960.00	EA	1	-$12,960.00
		REF: Precision Quote#1006 Dated 4/19/04				

Sales Amount	$19,440.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$19,440.00**

Eric Fry
S. Simpson

Date	Invoice #
7/19/2004	1135

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
ADDER	040804072	2	6/11/04	7/1/04	Net 30 days	1012	003
Shipping Instructions: RoadWay							

Item #	Part #	Description	Price	U/M	Quantity	Amount
2	ADDER	Adder for PO#040804072 authorized by Larry Salone on 6/11/04.	$1,900.00	EA	1	$1,900.00
		NEMA 4, 3 H.P., 230/460V AC, 3P, 60HZ electrical motor starter. Bead blast satin finish. Labor and materials to accommodate discharge height of 60" & tapered discharge shute width of 40" which enlarged the hopper and frame size.				

Sales Amount	$1,900.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$1,900.00**

Date	Invoice #
7/19/2004	1136

Precision Fabrication & Controls, Inc.
195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
ADDER	040804073	2	6/11/04	7/1/04	Net 30 days	1012	003

Shipping Instructions: RoadWay

Item #	Part #	Description	Price	U/M	Quantity	Amount
2	ADDER	Adder for PO#040804073 authorized by Larry Salone on 6/11/04.	$1,900.00	EA	1	$1,900.00
		NEMA 4, 3 H.P., 230/460V AC, 3P, 60HZ electrical motor starter. Bead blast satin finish. Labor and materials to accommodate discharge height of 60" & tapered discharge shute width of 40" which enlarged the hopper and frame size.				

Sales Amount	$1,900.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$1,900.00**

Bill Dimpfl
Eng. Tech

Subj: **Precision Fabrication & Controls Inc.**
Date: 7/7/04 4:49:43 PM Eastern Daylight Time
From: bbrechtel@atlanticbb.net (BEN BRECHTEL)
To: larrysalon@aol.com (Larry Salone)
CC: jrswain@charter.net

Larry,

I know that you are out bouncing around quite a bit, but I wanted to briefly touch base with you regarding what you have in the pike.

I clearly understand that you have concerns and issues with the turn around time of past equipment. I am not going to again bring up all of the variables that have contributed to this from both of our ends. To further stress my sincerity with improved scheduling, manpower and preparation for this type of work, I have no problem with financial retention penalties for any missed delivery dates on future orders. We simply need to evaluate each project up from and agree to what a reasonable delivery is. Again, I have increased both our personnel and equipment resources to be able to handle increased production fabrication.

If you would, drop me a quick line on the status of things so I can further prepare for any upcoming work. As JR mentioned, when you are back in town and have a little free time, we can again touch base on things.

David/Larry

7/7/04
Correspondence to me from Ben---

Regards,

Ben Brechtel

Headers

Return-Path: <bbrechtel@atlanticbb.net>
Received: from rly-xj01.mx.aol.com (rly-xj01.mail.aol.com [172.20.116.38]) by air-xj03.mail.aol.com (v100.23) with ESMTP id MAILINXJ32-4fa40ec61d214; Wed, 07 Jul 2004 16:49:42 -0400
Received: from out006.verizon.net (out006pub.verizon.net [206.46.170.106]) by rly-xj01.mx.aol.com (v100.23) with ESMTP id MAILRELAYINXJ14-4fa40ec61d214; Wed, 07 Jul 2004 16:49:22 -0400
Received: from BEN ([209.158.25.237]) by out006.verizon.net

D

368-7320

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

To:	Freshtec International P.O. Box 585 Dubois, PA 15801	**From:**	Benjamin D. Brechtel
Fax:	(814) 375-0707 (814) 375-5035	**Pages:**	1
Phone:	(814) 375-0700	**Date:**	7/22/04
Re:	Past Due Payment	**CC:**	David Hopkins, Freshtec Legal Representation Robert Stewart, President - Precision Fabrication & Controls, Inc. Gene Brew, Precision Legal Representation

I personally have made verbal attempts to bring closure to past due payment issues with Mr. Larry Salone in which he indicated that payment shall be satisfied by Mr. David Hopkins in Larry's absence while on vacation. I have further made several telephone calls and left messages with the secretarial staff of Mr. Hopkins each day between the dates of 7/14/04 and 7/22/04. His staff has indicated his presence in the office and that my messages have been given to him several times throughout the day. Mr. Hopkins has elected to avoid my calls and this issue of past due payment with Freshtec International.

Please take notice that payment for all past due invoices in the total amount of $107,012.00 is demanded by 7/28/04. In addition, there is also $27,040.00 that will be coming due in the next few days, a copy of the receivables aging is attached. There is also $13,300.00 for engineering scope changes and modifications on bin dumpsters per Larry's request that will be invoiced later this week. If resolution and fulfillment of payment is not satisfied by 7/28/04, further action shall be taken in the form of Liens against all equipment and encumbrances places on outstanding receivables with Freshtecs' customers associated with the outstanding payments. All facilities of which equipment is located shall be notified of such Liens immediately.

Freshtec representation can reach myself or Mr. Robert Stewart in the office or by cell at any time to arrange a payment transaction either by check or wire transfer.

Regards,

Benjamin D. Brechtel, Vice President
Precision Fabrication & Controls, Inc.
195 Chestnut Street
Bradford, PA 16701
PH: (814) 368-7320
CELL: (814) 541-1252
FX: (814) 368-8044

07/22/2004 12:12 8143688040 PRECISION PAGE 01/01

HOPKINS HELTZEL LLP

900 Beaver Drive • DuBois, PA 15801

David J. Hopkins
Licensed in PA & NJ
Masters in Taxation

Lea Ann Heltzel
Licensed in PA

• Voice: (814) 375 - 0300
• Fax: (814) 375 - 5035
• Email:hopkinslaw@adelphia.net

July 27, 2004

FAXED 7-27-04

Facsimile: (814) 368-5040

Precision Fabrication & Controls, Inc.
Mr. Benjamin Brechtel
195 Chestnut Street
P.O. Box 331
Bradford, PA 16701

Re: FreshTec Food Processing Equipment International LLC

Dear Brechtel:

As a follow up to our telephonic conversation of last week, I enclose herewith for your review a Confidentiality and Non-Compete Agreement. Would you please review the document and if you have any questions or suggestions, please feel free to contact me or have your attorney contact me to iron out any suggestions you may have.

I have had some discussions with Mr. Salone who is now on the West Coast concerning this matter. My client has several concerns regarding the bills that you have sent which are set forth herein. My comments are based upon FreshTec's records.

Invoice 1042

a. Item 1 is okay.

b. Item 2 is okay.

c. By way of further response this machine was ordered and a down payment was made on January 8, 2004. The machine was not shipped until July 25, 2004. The delay caused FreshtTec's client to be very unhappy. I understand the delay was caused by Precision's inability to purchase materials. Notwithstanding the above, assuming all other provisions of this letter is satisfied, FreshTec will pay Invoice 1042.

Invoice 1054

c. This machine is breaking welds in Canada. FreshTec has had to visit the site and make repairs inasmuch as the customer cannot pull the machine out of production. FreshTec has paid $1,800 USD in repair work to date. FreshTec believes another $3,000.00 will be expended for repairs to this machine.

By way of further comment, this machine was ordered February 19, 2004 and a down payment made. The machine was not shipped until May 25, 2004 causing another FreshTec client to be unhappy. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1054 less $5,000.00.

Invoice 1075

a. This machine was ordered on January 8, 2004 and a down payment was made. The machine was not shipped until June 1, 2004 causing another unhappy customer. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1075.

Invoice 1076

a. This machine was ordered on March 30, 2004 and not shipped until June 1, 2004. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1076.

Invoice 1077

a. This machine has broken welds and has been returned to Wilcox. FreshTec has not yet fully evaluated the problem but it has spent $980.00 on one way freight. It will cost another $980.00 to return the machine. FreshTec anticipates 4 hours in repairing the welds at $65.00 per hour. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1077 less $2,220.00.

Invoice 1079

a. Assuming all other provisions of this letter are met, FreshTec will pay this invoice.

Invoice 1080

a. Assuming all other provisions of this letter are met, FreshTec will pay this invoice.

Invoice 1090

a. This machine was ordered on February 29, 2004 but not shipped until June 15, 2004. I understand welds have broken on this machine because it was skip welded rather than using continuous welds. The customer was initially angry with the delay in shipment and then became furious with the welding failures. The customer did not send the machine back, but rather, had it repaired at his facility. The customer billed FreshTec $2,800.00 for repairs that FreshTec credited the customer. Assuming all the other issues concerning the bin dumpster are resolved, FreshTec will pay this invoice less $2,800.00 it credited its customer for repairs.

Invoice 1091

a. This machine was ordered on March 30, 2004 but not shipped until June 16, 2004. The customer was angry over the delays. I understand Precision claims the units were not safe and had to be redesigned. However, FreshTec disputes this position. FreshTec gave J. R. pictures of other bin dumpsters it had purchased. If AIC or Precision could build the machines at FreshTec's cost, FreshTec would buy them. Design issues were not FreshTec's concern. FreshTec was able to buy the machine in Canada for the same price.

b. If Precision guarantees its workmanship on all bin dumpsters and the other provisions of this letter are completed, FreshTec will pay this bill less the down payment. I am advised the down payment was not included on the invoice.

Invoice 1108

a. The invoice is incorrect. The invoice lists the price as $6,480.00 and all of the bin dumpsters are $5,400.00.

b. As set forth above, assuming all of the other provisions of this document are met and the machine is guaranteed, my clients will pay the correct invoice.

Invoice 1119

a. This invoice is not due until August 7, 2004.

Invoice 1120

a. This invoice is not due until August 13, 2004.

Invoice 1135

a. This invoice is not due until August 18, 2004.

Invoice 1136

a. This invoice is not due until August 19, 2004.

As we discussed last week, my client is concerned that AIC creditors will make a claim against FreshTec for machines notwithstanding FreshTec's payments to Precision as set forth in this letter. My client requires an opinion letter with indemnification from your attorney prior to making payment.

My client is prepared to pay for invoices 1042, 1054, 1075, 1076, 1077, 1079, 1080, 1090, 1091 and 1108 pursuant to the terms of this letter.

I am in court most of today, although I am prepared to meet with you on Wednesday and FreshTec will pay the invoices pursuant to this letter provided we execute the enclosed Confidentiality and Non-Compete Agreement, receive the opinion letter with indemnification from your lawyer and you deliver the blueprints, CAD files and other documents relating to the machines.

Thank you for your consideration of this matter.

Very truly yours,

David J. Hopkins
Attorney at Law

DJH/bjt

cc: FreshTech Food Processing Equipment International, LLC

FAXED
7-27-04

CONFIDENTIALITY AND NON-COMPETE AGREEMENT

This Agreement is made the _____ day of July, 2004, by and between **FreshTec Food Processing Equipment International, LLC** hereinafter ("FreshTec") whose address is P.O. Box 585, DuBois, Pennsylvania 15801; and **Precision Fabrication & Controls, Inc.** (hereinafter "Precision") whose address is 195 Chestnut Street, P.O. Box 331, Bradford, Pennsylvania 16701.

WHEREAS, FreshTec is engaged in the business of designing and selling machines to the food processing industry;

WHEREAS, Precision is in the business of manufacturing machines;

WHEREAS, FreshTec had ordered various food processing machines from a company named AIC who has since been succeeded by Precision and said machines delivered to FreshTec by Precision;

WHEREAS, FreshTec owes Precision monies for said machines;

WHEREAS, with the execution of this Agreement the parties wish to enter into a Confidentiality and Non-Compete Agreement upon the terms set forth herein.

NOW, THEREFORE, in consideration of One ($1.00) Dollar and other good and valuable consideration, including, but not limited to, the potential continuation of business between FreshTec and Precision, payment of monies by FreshTec to Precision and other good and valuable consideration the parties agree as follows:

1. Precision shall turn over all blueprints, CAD files, drawings and specification as well as all other documents relating to the construction of machines Precision and/or AIC has built for FreshTec, including, but not limited to, those machines originally ordered by FreshTec from AIC. All documents set forth above shall be

original documents and following the transfer of the documents by Precision to FreshTec, Precision shall have no documents, originals or copies, relating to the machines.

2. In recognition of the fact that FreshTec is engaged in a highly competitive business involving confidential information and personal relationships with customers the success of which business is in large part due to the exclusive retention of confidential information and in continuation of personal relationships, Precision does hereby covenant and agree as follows and acknowledges that the following covenants are reasonably necessary for the protection of FreshTec and may be enforced to the extent set forth herein or to such extent as any court of competent jurisdiction may deem reasonable and proper.

3. All information concerning the machines, including, but not limited to their design and specification, and customers of FreshTec is confidential information constituting trade secrets and will be treated by Precision as such. Precision warrants and represents that it has not and from the date of this Agreement will not directly or indirectly make use of such information for its own benefit or the benefit of any of its officers, directors, managers or key employees nor will Precision directly or indirectly divulge such information to anyone without the express written consent of FreshTec.

4. For a period of ten (10) years from the date of this Agreement, Precision shall not, directly or indirectly, on its own behalf or on the behalf of any other entity, whether as a stockholder, principal, partner or member of any other organization, nor shall any officer, director, manager or key employee of Precision, solicit, attempt to obtain, accept, write, service or in any manner transact any business for any customer of FreshTec.

5. For a period of ten (10) years from the date of this Agreement, Precision shall not, directly or indirectly, on its own behalf or on the behalf of any other entity, whether as a stockholder, principal, partner or member of any other organization, nor shall any officer, director, manager or key employee of Precision, solicit, attempt to obtain, accept, write, service, manufacture, design or in any manner transact the business of producing machines for the food processing industry in North America.

6. In the event of a breach or threatened breach by Precision, or any one of its officers, directors, managers or key employees, then the provisions of this Agreement may be enforced by a restraining order or injunction restraining Precision, or its officers, directors, managers or key employees from the commission of such breach to the full extent thereof, or to such lesser extent as a court of competent jurisdiction may deem just and proper for the reasonable protection of the rights and interest of FreshTec. Nothing herein contained shall be construed as prohibiting FreshTec from pursuing any other remedy available for such breach or threatened breach, including the recovery of money damages, which may include an award of reasonable attorney fees and expenses.

7. In furtherance of the foregoing, Precision acknowledges that the damage that may be incurred by FreshTec by the diversion of customers and accounts in violation of this Agreement or the competition with FreshTec may be irreversible and that money damages for such breach may be difficult to calculate; Accordingly, Precision agrees that a court of competent jurisdiction may enter a temporary restraining order for such period as a court may deem reasonable pending a hearing on the merits of the controversy.

8. This Agreement does not supersede any other agreement between FreshTec and Precision except as it relates to the subject matter and the terms and conditions set forth herein.

9. It is the intention of the parties hereto that all questions with respect to the construction of this Agreement and the rights and liabilities of the parties hereto shall be determined in accordance with the Laws of the Commonwealth of Pennsylvania.

10. This Agreement is binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, personal and legal representatives, successors, and assigns.

11. Where necessary or appropriate to the meaning hereof, the singular shall be deemed to include the plural and the masculine to include the feminine and neuter.

12. This Agreement constitutes the entire agreement between the parties hereto with respect to the transactions herein contemplated. Any modifications or amendments to this Agreement shall be effective only if in writing and executed by each of the parties hereto.

13. Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (i) in person, (ii) by certified or registered U.S. mail, postage prepaid, return receipt requested, or (iii) by a commercial overnight courier that guarantees next day delivery and provides a receipt.

14. The date of this Agreement shall be deemed to be the last date on which both parties hereto execute this Agreement.

15. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel

for one of the parties, it being recognized that both parties have contributed substantially and materially to the preparation of this Agreement. The headings of various Sections and paragraphs in this Agreement are for convenience only, and are not to be utilized in construing the content or meaning of the substantive provisions hereof.

16. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

SIGNED AND AGREED TO BY:

ATTEST:

PRECISION FABRICATION & CONTROLS, INC.

_____ By:_____

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC

_____ By:_____

VERIFICATION

I hereby verify that the statements made in this plea..ng are true and correct. I understand that false statements herein are made subject t.:he penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorit.:s.

FRESHTEC FOOD P..OCESSING
EQUIPMENT INTE..ATIONAL, LLC

By: LAWRENCE J. S..ONE
PRESIDENT

FILED

JUL 28 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	
v.	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	
	Type of Pleading: Motion for Preliminary Injunction
	Filed on behalf of: FreshTec Food Processing Equipment International, LLC, Plaintiff
	Counsel of Record for this party:
	HOPKINS HELTZEL, LLP
	DAVID J. HOPKINS, ESQUIRE Attorney at Law Supreme Court No. 42519
	LEA ANN HELTZEL, ESQUIRE Attorney at Law Supreme Court No. 83998
	900 Beaver Drive DuBois, Pennsylvania 15801
	(814) 375-0300

FILED
JUL 28 2004
0/3:50/
William A. Shaw
Prothonotary/Clerk of Courts
4 cert to Atty

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

MOTION FOR PRELIMINARY INJUNCTION

Plaintiff, FreshTec Food Processing Equipment International, LLC, a Pennsylvania limited liability company, by and through its undersigned counsel, hereby files the following Motion for Preliminary Injunction as follows:

1. Plaintiff respectfully moves this Court for a preliminary injunction pursuant to Rule 1531 of the Pennsylvania Rules of Civil Procedure.

2. Contemporaneously with the filing of this Motion, Plaintiff filed its verified Complaint in Equity requesting that this Court enter a decree establishing an escrow and designating the proper payee; setting forth claims for defamation, tortious interference with contractual relations, and requesting specific performance. A copy of Plaintiff's Complaint is attached hereto as Exhibit A.

3. FreshTec and its predecessor in interest, Backus USA, Inc. entered into certain purchase orders with Precision Fabrication and Controls, Inc. ("Precision") and/or Advanced Industrial Controls, Inc. ("AIC") resulting in 15 invoices for the purchase of equipment ordered for Plaintiff's customers in the food processing industry.

4. The orders for the machinery were placed with AIC, but all invoices were received from and deliveries made by Precision.

5. Invoices are due 30 days from the date of the invoice.

6. Such machinery was often delivered in an untimely manner, and was, in several instances, defective and required extensive repair.

7. As a result of the delay in delivery as well as the defects in operation experienced by Plaintiff's customers, Plaintiff disputed the amounts due and owing pursuant to the invoices relating to such machinery.

8. By letter dated July 24, 2004, Benjamin Brechtel, Vice President for Precision, indicated that payment under said invoices would be due and owing as of July 28, 2004.

9. Mr. Brechtel indicated that if payment was not received by such date, he would notify Plaintiff's customers that Plaintiff had failed to pay it bills and that action would be taken to impose liens on the machinery in the possession of FreshTec's customers.

10. On July 27, 2004, David J. Hopkins, Esquire, counsel for FreshTec wrote a letter to Mr. Brechtel attempting to resolve the payment of the invoices.

11. Mr. Hopkins also expressed FreshTec's concern as to the identity of the proper payee for the machinery, and requested that Precision indemnify Plaintiff for any liability it might incur for making payment to Precision as opposed to AIC.

12. No response has been received by Precision regarding resolution of the outstanding invoices.

13. Plaintiff brings this motion for preliminary injunction to prevent Precision from defaming Plaintiff and injuring its business reputation by contacting Plaintiff's customers with respect to the dispute over the payment of the invoices; and from disrupting Plaintiff's business relationships with such customers.

14. For the reasons stated herein and in Plaintiff's Complaint in Equity, unless and until Defendant is enjoined from contacting Plaintiff's customers, Plaintiff will be irreparably harmed as Plaintiff's business reputation is a unique attribute which cannot be compensated by monetary damages.

15. Plaintiff is likely to succeed on the merits of its Complaint.

16. Plaintiff has no adequate remedy at law.

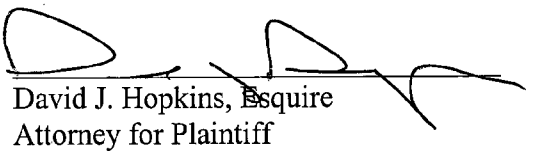
17. Plaintiff shall post bond in escrow as directed by this Honorable Court.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter a preliminary injunction, upon the entry of an appropriate bond or the escrowing of the undisputed bills by Plaintiff, enjoining and restraining Defendants and their agents, servants, employees, employers, consultants, officers, directors, attorneys, affiliates, successors, and assigns and any other individual or entity within its control or supervision and all other persons or entities acting in concert with Defendants or on their behalf or on its behalf or participating with Defendant until hearing on the matter or until further order of Court from (1) directly or indirectly contacting Plaintiff's customers with respect to any sums due and owing under the invoices or any of the payment issues referenced herein or in the Complaint in Equity; (2) taking any action

to encumber any machinery held by, or otherwise in the possession of any of Plaintiff's customers, and (3) any and all such other relief as the Court deems appropriate.

Respectfully submitted,

HOPKINS HELTZEL LLP



David J. Hopkins, Esquire
Attorney for Plaintiff

A

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	
	:	Type of Pleading: Complaint in Equity
	:	Filed on behalf of: FreshTec Food Processing Equipment International, LLC, Plaintiff
	:	Counsel of Record for this party:
	:	HOPKINS HELTZEL, LLP
	:	DAVID J. HOPKINS, ESQUIRE Attorney at Law Supreme Court No. 42519
	:	LEA ANN HELTZEL, ESQUIRE Attorney at Law Supreme Court No. 83998
	:	900 Beaver Drive DuBois, Pennsylvania 15801
	:	(814) 375-0300

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

NOTICE

TO: Defendants

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 Complaint is 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 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.

Office of the Court Administrator
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830
(814) 765-2641 (ext. 5982)

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

COMPLAINT IN EQUITY

AND NOW, comes the Plaintiff, FreshTec Food Processing Equipment International, LLC (hereinafter "Plaintiff" or "FreshTec"), by and through its undersigned counsel, and files the within Complaint in Equity as follows:

1. Plaintiff is a Pennsylvania limited liability company with its principal place of business at P.O. Box 585, DuBois, Pennsylvania 15801. FreshTec is engaged in the business of designing and selling machines to the food processing industry.

2. Defendant, Precision Fabrication and Controls, Inc. (hereinafter "Precision") is a Pennsylvania corporation, whose principal place of business is located at 195 Chestnut Street, P.O. Box 331, Bradford, Pennsylvania 16701. Precision is in the business of manufacturing machines for the food processing industry.

3. Defendant, Advanced Industrial Controls, Inc. (hereinafter "AIC") was a Pennsylvania corporation, whose principal place of business was located at 245 Chestnut Street, Bradford, Pennsylvania 16701.

4. Plaintiff provided Defendants with certain confidential information including designs, blueprints, CAD files, drawings and specifications relating to the construction of machinery for Plaintiff's customers (the "Confidential Information") for use in the food processing business. Defendants use such Confidential Information to construct machinery which it then sells and delivers to Plaintiff.

5. Plaintiff[1] ordered such machinery from AIC pursuant to the following purchase orders, and was invoiced fifteen (15) times by Precision on the dates and in the amounts indicated below:

Purchase Order No.[2]	Invoice No.	Date	Amount
4063	1042	5/19/04	$31,596.00
4030	1054	5/25/04	$12,950.00
4001	1075	6/1/04	$28,836.00
4063	1076	6/9/04	$5,640.00
4030	1077	6/8/04	$8,400.00
4137	1079	6/10/04	$150.00
4075	1080	6/10/04	$1,560.00
4028	1090	6/15/04	$7,560.00
4062	1091	6/16/04	$3,240.00
4072	1108	6/25/04	$6,480.00
4028	1119	7/7/04	$1,900.00
4062	1120	7/7/04	$1,900.00
4073	1127	7/13/04	$19,440.00
4072	1135	7/19/04	$1,900.00
4073	1136	7/19/04	$1,900.00

Copies of said purchase orders are attached hereto as Exhibit "A". Copies of said invoices are attached hereto as Exhibit "B".

6. Payment on said invoices is due 30 days from the date of the invoice.

7. All original orders for the machines were taken by Defendant AIC.

[1] Several purchase orders were initiated by Plaintiff's predecessor in interest, Backus USA, Inc.
[2] Purchase order numbers reference the last four digits indicated under "Purchase Order #" on the attached forms.

8. During the course of these transactions, AIC's operations were taken over by Defendant and said machines were delivered to FreshTec by Precision.

9. Plaintiff was not notified and has no formal knowledge of the legal relationship, if any, between Defendants Precision and AIC.

10. All invoices received by Plaintiff were on Precision letterhead and indicated payment should be made to Precision.

11. Following Precision's takeover of AIC's operations, Plaintiff began to experience significant delays in the scheduled delivery of the machinery referenced in 11 of the 14 invoices (invoices numbered 1042; 1054; 1075; 1076; 1077; 1090; 1091; 1108; 1119; 1120; 1127).

12. Plaintiff's customers were extremely dissatisfied with such delays and notified Plaintiff of their dissatisfaction.

13. Plaintiff's business is highly competitive and its success is largely due to the successful management of personal relationships with its customers.

14. Delays in scheduled delivery of the machinery detrimentally impacted Plaintiff's relationships with its customers.

15. Additionally, several pieces of machinery were defective and required repairs. Invoice number 1054 included machinery that broke welds and cost $1,800 in repairs as well as travel costs to Canada; machinery included on invoice number 1077 also broke welds and resulted in shipping and repair costs of approximately $2,220; machinery included on invoice 1090 broke welds and was repaired by the customer who sent the bill for $2,800 to Plaintiff.

16. Such defects in machinery performance were detrimental to Plaintiff's ongoing business relationships with these customers.

17. On or about July 7, 2004 Benjamin Brechtel, Vice President of Precision sent an email to Larry Salone, Plaintiff's President indicating his understanding regarding FreshTec's concerns with the timeliness of deliveries. Mr. Brechtel indicated that Precision intended to improve scheduling, manpower and preparation for the work and also indicated he agreed with financial retention penalties for missed delivery dates on future orders. In addition Mr. Brechtel requested that Mr. Salone respond with respect to the status of outstanding matters. A copy of the July 7, 2004 email is attached hereto as Exhibit "C".

18. On July 22, 2004, Mr. Brechtel again contacted Plaintiff, indicating that he had made verbal attempts to resolve past due payment issues with Mr. Salone, and alternatively Mr. Salone's counsel. He indicated that his messages had not been returned and past due payment issues had not been resolved. He further indicated in said correspondence that payment for all invoices, including those not yet due, was demanded by July 28, 2004. A copy of the July 22, 2004 letter is attached hereto as Exhibit "D".

19. In the July 22, 2004 letter, Mr. Brechtel further indicated that if these issues were not resolved and payment was not received by July 28, 2004, Precision would take further action in the form of placing "liens" against all equipment and encumbrances on outstanding receivables with FreshTec's customers holding equipment associated with the outstanding payment. He further indicated that "all facilities of which equipment is located shall be notified of such liens immediately."

20. Subsequently, David J. Hopkins, Esquire, counsel for Plaintiff, contacted Mr. Brechtel by telephone in an attempt to resolve the past-due payment issues.

21. On July 27, 2004, Mr. Hopkins, sent a letter to Mr. Brechtel enclosing confidentiality and non-compete agreement as well as providing comments on the invoices sent to FreshTec. With respect to such invoices, Mr. Hopkins indicated that FreshTec was willing to make payment, subject to certain withholdings to account for repairs and returns caused by defective machinery. Additionally, Mr. Hopkins indicated that several of the invoices were not due until August 2004, and as such, demanding payment at the present time was premature. A copy of the July 27, 2004 letter is attached hereto as Exhibit "E".

22. In the July 27, 2004 letter, Mr. Hopkins also asserted FreshTec's concern that because it had initially ordered the machines from AIC, it would be liable for payment to AIC and not Precision. As such, Mr. Hopkins indicated that FreshTec would require an opinion letter from Precision's counsel indemnifying it from any liability to AIC which could result from its payments to Precision.

23. The July 27, 2004, also clearly indicated that FreshTec was willing and able to pay 10 of the 15 invoices; that four of the remaining five invoices would not be due until August; and that the fifth invoice was in dispute.

24. As of the present date, FreshTec has received no affirmative response to Mr. Hopkins' letter.

25. Upon information and belief, Precision is now unlawfully attempting to contact FreshTec's customers to advise them that FreshTec is defaulting on its payment obligations notwithstanding FreshTec's efforts to resolve the payment issues.

COUNT ONE – ENTRY OF DECREE

26. Paragraphs 1 through 25 above are hereby incorporated as though set forth fully herein.

27. Plaintiff has not been advised of the legal relationship, if any, existing between AIC and Precision. Plaintiff, however, was directed to make payments to Precision for equipment ordered from AIC.

28. As a result, it is unclear to Plaintiff who is the proper party to receive payment for machinery received pursuant to several of the invoices.

29. Plaintiff is concerned that it may incur liability to AIC upon making payment to Precision.

30. Consequently, Plaintiff seeks this Court's decree indicating the proper party for payment. Pending entry of such decree, Plaintiff requests that this Court establish an escrow account into which Plaintiff shall pay all funds due and owing less the adjustments indicated in the July 27, 2004 letter from Mr. Hopkins.

WHEREFORE, Plaintiff, FreshTec Food Processing Equipment International, LLC respectfully requests that this Honorable Court enter a decree directing that funds due and owing pursuant to the invoices, totaling $91,012.00, be placed in an escrow account pending this Honorable Court's Order indicating the proper party to receive payment.

COUNT TWO – DEFAMATION

31. Paragraphs 1 through 30 above are hereby incorporated as though set forth fully herein.

32. Defendant has indicated that it will advise FreshTec's customers in the food processing industry who are currently using products received from FreshTec that FreshTec has not satisfied its payment obligations.

33. Plaintiff's business is highly competitive and its success is largely due to the successful management of personal relationships with its customers.

34. Any such statements, given FreshTec's efforts to resolve these payment issues, are false, are materially false and misleading, and detrimental to its business reputation and goodwill with its customers.

35. Given Plaintiffs' efforts to resolve the payment issues with Defendant, any statements made to FreshTec's customers have been made without justification for the sole purpose of causing injury to Plaintiff's business reputation and good will.

36. As a direct result of Defendant's actions Plaintiff has suffered and will continue to suffer immediate and irreparable harm, which harm is likely to continue and cannot be adequately remedied at law.

WHEREFORE, Plaintiff requests that an injunction issue preliminarily until final hearing and permanently thereafter, enjoining defendant from disparaging the reputation and good will of Plaintiff.

COUNT THREE

TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONSHIPS

37. Paragraphs 1 through 36 above are hereby incorporated as though set forth fully herein.

38. Defendant has indicated it will contact FreshTec's customers to notify them of FreshTec's failure to pay the invoices.

39. As set forth herein, these statements are materially false and misleading.

40. Any such false statements made to Plaintiff's customers will induce these customers to terminate their relationship with Plaintiff, and constitutes unlawful interference with Plaintiff's business relationships.

41. As a direct and proximate result of such unlawful interference, Plaintiff has and will suffer substantial financial injury and harm.

42. Such conduct constitutes intentional, improper, and non-privileged interference with Plaintiff's business and its contractual relationships with its customers.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in its favor and against Defendant.

COUNT FOUR – SPECIFIC PERFORMANCE

43. Paragraphs 1 through 42 above are hereby incorporated as though set forth fully herein.

44. Backus USA, Inc., the predecessor in interest to FreshTec, entered into a confidentiality agreement and non-compete agreement with AIC relating to all Confidential Information relating to the construction of machines by Precision for FreshTec.

45. While such agreements were between Backus and AIC, the ongoing relationship between FreshTec and Precision has likewise required FreshTec to divulge such Confidential Information in connection with the construction of the ordered machinery.

46. Should such Confidential Information be divulged, Plaintiff will suffer irreparable damage to its reputation as well as the loss of existing accounts and customers.

47. Plaintiff has requested that the Confidential Information be returned.

48. Defendant has failed to return said items to FreshTec.

49. As Plaintiff has no present agreement with Precision relating to such Confidential Information, Plaintiff has no adequate remedy at law and justice requires that this Honorable Court exercise its equitable jurisdiction to order the return of such Confidential Information to FreshTec.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court order Defendant to return all Confidential Information to Plaintiff.

Respectfully submitted,

HOPKINS HELTZEL LLP

David J. Hopkins, Esquire
Attorney for Plaintiff

VERIFICATION

I hereby verify that the statements made in this plea[illegible]ng are true and correct. I understand that false statements herein are made subject t[illegible]he penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authori[illegible]s.

FRESHTEC FOOD P[illegible]OCESSING EQUIPMENT INTE[illegible]ATIONAL, LLC

By: LAWRENCE J. S[illegible]ONE
PRESIDENT

CA

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

ORDER OF COURT GRANTING PRELIMINARY INJUNCTION

AND NOW, this 29th day of July, 2004, upon consideration of Plaintiff's Motion for Preliminary Injunction and Plaintiff's Complaint in Equity, filed in conjunction therewith, and having determined that Plaintiff will suffer immediate and irreparable injury, it is hereby ordered, adjudged, and decreed that Defendants and their agents, servants, employees, employers, consultants, officers, directors, attorneys, affiliates, successors and assigns, and any other individual or entity within their control or supervision and all other persons or entities acting in concert or on their behalf are enjoined until hearing on the matter or until further order of Court from, directly or indirectly: (1) contacting Plaintiff's customers with respect to any sums due and owing under the invoices or any of the payment issues referenced herein or in the Complaint in Equity or on any other issue; (2) taking any action to encumber any machinery held by, or otherwise in the possession of any of Plaintiff's customers, and (3) any and all such other relief as the Court deems appropriate.

FILED

JUL 29 2004
9:30 (no)
William A. Shaw
Prothonotary/Clerk of Courts
4 cert to Atty

Plaintiff is hereby directed to place a bond into escrow with the Court in the amount of $ —.

Plaintiff is hereby directed to place the sum of $91,012.00 into an escrow to be designated by this Court pending resolution of the matters set forth in Plaintiff's Complaint in Equity.

A hearing on Plaintiff's Motion for Preliminary Injunction is scheduled for August 19, 2004 at 9:00 A.m., in Courtroom No. 2 at the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

Paul E Cherry
JUDGE

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - (LAW)

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
A Pennsylvania Limited Liability Company
PLAINTIFF

vs.

PRECISION FABRICATION AND
CONTROLS, INC. and ADVANCED
INDUSTRIAL CONTROLS, INC.
DEFENDANTS

No. 2004-1146-CD

Type of Case: Equity -
Injunctive Relief

Type of Pleading: Answer

Filed on behalf of:
Precision Fabrication & Controls,
Inc.
Defendant

Counsel of record for this party:

Eugene J. Brew, Esq.
McClure & Miller LLP
717 State St., Suite 701
Erie, PA 16501
(814) 453-3681
Supreme Court No. 06500

Counsel of Record for Adverse
Party:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

Dated: Aug 16, 2004

FILED 10 CC
m/11:44 BY
AUG 18 2004
EAS
William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

ANSWER

Precision Fabrication and Controls, Inc. ("Precision") by its counsel, Eugene J. Brew, Esq., and McClure & Miller LLP file this Answer to the Complaint in Equity in the above matter:

1. Admitted.

2. Admitted.

3. Admitted.

4. Admitted that certain information was given to Precision by FreshTec. Denied that any of the information was confidential.

5. Admitted. There is a present balance due Precision by FreshTec for these machines of $147,352.00.

6. Admitted.

7. Admitted.

8. Admitted.

9. Precision has no knowledge as to whether or not FreshTec has knowledge of the legal relationship between Precision and AIC.

10. Admitted.

11. It is denied that FreshTec experienced significant delays in the scheduled delivery of the machinery referenced in this paragraph by invoice number.

12. After reasonable investigation Precision is without knowledge or information sufficient to form a belief as to the truth of this averment.

13. After reasonable investigation Precision is without knowledge or information sufficient to form a belief as to the truth of this averment.

14. After reasonable investigation Precision is without knowledge or information sufficient to form a belief as to the truth of this averment.

15. Denied that machinery was defective and required repairs; that machinery broke welds or that shipping and repair costs were incurred that are the responsibility of Precision.

16. After reasonable investigation Precision is without knowledge or information sufficient to form a belief as to the truth of this averment.

17. Admitted that the e-mail attached to the Complaint as Exhibit "C" was sent.

18. Admitted that the letter attached to the Complaint as Exhibit "D" was sent. FreshTec has made no payments on account of the equipment manufactured and sold to it by Precision, other than the initial down payments with the orders. The present balance due Precision by FreshTec is $147,352.00.

19. Admitted that such statements were made in the Exhibit "D". No liens were ever filed by Precision, as, unknown to Mr. Brechtel at the time he sent the letter, Precision had no

legal right to file any liens against the equipment without first obtaining a judgment against FreshTec.

20. Admitted

21. Admitted. FreshTec was holding a substantial balance due to Precision over the head of Precision, and demanding the execution of confidentiality and non-compete agreements prior to payment of any invoices.

22. Admitted. Again, FreshTec was holding back on the payment of monies admittedly due to Precision, demanding an opinion letter from Precision's counsel for what FreshTec claimed was liability to AIC. FreshTec has no liability to AIC.

23. Denied. FreshTec clearly indicated that it would only pay the invoices upon receipt of a "opinion letter with indemnification from your attorney", and the confidentiality and non-compete agreements executed.

24. Denied. FreshTec's counsel has been advised of the position of Precision as set forth in this answer

25. Denied that Precision is now unlawfully attempting to contact FreshTec's customers to advise them that FreshTec is defaulting on its payment obligations to Precision. Denied that FreshTec is making good faith efforts to resolve its payment issues with Precision.

COUNT I - ENTRY OF DECREE

26 Paragraphs 1 - 25 of this Answer are incorporated herein by reference.

27. Admitted.

28. Denied that it is unclear to FreshTec who is the proper party to receive payment for the machinery completed by Precision. FreshTec is using this as another excuse to refuse to

make payment on the past due invoices. AIC has assigned its rights to the agreements to complete all of the machinery and equipment to Precision, including its rights to payment for the same.

29. Denied that FreshTec will incur liability to AIC upon making a payment to Precision. FreshTec can put both AIC and Precision on any checks issued.

30. Admitted. Precision has no objections to the escrow account, but has received no information from FreshTec or their counsel that said account has been established. The sum requested by FreshTec, $91,012.00, to be placed in the escrow account, is substantially less than the balance due Precision, which is $147,352.00.

COUNT II - DEFAMATION

31. Paragraphs 1 - 30 in this Answer are incorporated herein by reference.

32. Denied. Precision will not advise FreshTec's customer in the food processing industry that FreshTec has not satisfied its payment obligations, even though such statement is true.

33. Admitted.

34. Denied that statements that FreshTec has not satisfied its payment obligations to Precision are false.

35. Denied that any such statements made to FreshTec's customers or made for the sole purpose of causing injury to FreshTec's business reputation and good will.

36. Denied that FreshTec has suffered and will continue to suffer immediate and irreparable harm, which harm is likely to continue. Denied that FreshTec could not be adequately remedied at law.

COUNT III

TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONSHIPS

37. Paragraphs 1 - 36 are incorporated in this Count by reference.

38. Denied that Precision will contact FreshTec's customers to notify them of FrechTec's failure to pay the invoices.

39. Denied that any such statement as in the above paragraph would be false or misleading. It would be a true statement, if made.

40. Denied that any such statements would induce the customers to terminate their relationship with FreshTec, or would constitute unlawful interference with Plaintiff's business relationships.

41. Denied that FreshTec has or will suffer substantial financial injury and harm as a result of any such interference.

42. Denied that this conduct, if proven, would constitute intentional, improper and non-privileged interference with FreshTec's business and its contractual relationships with its customers.

COUNT IV - SPECIFIC PERFORMANCE

43. Paragraphs 1 - 42 are incorporated in this Count by reference.

44. After reasonable investigation Precision is without knowledge or information sufficient to form a belief as to the truth of this averment.

45. Denied that FreshTec divulged any confidential information to Precision.

46. Denied that FreshTec would suffer irreparable damage to its reputation as well as the loss of existing accounts and customers if such claimed confidential information were divulged.

47. Admitted.

48. Admitted.

49. Admitted there is no present agreement between the parties relating to the confidential information claimed by FreshTec. Denied that FreshTec does not have an adequate remedy at law.

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Defendant, Precision
Fabrication & Controls, Inc.

Dated: August 16, 2004

VERIFICATION

I, ROBERT J. STEWART, President of PRECISION FABRICATION & CONTROLS, INC., depose and state that the facts set forth in the foregoing pleading are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to unsworn falsification to authorities.

Robert J. Stewart

Robert J. Stewart

CERTIFICATE OF MAILING

I, EUGENE J. BREW, ESQ., certify that on the below date I served a true copy of the within pleading on Plaintiff's counsel by mailing the same to the following by postage pre-paid on the following date:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication & Controls, Inc.

Dated: August 16, 2004

FILED

AUG 18 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - (LAW)

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
A Pennsylvania Limited Liability Company
PLAINTIFF

vs.

PRECISION FABRICATION AND
CONTROLS, INC. and ADVANCED
INDUSTRIAL CONTROLS, INC.
DEFENDANTS

No. 2004-1146-CD

Type of Case: Equity -
Injunctive Relief

Type of Pleading: Response to
Motion for Preliminary Injunction

Filed on behalf of:
Precision Fabrication & Controls,
Inc.
Defendant

Counsel of record for this party:

Eugene J. Brew, Esq.
McClure & Miller LLP
717 State St., Suite 701
Erie, PA 16501
(814) 453-3681
Supreme Court No. 06500

Counsel of Record for Adverse
Party:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

Dated: August 16 2004

FILED NO CC
m/11:43 BM
AUG 18 2004
2 1 AD
William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

RESPONSE TO MOTION FOR PRELIMINARY INJUNCTION

Defendant, Precision Fabrication and Controls, Inc. by their attorney, Eugene J. Brew, Esq., McClure & Miller LLP, files this Response to the Motion of FreshTec Food Processing Equipment International LLC for Preliminary Injunction:

1. Precision objects to the entry of a Preliminary Injunction.

2. Precision has filed an Answer to the complaint in the within matter, to which reference is made.

3. Admitted. The parties have agreed that the current parties in interest to all of the invoices and purchase orders referred to in the pleadings are Precision, the seller, and FreshTec, the buyer.

4. Admitted, by agreement of the parties. The down payment checks were drawn to

Precision by FreshTec on those purchase orders issued to AIC, and these checks were given to Precision at least thirty (30) days after the invoice dates, which affected the delivery dates on the machinery ordered. No work was started until the down payment was received.

5. Admitted.

6. If any machinery was delivered in an untimely manner, it was because of reasons caused by FreshTec, and any machines that needed repairs were repaired. FreshTec never gave Precision the opportunity to make repairs, or correct and deficiencies in the machines that needed repairs, before FreshTec got a third party to make the repairs.

7. Admitted that FreshTec disputed the amounts due, however, FreshTec has withheld payment on all of the invoices to attempt to force Precision to enter into a non-compete and indemnification agreements with FreshTec.

8. Admitted.

9. Denied that any action was taken to notify FreshTec's customers that Precision would impose liens on the machinery in their possession.

10. Admitted.

11. Admitted. Hopkins indicated that no payments would be made unless and until the indemnification agreement was signed by Precision.

12. It is denied that no response was received with regard to the outstanding invoices.

13. No answer required.

14. Denied that FreshTec will be irreparably harmed unless they get the relief requested in their Complaint. Denied that FreshTec could not be compensated by monetary damages.

15. Denied that FreshTec is likely to succeed on the merits of its Complaint.

16. Denied that FreshTec has no adequate remedy at law.

17. No answer required.

WHEREFORE, Precision requests the Court, after Hearing and the filing of the Bond as ordered, or the escrowing of the funds as ordered, to dismiss Plaintiff's Complaint with prejudice, refuse the entry of any injunctive relief, and place the costs of this action on the Plaintiff.

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Defendant, Precision Fabrication & Controls, Inc.

Dated: August 16, 2004

VERIFICATION

I, ROBERT J. STEWART, President of PRECISION FABRICATION & CONTROLS, INC., depose and state that the facts set forth in the foregoing pleading are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to unsworn falsification to authorities.

Robert J. Stewart

Robert J. Stewart

TOTAL P.10

CERTIFICATE OF MAILING

I, EUGENE J. BREW, ESQ., certify that on the below date I served a true copy of the within pleading on Plaintiff's counsel by mailing the same to the following by postage pre-paid on the following date:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication & Controls, Inc.

Dated: August 16, 2004

FILED

AUG 18 2004

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	
-vs-	:	No. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.	:	

O R D E R

NOW, this 19th day of August, 2004, upon agreement of the parties, it is the ORDER of this Court that this Court's Order of July 29, 2004, granting preliminary injunction shall remain in full force and effect pending hearing on the merits of this case.

BY THE COURT,

Paul E Cherry

Judge

FILED

AUG 20 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED
AUG 20 2004
William A. Shaw
Prothonotary/Clerk of Courts

1CC Atty Hopkins
1CC Atty Brew
1CC Def. Advanced Industrial
245 Chestnut Street
Bradford, PA 16701

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,
A Pennsylvania limited liability company,
Plaintiff,

v.

PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.
Defendants.

No. 2004-1146 C.D.

Type of Pleading: Praecipe to Reinstate Complaint

Filed on behalf of: FreshTec Food Processing Equipment International, LLC, Plaintiff

Counsel of Record for this party:

HOPKINS HELTZEL, LLP

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE
Attorney at Law
Supreme Court No. 83998

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED

AUG 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

PRAECIPE TO REINSTATE COMPLAINT

Kindly reinstate the Complaint filed in the above captioned matter.

Respectfully submitted,

Hopkins Heltzel LLP

Lea Ann Heltzel, Esquire

FILED No cc
12:42 BM 1 Compl. Reinstated to Shff
AUG 26 2004
William A. Shaw
Prothonotary/Clerk of Courts
Atty pd. 7.00

In The Court of Common Pleas of Clearfield County, Pennsylvania

FRESHTEC FOOD PROCESSING EQUIPMENT INTL. Sheriff Docket # 16191

VS. 04-1146-CD

PRECISION FABRICATION & CONTROLS INC. al

NOTICE OF INTENT TO SERVE SUBPOENA; MOTION FOR PRELI

COMPLAINT IN EQUITY

SHERIFF RETURNS

NOW SEPTEMBER 1, 2004, DONALD MOREY, SHERIFF OF McKEAN COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT IN EQUITY; NOTICE OF INTENT TO SERVE SUBPOENA; MOTION FOR PRELIMINARY INJUNCTION & ORDER ON ADVANCED INDUSTRIAL CONTROLS INC., DEFENDANT.

NOW SEPTEMBER 8, 2004 ATTEMPTED TO SERVE THE WITHIN COMPLAINT IN EQUITY; NOTICE OF INTENT TO SEVE SUBPOENA; MOTION FOR PRELIMINARY INJUNCTION & ORDER ON ADVANCE INDUSTRIAL CONTROLS INC., DEFENDANT BY DEPUTIZING THE SHERIFF OF MCKEAN COUNTY. THE RETURN OF SHERIFF MOREY IS HERETO ATTACHED AND MADE A PART OF THIS RETURN MARKED "NOT FOUND", OUT OF BUSINESS, OWNER MR. SWAIN IS IN BEMUS POINT, NY UNKNOWN ADDRESS.

Return Costs

Cost	Description
26.00	SHERIFF HAWKINS PAID BY: ATTY CK# 14606
10.00	SURCHARGE PAID BY: ATTY CK# 14607
34.00	McKEAN CO. SHFF. PAID BY: ATTY

Sworn to Before Me This

20th Day Of Sept. 2004

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

So Answers,

Chester A. Hawkins by Marilyn Hagan

Chester A. Hawkins
Sheriff

FILED
01:01 BL
SEP 20 2004

William A. Shaw
Prothonotary/Clerk of Courts

SHERIFF'S RETURN - NOT FOUND

CASE NO: 2004-10093 T
COMMONTWEALTH OF PENNSYLVANIA
COUNTY OF MCKEAN

FRESHTEC FOOD PROCESSING

VS

ADVANCED INDUSTRIAL CONTROLS

DONALD D. MOREY, Sheriff, who being duly sworn according to law, says, that he made a diligent search and inquiry for the within named DEFENDANT, to wit: ADVANCED INDUSTRIAL CONTROLS but was unable to locate Them in his bailiwick. He therefore returns the COMPLAINT IN EQUITY,

, NOT FOUND as to the within named DEFENDANT, ADVANCED INDUSTRIAL CONTROLS,

OUT OF BUSINESS AS OF APRIL 16, 2004, OWNER MR. SWAIN IS NOW IN BEMUS POINT, NY, NO ADDRESS AVAILABLE

Sheriff's Costs:
Total....$ 34.00

So answers:
Donald D. Morey
Donald D. Morey, Sheriff

Paid Date...09/08/2004
Paid By.....ATTORNEY

Sworn and subscribed to before me
this 8th day of September
A.D. 2004
Tara L. Morey
Notary

NOTARIAL SEAL
TARA L. MOREY, NOTARY PUBLIC
KEATING TWP., McKEAN COUNTY
MY COMMISSION EXPIRES FEB. 6, 2006

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC., Defendants.	:	
	:	Type of Pleading: Notice of Intent to Serve Subpoena to Produce Documents and Things for Discovery Pursuant to Pa.R.C.P. 4009.21
	:	Filed on behalf of: FreshTec Food Processing Equipment International, LLC
	:	Counsel of Record for this party:
	:	DAVID J. HOPKINS, ESQUIRE Attorney at Law Supreme Court No. 42519
	:	900 Beaver Drive DuBois, Pennsylvania 15801
	:	(814) 375-0300

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO Pa.R.C.P. 4009.21

TO: Precision Fabrication and Controls, Inc.
c/o Eugene J. Brew, Esquire
McClure & Miller LLP
Suite 701, 717 State Street
Erie, PA 16501

Advanced Industrial Controls, Inc.
245 Chestnut Street
Bradford, PA 16701

FreshTec Food Processing Equipment International, LLC, by and through its counsel, Hopkins Heltzel LLP, intends to serve a Subpoena identical to the one that is attached to this Notice. You have twenty (20) days from the date listed below in which to file of record and

serve upon the undersigned an objection to the Subpoena. If no objection is made, the Subpoena may be served.

Dated: August 18, 2004

David J. Hopkins, Esquire
Attorney for Plaintiff

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Freshtec Food Processing Equipment International,
Plaintiff(s)

Vs. * No. 2004-01146-CD

Precision Fabrication and Controls Inc.
Advanced Industrial Controls Inc.
Defendant(s)

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE 4009.22

TO: Corning, Inc.
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

All correspondence from Advanced Industrial Controls, Inc. or Precision Fabrication and Controls, Inc. regarding transfer of business and/or assets from January 1, 2004 to present.

(Address)

Hopkins Heltzel,LLP, 900 Beaver Drive, DuBois, PA 15801

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: David J. Hopkins, Esquire
ADDRESS: 900 Beaver Drive
DuBois, PA 15801
TELEPHONE: (814) 375-0800
SUPREME COURT ID # 42519
ATTORNEY FOR: _____

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Wednesday, August 18, 2004
Seal of the Court

Deputy

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Freshtec Food Processing Equipment International,
Plaintiff(s)

Vs. * No. 2004-01146-CD

Precision Fabrication and Controls Inc.
Advanced Industrial Controls Inc.
Defendant(s)

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE 4009.22

TO: Armstrong
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

All correspondence from Advanced Industrial Controls, Inc. or Precision Fabrication and Controls, Inc. regarding transfer of business and/or assets from January 1, 200[illegible] to present.

(Address)
Hopkins Heltzel, LLP, 900 Beaver Drive, DuBois, PA 15801

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: David J. Hopkins, Esquire
ADDRESS: 900 Beaver Drive
DuBois, PA 15801
TELEPHONE: (814) 375-0300
SUPREME COURT ID # 42519
ATTORNEY FOR: Plaintiff

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Wednesday, August 18, 2004
Seal of the Court

Deputy

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Freshtec Food Processing Equipment International, Plaintiff(s)	*	
Vs.	*	No. 2004-01146-CD
Precision Fabrication and Controls Inc. Advanced Industrial Controls Inc. Defendant(s)	*	

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE 4009.22

TO: Key Bank
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

All correspondence from Advanced Industrial Controls, Inc. or Precision Fabrication and Controls, Inc. regarding transfer of business and/or assets from January 1, 2004 to present.

(Address)
Hopkins Heltzel LLP, 900 Beaver Drive, DuBois, PA 15801

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: David J. Hopkins, Esquire
ADDRESS: 900 Beaver Drive
DuBois, PA 15801
TELEPHONE: (814) 375-0300
SUPREME COURT ID # 42519
ATTORNEY FOR: Plaintiff

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Wednesday, August 18, 2004
Seal of the Court

Deputy

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Freshtec Food Processing Equipment International,
Plaintiff(s)

Vs. * No. 2004-01146-CD

Precision Fabrication and Controls Inc.
Advanced Industrial Controls Inc.
Defendant(s)

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE 4009.22

TO: Alstrom
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

All correspondence from Advanced Industrial Controls, Inc. or Precision Fabrication and Controls, Inc. regarding transfer of business and/or assets from January 1, 200 to present.

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: David J. Hopkins, Esquire
ADDRESS: 900 Beaver Drive
DuBois, PA 15801
TELEPHONE: (814) 375-0300
SUPREME COURT ID # 42519
ATTORNEY FOR: Plaintiffs

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Wednesday, August 18, 2004
Seal of the Court

Deputy

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Freshtec Food Processing Equipment International,
Plaintiff(s)

Vs. * No. 2004-01146-CD

Precision Fabrication and Controls Inc.
Advanced Industrial Controls Inc.
Defendant(s)

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE 4009.22

TO: York
(Name of Person or Entity)

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(Address)
Hopkins Heltzel LLP, 900 Beaver Drive, DuBois, PA 15801

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NAME: David J. Hopkins, Esquire
ADDRESS: 900 Beaver Drive
DuBois, PA 15801
TELEPHONE: (814) 375-0300
SUPREME COURT ID # 42519
ATTORNEY FOR: Plaintiff

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Wednesday, August 18, 2004
Seal of the Court

Deputy

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Freshtec Food Processing Equipment International, Plaintiff(s)	*	
Vs.	*	No. 2004-01146-CD
Precision Fabrication and Controls Inc. Advanced Industrial Controls Inc. Defendant(s)	*	

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE 4009.22

TO: Matco Tools
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

All correspondence from Advanced Industrial Controls, Inc. or Precision Fabrication and Controls, Inc. regarding transfer of business and/or assets from January 1, 200

(Address)
Hopkins Heltzel LLP, 900 Beaver Drive, DuBois, PA 15801

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: David J. Hopkins, Esquire
ADDRESS: 900 Beaver Drive
DuBois, PA 15801
TELEPHONE: (814) 375-0300
SUPREME COURT ID # 42159
ATTORNEY FOR: Plaintiff

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Wednesday, August 18, 2004
Seal of the Court

Deputy

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

ORDER OF COURT GRANTING PRELIMINARY INJUNCTION

AND NOW, this 29th day of July, 2004, upon consideration of Plaintiff's Motion for Preliminary Injunction and Plaintiff's Complaint in Equity, filed in conjunction therewith, and having determined that Plaintiff will suffer immediate and irreparable injury, it is hereby ordered, adjudged, and decreed that Defendants and their agents, servants, employees, employers, consultants, officers, directors, attorneys, affiliates, successors and assigns, and any other individual or entity within their control or supervision and all other persons or entities acting in concert or on their behalf are enjoined until hearing on the matter or until further order of Court from, directly or indirectly: (1) contacting Plaintiff's customers with respect to any sums due and owing under the invoices or any of the payment issues referenced herein or in the Complaint in Equity or on any other issue; (2) taking any action to encumber any machinery held by, or otherwise in the possession of any of Plaintiff's customers, and (3) any and all such other relief as the Court deems appropriate.

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

JUL 29 2004

Attest.

Prothonotary/
Clerk of Courts

Plaintiff is hereby directed to place a bond into escrow with the Court in the amount of $ ✓.

Plaintiff is hereby directed to place the sum of $91,012.00 into an escrow to be designated by this Court pending resolution of the matters set forth in Plaintiff's Complaint in Equity.

A hearing on Plaintiff's Motion for Preliminary Injunction is scheduled for Aug. 19, 2004 at 9:00 A.m., in Courtroom No. 2 at the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

/s/ Paul E. Cherry

JUDGE

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,
A Pennsylvania limited liability company,
Plaintiff,

v.

PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.
Defendants.

No. 2004-1146-CD

Type of Pleading: Motion for Preliminary Injunction

Filed on behalf of: FreshTec Food Processing Equipment International, LLC, Plaintiff

Counsel of Record for this party:

HOPKINS HELTZEL, LLP

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE
Attorney at Law
Supreme Court No. 83998

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

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

JUL 28 2004

Attest.

Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

MOTION FOR PRELIMINARY INJUNCTION

Plaintiff, FreshTec Food Processing Equipment International, LLC, a Pennsylvania limited liability company, by and through its undersigned counsel, hereby files the following Motion for Preliminary Injunction as follows:

1. Plaintiff respectfully moves this Court for a preliminary injunction pursuant to Rule 1531 of the Pennsylvania Rules of Civil Procedure.

2. Contemporaneously with the filing of this Motion, Plaintiff filed its verified Complaint in Equity requesting that this Court enter a decree establishing an escrow and designating the proper payee; setting forth claims for defamation, tortious interference with contractual relations, and requesting specific performance. A copy of Plaintiff's Complaint is attached hereto as Exhibit A.

3. FreshTec and its predecessor in interest, Backus USA, Inc. entered into certain purchase orders with Precision Fabrication and Controls, Inc. ("Precision") and/or Advanced Industrial Controls, Inc. ("AIC") resulting in 15 invoices for the purchase of equipment ordered for Plaintiff's customers in the food processing industry.

4. The orders for the machinery were placed with AIC, but all invoices were received from and deliveries made by Precision.

5. Invoices are due 30 days from the date of the invoice.

6. Such machinery was often delivered in an untimely manner, and was, in several instances, defective and required extensive repair.

7. As a result of the delay in delivery as well as the defects in operation experienced by Plaintiff's customers, Plaintiff disputed the amounts due and owing pursuant to the invoices relating to such machinery.

8. By letter dated July 24, 2004, Benjamin Brechtel, Vice President for Precision, indicated that payment under said invoices would be due and owing as of July 28, 2004.

9. Mr. Brechtel indicated that if payment was not received by such date, he would notify Plaintiff's customers that Plaintiff had failed to pay it bills and that action would be taken to impose liens on the machinery in the possession of FreshTec's customers.

10. On July 27, 2004, David J. Hopkins, Esquire, counsel for FreshTec wrote a letter to Mr. Brechtel attempting to resolve the payment of the invoices.

11. Mr. Hopkins also expressed FreshTec's concern as to the identity of the proper payee for the machinery, and requested that Precision indemnify Plaintiff for any liability it might incur for making payment to Precision as opposed to AIC.

12. No response has been received by Precision regarding resolution of the outstanding invoices.

13. Plaintiff brings this motion for preliminary injunction to prevent Precision from defaming Plaintiff and injuring its business reputation by contacting Plaintiff's customers with respect to the dispute over the payment of the invoices; and from disrupting Plaintiff's business relationships with such customers.

14. For the reasons stated herein and in Plaintiff's Complaint in Equity, unless and until Defendant is enjoined from contacting Plaintiff's customers, Plaintiff will be irreparably harmed as Plaintiff's business reputation is a unique attribute which cannot be compensated by monetary damages.

15. Plaintiff is likely to succeed on the merits of its Complaint.

16. Plaintiff has no adequate remedy at law.

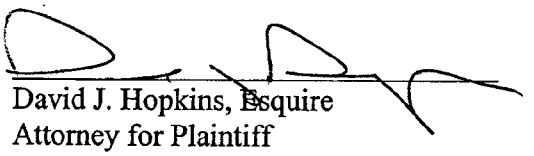
17. Plaintiff shall post bond in escrow as directed by this Honorable Court.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter a preliminary injunction, upon the entry of an appropriate bond or the escrowing of the undisputed bills by Plaintiff, enjoining and restraining Defendants and their agents, servants, employees, employers, consultants, officers, directors, attorneys, affiliates, successors, and assigns and any other individual or entity within its control or supervision and all other persons or entities acting in concert with Defendants or on their behalf or on its behalf or participating with Defendant until hearing on the matter or until further order of Court from (1) directly or indirectly contacting Plaintiff's customers with respect to any sums due and owing under the invoices or any of the payment issues referenced herein or in the Complaint in Equity; (2) taking any action

to encumber any machinery held by, or otherwise in the possession of any of Plaintiff's customers, and (3) any and all such other relief as the Court deems appropriate.

Respectfully submitted,

HOPKINS HELTZEL LLP



David J. Hopkins, Esquire
Attorney for Plaintiff

A

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	
	:	Type of Pleading: Complaint in Equity
	:	Filed on behalf of: FreshTec Food Processing Equipment International, LLC, Plaintiff
	:	Counsel of Record for this party:
	:	HOPKINS HELTZEL, LLP
	:	DAVID J. HOPKINS, ESQUIRE Attorney at Law Supreme Court No. 42519
	:	LEA ANN HELTZEL, ESQUIRE Attorney at Law Supreme Court No. 83998
	:	900 Beaver Drive DuBois, Pennsylvania 15801
	:	(814) 375-0300

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

NOTICE

TO: Defendants

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 Complaint is 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 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.

Office of the Court Administrator
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830
(814) 765-2641 (ext. 5982)

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

COMPLAINT IN EQUITY

AND NOW, comes the Plaintiff, FreshTec Food Processing Equipment International, LLC (hereinafter "Plaintiff" or "FreshTec"), by and through its undersigned counsel, and files the within Complaint in Equity as follows:

1. Plaintiff is a Pennsylvania limited liability company with its principal place of business at P.O. Box 585, DuBois, Pennsylvania 15801. FreshTec is engaged in the business of designing and selling machines to the food processing industry.

2. Defendant, Precision Fabrication and Controls, Inc. (hereinafter "Precision") is a Pennsylvania corporation, whose principal place of business is located at 195 Chestnut Street, P.O. Box 331, Bradford, Pennsylvania 16701. Precision is in the business of manufacturing machines for the food processing industry.

3. Defendant, Advanced Industrial Controls, Inc. (hereinafter "AIC") was a Pennsylvania corporation, whose principal place of business was located at 245 Chestnut Street, Bradford, Pennsylvania 16701.

4. Plaintiff provided Defendants with certain confidential information including designs, blueprints, CAD files, drawings and specifications relating to the construction of machinery for Plaintiff's customers (the "Confidential Information") for use in the food processing business. Defendants use such Confidential Information to construct machinery which it then sells and delivers to Plaintiff.

5. Plaintiff[1] ordered such machinery from AIC pursuant to the following purchase orders, and was invoiced fifteen (15) times by Precision on the dates and in the amounts indicated below:

Purchase Order No.[2]	Invoice No.	Date	Amount
4063	1042	5/19/04	$31,596.00
4030	1054	5/25/04	$12,950.00
4001	1075	6/1/04	$28,836.00
4063	1076	6/9/04	$5,640.00
4030	1077	6/8/04	$8,400.00
4137	1079	6/10/04	$150.00
4075	1080	6/10/04	$1,560.00
4028	1090	6/15/04	$7,560.00
4062	1091	6/16/04	$3,240.00
4072	1108	6/25/04	$6,480.00
4028	1119	7/7/04	$1,900.00
4062	1120	7/7/04	$1,900.00
4073	1127	7/13/04	$19,440.00
4072	1135	7/19/04	$1,900.00
4073	1136	7/19/04	$1,900.00

Copies of said purchase orders are attached hereto as Exhibit "A". Copies of said invoices are attached hereto as Exhibit "B".

6. Payment on said invoices is due 30 days from the date of the invoice.

7. All original orders for the machines were taken by Defendant AIC.

[1] Several purchase orders were initiated by Plaintiff's predecessor in interest, Backus USA, Inc.
[2] Purchase order numbers reference the last four digits indicated under "Purchase Order #" on the attached forms.

8. During the course of these transactions, AIC's operations were taken over by Defendant and said machines were delivered to FreshTec by Precision.

9. Plaintiff was not notified and has no formal knowledge of the legal relationship, if any, between Defendants Precision and AIC.

10. All invoices received by Plaintiff were on Precision letterhead and indicated payment should be made to Precision.

11. Following Precision's takeover of AIC's operations, Plaintiff began to experience significant delays in the scheduled delivery of the machinery referenced in 11 of the 14 invoices (invoices numbered 1042; 1054; 1075; 1076; 1077; 1090; 1091; 1108; 1119; 1120; 1127).

12. Plaintiff's customers were extremely dissatisfied with such delays and notified Plaintiff of their dissatisfaction.

13. Plaintiff's business is highly competitive and its success is largely due to the successful management of personal relationships with its customers.

14. Delays in scheduled delivery of the machinery detrimentally impacted Plaintiff's relationships with its customers.

15. Additionally, several pieces of machinery were defective and required repairs. Invoice number 1054 included machinery that broke welds and cost $1,800 in repairs as well as travel costs to Canada; machinery included on invoice number 1077 also broke welds and resulted in shipping and repair costs of approximately $2,220; machinery included on invoice 1090 broke welds and was repaired by the customer who sent the bill for $2,800 to Plaintiff.

16. Such defects in machinery performance were detrimental to Plaintiff's ongoing business relationships with these customers.

17. On or about July 7, 2004 Benjamin Brechtel, Vice President of Precision sent an email to Larry Salone, Plaintiff's President indicating his understanding regarding FreshTec's concerns with the timeliness of deliveries. Mr. Brechtel indicated that Precision intended to improve scheduling, manpower and preparation for the work and also indicated he agreed with financial retention penalties for missed delivery dates on future orders. In addition Mr. Brechtel requested that Mr. Salone respond with respect to the status of outstanding matters. A copy of the July 7, 2004 email is attached hereto as Exhibit "C".

18. On July 22, 2004, Mr. Brechtel again contacted Plaintiff, indicating that he had made verbal attempts to resolve past due payment issues with Mr. Salone, and alternatively Mr. Salone's counsel. He indicated that his messages had not been returned and past due payment issues had not been resolved. He further indicated in said correspondence that payment for all invoices, including those not yet due, was demanded by July 28, 2004. A copy of the July 22, 2004 letter is attached hereto as Exhibit "D".

19. In the July 22, 2004 letter, Mr. Brechtel further indicated that if these issues were not resolved and payment was not received by July 28, 2004, Precision would take further action in the form of placing "liens" against all equipment and encumbrances on outstanding receivables with FreshTec's customers holding equipment associated with the outstanding payment. He further indicated that "all facilities of which equipment is located shall be notified of such liens immediately."

20. Subsequently, David J. Hopkins, Esquire, counsel for Plaintiff, contacted Mr. Brechtel by telephone in an attempt to resolve the past-due payment issues.

21. On July 27, 2004, Mr. Hopkins, sent a letter to Mr. Brechtel enclosing confidentiality and non-compete agreement as well as providing comments on the invoices sent to FreshTec. With respect to such invoices, Mr. Hopkins indicated that FreshTec was willing to make payment, subject to certain withholdings to account for repairs and returns caused by defective machinery. Additionally, Mr. Hopkins indicated that several of the invoices were not due until August 2004, and as such, demanding payment at the present time was premature. A copy of the July 27, 2004 letter is attached hereto as Exhibit "E".

22. In the July 27, 2004 letter, Mr. Hopkins also asserted FreshTec's concern that because it had initially ordered the machines from AIC, it would be liable for payment to AIC and not Precision. As such, Mr. Hopkins indicated that FreshTec would require an opinion letter from Precision's counsel indemnifying it from any liability to AIC which could result from its payments to Precision.

23. The July 27, 2004, also clearly indicated that FreshTec was willing and able to pay 10 of the 15 invoices; that four of the remaining five invoices would not be due until August; and that the fifth invoice was in dispute.

24. As of the present date, FreshTec has received no affirmative response to Mr. Hopkins' letter.

25. Upon information and belief, Precision is now unlawfully attempting to contact FreshTec's customers to advise them that FreshTec is defaulting on its payment obligations notwithstanding FreshTec's efforts to resolve the payment issues.

COUNT ONE – ENTRY OF DECREE

26. Paragraphs 1 through 25 above are hereby incorporated as though set forth fully herein.

27. Plaintiff has not been advised of the legal relationship, if any, existing between AIC and Precision. Plaintiff, however, was directed to make payments to Precision for equipment ordered from AIC.

28. As a result, it is unclear to Plaintiff who is the proper party to receive payment for machinery received pursuant to several of the invoices.

29. Plaintiff is concerned that it may incur liability to AIC upon making payment to Precision.

30. Consequently, Plaintiff seeks this Court's decree indicating the proper party for payment. Pending entry of such decree, Plaintiff requests that this Court establish an escrow account into which Plaintiff shall pay all funds due and owing less the adjustments indicated in the July 27, 2004 letter from Mr. Hopkins.

WHEREFORE, Plaintiff, FreshTec Food Processing Equipment International, LLC respectfully requests that this Honorable Court enter a decree directing that funds due and owing pursuant to the invoices, totaling $91,012.00, be placed in an escrow account pending this Honorable Court's Order indicating the proper party to receive payment.

45. While such agreements were between Backus and AIC, the ongoing relationship between FreshTec and Precision has likewise required FreshTec to divulge such Confidential Information in connection with the construction of the ordered machinery.

46. Should such Confidential Information be divulged, Plaintiff will suffer irreparable damage to its reputation as well as the loss of existing accounts and customers.

47. Plaintiff has requested that the Confidential Information be returned.

48. Defendant has failed to return said items to FreshTec.

49. As Plaintiff has no present agreement with Precision relating to such Confidential Information, Plaintiff has no adequate remedy at law and justice requires that this Honorable Court exercise its equitable jurisdiction to order the return of such Confidential Information to FreshTec.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court order Defendant to return all Confidential Information to Plaintiff.

Respectfully submitted,

HOPKINS HELTZEL LLP

David J. Hopkins, Esquire
Attorney for Plaintiff

VERIFICATION

I hereby verify that the statements made in this plea..ng are true and correct. I understand that false statements herein are made subject t..he penalties of 18 Pa. C..S.A. Section 4904, relating to Unsworn Falsification to Authori..s.

FRESHTEC FOOD P..OCESSING
EQUIPMENT INTE..ATIONAL, LLC

By: LAWRENCE J. S...ONE
PRESIDENT

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,
A Pennsylvania limited liability company,
Plaintiff,

v.

PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.
Defendants.

No. 2004-1146-CD

Type of Pleading: Complaint in Equity

Filed on behalf of: FreshTec Food Processing Equipment International, LLC, Plaintiff

Counsel of Record for this party:

HOPKINS HELTZEL, LLP

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE
Attorney at Law
Supreme Court No. 83998

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

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

JUL 28 2004

Attest.

Prothonotary/
Clerk of Courts

8-26-04 Document Reinstated/~~Reissued~~ to Sheriff/~~Attorney~~ for service.

~~Deputy~~ Prothonotary

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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29. Plaintiff is concerned that it may incur liability to AIC upon making payment to Precision.

30. Consequently, Plaintiff seeks this Court's decree indicating the proper party for payment. Pending entry of such decree, Plaintiff requests that this Court establish an escrow account into which Plaintiff shall pay all funds due and owing less the adjustments indicated in the July 27, 2004 letter from Mr. Hopkins.

WHEREFORE, Plaintiff, FreshTec Food Processing Equipment International, LLC respectfully requests that this Honorable Court enter a decree directing that funds due and owing pursuant to the invoices, totaling $91,012.00, be placed in an escrow account pending this Honorable Court's Order indicating the proper party to receive payment.

COUNT TWO – DEFAMATION

31. Paragraphs 1 through 30 above are hereby incorporated as though set forth fully herein.

32. Defendant has indicated that it will advise FreshTec's customers in the food processing industry who are currently using products received from FreshTec that FreshTec has not satisfied its payment obligations.

33. Plaintiff's business is highly competitive and its success is largely due to the successful management of personal relationships with its customers.

34. Any such statements, given FreshTec's efforts to resolve these payment issues, are false, are materially false and misleading, and detrimental to its business reputation and goodwill with its customers.

35. Given Plaintiffs' efforts to resolve the payment issues with Defendant, any statements made to FreshTec's customers have been made without justification for the sole purpose of causing injury to Plaintiff's business reputation and good will.

36. As a direct result of Defendant's actions Plaintiff has suffered and will continue to suffer immediate and irreparable harm, which harm is likely to continue and cannot be adequately remedied at law.

WHEREFORE, Plaintiff requests that an injunction issue preliminarily until final hearing and permanently thereafter, enjoining defendant from disparaging the reputation and good will of Plaintiff.

COUNT THREE

TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONSHIPS

37. Paragraphs 1 through 36 above are hereby incorporated as though set forth fully herein.

38. Defendant has indicated it will contact FreshTec's customers to notify them of FreshTec's failure to pay the invoices.

39. As set forth herein, these statements are materially false and misleading.

40. Any such false statements made to Plaintiff's customers will induce these customers to terminate their relationship with Plaintiff, and constitutes unlawful interference with Plaintiff's business relationships.

41. As a direct and proximate result of such unlawful interference, Plaintiff has and will suffer substantial financial injury and harm.

42. Such conduct constitutes intentional, improper, and non-privileged interference with Plaintiff's business and its contractual relationships with its customers.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in its favor and against Defendant.

COUNT FOUR – SPECIFIC PERFORMANCE

43. Paragraphs 1 through 42 above are hereby incorporated as though set forth fully herein.

44. Backus USA, Inc., the predecessor in interest to FreshTec, entered into a confidentiality agreement and non-compete agreement with AIC relating to all Confidential Information relating to the construction of machines by Precision for FreshTec.

45. While such agreements were between Backus and AIC, the ongoing relationship between FreshTec and Precision has likewise required FreshTec to divulge such Confidential Information in connection with the construction of the ordered machinery.

46. Should such Confidential Information be divulged, Plaintiff will suffer irreparable damage to its reputation as well as the loss of existing accounts and customers.

47. Plaintiff has requested that the Confidential Information be returned.

48. Defendant has failed to return said items to FreshTec.

49. As Plaintiff has no present agreement with Precision relating to such Confidential Information, Plaintiff has no adequate remedy at law and justice requires that this Honorable Court exercise its equitable jurisdiction to order the return of such Confidential Information to FreshTec.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court order Defendant to return all Confidential Information to Plaintiff.

Respectfully submitted,

HOPKINS HELTZEL LLP

David J. Hopkins, Esquire
Attorney for Plaintiff

A

Backus USA, Inc.

P.O. Box 585 DuBois, PA 15801 Phone: 814-375-6999 Fax: 814-375-6909

Company Name:
AIC
814-368-3887
FAX 814-369-8044

Type of Equipment:
yes New Equipment
_____ Spare Parts
_____ Warranty, please explain in special instructions.

Purchase Order # 033004063

SHIP TO:
PICK-UP

BILL TO:
BACKUS USA
PO BOX 585
DUBOIS PA 15801

PAYMENT METHOD

Check		Amt. enclosed	
Credit card		Card type	
		Card number	
On account		Account no.	
COD			
Tax exempt	X	Exemption no.	

Purchase order number	
Substitutions allowed?	
Backorder allowed?	
Ship via	
(if overmited, please explain in special instructions below)	
FOB destination	
Date ordered	03-30-04
Delivery Date Requested By	2-3 WEEKS

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
1	CONTROL BOXES AND PUMPS FOR DELMONT WASHLINE CHILLERS PER QUOTE 1634-REV 3 WITH STANDS	EA	1	$14,000.00	$14,000.00

DAVID KNOX 03-30-04
Ordered by and Date

Approved by and Date

SUBTOTAL	$14,000.00
Shipping charges	
Handling charges	
Insurance	
Tax rate 0 % Tax	
TOTAL DUE	$14,000.00

SPECIAL INSTRUCTIONS
CONTROLS AND PUMPS FOR CHILLERS DELMONTE

Backus USA, Inc.

P.O. Box 535 DuBois, PA 15801 Phone: 814-375-6999 Fax: 814-375-6909

Company Name:

AIC

Type of Equipment:

XXX New Equipment
_____ Spare Parts
_____ Warranty, please explain in special instructions

Purchase Order # 021904030

2-24-04
OK
DK

SHIP TO: TBD

BILL TO: Backus USA
PO Box 535
DuBois, PA., 15801

PAYMENT METHOD			
Check		Amt. enclosed	
Credit card		Card type	
		Card number	
On account	XX	Account no.	
COD			
Tax-exempt	X	Exemption no.	

Purchase order number	
Substitutions allowed?	No
Backorder allowed?	No
Ship via	TBA
(if overnited, please explain in special instructions below)	
FOB destination	
Date ordered	February 24, 2004
Delivery Date Requested By	TBA

Please supply the following items

Item no.	Description	Unit	Qty	Unit price	Total amount
	Per attached quote				
001	Spin Dryer	ea.	3	6,000.00	18,000.00
002	GWT 2000/500	ea.	1	12,500.00	12,500.00
					0.00
					0.00
					0.00
	Per attached quotation sheets				0.00
					0.00
					0.00
					0.00
	All prices in USD				0.00
					0.00
					0.00
					0.00
					0.00

Larry Salone	2/24/04	Subtotal	30,500.00
Ordered by and Date		Shipping charges	0.00
Larry Salone	2/24/04	Handling charges	0.00
Approved by and Date		Insurance	
	Tax rate 0 %	Tax	0.00
		TOTAL DUE	30,500.00

SPECIAL INSTRUCTIONS:

FreshTec, LLC.

P.O. Box 585 DuBois, PA 15801 Phone: 814-375-6999 Fax: 814-375-6909

Company Name:

AIC

Type of Equipment:

XXX New Equipment
_____ Spare Parts
_____ Warranty, please explain in special instructions.

Purchase Order # 010804001

SHIP TO: TBA

BILL TO: FreshTec, LLC
PO Box 585
DuBois, PA, 15801

PAYMENT METHOD

Check		Amt. enclosed	
Credit card		Card type	
		Card number	
On account	XX	Account no.	
COD			
Tax exempt	X	Exemption no.	

Purchase order number	
Substitutions allowed?	No
Backorder allowed?	No
Ship via	TBA
(if overnited, please explain in special instructions below)	
FOB destination	
Date ordered	January 08, 2004
Delivery Date Requested By	TBA

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
	Per Quotation #1598 and #1588 - Rev. 1				
001	GWT4000/1100, specs per quote	ea	4	24,030.00	96,120.00
002	GWT 2000/500, specs per quote	ea	2	11,250.00	22,500.00
003	Spin dryer, specs per quote	ea.	5	5,400.00	27,000.00
004	GWT 3000/800, specs per quote	ea	1	15,675.00	15,675.00
005	Removable screen, specs per quote	ea	1	1,045.00	1,045.00
006	Extra screen, specs per quote	ea	1	570.00	570.00
007	32 cut 16 blade stand alone slicer, specs pe	ea.	1	5,700.00	5,700.00
					0.00
	Items 001 through 003 reflect 10% discount				0.00
	Items 004-007 and (1) one of 003 is for				0.00
	the trade show.				0.00
					0.00
					0.00
					0.00
					0.00
					0.00

	SUBTOTAL	168,610.00
	Shipping charges	0.00
	Handling charges	0.00
	Insurance	
Tax rate 0 %	Tax	0.00
	TOTAL DUE	168,610.00

Larry Salone 1/8/04
Ordered by and Date

Larry Salone 1/8/04
Approved by and Date

SPECIAL INSTRUCTIONS Del Monte F 2004 IFPA

Backus USA, Inc.

P. O. Box 585, DuBois, PA 15801 Phone 814-375-6999 Fax 814-375-6909

Precision
245 Chestnut Street
Bradford, PA 16701
Attention: J.R.
Phone: 814-368-3887
Fax: 814-368-8044

Purchase Order# 060904137

SHIP TO: Dominos Pizza
860 Pickens Industrial Drive
Marietta, GA 30062

BILL TO: Backus USA, Inc.
P.O. Box 585
DuBois, PA 15801

PAYMENT METHOD

Check		Amt. enclosed	
Credit card		Card type	
		Card number	
On account	x	Account no.	
COD			
Tax exempt	x	Exemption no.	

Purchase order number	060904137
Substitutions allowed?	No
Backorder allowed?	
Ship via	
FOB destination	
Date ordered	June 09, 2004

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
001	3000/800 ss washline 240v-460v upgrade	each	1	150.00	150.00

SUBTOTAL	150.00
Shipping charges	
Handling charges	
Insurance	
Tax	
TOTAL DUE	150.00

Tax rate 0 %

David Knox
Ordered by

Larry Salone
Approved by

SPECIAL INSTRUCTIONS
Upgrade for the 3000/800 ss washline for Dominos Pizza, GA

MH 1079

Backus USA, Inc.

P. O. Box 585. DuBois, PA 15801 Phone 814-375-6999 Fax 814-375-6909

AIC
536 East Main Street
Bradford, PA 16701
Attention: Tom
Phone: 814-368-3887
Fax: 814-368-8044

Purchase Order # 41204075

SHIP TO:

BILL TO: FreshTec Intl.
P.O. Box 585
DuBois, PA 15801

PAYMENT METHOD

Check		*Amt. enclosed*	
Credit card		*Card type*	
		Card number	
On account	x	*Account no.*	
COD			
Tax exempt	x	*Exemption no.*	

Purchase order number	041204075
Substitutions allowed?	No
Backorder allowed?	
Ship via	
FOB destination	
Date ordered	April 12, 2004

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
001	GWT 3000/800 washline chiller control system See attached Quote: #1643	each	1	2,600.00	2,600.00

SUBTOTAL	2,600.00
Shipping charges	
Handling charges	
Insurance	
Tax	
TOTAL DUE	2,600.00

Tina Wilt
Ordered by

Larry Salone
Approved by

Tax rate 0 %

SPECIAL INSTRUCTIONS

Backus USA, Inc.

P.O. Box 585 DuBois, PA 15801 Phone: 814-375-6999 Fax: 814-375-6909

Company Name:

AIC

Type of Equipment:

XXX New Equipment
_____ Spare Parts
_____ Warranty, please explain in special instructions.

Purchase Order # 021904028

SHIP TO: TBD

BILL TO: Backus USA
PO Box 585
DuBois, PA 15801

PAYMENT METHOD

Check		Amt. enclosed	
Credit card		Card type	
		Card number	
On account	XX	Account no.	
COD			
Tax exempt	X	Exemption no.	

Purchase order number	
Substitutions allowed?	No
Backorder allowed?	No
Ship via	TBA
(if overnited, please explain in special instructions below)	
FOB destination	
Date ordered	February 24, 2004
Delivery Date Requested By	TBA

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
	Per attached quote				
001	Bin Dumper — Del Monte Fl & Md	ea	2	5,400.00	0.00 10,800.00
	Per attached quotation sheets				0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00
	All prices in USD				0.00

	SUBTOTAL	10,800.00
	Shipping charges	0.00
	Handling charges	0.00
	Insurance	
Tax rate 0 %	Tax	0.00
	TOTAL DUE	10,800.00

Larry Salone 2/24/04
Ordered by and Date

Larry Salone 2/24/04
Approved by and Date

SPECIAL INSTRUCTIONS

Backus USA, Inc.

P.O. Box 585 DuBois, PA 15801 Phone: 814-375-6999 Fax: 814-375-6909

Company Name:
AIC
814-368-3887
FAX 814-369-8044

Type of Equipment:
yes New Equipment
_____ Spare Parts
_____ Warranty, please explain in special instructions.

Purchase Order # 0330040062

SHIP TO:
PICK-UP

BILL TO:
BACKUS USA
PO BOX 585
DUBOIS PA 15801

PAYMENT METHOD

Check		Amt. enclosed	
Credit card		Card type	
		Card number	
On account		Account no.	
COD			
Tax exempt	X	Exemption no.	

Purchase order number	
Substitutions allowed?	
Backorder allowed?	
Ship via	
(if overwited, please explain in special instructions below)	
FOB destination	
Date ordered	03-30-04
Delivery Date Requested By	4 WEEKS

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
1	BIN DUMPER PER QUOTE #1636 WITH A 60" DISCHARGE HEIGHT AND TO FEED A 30" WIDE CONVEYOR LOAD POSITION AT FLOOR LEVEL VOLTAGE TO BE 480 VAC 3PH 60Hz	EA	1	$5,400.00	$5,400.00
	NOTE: USE MATERIAL FROM PREVIOUS (6) BIN DUMPER ORDER DELIVERY TO BE 4 WEEKS FROM ORDER				

DAVID KNOX 03-30-04
Ordered by and Date

Approved by and Date

SUBTOTAL	$5,400.00
Shipping charges	
Handling charges	
Insurance	
Tax rate 0 % Tax	
TOTAL DUE	$5,400.00

SPECIAL INSTRUCTIONS
BIN DUMPER FOR COASTAL SUNBELT

Backus USA, Inc.

P.O. Box 585 DuBois, PA 15801 Phone: 814-375-6999 Fax: 814-375-6909

Company Name:
AIC
814-368-3887
FAX 814-369-8044

Type of Equipment:
yes New Equipment
_____ Spare Parts
_____ Warranty, please explain in special instructions.

Purchase Order # 040804072

SHIP TO:
CURRIN TBA

BILL TO:
BACKUS USA
PO BOX 585
DUBOIS PA 15801

PAYMENT METHOD

Check		Amt. enclosed	
Credit card		Card type	
		Card number	
On account		Account no.	
COD			
Tax exempt	X	Exemption no.	

Purchase order number	
Substitutions allowed?	
Backorder allowed?	
Ship via	
(if overnited, please explain in special instructions below)	
FOB destination	
Date ordered	4-8-04
Delivery Date Requested By	3 WEEKS

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
1	BIN DUMPER PER QUOTE #1636 WITH 60" DISCHARGE HEIGHT FLOOR LEVEL LOAD DISCHARGE TO CLOSE TO 40" 208VAC 3PH 60 Hz	EA	2	$5,400.00	$10,800.00

DAVID KNOX 04-08-04
Ordered by and Date

Approved by and Date 4/8/04

SUBTOTAL	$10,800.00
Shipping charges	
Handling charges	
Insurance	
Tax rate 0 % Tax	
TOTAL DUE	$10,800.00

SPECIAL INSTRUCTIONS
BIN DUMPERS FOR DEAN HOPKINS

Backus USA, Inc.

P.O. Box 585 DuBois, PA 15801 Phone: 814-375-6999 Fax: 814-375-6909

Company Name:
AIC
814-368-3887
FAX 814-369-8044

Type of Equipment:
yes New Equipment
_____ Spare Parts
_____ Warranty, please explain in special instructions.

Purchase Order # 0408040 73

SHIP TO:
EASYTRAY TBA

BILL TO:
BACKUS USA
PO BOX 585
DUBOIS PA 15801

PAYMENT METHOD

Check		Amt. enclosed	
Credit card		Card type	
		Card number	
On account		Account no.	
COD			
Tax exempt	X	Exemption no.	

Purchase order number	
Substitutions allowed?	
Backorder allowed?	
Ship via	
(if overnited, please explain in special instructions below)	
FOB destination	
Date ordered	4-8-04
Delivery Date Requested By	JUNE 10 2004

Please supply the following items

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL AMOUNT
1	BIN DUMPER PER QUOTE #1635 WITH 60" DISCHARGE HEIGHT FLOOR LEVEL LOAD DISCHARGE TO CLOSE TO 40" 460VAC 3PH 60Hz	EA	6	$5,400.00	$32,400.00

DAVID KNOX 04-08-04
Ordered by and Date

Approved by and Date 4/8/04

SUBTOTAL	$32,400.00
Shipping charges	
Handling charges	
Insurance	
Tax rate 0 % Tax	
TOTAL DUE	$32,400.00

SPECIAL INSTRUCTIONS
BIN DUMPERS FOR EASYTRAY

B

368-7320

Precision Fabrication & Controls, Inc.
195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

To:	Freshtec International P.O. Box 585 Dubois, PA 15801	**From:**	Benjamin D. Brechtel
Fax:	(814) 375-0707 (814) 375-5035	**Pages:**	1
Phone:	(814) 375-0700	**Date:**	7/22/04
Re:	Past Due Payment	**CC:**	David Hopkins, Freshtec Legal Representation Robert Stewart, President - Precision Fabrication & Controls, Inc. Gene Brew, Precision Legal Representation

I personally have made verbal attempts to bring closure to past due payment issues with Mr. Larry Salone in which he indicated that payment shall be satisfied by Mr. David Hopkins in Larry's absence while on vacation. I have further made several telephone calls and left messages with the secretarial staff of Mr. Hopkins each day between the dates of 7/14/04 and 7/22/04. His staff has indicated his presence in the office and that my messages have been given to him several times throughout the day. Mr. Hopkins has elected to avoid my calls and this issue of past due payment with Freshtec International.

Please take notice that payment for all past due invoices in the total amount of $107,012.00 is demanded by 7/28/04. In addition, there is also $27,040.00 that will be coming due in the next few days, a copy of the receivables aging is attached. There is also $13,300.00 for engineering scope changes and modifications on bin dumpsters per Larry's request that will be invoiced later this week. If resolution and fulfillment of payment is not satisfied by 7/28/04, further action shall be taken in the form of Liens against all equipment and encumbrances places on outstanding receivables with Freshtecs' customers associated with the outstanding payments. All facilities of which equipment is located shall be notified of such Liens immediately.

Freshtec representation can reach myself or Mr. Robert Stewart in the office or by cell at any time to arrange a payment transaction either by check or wire transfer.

Regards,

Benjamin D. Brechtel, Vice President
Precision Fabrication & Controls, Inc.
195 Chestnut Street
Bradford, PA 16701
PH: (814) 368-7320
CELL: (814) 541-1252
FX: (814) 368-8044

07/22/2004 15:15 8143685048 PRECISION PAGE 01/01

FAX COVER SHEET

Backus USA, Inc.
P. O. Box 585
DuBois, PA 15801

Phone 814-375-6999
Fax 814-375-6909

SEND TO	
Company name Hopkins Law Firm	*From* Larry Salone
Attention Dave Hopkins	*Date* 7/27/04
Office location DuBois	*Office location* DuBois, PA
Fax number 814-375-5035	*Phone number* 814-375-0300

☐ *Urgent* ☐ *Reply ASAP* ☐ *Please comment* ☒ *Please review* ☒ *For your information*

Total pages, including cover: 9

COMMENTS

Dear David Hopkins,

The following are the Purchase Orders requested by Bobbie for you

If you have any questions please feel free to contact the office.

Thank You,

Tina

Date	Invoice #
5/19/04	1042

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Del Monte

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
10024	10804001-33004063	2	5/14/04	5/14/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	GWT 4000/1100 Stainless Steel Washline-PO#010804001		$14,418.00	EA	2	$28,836.00
2	4000/1100 Chiller Control Panel With (4) 3hp G&L pumps ~~PO#033004063~~	PO #033003 Amt 2? 01 6-28-04	$2,760.00	EA	1	$2,760.00

To Whom It May Concern:

We will not pay off of an invoice like this
this was discussed with Rob previously.

I want the invoice to show the total
amount minus any amts that were
paid & then the remaining amt due.

Thank you
Rochelle RIC
Faxed 6-1-04

AIC
file
Pls hold

Date	Invoice #
5/25/2004	1054

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
43882-01	021904030	2	3/2/04	5/24/05	Net 30 days	1012	003
Shipping Instructions: Customer pick up							

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	1 Stainless Steel Spin Dryer With Control Panel		$4,200.00	EA	1	$4,200.00
2	1 GWT 2000/500 Stainless Steel Washline With Panel		$8,750.00	EA	1	$8,750.00

DOWN PAYMENT OF $9,150.00 RECEIVED ON CHECK#1090
DATED 3/17/04 TO AIC. TOTAL SHIPPED AMOUNT OF
PO#021904030 WILL BE $30,500.00. THE REMAINDER OF THIS
ORDER IS ESTIMATED TO BE SHIPPED AND BILLED 5/28/04.

ck# 1090 6-1-04

A.J. Lanzarotta equipment

Sales Amount	$12,950.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$12,950.00**

Date	Invoice #
6/1/04	1075

Precision Fabrication & Controls, Inc.
195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
10024	10804001	2	5/14/04	5/14/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	GWT 4000/1100 Stainless Steel Washline-PO#010804001		$24,030.00	EA	2	$48,060.00
	Down payment received on Item #1 Paid on 2/11/04 on Check #1021					
	on AIC Invoice #76127.		-$9,612.00	EA	2	-$19,224.00

Sales Amount	$28,836.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$28,836.00**

Okay to pay 6-7-04 RCT

Date	Invoice #
6/9/04	1076

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Chillers Delmarte

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
10046	033004063	2	6/1/04	6/1/04	Net 30 days	1012	003
Shipping Instructions: Customer pick up							

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	GWT 4000/1100 Stainless Steel Washline-Chiller Control System		$4,600.00	EA	1	$4,600.00
2	GWT 2000/500 Stainless Steel Washline		$2,400.00	EA	2	$4,800.00
3	GWT 4000/1100 Stainless Steel Washline-Downpayment 4/28/04		-$1,840.00	EA	1	-$1,840.00
4	GWT 2000/500 Stainless Steel Washline-Downpayment 4/28/04		-$960.00	EA	2	-$1,920.00
		Ref.: Quote #1005 Dated 4/19/04				
	This order consisted of:	(4) 3 HP G&L Pumps				
		Stainless Steel 16" x 16" x 6" stand alone				
		chiller motor starter panel mounted on				
		48" Hx 1-1/2" square tubing frame and 4"				
		mounting pads to control (2) washlines				
		complete with UL/CUL 508A Industrial Control				
		Panel testing and labeling.				
		(2) 2 HP G&L Pumps. Stainless steel				
		16" x 16" x 6" stand alone chiller motor				
		starter panel mounted on 48" H x 1-1/2"				
		square tubing frame and 4" mounting pads				
		complete with UL/CUL 508A Industrial Control				
		Panel testing and labeling.				

Sales Amount	$5,640.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$5,640.00**

Okay to pay
RLT
06-17-04

Date	Invoice #
6/8/04	1077

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
43882-01	021904030	2	3/2/04	5/24/05	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	1	Stainless Steel Spin Dryer With Control Panel	$4,200.00	EA	2	$8,400.00

DOWN PAYMENT OF $9,150.00 RECEIVED ON CHECK#1090
DATED 3/17/04 TO AIC.
ON 5/25/04 INVOICE#1054 PRECISION BILLED $12,950.00.
THIS IS THE REMANDER OF PO#3021904030. FOR A TOTAL OF
$30,500.00.
1 SHIPPED TO JESSUP, MD.
1 SHIPPED TO PLANT CITY, FL

Sales Amount	$8,400.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$8,400.00**

Okay to pay
RLT
060704

Date	Invoice #
6/10/04	1079

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
10057	060904137	2	6/8/04	6/8/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	300/800 Stainless steel washline 240V to 460V AC upgrade.		$150.00	EA	1	$150.00

Labor only

ACH to pay RS 06-17-04

Sales Amount	$150.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$150.00**

Date	Invoice #
6/10/04	1080

Precision Fabrication & Controls, Inc.
195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
10056	041204075	2	4/9/04	6/9/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	GWT3000/800	GWT3000/800 Stainless Steel Washline	$2,600.00	EA	1	$2,600.00
		Chiller Control System Adder:				
2	DOWNPAYMENT	40% Downpayment-Paid 4-28-04	-$1,040.00	EA	1	-$1,040.00
		* (2) 3 HP G & L Pumps				
		* Stainless steel 16"x16"x6" stand alone				
		chiller motor starter panel mounted on				
		48"Hx1-1/2"x1-1/2" square tubing frame				
		and 4" mounting pads complete with UL/CUL				
		508A Industrial Control Panel testing and				
		labeling.				
		Ref: Precision Quote #1007 dated 4/19/04				

Sales Amount	$1,560.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$1,560.00**

DCA 4/20/04
RCT 06-17-04

?? customer
quoting stainless wash

Date	Invoice #
6/15/04	1090

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
43881	021904028	2	6/15/04	6/15/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1		(2) Bin Dumpers with 60" discharge height and 48" dishcarge width 230V AC.	$5,400.00	EA	2	$10,800.00
		DOWN PAYMENT OF $3,240.00 RECEIVED ON CHECK#1089 DATED 3/17/04.	-$3,240.00	EA	1	-$3,240.00

Sales Amount	$7,560.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$7,560.00**

6-21-04
RLT

Bin Dumpers for FL + MD

OK

Date	Invoice #
6/16/04	1091

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
10012	033004062	2	4/28/04	6/16/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	1 Bin dumper with 60" discharge height and 30" discharge width 460V AC		$5,400.00	EA	1	$5,400.00
2	DOWN PAYMENT OF $2160.00 RECEIVED ON CHECK#402 DATED 4/28/04.		$2,160.00	EA	1	$2,160.00
	NOTE: Additional upcharges to follow based on Engineering Scope changes authorized by Larry Salone on 6/11/04.					

Coastal Sunbelt

Sales Amount	$7,560.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	$7,560.00

$ 3240.00

6-21-04 plt

Date	Invoice #
6/25/04	1108

Precision Fabrication & Controls, Inc.
195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
10079	040804072	2	4/19/04	6/25/04	Net 30 days	1012	003

Shipping Instructions: ROADWAY EXPRESS

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	Bin Dumper	Bin dumper per quote#1010 with 60" discharge height floor level load discharge to close to 30" 230 VAC 3 PH 60 Hz.	$6,480.00	EA	1	$6,480.00
		Ref: J106 Quote: #1010				

– DP of $4,320.00 (for 2 bin machines)

L/R, We were quoted $5,400.00 USD/each machine
Inv came as $6480.00 USD/ " "
Also DP made of 40% V#407, $4,320.00 on 4-28-04.

Sales Amount	$6,480.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$6,480.00**

Date	Invoice #
7/7/04	1119

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 Fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
Upcharge	021904028	2	7/7/04	7/7/04	Net 30 days	1012	003

Shipping Instructions:

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	UPCHARGES	Additional upcharges based on engineering scope changes which were authorized by Larry Salone on 6/11/04.	$1,900.00	EA	1	$1,900.00
		NEMA 4, 3 H.P., 230/460V AC, 3P, 60HZ electrical motor starter.	$400.00			
		Bead blast satin finish.	$300.00			
		Labor and materials to accommodate discharge height of 60" & tapered discharge shute width of 48" which enlarged the hopper and frame size.	$1,200.00			
		Ref:Quote#1636 PO#021904028				

Bill Duncan for FLYING DUTCHMAN

Sales Amount	$1,900.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	$1,900.00

Date	Invoice #
7/7/04	1120

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
Upcharge	033004062	2	7/7/04	7/7/04	Net 30 days	1012	003

Shipping Instructions:

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	UPCHARGES	Additional upcharges based on engineering scope changes which were authorized by Larry Salone on 6/11/04.	$1,900.00	EA	1	$1,900.00
		NEMA 4, 3 H.P., 230/460V AC, 3P, 60HZ electrical motor starter.	$400.00			
		Bead blast satin finish.	$300.00			
		Labor and materials to accommodate discharge height of 60" & tapered discharge shute width of 30" which enlarged the hopper and frame size.	$1,200.00			
		Ref:Quote#1004 PO#033004062				

Contact Submit Drawings

Sales Amount	$1,900.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$1,900.00**

Date	Invoice #
7/13/04	1127

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
10087	040804073	2	4/8/04	7/10/04	Net 30 days	1012	003
Shipping Instructions: RoadWay							

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	BINDUMPER	Stainless Steel Bin Dumper	$5,400.00	EA	6	$32,400.00
		40% Downpayment-Paid 4/28/04 Ck#406	-$12,960.00	EA	1	-$12,960.00
		REF: Precision Quote#1006 Dated 4/19/04				

Sales Amount	$19,440.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$19,440.00**

Eric Fry
S. Simpson

Date	Invoice #
7/19/2004	1135

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
ADDER	040804072	2	6/11/04	7/1/04	Net 30 days	1012	003

Shipping Instructions: RoadWay

Item #	Part #	Description	Price	U/M	Quantity	Amount
2	ADDER	Adder for PO#040804072 authorized by Larry Salone on 6/11/04.	$1,900.00	EA	1	$1,900.00
		NEMA 4, 3 H.P., 230/460V AC, 3P, 60HZ electrical motor starter. Bead blast satin finish. Labor and materials to accommodate discharge height of 60" & tapered discharge shute width of 40" which enlarged the hopper and frame size.				

Sales Amount	$1,900.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$1,900.00**

Date	Invoice #
7/19/2004	1136

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse.
ADDER	040804073	2	6/11/04	7/1/04	Net 30 days	1012	003

Shipping Instructions: RoadWay

Item #	Part #	Description	Price	U/M	Quantity	Amount
2	ADDER	Adder for PO#040804073 authorized by Larry Salone on 6/11/04.	$1,900.00	EA	1	$1,900.00
		NEMA 4, 3 H.P., 230/460V AC, 3P, 60HZ electrical motor starter. Bead blast satin finish. Labor and materials to accommodate discharge height of 60" & tapered discharge shute width of 40" which enlarged the hopper and frame size.				

Sales Amount	$1,900.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$1,900.00**

Rec'd Payment
Bal Due

Subj: **Precision Fabrication & Controls Inc.**
Date: 7/7/04 4:49:43 PM Eastern Daylight Time
From: bbrechtel@atlanticbb.net (BEN BRECHTEL)
To: larrysalon@aol.com (Larry Salone)
CC: jrswain@charter.net

Larry,

I know that you are out bouncing around quite a bit, but I wanted to briefly touch base with you regarding what you have in the pike.

I clearly understand that you have concerns and issues with the turn around time of past equipment. I am not going to again bring up all of the variables that have contributed to this from both of our ends. To further stress my sincerity with improved scheduling, manpower and preparation for this type of work, I have no problem with financial retention penalties for any missed delivery dates on future orders. We simply need to evaluate each project up from and agree to what a reasonable delivery is. Again, I have increased both our personnel and equipment resources to be able to handle increased production fabrication.

If you would, drop me a quick line on the status of things so I can further prepare for any upcoming work. As JR mentioned, when you are back in town and have a little free time, we can again touch base on things.

David/Larry

7/7/04
Correspondence
to me from
Ben...

Regards,

Ben Brechtel

---------- Headers ----------
Return-Path: <bbrechtel@atlanticbb.net>
Received: from rly-xj01.mx.aol.com (rly-xj01.mail.aol.com [172.20.116.38]) by air-xj03.mail.aol.com (v100.23) with ESMTP id MAILINXJ32-4fa40ec61d214; Wed, 07 Jul 2004 16:49:42 -0400
Received: from out006.verizon.net (out006pub.verizon.net [206.46.170.106]) by rly-xj01.mx.aol.com (v100.23) with ESMTP id MAILRELAYINXJ14-4fa40ec61d214; Wed, 07 Jul 2004 16:49:22 -0400
Received: from BEN ([209.158.25.237]) by out006.verizon.net

D

368-7320

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

To:	Freshtec International P.O. Box 585 Dubois, PA 15801	**From:**	Benjamin D. Brechtel
Fax:	(814) 375-0707 (814) 375-5035	**Pages:**	1
Phone:	(814) 375-0700	**Date:**	7/22/04
Re:	Past Due Payment	**CC:**	David Hopkins, Freshtec Legal Representation Robert Stewart, President - Precision Fabrication & Controls, Inc. Gene Brew, Precision Legal Representation

I personally have made verbal attempts to bring closure to past due payment issues with Mr. Larry Salone in which he indicated that payment shall be satisfied by Mr. David Hopkins in Larry's absence while on vacation. I have further made several telephone calls and left messages with the secretarial staff of Mr. Hopkins each day between the dates of 7/14/04 and 7/22/04. His staff has indicated his presence in the office and that my messages have been given to him several times throughout the day. Mr. Hopkins has elected to avoid my calls and this issue of past due payment with Freshtec International.

Please take notice that payment for all past due invoices in the total amount of $107,012.00 is demanded by 7/28/04. In addition, there is also $27,040.00 that will be coming due in the next few days, a copy of the receivables aging is attached. There is also $13,300.00 for engineering scope changes and modifications on bin dumpsters per Larry's request that will be invoiced later this week. If resolution and fulfillment of payment is not satisfied by 7/28/04, further action shall be taken in the form of Liens against all equipment and encumbrances places on outstanding receivables with Freshtecs' customers associated with the outstanding payments. All facilities of which equipment is located shall be notified of such Liens immediately.

Freshtec representation can reach myself or Mr. Robert Stewart in the office or by cell at any time to arrange a payment transaction either by check or wire transfer.

Regards,

Benjamin D. Brechtel, Vice President
Precision Fabrication & Controls, Inc.
195 Chestnut Street
Bradford, PA 16701
PH: (814) 368-7320
CELL: (814) 541-1252
FX: (814) 368-8044

E

HOPKINS HELTZEL LLP

900 Beaver Drive • DuBois, PA 15801

David J. Hopkins
Licensed in PA & NJ
Masters in Taxation

Lea Ann Heltzel
Licensed in PA

• Voice: (814) 375 - 0300
• Fax: (814) 375 - 5035
• Email:hopkinslaw@adelphia.net

July 27, 2004

FAXED 7-27-04

Facsimile: (814) 368-5040

Precision Fabrication & Controls, Inc.
Mr. Benjamin Brechtel
195 Chestnut Street
P.O. Box 331
Bradford, PA 16701

Re: FreshTec Food Processing Equipment International LLC

Dear Brechtel:

As a follow up to our telephonic conversation of last week, I enclose herewith for your review a Confidentiality and Non-Compete Agreement. Would you please review the document and if you have any questions or suggestions, please feel free to contact me or have your attorney contact me to iron out any suggestions you may have.

I have had some discussions with Mr. Salone who is now on the West Coast concerning this matter. My client has several concerns regarding the bills that you have sent which are set forth herein. My comments are based upon FreshTec's records.

Invoice 1042

a. Item 1 is okay.

b. Item 2 is okay.

c. By way of further response this machine was ordered and a down payment was made on January 8, 2004. The machine was not shipped until July 25, 2004. The delay caused FreshtTec's client to be very unhappy. I understand the delay was caused by Precision's inability to purchase materials. Notwithstanding the above, assuming all other provisions of this letter is satisfied, FreshTec will pay Invoice 1042.

Invoice 1054

c. This machine is breaking welds in Canada. FreshTec has had to visit the site and make repairs inasmuch as the customer cannot pull the machine out of production. FreshTec has paid $1,800 USD in repair work to date. FreshTec believes another $3,000.00 will be expended for repairs to this machine.

By way of further comment, this machine was ordered February 19, 2004 and a down payment made. The machine was not shipped until May 25, 2004 causing another FreshTec client to be unhappy. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1054 less $5,000.00.

Invoice 1075

a. This machine was ordered on January 8, 2004 and a down payment was made. The machine was not shipped until June 1, 2004 causing another unhappy customer. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1075.

Invoice 1076

a. This machine was ordered on March 30, 2004 and not shipped until June 1, 2004. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1076.

Invoice 1077

a. This machine has broken welds and has been returned to Wilcox. FreshTec has not yet fully evaluated the problem but it has spent $980.00 on one way freight. It will cost another $980.00 to return the machine. FreshTec anticipates 4 hours in repairing the welds at $65.00 per hour. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1077 less $2,220.00.

Invoice 1079

a. Assuming all other provisions of this letter are met, FreshTec will pay this invoice.

Invoice 1080

a. Assuming all other provisions of this letter are met, FreshTec will pay this invoice.

Invoice 1090

a. This machine was ordered on February 29, 2004 but not shipped until June 15, 2004. I understand welds have broken on this machine because it was skip welded rather than using continuous welds. The customer was initially angry with the delay in shipment and then became furious with the welding failures. The customer did not send the machine back, but rather, had it repaired at his facility. The customer billed FreshTec $2,800.00 for repairs that FreshTec credited the customer. Assuming all the other issues concerning the bin dumpster are resolved, FreshTec will pay this invoice less $2,800.00 it credited its customer for repairs.

Invoice 1091

a. This machine was ordered on March 30, 2004 but not shipped until June 16, 2004. The customer was angry over the delays. I understand Precision claims the units were not safe and had to be redesigned. However, FreshTec disputes this position. FreshTec gave J. R. pictures of other bin dumpsters it had purchased. If AIC or Precision could build the machines at FreshTec's cost, FreshTec would buy them. Design issues were not FreshTec's concern. FreshTec was able to buy the machine in Canada for the same price.

b. If Precision guarantees its workmanship on all bin dumpsters and the other provisions of this letter are completed, FreshTec will pay this bill less the down payment. I am advised the down payment was not included on the invoice.

Invoice 1108

a. The invoice is incorrect. The invoice lists the price as $6,480.00 and all of the bin dumpsters are $5,400.00.

b. As set forth above, assuming all of the other provisions of this document are met and the machine is guaranteed, my clients will pay the correct invoice.

Invoice 1119

a. This invoice is not due until August 7, 2004.

Invoice 1120

a. This invoice is not due until August 13, 2004.

Invoice 1135

a. This invoice is not due until August 18, 2004.

Invoice 1136

a. This invoice is not due until August 19, 2004.

As we discussed last week, my client is concerned that AIC creditors will make a claim against FreshTec for machines notwithstanding FreshTec's payments to Precision as set forth in this letter. My client requires an opinion letter with indemnification from your attorney prior to making payment.

My client is prepared to pay for invoices 1042, 1054, 1075, 1076, 1077, 1079, 1080, 1090, 1091 and 1108 pursuant to the terms of this letter.

I am in court most of today, although I am prepared to meet with you on Wednesday and FreshTec will pay the invoices pursuant to this letter provided we execute the enclosed Confidentiality and Non-Compete Agreement, receive the opinion letter with indemnification from your lawyer and you deliver the blueprints, CAD files and other documents relating to the machines.

Thank you for your consideration of this matter.

Very truly yours,

David J. Hopkins
Attorney at Law

DJH/bjt

cc: FreshTech Food Processing Equipment International, LLC

FAXED
7-27-04

CONFIDENTIALITY AND NON-COMPETE AGREEMENT

This Agreement is made the _____ day of July, 2004, by and between **FreshTec Food Processing Equipment International, LLC** hereinafter ("FreshTec") whose address is P.O. Box 585, DuBois, Pennsylvania 15801; and **Precision Fabrication & Controls, Inc.** (hereinafter "Precision") whose address is 195 Chestnut Street, P.O. Box 331, Bradford, Pennsylvania 16701.

WHEREAS, FreshTec is engaged in the business of designing and selling machines to the food processing industry;

WHEREAS, Precision is in the business of manufacturing machines;

WHEREAS, FreshTec had ordered various food processing machines from a company named AIC who has since been succeeded by Precision and said machines delivered to FreshTec by Precision;

WHEREAS, FreshTec owes Precision monies for said machines;

WHEREAS, with the execution of this Agreement the parties wish to enter into a Confidentiality and Non-Compete Agreement upon the terms set forth herein.

NOW, THEREFORE, in consideration of One ($1.00) Dollar and other good and valuable consideration, including, but not limited to, the potential continuation of business between FreshTec and Precision, payment of monies by FreshTec to Precision and other good and valuable consideration the parties agree as follows:

1. Precision shall turn over all blueprints, CAD files, drawings and specification as well as all other documents relating to the construction of machines Precision and/or AIC has built for FreshTec, including, but not limited to, those machines originally ordered by FreshTec from AIC. All documents set forth above shall be

5. For a period of ten (10) years from the date of this Agreement, Precision shall not, directly or indirectly, on its own behalf or on the behalf of any other entity, whether as a stockholder, principal, partner or member of any other organization, nor shall any officer, director, manager or key employee of Precision, solicit, attempt to obtain, accept, write, service, manufacture, design or in any manner transact the business of producing machines for the food processing industry in North America.

6. In the event of a breach or threatened breach by Precision, or any one of its officers, directors, managers or key employees, then the provisions of this Agreement may be enforced by a restraining order or injunction restraining Precision, or its officers, directors, managers or key employees from the commission of such breach to the full extent thereof, or to such lesser extent as a court of competent jurisdiction may deem just and proper for the reasonable protection of the rights and interest of FreshTec. Nothing herein contained shall be construed as prohibiting FreshTec from pursuing any other remedy available for such breach or threatened breach, including the recovery of money damages, which may include an award of reasonable attorney fees and expenses.

7. In furtherance of the foregoing, Precision acknowledges that the damage that may be incurred by FreshTec by the diversion of customers and accounts in violation of this Agreement or the competition with FreshTec may be irreversible and that money damages for such breach may be difficult to calculate; Accordingly, Precision agrees that a court of competent jurisdiction may enter a temporary restraining order for such period as a court may deem reasonable pending a hearing on the merits of the controversy.

VERIFICATION

I hereby verify that the statements made in this plea..ng are true and correct. I understand that false statements herein are made subject t.. the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorit..s.

FRESHTEC FOOD P..OCESSING
EQUIPMENT INTE..ATIONAL, LLC

By: LAWRENCE J. S..ONE
PRESIDENT

Invoice 1054

c. This machine is breaking welds in Canada. FreshTec has had to visit the site and make repairs inasmuch as the customer cannot pull the machine out of production. FreshTec has paid $1,800 USD in repair work to date. FreshTec believes another $3,000.00 will be expended for repairs to this machine.

By way of further comment, this machine was ordered February 19, 2004 and a down payment made. The machine was not shipped until May 25, 2004 causing another FreshTec client to be unhappy. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1054 less $5,000.00.

Invoice 1075

a. This machine was ordered on January 8, 2004 and a down payment was made. The machine was not shipped until June 1, 2004 causing another unhappy customer. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1075.

Invoice 1076

a. This machine was ordered on March 30, 2004 and not shipped until June 1, 2004. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1076.

Invoice 1077

a. This machine has broken welds and has been returned to Wilcox. FreshTec has not yet fully evaluated the problem but it has spent $980.00 on one way freight. It will cost another $980.00 to return the machine. FreshTec anticipates 4 hours in repairing the welds at $65.00 per hour. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1077 less $2,220.00.

Invoice 1079

a. Assuming all other provisions of this letter are met, FreshTec will pay this invoice.

Invoice 1080

a. Assuming all other provisions of this letter are met, FreshTec will pay this invoice.

Invoice 1090

a. This machine was ordered on February 29, 2004 but not shipped until June 15, 2004. I understand welds have broken on this machine because it was skip welded rather than using continuous welds. The customer was initially angry with the delay in shipment and then became furious with the welding failures. The customer did not send the machine back, but rather, had it repaired at his facility. The customer billed FreshTec $2,800.00 for repairs that FreshTec credited the customer. Assuming all the other issues concerning the bin dumpster are resolved, FreshTec will pay this invoice less $2,800.00 it credited its customer for repairs.

Invoice 1091

a. This machine was ordered on March 30, 2004 but not shipped until June 16, 2004. The customer was angry over the delays. I understand Precision claims the units were not safe and had to be redesigned. However, FreshTec disputes this position. FreshTec gave J. R. pictures of other bin dumpsters it had purchased. If AIC or Precision could build the machines at FreshTec's cost, FreshTec would buy them. Design issues were not FreshTec's concern. FreshTec was able to buy the machine in Canada for the same price.

b. If Precision guarantees its workmanship on all bin dumpsters and the other provisions of this letter are completed, FreshTec will pay this bill less the down payment. I am advised the down payment was not included on the invoice.

Invoice 1108

a. The invoice is incorrect. The invoice lists the price as $6,480.00 and all of the bin dumpsters are $5,400.00.

b. As set forth above, assuming all of the other provisions of this document are met and the machine is guaranteed, my clients will pay the correct invoice.

Invoice 1119

a. This invoice is not due until August 7, 2004.

Invoice 1120

a. This invoice is not due until August 13, 2004.

Invoice 1135

a. This invoice is not due until August 18, 2004.

Invoice 1136

a. This invoice is not due until August 19, 2004.

As we discussed last week, my client is concerned that AIC creditors will make a claim against FreshTec for machines notwithstanding FreshTec's payments to Precision as set forth in this letter. My client requires an opinion letter with indemnification from your attorney prior to making payment.

My client is prepared to pay for invoices 1042, 1054, 1075, 1076, 1077, 1079, 1080, 1090, 1091 and 1108 pursuant to the terms of this letter.

I am in court most of today, although I am prepared to meet with you on Wednesday and FreshTec will pay the invoices pursuant to this letter provided we execute the enclosed Confidentiality and Non-Compete Agreement, receive the opinion letter with indemnification from your lawyer and you deliver the blueprints, CAD files and other documents relating to the machines.

Thank you for your consideration of this matter.

Very truly yours,

David J. Hopkins
Attorney at Law

DJH/bjt

cc: FreshTech Food Processing Equipment International, LLC

FAXED
7-27-04

CONFIDENTIALITY AND NON-COMPETE AGREEMENT

This Agreement is made the _____ day of July, 2004, by and between **FreshTec Food Processing Equipment International, LLC** hereinafter ("FreshTec") whose address is P.O. Box 585, DuBois, Pennsylvania 15801; and **Precision Fabrication & Controls, Inc.** (hereinafter "Precision") whose address is 195 Chestnut Street, P.O. Box 331, Bradford, Pennsylvania 16701.

WHEREAS, FreshTec is engaged in the business of designing and selling machines to the food processing industry;

WHEREAS, Precision is in the business of manufacturing machines;

WHEREAS, FreshTec had ordered various food processing machines from a company named AIC who has since been succeeded by Precision and said machines delivered to FreshTec by Precision;

WHEREAS, FreshTec owes Precision monies for said machines;

WHEREAS, with the execution of this Agreement the parties wish to enter into a Confidentiality and Non-Compete Agreement upon the terms set forth herein.

NOW, THEREFORE, in consideration of One ($1.00) Dollar and other good and valuable consideration, including, but not limited to, the potential continuation of business between FreshTec and Precision, payment of monies by FreshTec to Precision and other good and valuable consideration the parties agree as follows:

1. Precision shall turn over all blueprints, CAD files, drawings and specification as well as all other documents relating to the construction of machines Precision and/or AIC has built for FreshTec, including, but not limited to, those machines originally ordered by FreshTec from AIC. All documents set forth above shall be

original documents and following the transfer of the documents by Precision to FreshTec, Precision shall have no documents, originals or copies, relating to the machines.

2. In recognition of the fact that FreshTec is engaged in a highly competitive business involving confidential information and personal relationships with customers the success of which business is in large part due to the exclusive retention of confidential information and in continuation of personal relationships, Precision does hereby covenant and agree as follows and acknowledges that the following covenants are reasonably necessary for the protection of FreshTec and may be enforced to the extent set forth herein or to such extent as any court of competent jurisdiction may deem reasonable and proper.

3. All information concerning the machines, including, but not limited to their design and specification, and customers of FreshTec is confidential information constituting trade secrets and will be treated by Precision as such. Precision warrants and represents that it has not and from the date of this Agreement will not directly or indirectly make use of such information for its own benefit or the benefit of any of its officers, directors, managers or key employees nor will Precision directly or indirectly divulge such information to anyone without the express written consent of FreshTec.

4. For a period of ten (10) years from the date of this Agreement, Precision shall not, directly or indirectly, on its own behalf or on the behalf of any other entity, whether as a stockholder, principal, partner or member of any other organization, nor shall any officer, director, manager or key employee of Precision, solicit, attempt to obtain, accept, write, service or in any manner transact any business for any customer of FreshTec.

5. For a period of ten (10) years from the date of this Agreement, Precision shall not, directly or indirectly, on its own behalf or on the behalf of any other entity, whether as a stockholder, principal, partner or member of any other organization, nor shall any officer, director, manager or key employee of Precision, solicit, attempt to obtain, accept, write, service, manufacture, design or in any manner transact the business of producing machines for the food processing industry in North America.

6. In the event of a breach or threatened breach by Precision, or any one of its officers, directors, managers or key employees, then the provisions of this Agreement may be enforced by a restraining order or injunction restraining Precision, or its officers, directors, managers or key employees from the commission of such breach to the full extent thereof, or to such lesser extent as a court of competent jurisdiction may deem just and proper for the reasonable protection of the rights and interest of FreshTec. Nothing herein contained shall be construed as prohibiting FreshTec from pursuing any other remedy available for such breach or threatened breach, including the recovery of money damages, which may include an award of reasonable attorney fees and expenses.

7. In furtherance of the foregoing, Precision acknowledges that the damage that may be incurred by FreshTec by the diversion of customers and accounts in violation of this Agreement or the competition with FreshTec may be irreversible and that money damages for such breach may be difficult to calculate; Accordingly, Precision agrees that a court of competent jurisdiction may enter a temporary restraining order for such period as a court may deem reasonable pending a hearing on the merits of the controversy.

8. This Agreement does not supersede any other agreement between FreshTec and Precision except as it relates to the subject matter and the terms and conditions set forth herein.

9. It is the intention of the parties hereto that all questions with respect to the construction of this Agreement and the rights and liabilities of the parties hereto shall be determined in accordance with the Laws of the Commonwealth of Pennsylvania.

10. This Agreement is binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, personal and legal representatives, successors, and assigns.

11. Where necessary or appropriate to the meaning hereof, the singular shall be deemed to include the plural and the masculine to include the feminine and neuter.

12. This Agreement constitutes the entire agreement between the parties hereto with respect to the transactions herein contemplated. Any modifications or amendments to this Agreement shall be effective only if in writing and executed by each of the parties hereto.

13. Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (i) in person, (ii) by certified or registered U.S. mail, postage prepaid, return receipt requested, or (iii) by a commercial overnight courier that guarantees next day delivery and provides a receipt.

14. The date of this Agreement shall be deemed to be the last date on which both parties hereto execute this Agreement.

15. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel

for one of the parties, it being recognized that both parties have contributed substantially and materially to the preparation of this Agreement. The headings of various Sections and paragraphs in this Agreement are for convenience only, and are not to be utilized in construing the content or meaning of the substantive provisions hereof.

16. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

SIGNED AND AGREED TO BY:

ATTEST:

PRECISION FABRICATION & CONTROLS, INC.

_____

By:_____

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC

_____

By:_____

VERIFICATION

I hereby verify that the statements made in this plea..ng are true and correct. I understand that false statements herein are made subject t.. the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authori..s.

FRESHTEC FOOD P..OCESSING
EQUIPMENT INTE..ATIONAL, LLC

By: LAWRENCE J. S..ONE
PRESIDENT

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PRECISION FABRICATION AND CONTROLS, INC., Plaintiff	:	No. 915 C.D. 2004
v.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant	:	Type of Pleading: Petition to Coordinate Actions Pursuant to Pa.R.C.P. §213.1
	:	Filed on behalf of: FreshTec Food Processing Equipment International, LLC
	:	Counsel of Record for this party:
	:	HOPKINS HELTZEL LLP
	:	DAVID J. HOPKINS, ESQUIRE Attorney at Law Supreme Court No. 42519
	:	900 Beaver Drive DuBois, Pennsylvania 15801 (814) 375-0300

FILED ebl
0 9:58 BA 2 cc to Atty
SEP 22 2004

William A. Shaw
Prothonotary

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PRECISION FABRICATION AND CONTROLS, INC., Plaintiff	:	
v.	:	No. 915 C.D. 2004
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant	:	

PETITION TO COORDINATE ACTIONS
PURSUANT TO Pa.R.C.P. 213.1

AND NOW, comes Defendant, FreshTec Food Processing Equipment International, LLC ("FreshTec"), by and through its undersigned attorneys, Hopkins Heltzel LLP and files the within Petition and states as follows:

1. Petitioner is FreshTec, a Pennsylvania limited liability company, with its principal place of business located at 602-9 West DuBois Avenue, DuBois, Pennsylvania 15801.

2. Respondent is Precision Fabrication & Controls, Inc., a Pennsylvania corporation with offices located at 195 Chestnut Street, Bradford, PA 16701.

3. Precision is in the business of designing, fabricating and manufacturing machinery and equipment for industry.

4. FreshTec is in the business of selling machinery and equipment to the food processing industry.

5. Precision and FreshTec engaged in a series of transactions involving the purchase of such machinery and equipment, such transactions being the subject matter of this litigation.

6. FreshTec commenced an action in equity in the Court of Common Pleas of Clearfield County Pennsylvania at No. 2004-1146-CD on July 28, 2004, against both Precision and Advance Industrial Controls, Inc., seeking entry of a decree with respect to the proper party to receive payment for the machinery ordered; and asserting claims for defamation and, tortious interference with contractual relationships and seeking specific performance.

7. Simultaneously, FreshTec sought a preliminary injunction against Precision. The injunction was granted by the Court on July 29, 2004, and precluded Precision and AIC from contacting FreshTec's customers or taking any action to encumber any machinery held by or in the possession of FreshTec's customers.

8. Precision commenced a civil action against FreshTec by Complaint filed on August 9, 2004 in the Court of Common Pleas of McKean County, Pennsylvania, at No. 915-CD 2004, seeking payment of the invoices in the amount of $147,352.

9. The fundamental issue in both cases revolves around the sums allegedly outstanding on the invoices for the food processing equipment.

10. Pa.R.C.P. No. 213.1 sanctions the coordination of actions in this case because both cases arise out of a common question of fact and from the same occurrence, i.e. the sale and delivery of food processing equipment.

11. Pursuant to Pa.R.C.P. No. 213.1, it is appropriate to consolidate the two actions:

a. The issue concerning payment of the invoices is common to both cases and predominant and significant to the litigation;

b. It will be more convenient with parties, witnesses and counsel to try the issue of liability for debt only once. In the liability trial, a significant number of witnesses will be necessary, including but not limited to employees of FreshTec;

c. Coordination will not result in unreasonable delay or expense to a party nor will it prejudice a party subject to the coordination order. To the contrary, coordination will result in the efficacious resolution of the disputes presented in both cases;

d. Coordination will be the more efficient utilization of judicial facilities and personnel and will result in the just and efficient conduct of the actions;

e. Failure to coordinate could cause duplicative and inconsistent rulings, orders or judgments; and

f. Settlement is more likely if the actions are coordinated.

12. Pursuant to Pa.R.C.P. No. 213.1(b), this Court is authorized to stay the proceedings in McKean County.

WHEREFORE, Petitioner FreshTec Food Processing Equipment International, LLC prays this Honorable Court to:

1. Coordinate Court of Common Pleas of Clearfield County case of FreshTec Food Processing Equipment International, LLC v. Precision Fabrication and Controls, Inc. and Advanced Industrial Controls, Inc., filed to Docket No. 2004-1146-CD, with the Court of Common Pleas of McKean County case of Precision Fabrication & Controls, Inc. v. FreshTec Food Processing Equipment International, LLC, filed to Docket No. 915 CD 2004.

2. Require all discovery and pretrial matters in the coordinated cases be filed in the Court of Common Please of Clearfield County under Docket No. 2004-1146-C.D.

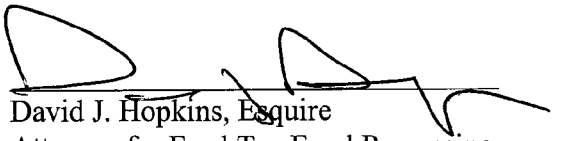
3. Conduct the trial of the coordinated cases in the Court of Common Pleas of Clearfield County under Docket No. 2004-1146-CD.

4. Stay any all proceedings in the Court of Common Pleas of McKean County filed to Docket No. 915-CD 2004; and

5. Make any other appropriate Orders as the Court deems necessary.

Respectfully submitted,

HOPKINS HELTZEL LLP



David J. Hopkins, Esquire
Attorney for FreshTec Food Processing Equipment International, LLC

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PRECISION FABRICATION AND CONTROLS, INC., Plaintiff	:	
	:	No. 915 C.D. 2004
v.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Petition to Coordinate Actions Pursuant to Pa.R.C.P. §213.1, filed on behalf of FreshTec Food Processing Equipment International, LLC, was forwarded by first class mail, postage prepaid, on the 21st day of September, 2004, to all counsel of record, addressed as follows:

Eugene J. Brew, Esquire
McClure & Miller LLP
717 State Street, Suite 701
Erie, PA 16501

David J. Hopkins, Esquire
Attorney for Defendant

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

FILED 6cc
0 12:14 BD 2 cc to atty
SEP 23 2004
William A. Shaw
Prothonotary

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PRECISION FABRICATION AND CONTROLS, INC., Plaintiff	:	
v.	:	No. 915 C.D. 2004
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant	:	

RULE TO SHOW CAUSE

AND NOW, this 22ND day of September 2004, upon consideration of the attached Petition, a Rule is hereby issued upon Respondent, Precision Fabrication and Advanced Industrial Controls, Inc., to Show Cause why the Petition should not be granted. Rule Returnable the 12 day of October, 2004, for filing written response.

Pursuant to Pa.R.C.P. 213.1(b), the matter of Precision Fabrication and Controls, Inc. vs. FreshTec Food Processing Equipment International, LLC filed in the Court of Common Pleas of McKean County at Docket No. 915 C.D. 2004 is hereby stayed pending a resolution of this Petition to Coordinate Actions Pursuant to Pa.R.C.P. §213.1.

NOTICE

A PETITION OR MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION BY ENTERING A WRITTEN APPEARANCE

PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITIONER OR MOVANT. YOU MAY LOOSE 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.

COURT ADMINISTRATOR
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 15801
(814) 765-2641

BY THE COURT,

Paul E Cherry

JUDGE

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - (LAW)

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
A Pennsylvania Limited Liability Company
PLAINTIFF

vs.

PRECISION FABRICATION AND
CONTROLS, INC. and ADVANCED
INDUSTRIAL CONTROLS, INC.
DEFENDANTS

No. 2004-1146-CD

Type of Case: Equity -
Injunctive Relief

Type of Pleading:
Motion for Summary Judgment
or Partial Summary Judgment

Filed on behalf of:
Precision Fabrication & Controls,
Inc.
Defendant

Counsel of record for this party:

Eugene J. Brew, Esq.
McClure & Miller LLP
717 State St., Suite 701
Erie, PA 16501
(814) 453-3681
Supreme Court No. 06500

Counsel of Record for Adverse
Party:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

Dated: Oct. 4, 2004

FILED EGK
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OCT 06 2004
William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT OR PARTIAL SUMMARY JUDGMENT

Defendant, Precision Fabrication and Controls, Inc. by its attorney, Eugene J. Brew, Esq., files this Motion for Summary Judgment or Partial Summary Judgment in the above matter, and sets forth in support thereof:

1. The Plaintiff, FreshTec Food Processing Equipment International, LLC, (FreshTec) filed this action against Precision Fabrication and Controls, Inc. (Precision) in four Counts requesting (1) a Decree determining which Defendant, Precision or Advanced Industrial Controls, Inc. (AIC) should be paid for the work performed under various contracts, in manufacturing machines for FreshTec, (2) Injunction enjoining Precision from disparaging the reputation and good will of FreshTec, (3) a judgment related to the allegation that Precision has made false statements to FreshTec's customers to induce them to terminate their relationship with FreshTech, and (4) an Order directing Precision to return to FreshTec "confidential information".

2. There is no genuine issue of material fact, and Precision is entitled to Summary Judgment as a matter of law on all four Counts.

3. The Complaint does not state a cause of action as to any of the four Counts against Precision.

WHEREFORE, Precision requests entry of Summary Judgment or Partial Summary Judgment in its favor and against FreshTec on all four Counts in FreshTec's Complaint.

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls, Inc.

Dated: ~~September~~ OCTOBER 1, 2004

CERTIFICATE OF MAILING

I, EUGENE J. BREW, ESQ., certify that on the below date I served a true copy of the within pleading by mailing the same to the following by postage pre-paid on the following date:

Honorable Paul E. Cherry,
Judge of the Court of Common Pleas
Clearfield County
Clearfield County Court House
230 E. Market St.
Clearfield, PA 16830

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801
Attorney for Plaintiff

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls, Inc.

Dated: October 4, 2004

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - (LAW)

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
A Pennsylvania Limited Liability Company
PLAINTIFF

vs.

PRECISION FABRICATION AND
CONTROLS, INC. and ADVANCED
INDUSTRIAL CONTROLS, INC.
DEFENDANTS

No. 2004-1146-CD

Type of Case: Equity -
Injunctive Relief

Type of Pleading:
Affidavit of Robert J. Stewart
in Support of Defendant's
Precision Fabrication and Controls,
Inc., Motion for Summary Judgment
or Partial Summary Judgment

Filed on behalf of:
Precision Fabrication & Controls,
Inc.
Defendant

Counsel of record for this party:

Eugene J. Brew, Esq.
McClure & Miller LLP
717 State St., Suite 701
Erie, PA 16501
(814) 453-3681
Supreme Court No. 06500

Counsel of Record for Adverse
Party:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

Dated: Oct. 4, 2004

EGK
FILED NO CC
m/1:54 BK
OCT 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

AFFIDAVIT OF ROBERT J. STEWART IN SUPPORT OF DEFENDANT'S, PRECISION FABRICATION AND CONTROLS, INC. MOTION FOR SUMMARY JUDGMENT

COMMONWEALTH OF PENNSYLVANIA

:SS:

COUNTY OF McKEAN

Before me, a Notary Public, personally appeared ROBERT J. STEWART, who being first duly sworn according to law deposes and states that he:

1. Is an individual, President of Precision Fabrication and Controls, Inc. (Precision), whose business address is P. O. Box 331, 195 Chestnut Street, Bradford, PA, 16701;

2. He was formerly employed by Advanced Industrial Controls, Inc. (AIC).

3. In April, 2004, Precision purchased from AIC all of AIC's inventory, fixed assets, contracts, and most of its work-in-progress.

4. Subsequently, AIC went out-of-business.

5. At a meeting on April 28, 2004, attended by Affiant representing Precision, Ben Brechtel from Precision, Marty Casilio from Precision, (later went to work for FreshTec), Larry Salone, a principal at FreshTec, and Loyd E. Swain, II, from AIC, it was discussed and agreed to by the parties present, that AIC was going to cease doing business, that Precision would complete the uncompleted contracts with FreshTec, FreshTec would be sending Precision new orders for machines, and Precision would complete all of the work with FreshTec. Then Precision would invoice FreshTec upon completion and shipment of the machines, and FreshTec would pay Precision the amount due on the invoice.

6. Thereafter, Precision gave Larry Salone of FreshTec, revised quotes for some of the machines, and Mr. Salone wrote down payment checks on all of the orders that had had no down payment checks written on them, giving Precision instructions to proceed with the orders.

7. At that time Mr. Salone handed Precision two (2) checks that were made payable to AIC and dated April 12, 2004, which were being held by FreshTec's attorney. The parties agreed that Precision would start producing parts and machines for FreshTec.

8. Precision continued to complete the contracts of AIC, including those contracts with FreshTec that had not been completed at the time Precision purchased the assets of AIC.

9. FreshTec submitted new contracts for additional work, the manufacture of machines, to Precision, attached hereto, made a part hereof, marked Exhibit "A" is a list of the Purchase Orders submitted to either AIC or Precision by FreshTec, which have all been completed and shipped per instructions by Precision.

10. The total balance due Precision from FreshTec on account of the machines manufactured and shipped, and shown on Exhibit "A", is $147,352.00.

11. None of this sum has been paid.

12. Precision has agreed to accept checks payable to both AIC and Precision for the sums due.

13. No employee of Precision has ever contacted any of FreshTec's customers and advised them of the failure of FreshTec to pay Precision invoices that are due, to the knowledge of your Affiant.

14. Precision has no present intention of contacting FreshTec's customers to notify them of FreshTec's failure to pay Precision invoices.

15. Precision has no "confidential information" related to the construction of machinery ordered by FreshTec, that it has not returned to FreshTec.

16. Any such information received, information on the construction of machinery, was returned to FreshTec, or FreshTec's customers when the machines were shipped.

And further, your Deponent sayeth not.

Robert J. Stewart, Pres.
Robert J. Stewart

Sworn to and subscribed before me

this 30th day of September, 2004.

Judy A. Gilmore
Notary Public

My Commission Expires: 7-5-05

Notarial Seal
Judy A. Gilmore, Notary Public
City of Bradford, McKean County
My Commission Expires July 5, 2005
Member, Pennsylvania Association of Notaries

Precision Fabrication & Controls, Inc.

Precision Fabrication Accounts Receivable Aging - Freshtec

As of August 3, 2004

Customer	Quotation Number	Purchase Order Number	Sale Amount	Down Payment	Invoice Number	Date	Sales Amount	Paid Date	Check #
Freshtec Intl LLC.	1008	10804001	$ 48,060.00		1042	5/19/2004	$28,836.00		
				$ 19,224.00	76127AIC	12/31/2003		2/11/2004	1021
Freshtec Intl LLC.	1005	33004063	$ 4,600.00		1042	5/19/2004	$2,760.00		
				$ 1,840.00	1014	4/28/2004		4/28/2004	403
Freshtec Intl LLC.	1005	21904030	$ 18,500.00		1054	5/24/2004	$12,950.00		
				$ 5,550.00	76222AIC	3/17/2004		3/17/2004	1090
Freshtec Intl LLC.	1008	10804001	$ 48,060.00		1075	6/1/2004	$28,836.00		
				$ 19,224.00	76127AIC	12/31/2003		2/11/2004	1021
Freshtec Intl LLC.	1005	33004063	$ 9,400.00		1076	6/9/2004	$5,640.00		
				$ 3,760.00	1014	4/28/2004		4/28/2004	403
Freshtec Intl LLC.	1005	2190430	$ 12,000.00		1077	6/8/2004	$8,400.00		
				$ 3,600.00	76222AIC	3/17/2004		3/17/2004	1090
Freshtec Intl LLC.	Adder	60904137	$ 150.00		1079	6/10/2004	$150.00		
Freshtec Intl LLC.	1007	41204075	$ 2,600.00		1080	6/10/2004	$1,560.00		
				$ 1,040.00	1013	4/28/2004		4/28/2004	408
Freshtec Intl LLC.	1617	21904028	$ 10,800.00		1090	6/15/2004	$7,560.00		
				$ 3,240.00	76223AIC	2/27/2004		3/17/2004	1009
Freshtec Intl LLC.	1004	33004062	$ 5,400.00		1091	6/16/2004	$3,240.00		
				$ 2,160.00	1016	4/28/2004		4/28/2004	402
Freshtec Intl LLC.	1010	40804072	$ 10,800.00		1108	6/25/2004	$6,480.00		
				$ 4,320.00	1015	4/28/2004		4/28/2004	407
Freshtec Intl LLC.	1636	21904028	$ 3,800.00		1119	7/7/2004	$3,800.00		
Freshtec Intl LLC.	1004	33004062	$ 1,900.00		1120	7/7/2004	$1,900.00		
Freshtec Intl LLC.	1006	40804073	$ 32,400.00		1127	7/13/2004	$19,440.00		
				$ 12,960.00	1012	4/28/2004		4/28/2004	406
Freshtec Intl LLC.	1010	40804072	$ 3,800.00		1135	7/19/2004	$3,800.00		
Freshtec Intl LLC.	1006	40804073	$ 11,400.00		1136	7/19/2004	$11,400.00		
							$146,752.00		
AIC									
Freshtec Intl LLC.					76317	4/15/2004	$600.00		
							$600.00		$0.00
									$0.00

EXHIBIT

tabbies

"A"

CERTIFICATE OF MAILING

I, EUGENE J. BREW, ESQ., certify that on the below date I served a true copy of the within pleading on the following by mailing the same to the following by postage pre-paid on the following date:

Honorable Paul E. Cherry,
Judge of the Court of Common Pleas
Clearfield County
Clearfield County Court House
230 E. Market St.
Clearfield, PA 16830

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication & Controls, Inc.

Dated: October 4, 2004

FILED

OCT 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - (LAW)

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
A Pennsylvania Limited Liability Company
PLAINTIFF

vs.

PRECISION FABRICATION AND
CONTROLS, INC. and ADVANCED
INDUSTRIAL CONTROLS, INC.
DEFENDANTS

No. 2004-1146-CD

Type of Case: Equity -
Injunctive Relief

Type of Pleading:
Answer to Petition to
Coordinate Actions

Filed on behalf of:
Precision Fabrication & Controls,
Inc.
Defendant

Counsel of record for this party:

Eugene J. Brew, Esq.
McClure & Miller LLP
717 State St., Suite 701
Erie, PA 16501
(814) 453-3681
Supreme Court No. 06500

Counsel of Record for Adverse
Party:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

FILED EGK
m/1:49 NO CC
OCT 06 2004
William A. Shaw
Prothonotary/Clerk of Courts

Dated: October 4, 2004

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 915 C.D. 2004

ANSWER TO PETITION TO COORDINATE ACTIONS

Precision Fabrication and Controls, Inc. (Precision) by its attorney, Eugene J. Brew, Esq., files this Answer to the Petition of FreshTec Food Processing Equipment International LLC (FreshTec) to Coordinate Actions pursuant to Pa. R.C.P. 213.1.

1. Admitted.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted. Further answering, at the special request of FreshTec, Precision manufactured unique, special machinery at a set price, to be paid by FreshTec. FreshTec intended to sell the machinery manufactured by Precision to FreshTec's customers.

6. Admitted.

7. Admitted. Further answering, Precision consented to the Preliminary Injunction on July 29, 2004, advising the Court that Precision never contacted FreshTec's customers or took any action to encumber any manufactured machinery held by these customers, and did not intend in the future to take any such action.

8. Admitted. Further answering, no monies have been paid on account of the $147,352.00 that is owed to Precision by FreshTec, although FreshTec has taken delivery of the machines, and resold most of them to FreshTec's customers.

9. Denied that the fundamental issue in both cases revolves around sums allegedly outstanding on invoices for food processing equipment sold. The McKean County action (Precision vs. FreshTec, No. 10915-2004) is an action for breach of contract for payment on fifteen (15) Precision invoices totaling $146,752.00, and one AIC invoice totaling $600.00, the machines and equipment covered by invoices having been shipped to FreshTec, and FreshTec having refused to make payment therefor. The Clearfield County action (FreshTec vs. Precision, No. 2004-1146 C.D.) is an equity action for injunctive relief, seeking a Court determination of who to make payment to, Precision or AIC; a Count to enjoin defamation, a Count for tortious interference with contract relationships, and a Count requesting the return of confidential information.

10. Denied that Pa. R.C.P. 213.1 allows for the coordination of these two actions. Denied that the two cases arise out of a common question of fact and from the same occurrence. The Clearfield County action seeks injunctive relief, and the McKean County action is a garden

variety collection action for monies due for the payment of machinery sold.

11. Denied that it is appropriate to consolidate the two actions.

(a) The non-payment of the invoices due to Precision is only an issue in the collection action in McKean County.

(b) The collection action need only be tried once, in McKean County. Whatever county the matter is heard in, McKean or Clearfield, will be convenient for one party, and inconvenient for the other.

(c) Coordination of the two cases is unnecessary and not called for under Rule 213.1.

(d) Coordination will not be more efficient than allowing the two cases to proceed on their own. The Clearfield County case has no merit, and should be dismissed on a Motion for Summary Judgment.

(e) Failure to coordinate will not cause inconsistent or duplicative rulings, orders or judgments.

(f) Settlement will not be more likely if the actions are coordinated.

12. Admitted that the Court has the power to stay the proceedings in McKean County, but is urged not to do so for the reasons set forth herein.

WHEREFORE, Respondent, Precision Fabrication and Controls, Inc., requests the Court to dismiss the Petition to Coordinate the Actions.

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and
Controls, Inc.

Dated: October 4, 2004

CERTIFICATE OF MAILING

I, EUGENE J. BREW, ESQ., certify that on the below date I served a true copy of the within pleading on the following by mailing the same to the following by postage pre-paid on the following date:

Honorable Paul E. Cherry,
Judge of the Court of Common Pleas
Clearfield County
Clearfield County Court House
230 E. Market St.
Clearfield, PA 16830

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication & Controls, Inc.

Dated: October 4, 2004

FILED

OCT 0 6 2004

William A Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania Limited Liability Company	:	
vs.	:	No. 04-1146-CD
PRECISION FARICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	

ORDER

AND NOW, this 7th day of October, 2004, it is the ORDER of the Court that argument on Attorney Brew's Motion for Summary Judgment or Partial Summary Judgment filed in the above matter has been scheduled for the 18 day of November, 2004, at 2:30 P.M, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

FILED
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OCT 0 8 2004

William A. Shaw
Prothonotary

BY THE COURT:

Paul E. Cherry

PAUL E. CHERRY
Judge

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania Limited Liability Company	:	
vs.	:	No. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	

FILED
01 8:47 BL
OCT 26 2004
William A. Shaw
Prothonotary Clerk of Courts

cc Atty's: Hopkins Brew (CIA envelopes)

ORDER

AND NOW, this 25th day of October, 2004, it is the ORDER of the Court that argument on Attorney Brew's Motion for Summary Judgment or Partial Summary Judgment filed in the above matter has been rescheduled from November 18, 2004 to **Tuesday, November 9, 2004 at 1:30 P.M.**, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

Paul E. Cherry

PAUL E. CHERRY
Judge

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1577 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	Type of Pleading: Motion to Consolidate Actions Pursuant to Pa.R.C.P. §213(a)
	:	Filed on behalf of: FreshTec Food Processing Equipment, International, LLC.
	:	Counsel of Record for this Party:
	:	HOPKINS HELTZEL, LLP
	:	David J. Hopkins, Esquire Attorney at Law Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801 (814) 375-0300

FILED NO CC
01:57 BK
NOV 05 2004
William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1577 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

MOTION TO CONSOLIDATE ACTIONS
PURSUANT TO Pa.R.C.P. 213(a)

AND NOW, comes Defendants, Backus USA, Inc. ("Backus") and FreshTec Food Processing Equipment International, LLC ("FreshTec"), by and through their undersigned attorneys, Hopkins Heltzel LLC, and files the within Motion and states as follows:

1. Movant, Backus USA, Inc., is a Delaware corporation with its principal place of business located at P.O. Box 585, DuBois, PA 15801.

2. Movant, FreshTec Food Processing Equipment International, LLC, is a Pennsylvania limited liability corporation with its principal place of business located at P.O. Box 585, DuBois, Pennsylvania 15801.

3. Respondent is Precision Fabrication & Controls, Inc., a Pennsylvania corporation with offices located at 195 Chestnut Street, Bradford, PA 16701.

4. Respondent is Advanced Industrial Controls, Inc., a Pennsylvania corporation with an unknown location.

5. Precision is in the business of designing, fabricating and manufacturing machinery and equipment for industry.

6. FreshTec is in the business of selling machinery and equipment to the food processing industry.

7. Precision and FreshTec engaged in a series of transactions involving the purchase of such machinery and equipment, such transactions being the subject matter of this litigation.

8. FreshTec commenced an action in equity in the Court of Common Pleas of Clearfield County Pennsylvania at No. 2004-1146-CD on July 28, 2004, against both Precision and Advance Industrial Controls, Inc., seeking entry of a decree with respect to the proper party to receive payment for the machinery ordered; and asserting claims for defamation and, tortious interference with contractual relationships and seeking specific performance.

9. Simultaneously, FreshTec sought a preliminary injunction against Precision. The injunction was granted by the Court on July 29, 2004, and precluded Precision and AIC from contacting FreshTec's customers regarding sums due and owing under any invoices or on

any other issue and from taking any action to encumber any machinery held by or in the possession of FreshTec's customers.

10. Backus and FreshTec commenced a civil action against Precision and AIC by Complaint filed on October 12, 2004 in the Court of Common Pleas of Clearfield County, Pennsylvania, at No. 2004-1577, asserting claims for breach of contract relating to a noncompete agreement and confidentiality agreement, both of which were executed by the parties as a prerequisite to the manufacture of the food processing equipment for customers of Backus and FreshTec.

11. The fundamental issue in both cases revolves around the transactions connected with the manufacture of food processing machinery by Defendants. Pa.R.C.P. No. 213(a) sanctions the consolidation of actions in this case because both cases arise out of a common question of law and fact and from the same occurrence.

12. Pursuant to Pa.R.C.P. No. 213(a), it is appropriate to consolidate the two actions:

a. The issue concerning whether AIC or Precision is the contracting party with respect to the manufacture of the food processing equipment is a critical issue in both actions, and predominant and significant to the litigation;

b. Coordination will result in an expeditious resolution of the issues raised in these actions. Coordination will be the more efficient utilization of judicial facilities and personnel and will result in the just and efficient conduct of the actions;

c. Failure to coordinate could cause duplicative and inconsistent rulings, orders or judgments; and

d. Settlement is more likely if the actions are coordinated.

WHEREFORE, Petitioner, FreshTec Food Processing Equipment International, LLC prays this Honorable Court to:

1. Consolidate Court of Common Pleas of Clearfield County case of FreshTec Food Processing Equipment International, LLC v. Precision Fabrication and Controls, Inc. and Advanced Industrial Controls, Inc., filed to Docket No. 2004-1146-CD, with the Court of Common Pleas of Clearfield County case of Backus USA, Inc. and Precision Fabrication & Controls, Inc. v. FreshTec Food Processing Equipment International, LLC, filed to Docket No. 2004-1577-CD.

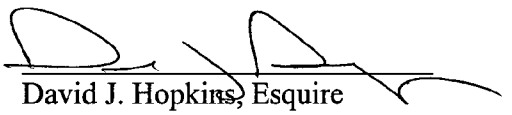
2. Require all discovery and pretrial matters in the consolidated cases be filed in the Court of Common Please of Clearfield County under Docket No. 2004-1146-C.D.

3. Conduct the trial of the coordinated cases in the Court of Common Pleas of Clearfield County under Docket No. 2004-1146-CD; and

4. Make any other appropriate Orders as the Court deems necessary.

Respectfully submitted,

HOPKINS HELTZEL LLP



David J. Hopkins, Esquire
Attorney for Plaintiffs

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BACKUS USA, INC, a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1577 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

RULE TO SHOW CAUSE

AND NOW, this _____ day of _____2004, upon consideration of the attached Motion to Consolidate, a Rule is hereby issued upon Respondent, Precision Fabrication and Advanced Industrial Controls, Inc., to Show Cause why the Motion to Consolidate Actions Pursuant to Pa.R.C.P §213(a) should not be granted. Rule Returnable the _____ day of _____, 2004 at _____ o'clock, ___.M. at the Clearfield County Courthouse, 230 E. Market Street, Clearfield, Pennsylvania 15801.

BY THE COURT,

_____
JUDGE

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1577 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

ORDER

AND NOW, this __ day of November, 2004, it is hereby ORDERED, ADJUDGED AND DECREED, that Plaintiff's Motion to Consolidate Pursuant to Pennsylvania Rule of Civil Procedure 213(a), be and is hereby GRANTED, as follows

1. Court of Common Pleas of Clearfield County case of FreshTec Food Processing Equipment International, LLC v. Precision Fabrication and Controls, Inc. and Advanced Industrial Controls, Inc., filed to Docket No. 2004-1146-CD, with be and is hereby

consolidated with the Court of Common Pleas of Clearfield County case of Backus USA, Inc. and Precision Fabrication & Controls, Inc. v. FreshTec Food Processing Equipment International, LLC, filed to Docket No. 2004-1577-CD.

2. All discovery and pretrial matters in the consolidated cases be filed in the Court of Common Please of Clearfield County under Docket No. 2004-1146-C.D.

3. Trial of the coordinated cases shall take place in the Court of Common Pleas of Clearfield County under Docket No. 2004-1146-CD.

BY THE COURT,

_____

JUDGE

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

FILED 1cc
01:51 BOH Atty
NOV 05 2004 Hopkins
William A. Shaw
Prothonotary/Clerk of Courts

AFFIDAVIT OF LAWRENCE J. SALONE IN OPPOSITION TO DEFENDANT PRECISION FABRICATION AND CONTROLS, INC.'S MOTION FOR SUMMARY JUDGMENT OR PARTIAL SUMMARY JUDGMENT

COMMONWEALTH OF PENNSYLVANIA
:SS:
COUNTY OF CLEARFIELD

Before me, a Notary Public, personally appeared LAWRENCE J. SALONE, who being first duly sworn according to law deposes and states that:

1. I am the President of FreshTec Food Processing Equipment International, LLC, whose business address is P.O. Box 585, DuBois, Pennsylvania 15801.

2. That in April 2004, I was advised by Benjamin Brechtel of Precision Fabrication and Controls, Inc. and Loyd Swain, II, of Advanced Industrial Controls, Inc., that Advanced Industrial Controls, Inc, was going to cease doing business, that Precision Fabrication and Controls, Inc., would complete the machines under construction for FreshTec, and that FreshTec should pay Precision for such machinery.

3. Subsequently, I received a copy of a "bulk sales notice" relating to AIC from a third party. Said notice, indicated that Precision acquired the assets and secured debt of AIC on or about April 15, 2004, pursuant to a purported "bulk transfer." And

that the property to be transferred to Precision included intangible assets, contracts and most work in progress. The "bulk sales notice" is attached hereto as Exhibit A.

4. I was never advised by AIC or Precision as to whether there had a formal assignment of contracts between AIC and Precision and who would be responsible for defects in products produced by AIC.

5. Despite my repeated requests, I never received a satisfactory response as to whether AIC retained any rights with respect to the payments due under invoices for machinery ordered from AIC.

6. The machinery produced by Precision for FreshTec was delivered in an untimely fashion, and was in most instances defective. The equipment was so poorly constructed as to render it valueless, if not dangerous.

7. In July 2004, Benjamin Brechtel of Precision, attempted to contact me to resolve outstanding payment of invoices for machinery.

8. I advised my attorney to resolve such payment issues, but also required that an indemnity be obtained protecting FreshTec in the event that any liability to AIC still existed.

9. Precision and AIC were given access to confidential customer information necessary to the design and fabrication of certain food processing equipment. The design of such machinery in and of itself is confidential information. To the best of my knowledge, information and belief, Precision is using confidential information acquired from FreshTec to construct machinery and equipment to be sold in direct competition with FreshTec.

And further, your Deponent sayeth not.

Lawrence J. Salone

Sworn to and subscribed before me
this 4th day of November, 2004.

Notary Public

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
ROBINA L THOMPSON, NOTARY PUBLIC
CITY OF DUBOIS, CLEARFIELD COUNTY
MY COMMISSION EXPIRES APRIL 3, 2008

McCLURE & MILLER LLP
ATTORNEYS AT LAW
SUITE 701, 717 STATE STREET
ERIE, PENNSYLVANIA 16501

Daniel L. R. Miller
Eugene J. Brew
Edward P. Wittmann
Michael J. Vlasaky
Christine Hall McClure
Jeffrey J. Cole
David J. Rhodes
Tracy L. Harris

Harvey D. McClure, Esq. (of counsel)
Herbert J. Johnson, Esq. (of counsel)

Telephone: (814) 453-3681
Telecopier: (814) 454-1554
E-mail address:
gbrew@mcclure-miller.com

April 7, 2004

TO THE CREDITORS OF: ADVANCED INDUSTRIAL CONTROLS, INC.,
536 East Main Street
Bradford, PA 16701

Please take notice of the following. Based on information received from the intended Purchaser of the assets of Advanced Industrial Controls, Inc., the following information is submitted:

1. A bulk transfer of the assets of ADVANCED INDUSTRIAL CONTROLS, INC., is about to be made.

2. The name and address of the Transferee, or purchaser of the assets is: PRECISION FABRICATION & CONTROLS, INC., 195 Chestnut Street, P. O. Box 331, Bradford, PA, 16701.

3. All of the debts of ADVANCED INDUSTRIAL CONTROLS, INC., are not to be paid as they fall due as a result of this transaction.

4. The location and general description of the property to be transferred is: All inventory, fixed assets, accounts receivable, name, customer list, intangible assets, non-compete agreements, contracts, and most work-in-progress of ADVANCED INDUSTRIAL CONTROLS, INC., located at its place of business, 536 East Main Street, and 245 Chestnut Street, Bradford, PA, 16701.

5. The total debts of ADVANCED INDUSTRIAL CONTROLS, INC., exceed the value of its assets.

6. The transfer is for new consideration, and the amount of such consideration is $100,000.00, and assumption of most of the secured debt of ADVANCED INDUSTRIAL CONTROLS, INC.

7. The purchaser/Transferee intends to continue in business at the same locations.

8. The time and place of the transfer of the assets and payment is expected to be on or about APRIL 15, 2004, at a location to be determined in either Bradford or Erie, PA.

Eugene J. Brew, Esq

11,107.34

TOTAL P.01

EXHIBIT "A"

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,
a Pennsylvania limited liability company,
Plaintiff,

v.

PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.
Defendants.

No. 2004-1146-CD

FILED EGK NO CC
01:51 pd
NOV 05 2004
William A. Shaw
Prothonotary/Clerk of Courts

Type of Pleading: Reply to Motion for Summary Judgment or Partial Summary Judgment

Filed on behalf of: FreshTec Food Processing Equipment International, LLC

Counsel of Record for this party:

HOPKINS HELTZEL, LLP

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

900 Beaver Drive
DuBois, Pennsylvania 15801
(814) 375-0300

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

PLAINTIFF'S REPLY TO DEFENDANT PRECISION FABRICATION AND CONTROLS, INC.'S MOTION FOR SUMMARY JUDGMENT OR PARTIAL SUMMARY JUDGMENT

AND NOW, comes Plaintiff, Freshtec Food Processing Equipment International, LLC ("Freshtec"), by and through its attorneys, Hopkins Heltzel LLP, and files this Reply to the Motion for Summary Judgment or Partial Summary Judgment in the above matter and sets forth in support thereof:

1. Plaintiff's Complaint filed at the above-caption speaks for itself and no further response is necessary.

2. Denied. There exists a genuine issue of material fact as to the proper party to receive payment for the equipment ordered pursuant to the invoices referenced in Plaintiff's complaint. As set forth in Plaintiff's Complaint, while all of the machinery was invoiced by Defendant Precision, original orders on several of the machines were taken by a company known as AIC. Indeed plaintiff's discussions regarding the purchase of the various pieces of machinery and orders were originally made with AIC. However, during the course of these transactions AIC's operations were taken over by Precision and the machinery was actually delivered to

WHEREFORE, Plaintiff opposes Precision's request for entry of summary judgment in its favor and against FreshTec on the counts set forth in FreshTec's complaint and requests that this Court deny Precision's Motion for Summary Judgment or Partial Summary Judgment

Freshtec by Precision. Further, Plaintiff was not notified and has no knowledge of the legal relationship, if any between precision and AIC. As such, payment of the invoices to Precision could potentially expose Plaintiff to liability to AIC. While Precision asserts that Plaintiff was notified that AIC would cease doing business, that Precision would complete any outstanding contracts, and that Precision should receive payment on the invoices, Plaintiff received no formal assignment or other documentation indicating that Precision had assumed AIC's contracts. As such, Plaintiff is in the position of not knowing who the contracting party is with respect to the food processing equipment. In addition to Plaintiff's concern that it may have continuing liability to AIC, Plaintiff also is uncertain as to whether Precision will now be resposibile for the defects in the machinery delivered to Plaintiff which was ordered from AIC. Moreover, these defects in the machinery delivered by Precision, have caused Plaintiff to incur substantial costs directly attributable to Precision's performance of these contracts. Finally, if, as Precision asserts, AIC has ceased to exist, any legal relief to which Plaintiffs may be entitled must be sought from Precision. This would include protection from disparagement or tortuous intereference with Plaintiff's customers. As such, resolution of the issue of the legal relationship between AIC and Precision is central and critical to the resolution of the issues in this case. There exists a genuine issue of material fact as to the present legal identity of the contracting party for the food processing machinery, and as such summary judgment must be denied.

3. Denied. Plaintiff's complaint does indeed state a cause of action as set forth in the four counts against Precision.

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

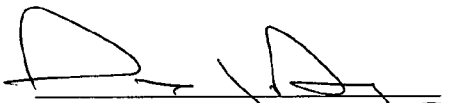
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Reply to Motion for Summary Judgment or Partial Summary Judgment, filed on behalf of FreshTec Food Processing Equipment International, LLC, was forwarded by facsimile and first class mail, postage prepaid, on the 5th day of November, 2004, to all counsel of record, addressed as follows:

Facsimile: (814) 454-1554

Eugene J. Brew, Esquire
McClure & Miller LLP
717 State Street, Suite 701
Erie, PA 16501

Advanced Industrial Controls, Inc.
536 East Main Street
Bradford, PA 16701



David J. Hopkins, Esquire
Attorney for FreshTec Food Processing
International LLC

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - (LAW)

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
A Pennsylvania Limited Liability Company
PLAINTIFF

vs.

PRECISION FABRICATION AND
CONTROLS, INC. and ADVANCED
INDUSTRIAL CONTROLS, INC.
DEFENDANTS

No. 2004-1146-CD

Type of Case: Equity -
Injunctive Relief

Type of Pleading:
Affidavit of Service

Filed on behalf of:
Precision Fabrication & Controls,
Inc.
Defendant

Counsel of record for this party:

Eugene J. Brew, Esq.
McClure & Miller LLP
717 State St., Suite 701
Erie, PA 16501
(814) 453-3681
Supreme Court No. 06500

Counsel of Record for Adverse
Party:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

FILED EGK
M 11:36 BA ICC to atty
NOV 05 2004
William A. Shaw
Prothonotary

Dated: November 2, 2004

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF ERIE :SS:

I, Eugene J. Brew, Esq., 717 State Street, Suite 701, Erie, PA, being first duly sworn according to law, depose and state that I mailed a true copy of the Order of Court in the above matter dated October 7, 2004, on October 12, 2004, a copy of which is attached hereto, upon the following on the below date by U.S. Mail, postage prepaid:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801
Attorney for Plaintiffs

Advanced Industrial Controls, Inc.
536 East Main St.
Bradford, PA 16701
Defendant

Court Administrator
Clearfield County
230 E. Market St.
Clearfield, PA 16830

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls,Inc.

Dated: November 2, 2004

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania Limited Liability Company	:	
vs.	:	No. 04-1146-CD
PRECISION FARICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	

ORDER

AND NOW, this 7th day of October, 2004, it is the ORDER of the Court that argument on Attorney Brew's Motion for Summary Judgment or Partial Summary Judgment filed in the above matter has been scheduled for the 18th day of November 2004, at 2:30 P.M, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

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

OCT 08 2004

Attest.

Prothonotary/
Clerk of Courts

BY THE COURT:

/s/ Paul E. Cherry

PAUL E. CHERRY
Judge

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FILED
05 2004
William A. Shaw
Prothonotary/Clerk of Courts

BACKUS USA, INC, a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1577 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Motion to Consolidate Actions Pursuant to Pa.R.C.P. §213(a), filed on behalf of FreshTec Food Processing Equipment International, LLC, was forwarded by facsimile and first class mail, postage prepaid, on the 5th day of November, 2004, to all counsel of record, addressed as follows:

Facsimile: (814) 454-1554

Eugene J. Brew, Esquire
McClure & Miller LLP
717 State Street, Suite 701
Erie, PA 16501

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - (LAW)

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
A Pennsylvania Limited Liability Company
PLAINTIFF

vs.

PRECISION FABRICATION AND
CONTROLS, INC. and ADVANCED
INDUSTRIAL CONTROLS, INC.
DEFENDANTS

No. 2004-1146-CD

Type of Case: Equity -
Injunctive Relief

Type of Pleading:
Affidavit of Service

Filed on behalf of:
Precision Fabrication & Controls,
Inc.
Defendant

Counsel of record for this party:

Eugene J. Brew, Esq.
McClure & Miller LLP
717 State St., Suite 701
Erie, PA 16501
(814) 453-3681
Supreme Court No. 06500

Counsel of Record for Adverse
Party:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

FILED NO CC
m/1:46 BH
NOV 08 2004

William A. Shaw
Prothonotary/Clerk of Courts

Dated: November 4, 2004

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF ERIE :SS:

I, Eugene J. Brew, Esq., 717 State Street, Suite 701, Erie, PA, being first duly sworn according to law, depose and state that I mailed a true copy of the Order of Court in the above matter dated October 25, 2004, a copy of which is attached hereto, to the following, U.S. Mail, postage pre-paid on the below date:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801
Attorney for Plaintiffs

Advanced Industrial Controls, Inc.
536 East Main St.
Bradford, PA 16701
Defendant

Court Administrator
Clearfield County
230 E. Market St.
Clearfield, PA 16830

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls,Inc.

Dated: November 4, 2004

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania Limited Liability Company	:	
vs.	:	No. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	

ORDER

AND NOW, this 25th day of October, 2004, it is the ORDER of the Court that argument on Attorney Brew's Motion for Summary Judgment or Partial Summary Judgment filed in the above matter has been rescheduled from November 18, 2004 to **Tuesday, November 9, 2004 at 1:30 P.M.**, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

/s/ Paul E. Cherry

PAUL E. CHERRY
Judge

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

OCT 26 2004

Attest

Prothonotary/
Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Affidavit of Lawrence J. Salone in Opposition to Defendant Precision Fabrication and Controls, Inc.'s Motion for Summary Judgment or Partial Summary Judgment, filed on behalf of FreshTec Food Processing Equipment International, LLC, was forwarded by facsimile and first class mail, postage prepaid, on the 5th day of November, 2004, to all counsel of record, addressed as follows:

Facsimile: (814) 454-1554

Eugene J. Brew, Esquire
McClure & Miller LLP
717 State Street, Suite 701
Erie, PA 16501

Advanced Industrial Controls, Inc.
536 East Main Street
Bradford, PA 16701

David J. Hopkins, Esquire
Attorney for FreshTec Food Processing
International LLC

FILED NO CC
01:10 BM
NOV 09 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

NOV 09 2004

William A. Shaw
Prothonotary/Clerk of Courts

McCLURE & MILLER LLP

ATTORNEYS AT LAW
SUITE 701, 717 STATE STREET
ERIE, PENNSYLVANIA 16501

Daniel L. R. Miller
Eugene J. Brew
Edward P. Wittmann
Christine Hall McClure
Jeffrey J. Cole
David J. Rhodes

Harvey D. McClure, Esq. (of counsel)
Herbert J. Johnson, Esq. (of counsel)

Telephone: (814) 453-3681
Telecopier: (814) 454-1554
E-mail address:
gbrew@mcclure-miller.com

November 22, 2004

Honorable Paul E. Cherry,
Judge of the Court of Common Pleas
Clearfield County
Clearfield County Court House
230 E. Market St.
Clearfield, PA 16830

In Re: **FreshTec v. Precision - No. 2004-1146-CD; Clearfield County**
Backus, et al. v. Precision - No. 2004 -1577-CD; Clearfield County

Dear Judge Cherry:

I wish to correct the statement made by Attorney Hopkins in footnote 1 in his Brief in Opposition to Motion for Summary Judgment or Partial Summary Judgment in the FreshTec vs. Precision action at no. 2004-1146-CD, where he states that we have "entered an appearance on behalf of both Precision and AIC". The cover page of the appearance, did, through inadvertence, indicate that it was being filed on behalf of both Precision and AIC, however, the second page, the Acceptance of Service and the signed Appearance, clearly indicated that we were appearing only for Precision.

By a copy of this letter, I am requesting the Prothonotary to correct the docket, if it reflects otherwise.

We have never represented AIC. We do not represent AIC at this time. We are not representing AIC in any litigation pending before your Honorable Court.

Very truly yours,

McCLURE & MILLER LLP

By _____
Eugene J. Brew, Esq.

EJB:shb
cc: Prothonotary, Clearfield County
David Hopkins, Esq.
Precision Fabrication & Controls, Inc.

At one point, the docket was incorrect. Prior to receiving the letter, mistake was discovered & corrected.

CA

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - (LAW)

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
A Pennsylvania Limited Liability Company
PLAINTIFF

vs.

PRECISION FABRICATION AND
CONTROLS, INC. and ADVANCED
INDUSTRIAL CONTROLS, INC.
DEFENDANTS

No. 2004-1146-CD

Type of Case: Equity -
Injunctive Relief

Type of Pleading:
Motion for Sanctions

Filed on behalf of:
Precision Fabrication & Controls,
Inc.
Defendant

Counsel of record for this party:

Eugene J. Brew, Esq.
McClure & Miller LLP
717 State St., Suite 701
Erie, PA 16501
(814) 453-3681
Supreme Court No. 06500

Counsel of Record for Adverse
Party:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

FILED
m 1:41 BA No cc
NOV 15 2004
Prothc

Dated: November 11, 2004

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

MOTION FOR SANCTIONS

Precision Fabrication and Controls, Inc. by its attorney, Eugene J. Brew, Esq., files this Motion for Sanctions and sets forth in support thereof:

1. Precision served Interrogatories and Request for Production of Documents (First Set) Numbered 1 - 8 on FreshTec's counsel on August 23, 2004, Exhibit "A" attached hereto.

2. On October 1, 2004, Precision's counsel requested a response to his Interrogatories by letter, Exhibit "B" attached hereto.

3. FreshTec's counsel has never responded to the Interrogatories or the letter of October 1, 2004.

4. It has been ninety (90) days since the Interrogatories have been served.

5. Precision requests counsel fees for the time involved in filing and arguing this Motion for Sanctions.

WHEREFORE, Precision requests the Court to order FreshTec to respond to the Interrogatories forwarded to them.

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication & Controls, Inc.

Dated: November 11, 2004

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

ORDER

AND NOW, this _____ day of _____, 2004, on Precision Fabrication and Controls, Inc.'s Motion for Sanctions, IT IS ORDERED THAT FreshTec Food Processing Equipment International, LLC, and their counsel respond to Interrogatories served on them (First Set) within ten (10) days from the date of this Order, or further sanctions will be entered, including counsel fees.

_____

J.

CERTIFICATE OF MAILING

I, EUGENE J. BREW, ESQ., certify that on the below date I served a true copy of the within Motions for Sanctions on the following by mailing the same to the following by postage pre-paid on the following date:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801
Counsel for FreshTech Food Processing Equipment International LLC

Court Administrator
Clearfield County
Clearfield County Court House
230 E. Market St.
Clearfield, PA 16830

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication & Controls, Inc.

Dated: November 11, 2004

8/23/04

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF (FIRST SET)

To: FreshTec Food Processing Equipment International LLC
c/o David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

Plaintiff, by their attorney, Eugene J. Brew, Esq., serves the following Interrogatories on the Defendant, requiring answers under oath within thirty (30) days after service in accordance with Pa.R.C.P. 4006, and requesting responses to the Request for Documents within thirty (30) days after service in accordance with Pa.R.C.P. 4009.12, et seq.:

DEFINITIONS

1. "Plaintiff", "FreshTec", or "you" shall mean FreshTec Food Processing Equipment International LLC, and/or its employees, representatives, agents, attorney, supervisors, elected officials, and successors, and any and all persons acting or purporting to act on its behalf.

2. "Defendant", or "Precision" shall mean Precision Fabrications & Controls, Inc., its

EXHIBIT
"A"

officers, employees, representatives, agents, and attorneys.

3. "Advanced" or "Defendant Advanced" shall mean Advanced Industrial Controls, Inc., its officers, employees, representatives, agents, and attorneys.

4. The term "document" refers to written, printed, typed, computerized, computer-generated, computer-stored, tape recorded, and visually or orally reproduced material of any kind, whether or not privileged, and includes, but is not limited to, correspondences, faxes, e-mail communications, stenographic, handwritten or any other notes, memoranda, books, pamphlets, records, minutes, bills, contracts, agreements, orders, receipts, drawings or sketches, advertising or promotional literature, operating manuals or instructions, bulletins, cables or telegrams, tape or other recordings, computer disks, test data, studies, surveys, reports, publications, pictures, computer printouts, films, objects and other tangible things, including all non-identical copies of any such material.

5. The term "person" refers both to natural persons and to corporate or other business entities. Documents within the possession or control of a person are defined to include the documents in the possession or control of that persons's supervisors, elected officials, officers, members, employees, representatives, agents and attorneys.

6. The term "Complaint" or "your Complaint" refers the Complaint filed by FreshTec against Precision and Advanced in the Court of Common Pleas of Clearfield County, PA (Civil Division, at No. 2004-1146 CD).

1.

State the names, present addresses, phone numbers and job title of all persons known to you, your counsel or other representatives who have any knowledge of the facts set forth in your Complaint.

Answer:

2.

State the names, present address, job titles and telephone numbers of all persons that you presently intend to call as witnesses at any trial or hearing on the issues in your Complaint.

Answer:

3.

Please state the names and present addresses of each person who is an expert whom you expect to call as an expert witness at trial.

Answer:

4.

With respect to those persons identified in your answer to Interrogatory No. 3, please state the subject matter on which each expert witnesses is expected to testify.

Answer:

5.

With respect to those persons identified in your answer to Interrogatory No. 3, please state:

(a) His or her occupation, specialization, qualifications, including education and other training and professional experience; and

Answer:

(b) The substance of the facts and opinions to which each is expected to testify and a summary of the grounds for each opinion, including any text materials relied upon.

Answer:

(In answering Interrogatories 4 and 5, the signature of each person is required to be affixed to the answer hereto or to a separate report provided in lieu of an answer hereto.)

6.

Submit copies of any documents that you intend to use as evidence at trial in support of Count II of the Complaint (Defamation).

Answer:

7.

State whether or not (yes or no) you have evidence or information that Precision has advised any of FreshTec's customers in the food processing industry or currently using products received from FreshTec that FreshTec has not satisfied its payment obligations, and if your answer is yes, state the names, present addresses, occupation, and phone number of any persons who have this knowledge, and attach copies of any documents that indicate that this is a fact.

Answer:

8.

State what evidence or knowledge you have that Precision actually contacted any of FreshTec's customers to notify them of FreshTec's failure to pay invoices. If your answer is anything other than "none", state the details of the contact, who made the contact, to whom it was made, date, and what was said.

Answer:

9.

State with specificity, and details, including date, description and any other details that would help identify the document, if there is a document, what confidential information you are referring to in Count IV, Specific Performance.

Answer:

Respectfully submitted:

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Plaintiff

Dated: August 23, 2004

VERIFICATION

I, _____, _____ of FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC., depose and state that the facts set forth in the foregoing pleading are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to unsworn falsification to authorities.

_____

McCLURE & MILLER LLP

ATTORNEYS AT LAW
SUITE 701, 717 STATE STREET
ERIE, PENNSYLVANIA 16501

Daniel L. R. Miller
Eugene J. Brew
Edward P. Wittmann
Christine Hall McClure
Jeffrey J. Cole
David J. Rhodes

Harvey D. McClure, Esq. (of counsel)
Herbert J. Johnson, Esq. (of counsel)

Telephone: (814) 453-3681
Telecopier: (814) 454-1554
E-mail address:
gbrew@mcclure-miller.com

October 1, 2004

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

In Re: **FreshTec vs. Precision - No. 2004-1146 CD, Clearfield County**

Dear Attorney Hopkins:

Precision's Interrogatories and Request for Documents (First Set) was sent to you on August 23, 2004. To date, we have not received a response.

Please advise when we can expect a response to our request.

Thank you.

Very truly yours,

McCLURE & MILLER LLP

By EUGENE J. BREW
Eugene J. Brew, Esq.

EJB:shb

EXHIBIT
"B"

CA

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
V.	:	NO. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendant	:	

ORDER

AND NOW, this 16th day of November, 2004, upon consideration of the Defendant's Motion for Sanctions, it is the ORDER of this Court that hearing be held with regard to said Motion on the 9 day of December, 2004, beginning at 10:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

It is the further ORDER of this Court that counsel for defendant, Eugene J. Brew, Esquire shall be permitted to participate via telephone for purpose of said hearing. It shall be the responsibility of counsel to contact the Court.

BY THE COURT,

FILED 4cc & Memo
EOK 013:37 BM Re: service
NOV 16 2004 to Atty Brew

William A. Shaw
Prothonotary/Clerk of Courts

PAUL E. CHERRY,
JUDGE

FILED

NOV 16 2004

William A. Shaw
Prothonotary/Clerk of Courts

OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

CLEARFIELD COUNTY COURTHOUSE
SUITE 228, 230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830
PHONE: (814) 765-2641
FAX: 1-814-765-7649

DAVID S. MEHOLICK
COURT ADMINISTRATOR

MARCY KELLEY
DEPUTY COURT ADMINISTRATOR

MEMO: To all parties filing Petitions/Motions in Clearfield County:

Please make note of the following:

Rule 206(f) The party who has obtained the issuance of a Rule to Show Cause shall forthwith serve a true and correct copy of both the Court Order entering the Rule and specifying a return date, and the underlying Petition or Motion, upon every other party to the proceeding in the manner prescribed by the Pennsylvania Rules of Civil Procedure (see PA. R.C.P. 440) and upon the Court Administrator.

Rule 206(g) The party who has obtained the issuance of a Rule to Show Cause shall file with the Prothonotary, within seven (7) days of the issuance of the Rule, an Affidavit of Service indicating the time, place and manner of service. Failure to comply with this provision may constitute sufficient basis for the Court to deny the prayer of the Petition or Motion.

***** Please note: This also includes service of scheduling orders obtained as the result of the filing of any pleading.**

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC., a Pennsylvania Limited Liability Company, Plaintiffs	*	CIVIL ACTION - LAW
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC., Defendants	*	NO. 04-1577-CD
**********		
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, INC., Plaintiffs	*	CIVIL ACTION - LAW
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC., Defendants	*	NO. 04-1146-CD
**********		
IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA		
PRECISION FABRICATION AND CONTROLS, INC., Plaintiff	*	CIVIL ACTION - LAW
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant	*	NO. 915 C.D. 2004

FILED orig. filed to 04-1577-CD
01:25 BH
NOV 18 2004 1 CC Attys. Hopkins Brew
William A. Shaw
Prothonotary/Clerk of Courts
1 CC Advanced Industrial - 536 E. Main St., Bradford, PA 16701

ORDER OF COURT

AND NOW, this 9th day of November, 2004, the Court being advised that the parties have reached an agreement relative to the petition for consolidation of actions, IT IS THE ORDER OF THIS COURT that the matter filed to McKean County Court Docket No. 915 CD 2004 shall be and is hereby consolidated with all Clearfield County matters filed to Docket Nos. 04-1577-CD and 04-1146-CD.

IT IS THE FURTHER ORDER OF THIS COURT that all stays entered by this Court are hereby lifted.

All three cases are hereby coordinated and shall be heard together for the purposes of discovery, trial and appeals.

The Prothonotary of McKean County shall forward the McKean County file to Clearfield County. Any costs associated with the transfer of the McKean County matter shall be the sole responsibility of plaintiffs.

BY THE COURT:

/s/ Paul E. Cherry

Paul E. Cherry Judge

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

NOV 18 2004

Attest.

Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - (LAW)

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
A Pennsylvania Limited Liability Company
PLAINTIFF

vs.

PRECISION FABRICATION AND
CONTROLS, INC. and ADVANCED
INDUSTRIAL CONTROLS, INC.
DEFENDANTS

No. 2004-1146-CD

Type of Case: Equity -
Injunctive Relief

Type of Pleading:
Affidavit of Service

Filed on behalf of:
Precision Fabrication & Controls,
Inc.
Defendant

Counsel of record for this party:

Eugene J. Brew, Esq.
McClure & Miller LLP
717 State St., Suite 701
Erie, PA 16501
(814) 453-3681
Supreme Court No. 06500

Counsel of Record for Adverse
Party:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

FILED 1cc
m/ 1:21 BY
NOV 24 2004
William A. Shaw
Prothonotary/Clerk of Courts

Dated: November 22, 2004

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF ERIE :SS:

I, Eugene J. Brew, Esq., 717 State Street, Suite 701, Erie, PA, being first duly sworn according to law, depose and state that I mailed a true copy of the Order of Court in the above matter dated November 16, 2004, a copy of which is attached hereto, to the following, U.S. Mail, postage pre-paid on the below date:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801
Attorney for Plaintiffs

Advanced Industrial Controls, Inc.
536 East Main St.
Bradford, PA 16701
Defendant

David S. Meholick
Court Administrator
Clearfield County
230 E. Market St.
Clearfield, PA 16830

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls,Inc.

Dated: November 22, 2004

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
V.	:	NO. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendant	:	

ORDER

AND NOW, this 16th day of November, 2004, upon consideration of the Defendant's Motion for Sanctions, it is the ORDER of this Court that hearing be held with regard to said Motion on the 9 day of December, 2004, beginning at 10:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

It is the further ORDER of this Court that counsel for defendant, Eugene J. Brew, Esquire shall be permitted to participate via telephone for purpose of said hearing. It shall be the responsibility of counsel to contact the Court.

BY THE COURT,

/s/ Paul E. Cherry

PAUL E. CHERRY,
JUDGE

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

NOV 16 2004

Attest.

Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL,LLC	:	
-vs-	:	No. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.	:	

O R D E R

NOW, this 9th day of December, 2004, this being the date set for hearing on Motion for Sanctions filed on behalf of Defendant Precision Fabrication and Controls, Incorporated; upon presentation of the issues before the Court, it is the ORDER of this Court that counsel for Plaintiff, FreshTec Food Processing Equipment International, LLC, shall file complete answers to interrogatories and request for production of documents (first set) filed by Defendant within no more than twenty (20) days from this date.

BY THE COURT,

Paul E Cherry

Judge

FILED

DEC 09 2004 EGK
01 4:00
William A. Shaw
Prothonotary/Clerk of Courts
CERT TO HOPKINS
& BRAEW. ERIC PA

FILED

DEC 09 2004

William A. Shaw
Prothonotary/Clerk of Courts

04-1577-CD
04-1146-CD

No. 915 CD 2004
No.

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF MCKEAN SS:

I, BONNIE MOORE HOWARD, Prothonotary of the Court of Common Pleas in and for said County, do hereby certify that the foregoing is a full, true and correct copy of the whole record of the case therein stated, wherein PRECISION FABRICATION & CONTROLS, INC. Plaintiff, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC Defendant, as the same remains of record before the said Court at No. 915 CD 2004.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court this 8TH day of DECEMBER, 2004.

Bonnie Moore Howard
Prothonotary

I, John M. Cleland, President Judge of the 48TH Judicial District, composed of th County of McKean, do hereby certify that BONNIE MOORE HOWARD, by whom the annexed record, certificate and attestation were made and given, and who is in his own proper handwriting, thereunto subscribed his name and affixed the seal of the Court of Common Pleas of said County was at the time of so doing and now is Prothonotary in and for said County of McKean in the Commonwealth of Pennsylvania, duly commissioned and qualified, to all of who acts as such full faith and credit are and ought to be given as well in Court of judicature as elsewhere, and that the said record, certificate and attestation are in due form of law, and made by the proper officer.

President Judge

COMMONWEALTH OF PENNSYLVANIA SS:
COUNTY OF MCKEAN

I, BONNIE MOORE HOWARD, Prothonotary of the Court of Common Pleas in and for the said County, do certify that the Honorable Judge John M. Cleland by whom the foregoing attestation was made, and who has hereunto subscribed his name was at the time of making thereof and still is the President Judge of the Court of Common Pleas, Orphans' Court and Court of Quarter Sessions of the Peace in and for said County, duly commissioned and qualified; to all whose acts as such full faith and credit are and ought to be given, as well in Court of judicature or elsewhere.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this 13th day of December, 2004.

Bonnie Moore Howard
Prothonotary

FILED
E64 m/ 2:17 BK NO CC
DEC 15 2004
William A. Shaw
Prothonotary/Clerk of Courts

Copy to
04-1577-CD

2004-10915 PRECISION FABRICATION & CONTRO (vs) FRESHTEC FOOD PROCESSING EQUIP

Reference No..:
Case Type.....: COMPLAINT
Judgment..... .00
Judge Assigned:
Disposed Desc.:
---------- Case Comments ----------

Filed.....: 8/10/2004
Time.....: 8:33
Execution Date 0/00/0000
Jury Trial....
Disposed Date. 0/00/0000
Higher Crt 1.:
Higher Crt 2.:

General Index		Attorney Info
PRECISION FABRICATION & CONTROLS INC 195 CHESTNUT STREET BRADFORD PA 16701	PLAINTIFF	MCCLURE & MILLER BREW EUGENE J JR
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC 602-9 WEST DUBOIS AVENUE DUBOIS PA 15801	DEFENDANT	HOPKINS HELTZEL LLP HOPKINS DAVID J

Date	Entries
	- - - - - - - - - - - - - - - FIRST ENTRY - - - - - - - - - - - - - - -
8/10/2004	PLAINTIFF'S COMPLAINT FILED.
9/15/2004	IMPORTANT NOTICE, FILED.
9/08/2004	AFFIDAVIT OF SERVICE, FILED. SHERIFFS COSTS $30.00
9/22/2004	ANSWER TO COMPLAINT AND NEW MATTER FILED BY ATTY DAVID HOPKINS.
9/28/2004	PETITION TO COORDINATE ACTIONS PURSUANT TO PA.R.C.P. 213.1 FILED BY ATTY DAVID HOPKINS FOR FRESHTEC FOOD.
9/28/2004	ENTRY OF APPEARANCE OF DAVID HOPKINS FOR DEFT FILED.
10/04/2004	REPLY TO NEW MATTER FILED BY ATTY E. BREW FOR PLFF.
10/07/2004	ORDER MATTER IS SCHEDULED FOR DECEMBER 3, 2004 @ 9:30 AM COURTROOM 2. ONE-HALF HOUR ALLOTTED FOR INITIAL HEARING. ANSWER TO BE FILED WITHIN 20 DAYS. FILED. (CC:EBREW,DHOPKINS)
10/18/2004	ANSWER TO PETITION TO COORDINATE ACTIONS FILED BY ATTY EUGENE BREW.
12/01/2004	ORDER UPON REQUEST OF COUNSEL, THE HEARING AND OR ARGUMENT ON THE PETITION TO COORDINATE ACTIONS SCHEDULED FOR DECEMBER 3, 2004 IS CANCELLED. FILED. (CC:DBREW,DOPKINS)
12/08/2004	ORDER OF COURT FROM CLEARFIELD CO., PA ADVISING AGREEMENT HAS BEEN REACHED WHERE MCKEAN CO CASE IS TO BE CONSOLIDATED WITH CLEARFIELD CO., CASES.
12/08/2004	CASE IS FORWARDED TO CLEARFIELD CO., PA.
	- - - - - - - - - - - - - - - LAST ENTRY - - - - - - - - - - - - - - -

Escrow Information			
Fees & Debits	Beg Bal	Pymts/Adj	End Bal
TAX ON CMPLT	.50	.50	.00
COMPL COMP FEE	10.00	10.00	.00
JCP	10.00	10.00	.00
PETITION ADD'L	25.00	25.00	.00
MISC. MONIES	25.00	25.00	.00
COMPLAINT FILED	65.00	65.00	.00
EX. RECORD TO	15.00	15.00	.00
SHERIFF'S COSTS	30.00	.00	30.00
	180.50	150.50	30.00

2004-10915 PRECISION FABRICATION & CONTRO (vs) FRESHTEC FOOD PROCESSING EQUIP

Reference No..:
Case Type.....: COMPLAINT
Judgment..... .00
Judge Assigned:
Disposed Desc.:
---------- Case Comments ----------

Filed.....: 8/10/2004
Time.....: 8:33
Execution Date 0/00/0000
Jury Trial....
Disposed Date. 0/00/0000
Higher Crt 1.:
Higher Crt 2.:

* End of Case Information *

Certification 10/13/04

I hereby certify the within to be a true & correct copy thereof as filed in the office of the Prothonotary of McKean County, Pennsylvania.

Bonnie Moore Howard

Prothonotary

09/50 2004

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC., a Pennsylvania Limited Liability Company, Plaintiffs vs. PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC., Defendants	*	CIVIL ACTION - LAW
	*	NO. 04-1577-CD
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, INC., Plaintiffs vs. PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC., Defendants	*	CIVIL ACTION - LAW
	*	NO. 04-1146-CD

IN THE COURT OF COMMON PLEAS
OF McKEAN COUNTY, PENNSYLVANIA

PRECISION FABRICATION AND CONTROLS, INC., Plaintiff vs. FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant	*	CIVIL ACTION - LAW
	*	NO. 915 C.D. 2004

2004 DEC -8 AM 10:03
McKEAN COUNTY PROTHONOTARY
AND CLERK OF COURTS

ORDER OF COURT

AND NOW, this 9th day of November, 2004, the Court being advised that the parties have reached an agreement relative to the petition for consolidation of actions, IT IS THE ORDER OF THIS COURT that the matter filed to McKean County Court Docket No. 915 CD 2004 shall be and is hereby consolidated with all Clearfield County matters filed to Docket Nos. 04-1577-CD and 04-1146-CD.

IT IS THE FURTHER ORDER OF THIS COURT that all stays entered by this Court are hereby lifted.

All three cases are hereby coordinated and shall be heard together for the purposes of discovery, trial and appeals.

The Prothonotary of McKean County shall forward the McKean County file to Clearfield County. Any costs associated with the transfer of the McKean County matter shall be the sole responsibility of plaintiffs.

BY THE COURT:

/s/ Paul E. Cherry

Paul E. Cherry Judge

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

NOV 18 2004

Attest.

Prothonotary/
Clerk of Courts

PRECISION FABRICATION & CONTROLS, INC.,

Plaintiff

vs.

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC,

Defendant

IN THE COURT OF COMMON PLEAS OF

McKEAN COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. 915 CD 2004

ORDER

AND NOW, this 1st day of December, 2004, upon request of counsel, the hearing and/or argument on the Petition to Coordinate Actions scheduled for December 3, 2004, is hereby cancelled.

BY THE COURT:

JOHN M. CLELAND, P. J.

2004 DEC -1 PM 2:00

McKEAN COUNTY PROTHONOTARY AND CLERK OF COURTS

12-1-04
cc: E. Brew
D. Hopkins

90CD 2004

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

2004 OCT 18 PM 1:04
MCKEAN COUNTY PROTHONOTARY AND CLERK OF COURTS

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 915 C.D. 2004

ANSWER TO PETITION TO COORDINATE ACTIONS

Precision Fabrication and Controls, Inc. (Precision) by its attorney, Eugene J. Brew, Esq., files this Answer to the Petition of FreshTec Food Processing Equipment International LLC (FreshTec) to Coordinate Actions pursuant to Pa. R.C.P. 213.1.

1. Admitted.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted. Further answering, at the special request of FreshTec, Precision manufactured unique, special machinery at a set price, to be paid by FreshTec. FreshTec intended to sell the machinery manufactured by Precision to FreshTec's customers.

6. Admitted.

7. Admitted. Further answering, Precision consented to the Preliminary Injunction on July 29, 2004, advising the Court that Precision never contacted FreshTec's customers or took any action to encumber any manufactured machinery held by these customers, and did not intend in the future to take any such action.

8. Admitted. Further answering, no monies have been paid on account of the $147,352.00 that is owed to Precision by FreshTec, although FreshTec has taken delivery of the machines, and resold most of them to FreshTec's customers.

9. Denied that the fundamental issue in both cases revolves around sums allegedly outstanding on invoices for food processing equipment sold. The McKean County action (Precision vs. FreshTec, No. 10915-2004) is an action for breach of contract for payment on fifteen (15) Precision invoices totaling $146,752.00, and one AIC invoice totaling $600.00, the machines and equipment covered by invoices having been shipped to FreshTec, and FreshTec having refused to make payment therefor. The Clearfield County action (FreshTec vs. Precision, No. 2004-1146 C.D.) is an equity action for injunctive relief, seeking a Court determination of who to make payment to, Precision or AIC; a Count to enjoin defamation, a Count for tortious interference with contract relationships, and a Count requesting the return of confidential information.

10. Denied that Pa. R.C.P. 213.1 allows for the coordination of these two actions. Denied that the two cases arise out of a common question of fact and from the same occurrence. The Clearfield County action seeks injunctive relief, and the McKean County action is a garden

variety collection action for monies due for the payment of machinery sold.

11. Denied that it is appropriate to consolidate the two actions.

(a) The non-payment of the invoices due to Precision is only an issue in the collection action in McKean County.

(b) The collection action need only be tried once, in McKean County. Whatever county the matter is heard in, McKean or Clearfield, will be convenient for one party, and inconvenient for the other.

(c) Coordination of the two cases is unnecessary and not called for under Rule 213.1.

(d) Coordination will not be more efficient than allowing the two cases to proceed on their own. The Clearfield County case has no merit, and should be dismissed on a Motion for Summary Judgment.

(e) Failure to coordinate will not cause inconsistent or duplicative rulings, orders or judgments.

(f) Settlement will not be more likely if the actions are coordinated.

12. Admitted that the Court has the power to stay the proceedings in McKean County, but is urged not to do so for the reasons set forth herein.

WHEREFORE, Respondent, Precision Fabrication and Controls, Inc., requests the Court to dismiss the Petition to Coordinate the Actions.

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls, Inc.

Dated: October 4, 2004

CERTIFICATE OF MAILING

I, EUGENE J. BREW, ESQ., certify that on the below date I served a true copy of the within pleading on the following by mailing the same to the following by postage pre-paid on the following date:

Honorable Paul E. Cherry,
Judge of the Court of Common Pleas
Clearfield County
Clearfield County Court House
230 E. Market St.
Clearfield, PA 16830

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication & Controls, Inc.

Dated: October 4, 2004

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company,

Plaintiff

vs.

PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.,

Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. 2004-01146 C.D.

PRECISION FABRICATION AND CONTROLS, INC.,

Plaintiff

vs.

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,

Defendant

IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. 915 CD 2004

2004 OCT -7 AM 10:53

McKEAN COUNTY PROTHONOTARY AND CLERK OF COURTS

ORDER

AND NOW, this 7th day of October, 2004, hearing and/or argument as required to resolve the Petition to Coordinate Actions in this matter is hereby scheduled for December 3, 2004 at 9:30 a.m., Courtroom 2, McKean County Courthouse, Smethport, Pennsylvania. One-half hour allotted for initial hearing.

Answer to be filed within 20 days.

BY THE COURT:

JOANNE L. BLY
COURT ADMINISTRATOR

10-8-04
cc: E. Brei
D. Hopkins

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	IN THE COURT OF COMMON PLEAS
	*	OF McKEAN COUNTY,
	*	PENNSYLVANIA
	*	
vs.	*	
	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	
	*	No. 915 C.D. 2004

2004 OCT -4 PM 1:06
McKEAN COUNTY PROTHONOTARY AND CLERK OF COURTS

REPLY TO NEW MATTER

Precision Fabrication & Controls, Inc. (Precision) files this Reply to the New Matter of Defendant, FreshTec Food Processing Equipment International LLC (FreshTec).

13. Precision incorporates herein by reference paragraphs 1 - 12 of its Complaint.

14. Admitted that the action was filed in Clearfield County, however, the action is spurious, and without merit. Admitted that FreshTec obtained a Preliminary Injunction at a Hearing at which Precision agreed to the Preliminary Injunction because Precision had never made contact with FreshTec's customers as FreshTec had claimed, and had no intention of making contact with them.

15. Admitted that the Petition to Coordinate was filed. Denied that there are common questions of fact in both actions.

16. Denied that Precision's claims are barred for the reasons given, that the machinery was defective and not delivered in accordance with promised time schedules. FreshTec has accepted the machines, and they are presently being used by FreshTec's customers. FreshTech never advised Precision that any machinery was defective, so that Precision could make attempts to correct any deficiencies. Any delays in delivery were caused by FreshTec. Work on the machines could not begin until Precision was in receipt of the down payment for the machine.

17. Denied that Precision's claims are barred because the machinery was defective upon arrival for the particular purpose for which it had been designed. The machinery is being used by FreshTec's customers.

18. Denied that Precision's claims are barred because of breach of implied warranty of fitness for a particular purpose. The machines, as sold to FreshTec, were in working order, and fit for the purposes that they were manufactured for.

19. Denied that Precision's claims are barred because of alleged express warranties that the machinery would be timely delivered and would be in good condition and would operate in accordance with specifications upon delivery. Denied there was any express warranty of timely delivery. The machines were delivered in good condition and in accordance with the manufacturing specifications submitted by FreshTec.

20. Denied that any delays in scheduled delivery of the machinery detrimentally impacted FreshTec's relationship with its customers.

21. Denied that any of the machinery was defective and required repairs when it was accepted by FreshTec. Precision, after reasonable investigation, has no knowledge as to whether the machinery was properly handled, or mishandled by FreshTec, or FreshTec's customers after FreshTec's receipt and acceptance of the machinery. FreshTec never advised Precision of any machines that were defective and required repairs, so that Precision could make the repairs.

22. Denied that any of the equipment "collapsed" or "is useless".

23. Denied that Precision substituted materials on any machines "in violation" of FreshTec's specifications and/or industry standards.

24. Denied that there were any defects in Precision's machines when FreshTec took possession and control of them. After reasonable investigation, Precision is without knowledge or information sufficient to form a belief as to the fact that FreshTec's customers have refused payment.

25. Denied that Precision's claims are barred or should be significantly reduced because of any alleged defects in machinery performance. Denied that any alleged defects in machinery performance were detrimental to FreshTec's ongoing business relationships with these customers.

26. Denied that there was any untimely delivery or defects in operation of the machinery, other than as caused by FreshTec.

27. Denied that FreshTec has incurred significant damages as a result of any alleged breach of express or implied warranty.

WHEREFORE, Plaintiff, Precision Fabrication and Controls, Inc., requests the Court to enter judgment in its favor as requested in its Complaint.

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Plaintiff, Precision Fabrication and Controls, Inc.

Dated: Sept 24, 2004

VERIFICATION

I, ROBERT J. STEWART, President of PRECISION FABRICATION & CONTROLS, INC., depose and state that the facts set forth in the foregoing pleading are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to unsworn falsification to authorities.

Robert J. Stewart, Pres.
Robert J. Stewart

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

2004 SEP 28 AM 10:22
McKEAN COUNTY PROTHONOTARY AND CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PRECISION FABRICATION AND CONTROLS, INC., Plaintiff	:	
	:	No. 915 C.D. 2004
v.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant	:	Type of Pleading: Petition to Coordinate Actions Pursuant to Pa.R.C.P. §213.1
	:	Filed on behalf of: FreshTec Food Processing Equipment International, LLC
	:	Counsel of Record for this party:
	:	HOPKINS HELTZEL LLP
	:	DAVID J. HOPKINS, ESQUIRE Attorney at Law Supreme Court No. 42519
	:	900 Beaver Drive DuBois, Pennsylvania 15801 (814) 375-0300

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PRECISION FABRICATION AND CONTROLS, INC., Plaintiff	:	
v.	:	No. 915 C.D. 2004
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant	:	

PETITION TO COORDINATE ACTIONS PURSUANT TO Pa.R.C.P. 213.1

AND NOW, comes Defendant, FreshTec Food Processing Equipment International, LLC ("FreshTec"), by and through its undersigned attorneys, Hopkins Heltzel LLP and files the within Petition and states as follows:

1. Petitioner is FreshTec, a Pennsylvania limited liability company, with its principal place of business located at 602-9 West DuBois Avenue, DuBois, Pennsylvania 15801.

2. Respondent is Precision Fabrication & Controls, Inc., a Pennsylvania corporation with offices located at 195 Chestnut Street, Bradford, PA 16701.

3. Precision is in the business of designing, fabricating and manufacturing machinery and equipment for industry.

4. FreshTec is in the business of selling machinery and equipment to the food processing industry.

5. Precision and FreshTec engaged in a series of transactions involving the purchase of such machinery and equipment, such transactions being the subject matter of this litigation.

6. FreshTec commenced an action in equity in the Court of Common Pleas of Clearfield County Pennsylvania at No. 2004-1146-CD on July 28, 2004, against both Precision and Advance Industrial Controls, Inc., seeking entry of a decree with respect to the proper party to receive payment for the machinery ordered; and asserting claims for defamation and, tortious interference with contractual relationships and seeking specific performance.

7. Simultaneously, FreshTec sought a preliminary injunction against Precision. The injunction was granted by the Court on July 29, 2004, and precluded Precision and AIC from contacting FreshTec's customers or taking any action to encumber any machinery held by or in the possession of FreshTec's customers.

8. Precision commenced a civil action against FreshTec by Complaint filed on August 9, 2004 in the Court of Common Pleas of McKean County, Pennsylvania, at No. 915-CD 2004, seeking payment of the invoices in the amount of $147,352.

9. The fundamental issue in both cases revolves around the sums allegedly outstanding on the invoices for the food processing equipment.

10. Pa.R.C.P. No. 213.1 sanctions the coordination of actions in this case because both cases arise out of a common question of fact and from the same occurrence, i.e. the sale and delivery of food processing equipment.

11. Pursuant to Pa.R.C.P. No. 213.1, it is appropriate to consolidate the two actions:

a. The issue concerning payment of the invoices is common to both cases and predominant and significant to the litigation;

b. It will be more convenient with parties, witnesses and counsel to try the issue of liability for debt only once. In the liability trial, a significant number of witnesses will be necessary, including but not limited to employees of FreshTec;

c. Coordination will not result in unreasonable delay or expense to a party nor will it prejudice a party subject to the coordination order. To the contrary, coordination will result in the efficacious resolution of the disputes presented in both cases;

d. Coordination will be the more efficient utilization of judicial facilities and personnel and will result in the just and efficient conduct of the actions;

e. Failure to coordinate could cause duplicative and inconsistent rulings, orders or judgments; and

f. Settlement is more likely if the actions are coordinated.

12. Pursuant to Pa.R.C.P. No. 213.1(b), this Court is authorized to stay the proceedings in McKean County.

WHEREFORE, Petitioner FreshTec Food Processing Equipment International, LLC prays this Honorable Court to:

1. Coordinate Court of Common Pleas of Clearfield County case of FreshTec Food Processing Equipment International, LLC v. Precision Fabrication and Controls, Inc. and Advanced Industrial Controls, Inc., filed to Docket No. 2004-1146-CD, with the Court of Common Pleas of McKean County case of Precision Fabrication & Controls, Inc. v. FreshTec Food Processing Equipment International, LLC, filed to Docket No. 915 CD 2004.

2. Require all discovery and pretrial matters in the coordinated cases be filed in the Court of Common Please of Clearfield County under Docket No. 2004-1146-C.D.

3. Conduct the trial of the coordinated cases in the Court of Common Pleas of Clearfield County under Docket No. 2004-1146-CD.

4. Stay any all proceedings in the Court of Common Pleas of McKean County filed to Docket No. 915-CD 2004; and

5. Make any other appropriate Orders as the Court deems necessary.

Respectfully submitted,

HOPKINS HELTZEL LLP

David J. Hopkins, Esquire
Attorney for FreshTec Food Processing
Equipment International, LLC

IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PRECISION FABRICATION AND CONTROLS, INC.,
Plaintiff,

v.

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,
Defendant.

No. 915 C.D. 2004

Type of Pleading: Entry of Appearance

Filed on behalf of: Freshtec Food Processing. Equipment International, LLC, Defendant

Counsel of Record for this party:

HOPKINS HELTZEL LLP

DAVID J. HOPKINS, Esquire
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, Esquire
Attorney at Law
Supreme Court No. 83998

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

2004 SEP 27 AM 8:20
MCKEAN COUNTY PROTHONOTARY AND CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PRECISION FABRICATION AND CONTROLS, INC., Plaintiff,	:	
v.	:	No. 915 C.D. 2004
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant.	:	

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance for the Defendant, FreshTec Food Processing Equipment International, LLC, in the above captioned matter.

Respectfully submitted,

David J. Hopkins, Esquire
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PRECISION FABRICATION AND CONTROLS, INC.,
Plaintiff,

v.

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,
Defendant.

No. 915 C.D. 2004

Type of Pleading: Answer to Complaint and New Matter

Filed on behalf of: Freshtec Food Processing Equipment International, LLC, Defendant

Counsel of Record for this party:

HOPKINS HELTZEL LLP

DAVID J. HOPKINS, Esquire
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, Esquire
Attorney at Law
Supreme Court No. 83998

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

2004 SEP 22 PM 3:37
MCKEAN COUNTY PROTHONOTARY AND CLERK OF COURTS

NOTICE TO PLEAD

You are hereby notified to plead to the within pleading within twenty (20) days of service thereof or default judgment may be entered against you.

David J. Hopkins, Esquire
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PRECISION FABRICATION AND CONTROLS, INC., Plaintiff,	:	
v.	:	No. 915 C.D. 2004
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant.	:	

ANSWER TO COMPLAINT AND NEW MATTER

AND NOW, comes Defendant, FreshTec Food Processing Equipment International, LLC ("FreshTec"), by and through its attorneys, Hopkins Heltzel LLP, and answers the Complaint of Plaintiff as follows:

1. Admitted.

2. Admitted.

3. Denied. In the case of FreshTec Food Processing Equipment International, LLC v. Precision Fabrication and Controls, Inc. and Advanced Industrial Controls, Inc., (Clearfield County) No.2004-1146 C.D., Plaintiff in its Answer admitted without further elaboration that it was in the business of "manufacturing machines for the food processing industry." A copy of the Complaint filed in Clearfield County is attached hereto as Exhibit "A". In this action, Plaintiff now indicates that it is also in the business of "designing" such machinery. Defendant has no information with respect to Plaintiff's statement that it is in the business of food processing machinery design and denies Plaintiff is in such business. Any design work Plaintiff has undertaken is from confidential information Plaintiff has received from Defendant or Backus USA.

4. Denied. FreshTec is in the business of designing food processing machinery to its customers' specifications and then selling such machinery.

5. Denied. Any such orders for machinery were made by written purchase orders, copies of which were attached to FreshTec's Complaint filed in Clearfield County. Additionally, some of these orders were directed to Advanced Industrial Controls, Inc., not Defendant. As a result of this discrepancy, FreshTec has commenced suit in Clearfield County seeking that Court's decree as to whom payment should be made.

6. Admitted.

7. Denied. The delivery of the machinery was so untimely that Defendant received numerous complaints from its customers. Additionally, in several instances, the machinery required extensive repair.

8. Admitted.

9. Admitted.

10. Admitted in part, denied in part. While the equipment has been shipped, several of the machines have required extensive repairs. Welds have broken. Machines have collapsed. Finishes have eroded. Following complaints from the customers, Defendant has incurred significant shipping and repair costs in connection with the defective machinery. Defendant now believes Plaintiff improperly substituted materials or failed to follow Defendant's specification or industry standards. Defendant's customer(s) have refused to pay Defendant for some of the machines.

11. Denied. As set forth in the Clearfield County action, Defendant attempted to resolve the payment issues in a letter from Defendant's counsel David J.

Hopkins, Esquire, dated July 27, 2004, a copy of which is attached as Exhibit E to Defendant's Clearfield County Complaint. However, Plaintiff threatened to contact Defendant's customers and notify them of the payment dispute and to encumber the machinery in their possession until said invoices were paid. As a result, Defendant was forced to seek an injunction from the Clearfield County Court of Common Pleas, which was in fact entered on July 29, 2004, in order to protect its business interests. Since that time, substantial defects with the machines have been discovered.

12. Denied. Defendant disputes the total amount stated. As indicated in Mr. Hopkins letter of July 27, 2004, several of the machines required extensive repairs, and there were certain errors in pricing on the invoices since July 27, 2004. Since that time, substantial defects with the machines have been discovered.

WHEREFORE, Defendant respectfully requests that this Honorable Court dismiss Plaintiff's Complaint and enter judgment in favor of Defendant, FreshTec Food Processing Equipment International, LLC.

NEW MATTER

13. Defendant incorporates herein by reference each and every answer set forth in Paragraphs 1-12 above as if the same were herein set forth at length

14. As set forth above, Defendant commenced an action in the Clearfield County Court of Common Pleas seeking a decree as to the proper party to receive payment on the invoices; asserting claims for tortious interference with contractual relations and defamation arising from the non-payment of the invoices; and seeking specific performance. Defendant also sought, and obtained, a preliminary injunction

preventing Plaintiff from contacting Defendant's customer with respect to the payment issues arising out of the invoices.

15. Defendant has filed with this Court a Petition to Coordinate, given that the present action and the Clearfield County action arise out of common question of fact and the same occurrence, the non-payment of the invoices.

16. In the event that said Petition is denied, Defendant asserts that Plaintiff's claims are barred because Plaintiff's claims the machinery produced by Plaintiff was defective and not delivered in accordance with promised time schedules.

17. Plaintiff's claims are barred because said machinery produced by Plaintiff was defective upon arrival for the particular purpose for which it had been designed.

18. Plaintiff's claims are barred because Plaintiff breached the implied warranty of fitness for a particular purpose.

19. Plaintiff's claims are barred because Plaintiff made express warranties to Defendant that such machinery would be timely delivered and would be in good condition and would operate in accordance with specifications upon delivery, all of which turned out to be untrue.

20. Plaintiff's claims are barred because delays in scheduled delivery of the machinery detrimentally impacted Defendant's relationships with its customers.

21. Additionally, several pieces of machinery were defective and required repairs. Invoice number 1054 included machinery that broke welds and cost $1800 in repairs as well as travel costs to Canada; machinery included on invoice number 1077 also broke welds and resulted in shipping and repair costs of approximately $2,220;

machinery included on invoice 1090 broke welds and was repaired by the customer who sent the bill for $2,800 to Defendant.

22. Plaintiff's claims are barred or substantially reduced because one or more piece of equipment collapsed and is useless.

23. Plaintiff's claims are barred or substantially reduced because Plaintiff substituted materials on the machines in violation of Defendant's specifications and/or industry standards.

24. Plaintiff's claims are barred or significantly reduced because of all of the defects in Plaintiff's machines, some of Defendant's customers have refused payment.

25. Plaintiff's claims are barred or significantly reduced because such defects in machinery performance were detrimental to Defendant's ongoing business relationships with these customers.

26. Plaintiff's claims are barred or significantly reduced because the untimely delivery and defects in operation of the machinery breached Plaintiff's express warranties.

27. Plaintiff's claims are barred or significantly reduced because as a result of Plaintiff's breaches of express and implied warranties, Defendant has incurred significant damages.

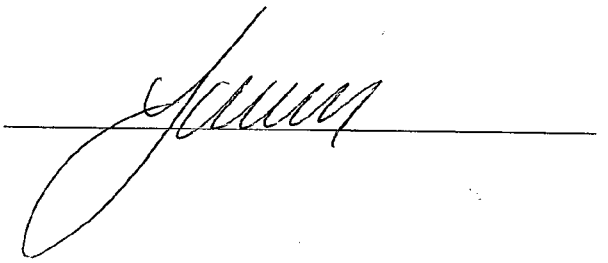
WHEREFORE, Defendant, FreshTec Food Processing Equipment International, LLC, respectfully requests that this Honorable Court dismiss Plaintiff's Complaint and enter judgment in favor of Defendant.

Respectfully submitted,

David J. Hopkins, Esquire
Attorney for Defendant

VERIFICATION

I hereby verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.



IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	
	:	Type of Pleading: Complaint in Equity
	:	Filed on behalf of: FreshTec Food Processing Equipment International, LLC, Plaintiff
	:	Counsel of Record for this party:
	:	HOPKINS HELTZEL, LLP
	:	DAVID J. HOPKINS, ESQUIRE Attorney at Law Supreme Court No. 42519
	:	LEA ANN HELTZEL, ESQUIRE Attorney at Law Supreme Court No. 83998
	:	900 Beaver Drive DuBois, Pennsylvania 15801
	:	(814) 375-0300

EXHIBIT "A"

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

NOTICE

TO: Defendants

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 Complaint is 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 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.

Office of the Court Administrator
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830
(814) 765-2641 (ext. 5982)

IN THE COURT OF COMMON PLEAS OFCLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

COMPLAINT IN EQUITY

AND NOW, comes the Plaintiff, FreshTec Food Processing Equipment International, LLC (hereinafter "Plaintiff" or "FreshTec"), by and through its undersigned counsel, and files the within Complaint in Equity as follows:

1. Plaintiff is a Pennsylvania limited liability company with its principal place of business at P.O. Box 585, DuBois, Pennsylvania 15801. FreshTec is engaged in the business of designing and selling machines to the food processing industry.

2. Defendant, Precision Fabrication and Controls, Inc. (hereinafter "Precision") is a Pennsylvania corporation, whose principal place of business is located at 195 Chestnut Street, P.O. Box 331, Bradford, Pennsylvania 16701. Precision is in the business of manufacturing machines for the food processing industry.

3. Defendant, Advanced Industrial Controls, Inc. (hereinafter "AIC") was a Pennsylvania corporation, whose principal place of business was located at 245 Chestnut Street, Bradford, Pennsylvania 16701.

4. Plaintiff provided Defendants with certain confidential information including designs, blueprints, CAD files, drawings and specifications relating to the construction of machinery for Plaintiff's customers (the "Confidential Information") for use in the food processing business. Defendants use such Confidential Information to construct machinery which it then sells and delivers to Plaintiff.

5. Plaintiff[1] ordered such machinery from AIC pursuant to the following purchase orders, and was invoiced fifteen (15) times by Precision on the dates and in the amounts indicated below:

Purchase Order No.[2]	Invoice No.	Date	Amount
4063	1042	5/19/04	$31,596.00
4030	1054	5/25/04	$12,950.00
4001	1075	6/1/04	$28,836.00
4063	1076	6/9/04	$5,640.00
4030	1077	6/8/04	$8,400.00
4137	1079	6/10/04	$150.00
4075	1080	6/10/04	$1,560.00
4028	1090	6/15/04	$7,560.00
4062	1091	6/16/04	$3,240.00
4072	1108	6/25/04	$6,480.00
4028	1119	7/7/04	$1,900.00
4062	1120	7/7/04	$1,900.00
4073	1127	7/13/04	$19,440.00
4072	1135	7/19/04	$1,900.00
4073	1136	7/19/04	$1,900.00

Copies of said purchase orders are attached hereto as Exhibit "A". Copies of said invoices are attached hereto as Exhibit "B".

6. Payment on said invoices is due 30 days from the date of the invoice.

7. All original orders for the machines were taken by Defendant AIC.

[1] Several purchase orders were initiated by Plaintiff's predecessor in interest, Backus USA, Inc.
[2] Purchase order numbers reference the last four digits indicated under "Purchase Order #" on the attached forms.

8. During the course of these transactions, AIC's operations were taken over by Defendant and said machines were delivered to FreshTec by Precision.

9. Plaintiff was not notified and has no formal knowledge of the legal relationship, if any, between Defendants Precision and AIC.

10. All invoices received by Plaintiff were on Precision letterhead and indicated payment should be made to Precision.

11. Following Precision's takeover of AIC's operations, Plaintiff began to experience significant delays in the scheduled delivery of the machinery referenced in 11 of the 14 invoices (invoices numbered 1042; 1054; 1075; 1076; 1077; 1090; 1091; 1108; 1119; 1120; 1127).

12. Plaintiff's customers were extremely dissatisfied with such delays and notified Plaintiff of their dissatisfaction.

13. Plaintiff's business is highly competitive and its success is largely due to the successful management of personal relationships with its customers.

14. Delays in scheduled delivery of the machinery detrimentally impacted Plaintiff's relationships with its customers.

15. Additionally, several pieces of machinery were defective and required repairs. Invoice number 1054 included machinery that broke welds and cost $1,800 in repairs as well as travel costs to Canada; machinery included on invoice number 1077 also broke welds and resulted in shipping and repair costs of approximately $2,220; machinery included on invoice 1090 broke welds and was repaired by the customer who sent the bill for $2,800 to Plaintiff.

16. Such defects in machinery performance were detrimental to Plaintiff's ongoing business relationships with these customers.

17. On or about July 7, 2004 Benjamin Brechtel, Vice President of Precision sent an email to Larry Salone, Plaintiff's President indicating his understanding regarding FreshTec's concerns with the timeliness of deliveries. Mr. Brechtel indicated that Precision intended to improve scheduling, manpower and preparation for the work and also indicated he agreed with financial retention penalties for missed delivery dates on future orders. In addition Mr. Brechtel requested that Mr. Salone respond with respect to the status of outstanding matters. A copy of the July 7, 2004 email is attached hereto as Exhibit "C".

18. On July 22, 2004, Mr. Brechtel again contacted Plaintiff, indicating that he had made verbal attempts to resolve past due payment issues with Mr. Salone, and alternatively Mr. Salone's counsel. He indicated that his messages had not been returned and past due payment issues had not been resolved. He further indicated in said correspondence that payment for all invoices, including those not yet due, was demanded by July 28, 2004. A copy of the July 22, 2004 letter is attached hereto as Exhibit "D".

19. In the July 22, 2004 letter, Mr. Brechtel further indicated that if these issues were not resolved and payment was not received by July 28, 2004, Precision would take further action in the form of placing "liens" against all equipment and encumbrances on outstanding receivables with FreshTec's customers holding equipment associated with the outstanding payment. He further indicated that "all facilities of which equipment is located shall be notified of such liens immediately."

20. Subsequently, David J. Hopkins, Esquire, counsel for Plaintiff, contacted Mr. Brechtel by telephone in an attempt to resolve the past-due payment issues.

21. On July 27, 2004, Mr. Hopkins, sent a letter to Mr. Brechtel enclosing confidentiality and non-compete agreement as well as providing comments on the invoices sent to FreshTec. With respect to such invoices, Mr. Hopkins indicated that FreshTec was willing to make payment, subject to certain withholdings to account for repairs and returns caused by defective machinery. Additionally, Mr. Hopkins indicated that several of the invoices were not due until August 2004, and as such, demanding payment at the present time was premature. A copy of the July 27, 2004 letter is attached hereto as Exhibit "E".

22. In the July 27, 2004 letter, Mr. Hopkins also asserted FreshTec's concern that because it had initially ordered the machines from AIC, it would be liable for payment to AIC and not Precision. As such, Mr. Hopkins indicated that FreshTec would require an opinion letter from Precision's counsel indemnifying it from any liability to AIC which could result from its payments to Precision.

23. The July 27, 2004, also clearly indicated that FreshTec was willing and able to pay 10 of the 15 invoices; that four of the remaining five invoices would not be due until August; and that the fifth invoice was in dispute.

24. As of the present date, FreshTec has received no affirmative response to Mr. Hopkins' letter.

25. Upon information and belief, Precision is now unlawfully attempting to contact FreshTec's customers to advise them that FreshTec is defaulting on its payment obligations notwithstanding FreshTec's efforts to resolve the payment issues.

COUNT ONE – ENTRY OF DECREE

26. Paragraphs 1 through 25 above are hereby incorporated as though set forth fully herein.

27. Plaintiff has not been advised of the legal relationship, if any, existing between AIC and Precision. Plaintiff, however, was directed to make payments to Precision for equipment ordered from AIC.

28. As a result, it is unclear to Plaintiff who is the proper party to receive payment for machinery received pursuant to several of the invoices.

29. Plaintiff is concerned that it may incur liability to AIC upon making payment to Precision.

30. Consequently, Plaintiff seeks this Court's decree indicating the proper party for payment. Pending entry of such decree, Plaintiff requests that this Court establish an escrow account into which Plaintiff shall pay all funds due and owing less the adjustments indicated in the July 27, 2004 letter from Mr. Hopkins.

WHEREFORE, Plaintiff, FreshTec Food Processing Equipment International, LLC respectfully requests that this Honorable Court enter a decree directing that funds due and owing pursuant to the invoices, totaling $91,012.00, be placed in an escrow account pending this Honorable Court's Order indicating the proper party to receive payment.

COUNT TWO – DEFAMATION

31. Paragraphs 1 through 30 above are hereby incorporated as though set forth fully herein.

32. Defendant has indicated that it will advise FreshTec's customers in the food processing industry who are currently using products received from FreshTec that FreshTec has not satisfied its payment obligations.

33. Plaintiff's business is highly competitive and its success is largely due to the successful management of personal relationships with its customers.

34. Any such statements, given FreshTec's efforts to resolve these payment issues, are false, are materially false and misleading, and detrimental to its business reputation and goodwill with its customers.

35. Given Plaintiffs' efforts to resolve the payment issues with Defendant, any statements made to FreshTec's customers have been made without justification for the sole purpose of causing injury to Plaintiff's business reputation and good will.

36. As a direct result of Defendant's actions Plaintiff has suffered and will continue to suffer immediate and irreparable harm, which harm is likely to continue and cannot be adequately remedied at law.

WHEREFORE, Plaintiff requests that an injunction issue preliminarily until final hearing and permanently thereafter, enjoining defendant from disparaging the reputation and good will of Plaintiff.

COUNT THREE

TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONSHIPS

37. Paragraphs 1 through 36 above are hereby incorporated as though set forth fully herein.

38. Defendant has indicated it will contact FreshTec's customers to notify them of FreshTec's failure to pay the invoices.

39. As set forth herein, these statements are materially false and misleading.

40. Any such false statements made to Plaintiff's customers will induce these customers to terminate their relationship with Plaintiff, and constitutes unlawful interference with Plaintiff's business relationships.

41. As a direct and proximate result of such unlawful interference, Plaintiff has and will suffer substantial financial injury and harm.

42. Such conduct constitutes intentional, improper, and non-privileged interference with Plaintiff's business and its contractual relationships with its customers.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in its favor and against Defendant.

COUNT FOUR – SPECIFIC PERFORMANCE

43. Paragraphs 1 through 42 above are hereby incorporated as though set forth fully herein.

44. Backus USA, Inc., the predecessor in interest to FreshTec, entered into a confidentiality agreement and non-compete agreement with AIC relating to all Confidential Information relating to the construction of machines by Precision for FreshTec.

45. While such agreements were between Backus and AIC, the ongoing relationship between FreshTec and Precision has likewise required FreshTec to divulge such Confidential Information in connection with the construction of the ordered machinery.

46. Should such Confidential Information be divulged, Plaintiff will suffer irreparable damage to its reputation as well as the loss of existing accounts and customers.

47. Plaintiff has requested that the Confidential Information be returned.

48. Defendant has failed to return said items to FreshTec.

49. As Plaintiff has no present agreement with Precision relating to such Confidential Information, Plaintiff has no adequate remedy at law and justice requires that this Honorable Court exercise its equitable jurisdiction to order the return of such Confidential Information to FreshTec.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court order Defendant to return all Confidential Information to Plaintiff.

Respectfully submitted,

HOPKINS HELTZEL LLP

David J. Hopkins, Esquire
Attorney for Plaintiff

VERIFICATION

I hereby verify that the statements made in this plea..ng are true and correct. I understand that false statements herein are made subject t: the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorit :s.

FRESHTEC FOOD P..OCESSING EQUIPMENT INTE..ATIONAL, LLC

By: LAWRENCE J. S..ONE
PRESIDENT

IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PRECISION FABRICATION AND CONTROLS, INC., Plaintiff,	:	
v.	:	No. 915 C.D. 2004
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant.	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Defendant's Answer to Complaint and New Matter, filed on behalf of Freshtec Food Processing Equipment International, LLC, was forwarded by first class mail, postage prepaid, on the 23rd day of September, 2004, to all counsel of record, addressed as follows:

Eugene J. Brew, Esquire
McClure & Miller LLP
717 State Street, Suite 701
Erie, PA 16501

David J. Hopkins, Esquire
Attorney for Defendant

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	IN THE COURT OF COMMON PLEAS
	*	OF McKEAN COUNTY,
	*	PENNSYLVANIA
vs.	*	
	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	
	*	No. 2004-10915

To: FreshTec Food Processing Equipment
International LLC
P. O. Box 585
DuBois, PA 15801
Defendant

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801
Attorney for Defendant

2004 SEP 15 AM 10:53
McKEAN COUNTY PROTHONOTARY
AND CLERK OF COURTS

Date of Notice: September 14, 2004

NOTICE OF PRAECIPE TO ENTER JUDGMENT BY DEFAULT

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING, AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Northwestern Legal Services
100 Main Street
Bradford, PA 16701
(814) 362-6596

McCLURE & MILLER LLP

By _____

Eugene J. Brew, Esquire
717 State Street Suite 701
Erie, Pennsylvania 16501
(814) 453-3681
Counsel for Plaintiff

SHERIFF'S RETURN - OUT OF COUNTY

CASE NO: 2004-10915 P
COMMONWEALTH OF PENNSYLVANIA:
COUNTY OF MCKEAN

PRECISION FABRICATION & CONTRO

VS

FRESHTEC FOOD PROCESSING EQUIP

DONALD D. MOREY , Sheriff , who being duly sworn according to law, that he made a diligent search and inquiry for the within name DEFENDANT , to wit: FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC but was unable to locate Them in his bailiwick. He therefore deputized the sheriff of CLEARFIELD COUNTY County, Pennsylvania, to serve the within COMPLAINT .

On September 8th, 2004, this office was in receipt of the attached return from CLEARFIELD COUNTY County, Pennsylvania.

Sheriff's Cost:
Total...$ 30.00

Paid Date...09/08/2004
Paid By.....ATTORNEY

So answers:

Donald D. Morey, Sheriff

2004 SEP -8 AM 11:12
MCKEAN COUNTY PROTHONOTARY AND CLERK OF COURTS

Sworn and subscribed to before me
this 8th day of September
2004 A.D.

Prothonotary

In The Court of Common Pleas of Clearfield County, Pennsylvania

PRECISION FABRICATION & CONTROLS INC.

VS.

FRESHTEC FOOD PROCESSING EQUIPMENT

COMPLAINT

Sheriff Docket # 16117

915 CD 2004

SHERIFF RETURNS

NOW AUGUST 23, 2004 AT 1:19 PM SERVED THE WITHIN COMPLAINT ON FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, DEFENDANT AT EMPLOYMENT, 602-9 WEST DUBOIS AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO TINA WILT, SEC. A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: COUDRIET

Return Costs

Cost	Description
32.62	SHERIFF HAWKINS PAID BY: ATTY CK# 4771

Sworn to Before Me This

2nd Day Of Sept. 2004

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

So Answers,

Chester A. Hawkins by Marilyn Hawkins

Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS OF
McKEAN COUNTY, PENNSYLVANIA

CIVIL DIVISION - (LAW)

PRECISION FABRICATION &
CONTROLS, INC.
PLAINTIFF

vs.

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC
DEFENDANT

No. 915 CD 2004

Type of Case: Contract

Type of Pleading: Complaint

Filed on behalf of:
Precision Fabrication & Controls,
Inc., Plaintiff

Counsel of record for this party:

Eugene J. Brew, Esq.
McClure & Miller LLP
717 State St., Suite 701
Erie, PA 16501
(814) 453-3681
Supreme Court No. 06500

Dated: 8-9- , 2004

Prothonotary
2004 AUG 10 AM 8:33

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No.

To: FreshTec Food Processing Equipment International LLC
P. O. Box 585
DuBois, PA 15801
Defendant

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 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 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, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Northwestern legal Services
100 Main Street
Bradford, PA 16701
(814) 362-6596

Eugene J. Brew

Eugene J. Brew, Esq.
McClure & Miller LLP
717 State St., Suite 701
Erie, PA 16501
(814) 453-3681

Attorney for Plaintiff

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No.

COMPLAINT

Plaintiff above, by its attorney, Eugene J. Brew, Esq., and McClure & Miller LLP, file this Complaint against the Defendant, and set forth in support thereof:

1. Plaintiff, Precision Fabrication & Controls, Inc. (Precision) is a Pennsylvania corporation with offices located at 195 Chestnut Street, Bradford, PA, 16701.

2. Defendant, FreshTec Food Processing Equipment International LLC, (FreshTec) is believed to be a corporation whose business mailing address is P. O. Box 585, DuBois, PA, 15801.

3. Precision is in the business of designing, fabricating and manufacturing machinery and equipment for industry.

4. FreshTec is in the business of selling machines to the food processing industry.

5. In 2004, at the special oral request of FreshTec, Precision manufactured at its place of business in McKean County, PA, and delivered to FreshTec, and/or its customers, certain food processing equipment as is specifically set forth on the Precision invoices attached hereto.

6. Upon receipt of the quotations attached hereto, as Exhibit "A", FreshTec made down payments as set forth on the recap marked as Exhibit "B", and attached hereto.

7. The work was completed by Precision in accordance with the oral direction and

instruction received from FreshTec and as set forth in the Precision quotations attached hereto, made a part hereof and marked Exhibit "A", which had been presented to FreshTec prior to Precision completing the work.

8. A recap of the invoices, and the balance due on the invoices, is attached hereto, as of August 3, 2004, made a part hereof and marked Exhibit "B".

9. A copy of the Precision invoices is attached hereto, made a part hereof and marked Exhibit "C".

10. All of the machines and equipment have been shipped to FreshTec and were shipped in good condition.

11. FreshTec has refused to pay the invoices.

12. There is a presently a balance due Precision from FreshTec on past due invoices, as follows:

Total Sales Amount	$224,270.00
Down Payment	76,918.00
Amount Due	$147,352.00

WHEREFORE, Precision demands judgment against FreshTec, in a sum as set forth herein, which is in excess of $25,000.00, the arbitration limit, plus interest on said sum from the date each invoice was due and payable, plus costs of suit.

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Plaintiff

Dated: August 9, 2004

VERIFICATION

I, BENJAMIN D. BRECHTEL, Vice President of PRECISION FABRICATION & CONTROLS, INC., depose and state that the facts set forth in the foregoing pleading are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to unsworn falsification to authorities.

Benjamin Brechtel

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

July 1, 2004

Mr. Larry Salone – President
Freshtec Int'l. LLC.
602-9 West Dubois Avenue
Dubois, PA 15801

Dear Larry:
Precision Fabrication & Controls, Inc. is pleased to present Freshtec Int'l. LLC. with this revised quotation.

Item #	Qty	Quotation #1004-Rev. 1 Description — Reference: P.O. #033004062	Net Price Each
1	1	**Stainless steel bin dumper per options:** • 11 gauge 304 stainless steel mil finish hopper 54"W X 48"D X 48"H with approximately 2500# load capacity • Base frame construction heavy duty tubing 3" X 3" 3/16" wall, cross member supports with (4) floor lagged mounting plates • Greaseable pivot bushings • (2) 2.5" bore, 1.75" rod, 24" stroke , 714 psi operating pressure with 3500# capacity per hydraulic cylinder, extended travel speed rate of 1.25" - 1.5" per second, rear clevis mount and rod eyes • 3 H.P., 230V/460V AC, 3P, 60HZ Monarch electric motor • 3.7 gpm hydraulic pump with 3 gallon reservoir tank • Remote mounted hand valve, spring actuated return to center joy stick, load holding and unloading operation	$ 5,400.00
2	1	**Additional upcharges based on engineering scope changes which were authorized by Larry Salone on 6/11/04.** • NEMA 4, 3 H.P., 230/460V AC, 3P, 60HZ electrical motor starter • Bead blast satin finish • Labor and materials to accommodate discharge height of 60" & tapered discharge shute width of 30" which enlarged the hopper and frame size **Total upcharges per unit:**	$ 400.00 $ 300.00 $ 1,200.00 $ 1,900.00

Conditions of Sale: Precision Fabrication & Controls, Inc. standard terms and conditions of sale apply.
Terms: 40% down payment with order, balance net 30 days after shipment.
F.O.B.: Bradford, PA.
Warranty: Manufactures equipment one year.

Sincerely yours,

Loyd E. Swain II (JR)

Loyd E. Swain II (JR)
Sales Engineer

cc: Ben Brechtel – Vice President
David Knox – Freshtec Int'l. LLC. Engineer

FAXED
7/1/04 4:00 P.M. JN

Precision Fabrication & Controls, Inc.
195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

April 19, 2004

Mr. Larry Salone – President
Freshtec Int'l. LLC.
602-9 West Dubois Avenue
Dubois, PA 15801

Dear Larry:
Precision Fabrication & Controls, Inc. is pleased to present Freshtec Int'l. LLC. with this quotation.

Item #	Qty	Quotation #1004 Description Reference: P.O. #033004062	Net Price Each
1	1	**Stainless steel bin dumper per options:** • **11 gauge 304 stainless steel mil finish hopper 54"W X 48"D X 48"H with approximately 2500# load capacity** • **Base frame construction heavy duty tubing 3" X 3" 3/16" wall, cross member supports with (4) floor lagged mounting plates** • **Greaseable pivot bushings** • **(2) 2.5" bore, 1.75" rod, 24" stroke , 714 psi operating pressure with 3500# capacity per hydraulic cylinder, extended travel speed rate of 1.25" - 1.5" per second, rear clevis mount and rod eyes** • **2 H.P., 230V/460V AC, 3P, 60HZ Monarch electric motor** • **3.7 gpm hydraulic pump with 3 gallon reservoir tank** • **Remote mounted hand valve, spring actuated return to center joy stick, load holding and unloading operation**	**$ 5,400.00**
		Total sell:	**$ 5,400.00**

Delivery: 5 – 7 weeks after receipt of order and down payment.

Conditions of Sale: Precision Fabrication & Controls, Inc. standard terms and conditions of sale apply.
Terms: 40% down payment with order, balance net 30 days after shipment.
F.O.B.: Bradford, PA.
Warranty: Manufactures equipment one year.

We thank you for this opportunity to quote, and look forward to serving your needs.

Sincerely yours,

Loyd E. Swain II (JR)
Sales Engineer

cc: Ben Brechtel – Vice President
Marty Casilio – Product & Design Manager
David Knox – Freshtec Int'l. LLC. Engineer

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 Fax (814) 368-5040

July 1, 2004

Mr. Larry Salone – President
Freshtec Int'l. LLC.
602-9 West Dubois Avenue
Dubois, PA 15801

Dear Larry:
Precision Fabrication & Controls, Inc. is pleased to present Freshtec Int'l. LLC. with this revised quotation.

Item #	Qty	Quotation #1006-Rev. 1 Description — Reference: P.O. #040804073	Net Price Each
1	6	**Stainless steel bin dumper per options:** • 11 gauge 304 stainless steel mil finish hopper 54"W X 48"D X 48"H with approximately 2500# load capacity • Base frame construction heavy duty tubing 3" X 3" 3/16" wall, cross member supports with (4) floor lagged mounting plates • Greaseable pivot bushings • (2) 2.5" bore, 1.75" rod, 24" stroke , 714 psi operating pressure with 3500# capacity per hydraulic cylinder, extended travel speed rate of 1.25" - 1.5" per second, rear clevis mount and rod eyes • 3 H.P., 230V/460V AC, 3P, 60HZ Monarch electric motor • 3.7 gpm hydraulic pump with 3 gallon reservoir tank • Remote mounted hand valve, spring actuated return to center joy stick, load holding and unloading operation	$ 5,400.00
2	6	**Additional upcharges based on engineering scope changes which were authorized by Larry Salone on 6/11/04.** • NEMA 4, 3 H.P., 230/460V AC, 3P, 60HZ electrical motor starter • Bead blast satin finish • Labor and materials to accommodate discharge height of 60" & tapered discharge shute width of 40" which enlarged the hopper and frame size **Total upcharges per unit:**	$ 400.00 $ 300.00 $ 1,200.00 $ 1,900.00

Conditions of Sale:
Precision Fabrication & Controls, Inc. standard terms and conditions of sale apply.
Terms: 40% down payment with order, balance net 30 days after shipment.
F.O.B.: Bradford, PA.
Warranty: Manufactures equipment one year.

Sincerely yours,

Loyd E. Swain II (JR)
Sales Engineer

cc: Ben Brechtel – Vice President
David Knox – Freshtec Int'l. LLC. Engineer

FAXED
7/1/04 4:00 P.M. JR

Precision Fabrication & Controls, Inc.
195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

April 19, 2004

Mr. Larry Salone – President
Freshtec Int'l. LLC.
602-9 West Dubois Avenue
Dubois, PA 15801

Dear Larry:
Precision Fabrication & Controls, Inc. is pleased to present Freshtec Int'l. LLC. with this quotation.

Item #	Qty	Description	Net Price Each
		Quotation #1006 **Reference: P.O. #040804073**	
1	6	**Stainless steel bin dumper per options:** • **11 gauge 304 stainless steel mil finish hopper 54"W X 48"D X 48"H with approximately 2500# load capacity** • **Base frame construction heavy duty tubing 3" X 3" 3/16" wall, cross member supports with (4) floor lagged mounting plates** • **Greaseable pivot bushings** • **(2) 2.5" bore, 1.75" rod, 24" stroke , 714 psi operating pressure with 3500# capacity per hydraulic cylinder, extended travel speed rate of 1.25" - 1.5" per second, rear clevis mount and rod eyes** • **2 H.P., 230V/460V AC, 3P, 60HZ Monarch electric motor** • **3.7 gpm hydraulic pump with 3 gallon reservoir tank** • **Remote mounted hand valve, spring actuated return to center joy stick, load holding and unloading operation**	**$ 5,400.00**
		Total sell:	**$ 32,400.00**

Delivery: 5 – 7 weeks after receipt of order and down payment.

Conditions of Sale: Precision Fabrication & Controls, Inc. standard terms and conditions of sale apply.
Terms: 40% down payment with order, balance net 30 days after shipment.
F.O.B.: Bradford, PA.
Warranty: Manufactures equipment one year.

We thank you for this opportunity to quote, and look forward to serving your needs.

Sincerely yours,

Loyd E. Swain II (JR)
Sales Engineer

cc: Ben Brechtel – Vice President
Marty Casilio – Product & Design Manager
David Knox – Freshtec Int'l. LLC. Engineer

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

July 1, 2004

Mr. Larry Salone – President
Freshtec Int'l. LLC.
602-9 West Dubois Avenue
Dubois, PA 15801

Dear Larry:
Precision Fabrication & Controls, Inc. is pleased to present Freshtec Int'l. LLC. with this revised quotation.

Item	Qty	Quotation #1010-Rev. 1 Description — Reference: P.O. #040804072	Net Price Each
1	2	**Stainless steel bin dumper per options:** • **11 gauge 304 stainless steel mil finish hopper 54"W X 48"D X 48"H with approximately 2500# load capacity** • **Base frame construction heavy duty tubing 3" X 3" 3/16" wall, cross member supports with (4) floor lagged mounting plates** • **Greaseable pivot bushings** • **(2) 2.5" bore, 1.75" rod, 24" stroke , 714 psi operating pressure with 3500# capacity per hydraulic cylinder, extended travel speed rate of 1.25" - 1.5" per second, rear clevis mount and rod eyes** • **3 H.P., 230V/460V AC, 3P, 60HZ Monarch electric motor** • **3.7 gpm hydraulic pump with 3 gallon reservoir tank** • **Remote mounted hand valve, spring actuated return to center joy stick, load holding and unloading operation**	**$ 5,400.00**
2	2	**Additional upcharges based on engineering scope changes which were authorized by Larry Salone on 6/11/04.** • **NEMA 4, 3 H.P., 230/460V AC, 3P, 60HZ electrical motor starter** • **Bead blast satin finish** • **Labor and materials to accommodate discharge height of 60" & tapered discharge shute width of 40" which enlarged the hopper and frame size** **Total upcharges per unit:**	**$ 400.00** **$ 300.00** **$ 1,200.00** **$ 1,900.00**

Conditions of Sale:

Precision Fabrication & Controls, Inc. standard terms and conditions of sale apply.
Terms: 40% down payment with order, balance net 30 days after shipment.
F.O.B.: Bradford, PA.
Warranty: Manufactures equipment one year.

Sincerely yours,

Loyd E. Swain II (JR)
Sales Engineer

cc: Ben Brechtel – Vice President
David Knox – Freshtec Int'l. LLC. Engineer

FAXED
7/1/04 4:00 P.M. JR

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

April 19, 2004

Mr. Larry Salone – President
Freshtec Int'l. LLC.
602-9 West Dubois Avenue
Dubois, PA 15801

Dear Larry:
Precision Fabrication & Controls, Inc. is pleased to present Freshtec Int'l. LLC. with this quotation.

Item #	Qty	Quotation #1010 Description Reference: P.O. #040804072	Net Price Each
1	2	**Stainless steel bin dumper per options:** • **11 gauge 304 stainless steel mil finish hopper 54"W X 48"D X 48"H with approximately 2500# load capacity** • **Base frame construction heavy duty tubing 3" X 3" 3/16" wall, cross member supports with (4) floor lagged mounting plates** • **Greaseable pivot bushings** • **(2) 2.5" bore, 1.75" rod, 24" stroke , 714 psi operating pressure with 3500# capacity per hydraulic cylinder, extended travel speed rate of 1.25" - 1.5" per second, rear clevis mount and rod eyes** • **2 H.P., 230V/460V AC, 3P, 60HZ Monarch electric motor** • **3.7 gpm hydraulic pump with 3 gallon reservoir tank** • **Remote mounted hand valve, spring actuated return to center joy stick, load holding and unloading operation**	**$ 5,400.00**
		Total sell:	**$ 10,800.00**

Delivery: 5 – 7 weeks after receipt of order and down payment.

Conditions of Sale: Precision Fabrication & Controls, Inc. standard terms and conditions of sale apply.
Terms: 40% down payment with order, balance net 30 days after shipment.
F.O.B.: Bradford, PA.
Warranty: Manufactures equipment one year.

We thank you for this opportunity to quote, and look forward to serving your needs.

Sincerely yours,

Loyd E. Swain II (JR)
Sales Engineer

cc: Ben Brechtel – Vice President
Marty Casilio – Product & Design Manager
David Knox – Freshtec Int'l. LLC. Engineer

A-6

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 Fax (814) 368-5040

July 1, 2004

Mr. Larry Salone – President
Freshtec Int'l. LLC.
602-9 West Dubois Avenue
Dubois, PA 15801

Dear Larry:
Precision Fabrication & Controls, Inc. is pleased to present Freshtec Int'l. LLC. with this revised quotation.

Item	Qty	Quotation #1636-Rev. 1 Reference: P.O. #021904028 Description	Net Price Each
1	2	**Stainless steel bin dumper per options:** • 11 gauge 304 stainless steel mil finish hopper 54"W X 48"D X 48"H with approximately 2500# load capacity • Base frame construction heavy duty tubing 3" X 3" 3/16" wall, cross member supports with (4) floor lagged mounting plates • Greaseable pivot bushings • (2) 2.5" bore, 1.75" rod, 24" stroke , 714 psi operating pressure with 3500# capacity per hydraulic cylinder, extended travel speed rate of 1.25" - 1.5" per second, rear clevis mount and rod eyes • 3 H.P., 230V/460V AC, 3P, 60HZ Monarch electric motor • 3.7 gpm hydraulic pump with 3 gallon reservoir tank • Remote mounted hand valve, spring actuated return to center joy stick, load holding and unloading operation	$ 5,400.00
2	2	**Additional upcharges based on engineering scope changes which were authorized by Larry Salone on 6/11/04.** • NEMA 4, 3 H.P., 230/460V AC, 3P, 60HZ electrical motor starter • Bead blast satin finish • Labor and materials to accommodate discharge height of 60" & tapered discharge shute width of 48" which enlarged the hopper and frame size **Total upcharges per unit:**	$ 400.00 $ 300.00 $ 1,200.00 $ 1,900.00

Conditions of Sale:

Precision Fabrication & Controls, Inc. standard terms and conditions of sale apply.
Terms: 40% down payment with order, balance net 30 days after shipment.
F.O.B.: Bradford, PA.
Warranty: Manufactures equipment one year.

Sincerely yours,

Loyd E. Swain II (JR)
Sales Engineer

cc: Ben Brechtel – Vice President
David Knox – Freshtec Int'l. LLC. Engineer

FAXED
7/1/04 4:00 P.M. JR

ADVANCED INDUSTRIAL CONTROLS, INC.
536 EAST MAIN STREET
BRADFORD, PA 16701

CONTROL SYSTEMS AND
METAL FABRICATION
PHONE: (814) 368-4176
FAX: (814) 368-5040
E-MAIL: jrswain@charter.net
www.aic-us.com

March 29, 2004

Mr. Larry Salone - President
Freshtec Int'l. LLC.
602-9 West Dubois Avenue
Dubois, PA 15801

Dear Larry:
Advanced Industrial Controls, Inc. is pleased to present Freshtec Int'l. LLC. with this quotation.

Item #	Qty	Description	Net Price Each
		Quotation #1636 **Reference: P.O. #021904028**	
1	2	**Stainless steel bin dumper per options:** • **11 gauge 304 stainless steel mil finish hopper 54"W X 48"D X 48"H with approximately 2500# load capacity** • **Base frame construction heavy duty tubing 3" X 3" 3/16" wall, cross member supports with (4) floor lagged mounting plates** • **Greaseable pivot bushings** • **(2) 2.5" bore, 1.75" rod, 24" stroke , 714 psi operating pressure with 3500# capacity per hydraulic cylinder, extended travel speed rate of 1.25" - 1.5" per second, rear clevis mount and rod eyes** • **2 H.P., 230V/460V AC, 3P, 60HZ Monarch electric motor** • **3.7 gpm hydraulic pump with 3 gallon reservoir tank** • **Remote mounted hand valve, spring actuated return to center joy stick, load holding and unloading operation**	**$ 5,400.00**
		Total sell:	**$ 10,800.00**

Delivery: 5 – 7 weeks after receipt of order and down payment.

Conditions of Sale: A.I.C. standard terms and conditions of sale apply.
Terms: 40% down payment with order, balance net 30 days after shipment.
F.O.B.: Bradford, PA.
Warranty: Manufactures equipment one year.

We thank you for this opportunity to quote, and look forward to serving your needs.

Sincerely yours,

Loyd E. Swain II (JR)
Director of Sales and Marketing

cc: Ben Brechtel – Engineering Manager
Marty Casilio – Metal Fabrication Engineer
David Knox – Freshtec Int'l. Engineer

INVOICE

FEDERAL ID# 25-1792709

PLEASE PAY FROM THIS INVOICE
WE DO NOT ISSUE STATEMENTS.

INVOICE DATE	INVOICE NO.
4/15/04	76317

ADVANCED INDUSTRIAL CONTROLS, INC.

536 E. MAIN STREET
P.O. BOX 977
BRADFORD, PA. 16701

CONTROL PANEL SYSTEMS
METAL FABRICATION
PH. (814) 368-4176
FAX (814) 368-5040

SOLD TO
FRESHTEC, INT'L LLC
PO BOX 585
DUBOIS PA 15801

SHIP TO
SNIPPED FRESH PRODUCE
ATTN: JOEY
65 MARKET STREET
CHELSEA MA 02150

9:20AM LOCATION 3

ACCOUNT NO.	CUSTOMER P.O. NO.	SALESMAN	SHIP VIA	DATE SHIPPED	ORDER NO.	TERMS
25141	V&L-DAVID KNOX	5	PITT OHIO	4/15/04	43959	NET 30 DAY

QUANTITY ORDERED	QUANTITY B.O.	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	UNIT PRICE	PER	AMOUNT
1	0	1	*9065000999	ONION SLICER MACHINE RETURNED FOR NON-WARRANTY EVALUATION / REPAIR. COMPLETE DIAGNOSTIC TESTING AND WIRING POINT-TO-POINT TRACEABILITY WAS PERFORMED. THE FOLLOWING WAS FOUND AND CORRECTED. UNIT IS NOW FUNCTIONING ELECTRICALLY. * START CIRCUIT REQUIRED RE-WIRING * SAFETY RELAY REQUIRED RE-WIRING * FAN COVER DENT CREATING LOCK ROTOR * STANDOFF MOUNTED FOR GUARD CONTROL * NAME TAG FOR GUARD INSTRUCTIONS * CLEANED AND REPACKED UNIT PLEASE REMIT TO P O BOX 977 BRADFORD PA 16701	600.00	EA	600.00

GROSS INVOICE	TAX	SHIPPING CHARGES	PAY THIS AMOUNT
600.00			600.00

ITEMS NOT SHIPPED WILL BE BACK ORDERED OTHERWISE NOTED.

1½% Per Month (18% PER ANNUM) Charged on Delinquent Accounts.

NO CREDIT WILL BE ALLOWED FOR GOODS RETURNED WITHOUT OUR PERMISSION. A MINIMUM OF 15% SERVICE CHARGE WILL BE MADE. TRANSPORTATION CHARGES ON GOODS RETURNED MUST BE PREPAID. WE HEREBY CERTIFY THAT WE ARE COMPLYING WITH THE REQUIREMENTS OF THE "FAIR LABOR STANDARDS ACT" OF 1938 AS AMENDED. THE PRICES ON THIS INVOICE ARE TO THE BEST OF OUR KNOWLEDGE AND BELIEF, NOT IN VIOLATION OF ANY APPLICABLE CEILING PRICE LAWS OR REGULATIONS.

NO MATERIAL RETURNS WILL BE ACCEPTED WITHOUT PRIOR AUTHORIZATION

ORIGINAL

JUL 29 2004 9:16AM HP LASERJET 3200
JUL-29-2004 10:34 95%
A-9

Precision Fabrication & Controls, Inc.

Precision Fabrication Accounts Receivable Aging - Freshtec

As of August 3, 2004

Customer	Quotation Number	Purchase Order Number	Sale Amount	Down Payment	Invoice Number	Date	Sales Amount	Paid Date	Check #
Freshtec Int'l LLC.	1008	10804001	$ 48,060.00		1042	5/19/2004	$28,836.00		
				$ 19,224.00	76127AIC	12/31/2003		2/11/2004	1021
Freshtec Int'l LLC.	1005	33004063	$ 4,600.00		1042	5/19/2004	$2,760.00		
				$ 1,840.00	1014	4/28/2004		4/28/2004	403
Freshtec Int'l LLC.	1005	21904030	$ 18,500.00		1054	5/24/2004	$12,950.00		
				$ 5,550.00	76222AIC	3/17/2004		3/17/2004	1090
Freshtec Int'l LLC.	1008	10804001	$ 48,060.00		1075	6/1/2004	$28,836.00		
				$ 19,224.00	76127AIC	12/31/2003		2/11/2004	1021
Freshtec Int'l LLC.	1005	33004063	$ 9,400.00		1076	6/9/2004	$5,640.00		
				$ 3,760.00	1014	4/28/2004		4/28/2004	403
Freshtec Int'l LLC.	1005	2190430	$ 12,000.00		1077	6/8/2004	$8,400.00		
				$ 3,600.00	76222AIC	3/17/2004		3/17/2004	1090
Freshtec Int'l LLC.	Adder	60904137	$ 150.00		1079	6/10/2004	$150.00		
Freshtec Int'l LLC.	1007	41204075	$ 2,600.00		1080	6/10/2004	$1,560.00		
				$ 1,040.00	1013	4/28/2004		4/28/2004	408
Freshtec Int'l LLC.	1617	21904028	$ 10,800.00		1090	6/15/2004	$7,560.00		
				$ 3,240.00	76223AIC	2/27/2004		3/17/2004	1009
Freshtec Int'l LLC.	1004	33004062	$ 5,400.00		1091	6/16/2004	$3,240.00		
				$ 2,160.00	1016	4/28/2004		4/28/2004	402
Freshtec Int'l LLC.	1010	40804072	$ 10,800.00		1108	6/25/2004	$6,480.00		
				$ 4,320.00	1015	4/28/2004		4/28/2004	407
Freshtec Int'l LLC.	1636	21904028	$ 3,800.00		1119	7/7/2004	$3,800.00		
Freshtec Int'l LLC.	1004	33004062	$ 1,900.00		1120	7/7/2004	$1,900.00		
Freshtec Int'l LLC.	1006	40804073	$ 32,400.00		1127	7/13/2004	$19,440.00		
				$ 12,960.00	1012	4/28/2004		4/28/2004	406
Freshtec Int'l LLC.	1010	40804072	$ 3,800.00		1135	7/19/2004	$3,800.00		
Freshtec Int'l LLC.	1006	40804073	$ 11,400.00		1136	7/19/2004	$11,400.00		
							$146,752.00		
AIC									
Freshtec Int'l LLC.					76317	4/15/2004	$600.00		
							$600.00		$0.00
									$0.00

EXHIBIT "B"

Date	Invoice #
5/19/04	1042

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
4C024	010804001,33004063	2	5/14/04	5/14/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	GWT 4000/1100 Stainless Steel Washline-PO#010804001		$14,418.00	EA	2	$28,836.00
2	4000/1100 Chiller Control Panel With (4) 3hp G&L pumps-PO#033004063		$2,760.00	EA	1	$2,760.00

Sales Amount	$31,596.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$31,696.00**

EXHIBIT "C-1"

Date	Invoice #
5/25/2004	1054

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
43882-01	021904030	2	3/2/04	5/24/05	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	1	Stainless Steel Spin Dryer With Control Panel	$4,200.00	EA	1	$4,200.00
2	1	GWT 2000/500 Stainless Steel Washline With Panel	$8,750.00	EA	1	$8,750.00

DOWN PAYMENT OF $9,150.00 RECEIVED ON CHECK#1090
DATED 3/17/04 TO AIC. TOTAL SHIPPED AMOUNT OF
PO#021904030 WILL BE $30,500.00. THE REMAINDER OF THIS
ORDER IS ESTIMATED TO BE SHIPPED AND BILLED 5/28/04.

Sales Amount	$12,950.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$12,950.00**

C-2

J

Date	Invoice #
6/1/04	1075

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
10024	010804001	2	5/14/04	5/14/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	GWT 4000/1100 Stainless Steel Washline-PO#010804001		$24,030.00	EA	2	$48,060.00
	Down payment received on Item #1 Paid on 2/11/04 on Check #1021 on AIC Invoice #76127.		-$9,612.00	EA	2	-$19,224.00

Sales Amount	$28,836.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$28,836.00**

J

C-3

Date	Invoice #
6/9/04	1076

Precision Fabrication & Controls, Inc.

195 Chestnut Street. PO Box 331 Brodford, PA 16701 (814) 368-8936 Fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
10046	03304063	2	6/1/04	6/1/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1		GWT 4000/1100 Stainless Steel Washline-Chiller Control System	$4,600.00	EA	1	$4,600.00
2		GWT 2000/500 Stainless Steel Washline	$2,400.00	EA	2	$4,800.00
3		GWT 4000/1100 Stainless Steel Washline-Downpayment 4/28/04	-$1,840.00	EA	1	-$1,840.00
4		GWT 2000/500 Stainless Steel Washline-Downpayment 4/28/04	-$960.00	EA	2	-$1,920.00

Ref.: Quote #1005 Dated 4/19/04

This order consisted of: (4) 3 HP G&L Pumps
Stainless Steel 16" x 16" x 6" stand alone
chiller motor starter panel mounted on
48" Hx 1-1/2" square tubing frame and 4"
mounting pads to control (2) washlines
complete with UL/CUL 508A Industrial Control
Panel testing and labeling.
(2) 2 HP G&L Pumps. Stainless steel
16" x 16" x 6" stand alone chiller motor
starter panel mounted on 48" H x 1-1/2"
square tubing frame and 4" mounting pads
complete with UL/CUL 508A Industrial Control
Panel testing and labeling.

Sales Amount	$5,640.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$5,640.00**

J

C-4

Date	Invoice #
6/8/04	1077

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
43882-01	021904030	2	3/2/04	5/24/05	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	1	Stainless Steel Spin Dryer With Control Panel	$4,200.00	EA	2	$8,400.00

DOWN PAYMENT OF $9,150.00 RECEIVED ON CHECK#1090
DATED 3/17/04 TO AIC.
ON 5/25/04 INVOICE#1054 PRECISION BILLED $12,950.00.
THIS IS THE REMANDER OF PO#3021904030. FOR A TOTAL OF
$30,500.00.
1 SHIPPED TO JESSUP, MD.
1 SHIPPED TO PLANT CITY, FL

Sales Amount	$8,400.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$8,400.00**

J

C-5

Date	Invoice #
6/10/04	1079

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
10057	0609041137	2	6/8/04	6/8/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1		300/800 Stainless steel washline 240V to 460V AC upgrade.	$150.00	EA	1	$150.00

Sales Amount	$150.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$150.00**

C-6

Date	Invoice #
6/10/04	1080

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 Fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
10056	041204075	2	4/9/04	6/9/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up.

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	GWT3000/800	GWT3000/800 Stainless Steel Washline Chiller Control System Adder:	$2,600.00	EA	1	$2,600.00
2	DOWNPAYMENT	40% Downpayment-Paid 4-28-04	-$1,040.00	EA	1	-$1,040.00
		* (2) 3 HP G & L Pumps * Stainless steel 16"x16"x6" stand alone chiller motor starter panel mounted on 48"Hx1-1/2"x1-1/2" square tubing frame and 4" mounting pads complete with UL/CUL 508A Industrial Control Panel testing and labeling.				
		Ref: Precision Quote #1007 dated 4/19/04				

Sales Amount	$1,560.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$1,560.00**

C-7

Date	Invoice #
6/15/04	1090

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 Fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
43381	021904028	2	6/15/04	6/15/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1		(2) Bin Dumpers with 60" discharge height and 48" dishcarge width 230V AC.	$5,400.00	EA	2	$10,800.00
		DOWN PAYMENT OF $3,240.00 RECEIVED ON CHECK#1089 DATED 3/17/04.	-$3,240.00	EA	1	-$3,240.00

Sales Amount	$7,560.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$7,560.00**

J

C-8

Date	Invoice #
6/21/04	1091

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	3LSM	Order Date	Request Date	Terms	Customer No.	Warehouse
16012	033004062	2	4/28/04	6/16/04	Net 30 days	1012	003

Shipping Instructions: Customer pick up

Item #	Part #	Description	Price	U/M	Quantity	Amount
1		1 Bin dumper with 60" discharge height and 30" discharge width 460V AC	$5,400.00	EA	1	$5,400.00
2		DOWN PAYMENT OF $2160.00 RECEIVED ON CHECK#402 DATED 4/28/04.	-$2,160.00	EA	1	-$2,160.00

NOTE: Additional upcharges to follow based on Engineering Scope changes authorized by Larry Salone on 6/11/04.

This invoice is to correct the one previously sent. The $2,160.00 is a credit not a debit, please disregard first invoice. Invoice#1091.

Sales Amount	$3,240.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$3,240.00**

J

C-9

Date	Invoice #
6/25/04	1108

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 Fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
10079	040804072	2	4/19/04	6/25/04	Net 30 days.	1012	003

Shipping Instructions: ROADWAY EXPRESS

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	Bin Dumper	Bin dumper per quote#1010 with 60" discharge height floor level load discharge to close to 30" 230 VAC 3 PH 60 Hz.	$6,480.00	EA	1	$6,480.00
		Ref: J106 Quote: #1010				

Sales Amount	$6,480.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$6,480.00**

C-10

Date	Invoice #
7/7/2004	1119

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
Upcharge	021904028	2	7/7/04	7/7/04	Net 30 days	1012	003

Shipping Instructions:

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	UPCHARGES	Additional upcharges based on engineering scope changes which were authorized by Larry Salone on 6/11/04.	$1,900.00	EA	2	$3,800.00
		NEMA 4, 3 H.P., 230/460V AC, 3P, 60HZ electrical motor starter.	$400.00			
		Bead blast satin finish.	$300.00			
		Labor and materials to accommodate discharge height of 60" & tapered discharge shute width of 48" which enlarged the hopper and frame size.	$1,200.00			
		Ref:Quote#1636 PO#021904028				

Sales Amount	$3,800.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$3,800.00**

C-11

Date	Invoice #
7/7/04	1120

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 Fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
Upcharge	033004062	2	7/7/04	7/7/04	Net 30 days	1012	003

Shipping Instructions:

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	UPCHARGES	Additional upcharges based on engineering scope changes which were authorized by Larry Salone on 6/11/04.	$1,900.00	EA	1	$1,900.00
		NEMA 4, 3 H.P., 230/460V AC, 3P, 60HZ electrical motor starter.	$400.00			
		Bead blast satin finish.	$300.00			
		Labor and materials to accommodate discharge height of 60" & tapered discharge shute width of 30" which enlarged the hopper and frame size.	$1,200.00			
		Ref:Quote#1004 PO#033004062				

Sales Amount	$1,900.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$1,900.00**

C-12

Date	Invoice #
7/13/04	1127

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 Fax (814) 368-5040

Sold To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
10087	040804073	2	4/8/04	7/10/04	Net 30 days	1012	003

Shipping Instructions : RoadWay

Item #	Part #	Description	Price	U/M	Quantity	Amount
1	BINDUMPER	Stainless Steel Bin Dumper	$5,400.00	EA	6	$32,400.00
		40% Downpayment-Paid 4/28/04 Ck#406	-$12,960.00	EA	1	-$12,960.00
		REF: Precision Quote#1006 Dated 4/19/04				

Sales Amount	$19,440.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$19,440.00**

C-13

Date	Invoice #
7/19/2004	1135

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
ADDER	040804072	2	6/11/04	7/1/04	Net 30 days	1012	003
Shipping Instructions: RoadWay							

Item #	Part #	Description	Price	U/M	Quantity	Amount
2	ADDER	Adder for PO#040804072 authorized by Larry Salone on 6/11/04.	$1,900.00	EA	2	$3,800.00
		NEMA 4, 3 H.P., 230/460V AC, 3P, 60HZ electrical motor starter. Bead blast satin finish. Labor and materials to accommodate discharge height of 60" & tapered discharge shute width of 40" which enlarged the hopper and frame size.				

Sales Amount	$3,800.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$3,800.00**

C-14

Date	Invoice #
7/19/2004	1136

Precision Fabrication & Controls, Inc.

195 Chestnut Street, PO Box 331 Bradford, PA 16701 (814) 368-8936 fax (814) 368-5040

Sold To
Freshtec, Int'l LLC **PO Box 585** **Dubois, PA 15801**

Ship To
Freshtec, Int'l LLC PO Box 585 Dubois, PA 15801

Order No.	Purchase Order No.	SLSM	Order Date	Request Date	Terms	Customer No.	Warehouse
ADDER	040804073	2	6/11/04	7/1/04	Net 30 days	1012	003
Shipping Instructions: RoadWay							

Item #	Part #	Description	Price	U/M	Quantity	Amount
2	ADDER	Adder for PO#040804073 authorized by Larry Salone on 6/11/04.	$1,900.00	EA	6	$11,400.00
		NEMA 4, 3 H.P., 230/460V AC, 3P, 60HZ electrical motor starter. Bead blast satin finish. Labor and materials to accommodate discharge height of 60" & tapered discharge shute width of 40" which enlarged the hopper and frame size.				

Sales Amount	$11,400.00
Misc. Charges	$0.00
Freight	$0.00
Sales Tax	$0.00
Total	**$11,400.00**

C-15

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

FILED NO CC
m/ 11:37 BH
JAN 21 2005
William A. Shaw
Prothonotary/Clerk of Courts

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	Type of Pleading: Motion for Sanctions No. 2
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	Prepared on behalf of Precision Fabrication and Controls, Inc.
	*	Counsel of Record for this Party:
	*	Eugene J. Brew, Esq.
	*	McClure & Miller LLP
	*	717 State St., Suite 701
	*	Erie, PA 16501
	*	(814) 453-3681
	*	Pa. I.D. No. 06500

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

DEFENDANT, PRECISION FABRICATION AND CONTROLS, INC.
MOTION FOR SANCTIONS REQUESTING
ORDER DIRECTING RESPONSIVE ANSWERS TO INTERROGATORIES

Precision Fabrication and Controls, Inc. (Precision) by its attorney, Eugene J. Brew, Esq., files this Motion for Sanctions requesting the Court to Order Plaintiffs, FreshTec Food Processing Equipment International LLC (FreshTec) and Backus USA, Inc. (Backus) to serve responsive answers to Precision's Interrogatories and Request for Documents (First Set) and sets forth:

1. Precision served Interrogatories and Request for Documents (First Set) on FreshTec's counsel on August 23, 2004.

2. After refusing to respond to the Interrogatories, and receiving a Sanctions Order from this Court, FreshTec served their response on or about December 30, 2004.

3. A copy of the Interrogatories and responses (paragraphs 7, 8, 9 and 10 only) is attached hereto, made a part hereof, and marked Exhibit "A".

4. The responses are not adequate responses, not addressing directly the information requested.

5. For example, in number 7, documents and names and addresses of individuals with knowledge of FreshTec's allegation that Precision advised FreshTec's customers that FreshTec had not satisfied its payment obligations, was completely ignored.

6. Likewise, in number 8, 9 and 10 there was no complete response.

WHEREFORE, the Court is requested to order and direct FreshTec and Backus to respond completely to the Interrogatories numbered 7, 8, 9 and 10.

CERTIFICATE OF MAILING
A COPY OF THE ... HAS BEEN SERVED ON ALL OTHER PART... COUNSEL AND THE COURT, BY FIRST ... POSTAGE PREPAID, OR HAND DEL...
ON 1-19 2005
McCLURE and MILLER
BY

Eugene J. Brew, Jr., Esq.
McCLURE & MILLER
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls, Inc.

Dated: 1/19, 2005

5.

With respect to those persons identified in your answer to Interrogatory No. 3, please state:

(a) his or her occupation, specialization, qualification including education and other training and professional experience; and

Answer:

No response required.

(b) The substance of the facts and opinions to which each is expected to testify and a summary of the grounds for each opinion, including any text materials relied upon.

Answer:

No response required.

6.

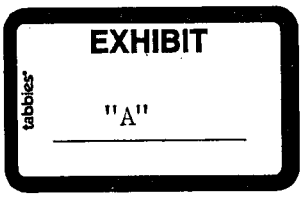
Submit copies of any documents that you intend to use as evidence at trial in support of Count II of your Complaint (Defamation).

Answer:

As stated in the Complaint, Benjamin Brechtel of Precision indicated in writing that he would notify Plaintiff's customers of Plaintiff's failure to pay the invoices, and would place liens on the equipment in their possession. However, due to the injunction entered by the Court on July 29, 2004, Defendant was barred from contacting any such customers. At the present time, Plaintiff is unaware of any violations of the injunction.

7.

State whether or not (yes or no) you have evidence or information that Precision has advised any of FreshTec's customers in the food processing industry who are currently using product received from FreshTec that FreshTec has not satisfied its payment obligations, and if



your answer is yes, state the names, present addresses, occupation, and phone number of any persons who have this knowledge, and attach copies of any documents that indicate that this is a fact.

Answer:

As Defendants are aware, an injunction has been in place in this case since October, 2004 barring Precision from contacting Fresh Tec's customers to notify them that Fresh Tec has not satisfied its payment obligations. At the present time, Plaintiff has no knowledge of any violations of the injunction.

8.

State what evidence or knowledge you have that Precision actually contacted any of Fresh Tec's customers to notify them of FreshTec's failure to pay invoices. If your answer is anything other than "none", state the details of the contact, who made the contact, to whom it was made, date, and what was said.

Answer:

As Defendants are aware, the Court entered an injunction in this case on July 29, 2004, and continued said injunction on August 19, 2004, pending a hearing on the merits, barring Precision from contacting Fresh Tec's customers to notify them that Fresh Tec has not satisfied its payment obligations. At the present time, Plaintiff has no knowledge of any violations of the injunction.

9.

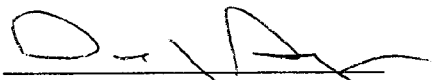
State with specificity and details including date, description and any other details that would help identify the document, if there is a document, of confidential information you are referring to in Count IV, Specific Performance.

Answer:

As set forth in the Complaint entitled *Backus USA, Inc., and Fresh Tec Food Processing Equipment International, LLC v. Precision Fabrication and Controls, Inc. and Advanced Industrial Controls, Inc.* as filed in the Court of Common Pleas of Clearfield County, Pennsylvania, and as consolidated under the present docket number, Defendant AIC was party to a confidentiality agreement which barred disclosure of certain confidential information including customer lists and records, trade secrets, technical information, business records and plans, financial statements, products, inventions, product design information, pricing structure, discounts, costs, computer programs and listings, source codes and/or object codes and other proprietary information. The Confidential Information is not limited to a document per se but may well include other types of information that may have been incorporated into certain designs.

By way of further response, Plaintiff believes that Defendant Precision still has certain construction blueprints relating to bin dumpers, spin dryers, cutters and other equipment in its possession, as well as costing sheets for such machinery.

Respectfully submitted,



David J. Hopkins, Esquire
Attorney for FreshTec Food Processing
Equipment International, LLC

FILED

JAN 2 1 2005

William A. Shaw
Prothonotary/Clerk of Courts

COPY

NC order

Eugene J. Brew, Esq.
717 State St., Ste. 701
Erie, PA 16501

Re: 04-1146-CD; 04-1577-CD
Freshtec Food vs. Precision; Backus vs. Precision

Dear Mr. Brew,

Please find enclosed a copy of your request for status conference received by the Court Administrator. The court will not entertain your request without a proposed scheduling order. Please note that your original did not contain a case number. Please file an Amended Request for Status Conference showing both case numbers and captions, if that is your intention. We will require two originals, each with an order attached. Both originals can reflect both case captions.

Additionally, the court will not entertain your Motion for Sanctions No. 2 filed to both case numbers. Please submit to the Court Administrator's office two copies of a proposed scheduling order for this Motion, with a copy of the Motion being attached to each.

If you have any questions, please contact me at (814) 765-2641, ext. 1331 or the Court Administrator's office at (814) 765-2641, ext. 5982.

Sincerely,

William A. Shaw
Prothonotary

Enclosures

PRECISION FABRICATION & CONTROLS, INC.,
PLAINTIFF

vs.

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC
DEFENDANT

* IN THE COURT OF COMMON PLEAS
* OF CLEARFIELD COUNTY,
* PENNSYLVANIA
*
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*
*
*
* No. 2004 - 1146-CD
* Case transferred from McKean County
* by Order of Court. McKean County No.
* 2004-10915
*
* Type of Case: Contract
*
* Type of Pleading:
* Request for Status Conference
*
*
* Filed on behalf of:
* Precision Fabrication & Controls, Inc.
*
* Counsel of record:
*
* Eugene J. Brew, Esq.
* McClure & Miller LLP
* 717 State Street, Suite 701
* Erie, PA 16501
* (814) 453-3681
* Pa. I.D. No. 06500
*
* Dated: January 21, 2005

FILED

JAN 24 2005

m/1:35/cc

William A. Shaw
Prothonotary

1 cert to Atty

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 2004 -

REQUEST FOR STATUS CONFERENCE

Plaintiff, Precision Fabrication and Controls, Inc., by its attorney, Eugene J. Brew, Esq., requests the Court or the Court Administrator to schedule a Status Conference pursuant to Local Rule 212.1:

1. This action was filed August 9, 2004, in McKean County.

2. The action has been transferred by Order of this Court to Clearfield County.

3. The pleadings are closed.

4. The Plaintiff requests the Court to set a date for the close of discovery and to make any other and further Orders as the Court may deem appropriate in order to bring the case to trial.

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls, Inc.

Dated: January 21, 2005

CERTIFICATE OF MAILING

I, EUGENE J. BREW, ESQ., certify that on the below date I served a true copy of the within pleading by mailing the same to the following by postage pre-paid on the following date:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801
Attorney for FreshTec Food Processing Equipment International LLC

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls, Inc.

Dated: January 21, 2005

FILED

JAN 2 4 2005

William A. Shaw
Prothonotary

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania Limited Liability Company	:	
vs.	:	No. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	

ORDER

AND NOW, this 26th day of January, 2005, it is the ORDER of the Court that a status conference in the above matter has been scheduled for **Thursday, March 17, 2005 at 10:00 A.M.**, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

Paul E. Cherry

PAUL E. CHERRY
Judge

FILED
01/9:48 BM
JAN 27 2005
William A. Shaw
Prothonotary/Clerk of Courts

GK
1 cc
Attys: Hopkins
Brau
(per CIA)

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

FILED
M 12:10 BA 1cc to atty
JAN 31 2005
William A. Shaw
Prothonotary

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
vs.	*	

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC
DEFENDANT

*
*
* No. 2004 - 1146 CD
* Case transferred from McKean County
* by Order of Court. McKean County No.
* 2004-10915
*
* Type of Case: Contract
*
* Type of Pleading:
* Motion for Sanctions II
*
*
* Filed on behalf of:
* Precision Fabrication & Controls, Inc.
*
* Counsel of record:
*
* Eugene J. Brew, Esq.
* McClure & Miller LLP
* 717 State Street, Suite 701
* Erie, PA 16501
* (814) 453-3681
* Pa. I.D. No. 06500
*
* Dated: January 28, 2005

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	* * * * *	No. 2004-1146-CD
vs.	* * *	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	* * * * *	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	* * * * * *	No. 04-1577 - CD
vs.	* * *	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	* * * * *	

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	* * *	IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
vs.	* *	

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC
DEFENDANT

*
*
*
* No. 2004 - 1146 CD
* Case transferred from McKean County
* by Order of Court. McKean County No.
* 2004-10915
*

DEFENDANT, PRECISION FABRICATION AND CONTROLS, INC.
MOTION FOR SANCTIONS REQUESTING
ORDER DIRECTING RESPONSIVE ANSWERS TO INTERROGATORIES

Precision Fabrication and Controls, Inc. (Precision) by its attorney, Eugene J. Brew, Esq., files this Motion for Sanctions requesting the Court to Order Plaintiffs, FreshTec Food Processing Equipment International LLC (FreshTec) and Backus USA, Inc. (Backus) to serve responsive answers to Precision's Interrogatories and Request for Documents (First Set) and sets forth:

1. Precision served Interrogatories and Request for Documents (First Set) on FreshTec's counsel on August 23, 2004.

2. After refusing to respond to the Interrogatories, and receiving a Sanctions Order from this Court, FreshTec served their response on or about December 30, 2004.

3. A copy of the Interrogatories and responses (paragraphs 7, 8, 9 and 10 only) is attached hereto, made a part hereof, and marked Exhibit "A".

4. The responses are not adequate responses, not addressing directly the information requested.

5. For example, in number 7, documents and names and addresses of individuals with knowledge of FreshTec's allegation that Precision advised FreshTec's customers that FreshTec had not satisfied its payment obligations, was completely ignored.

6. Likewise, in number 8, 9 and 10 there was no complete response.

WHEREFORE, the Court is requested to order and direct FreshTec and Backus to respond completely to the Interrogatories numbered 7, 8, 9 and 10.

Eugene J. Brew, Jr., Esq.
McCLURE & MILLER
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls, Inc.

Dated: Jan 28, 2005

5.

With respect to those persons identified in your answer to Interrogatory No. 3, please state:

(a) his or her occupation, specialization, qualification including education and other training and professional experience; and

Answer:

No response required.

(b) The substance of the facts and opinions to which each is expected to testify and a summary of the grounds for each opinion, including any text materials relied upon.

Answer:

No response required.

6.

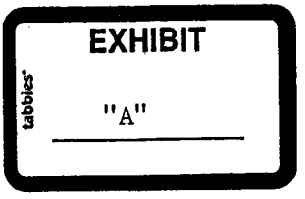
Submit copies of any documents that you intend to use as evidence at trial in support of Count II of your Complaint (Defamation).

Answer:

As stated in the Complaint, Benjamin Brechtel of Precision indicated in writing that he would notify Plaintiff's customers of Plaintiff's failure to pay the invoices, and would place liens on the equipment in their possession. However, due to the injunction entered by the Court on July 29, 2004, Defendant was barred from contacting any such customers. At the present time, Plaintiff is unaware of any violations of the injunction.

7.

State whether or not (yes or no) you have evidence or information that Precision has advised any of FreshTec's customers in the food processing industry who are currently using product received from FreshTec that FreshTec has not satisfied its payment obligations, and if



your answer is yes, state the names, present addresses, occupation, and phone number of any persons who have this knowledge, and attach copies of any documents that indicate that this is a fact.

Answer:

As Defendants are aware, an injunction has been in place in this case since October, 2004 barring Precision from contacting Fresh Tec's customers to notify them that Fresh Tec has not satisfied its payment obligations. At the present time, Plaintiff has no knowledge of any violations of the injunction.

8.

State what evidence or knowledge you have that Precision actually contacted any of Fresh Tec's customers to notify them of FreshTec's failure to pay invoices. If your answer is anything other than "none", state the details of the contact, who made the contact, to whom it was made, date, and what was said.

Answer:

As Defendants are aware, the Court entered an injunction in this case on July 29, 2004, and continued said injunction on August 19, 2004, pending a hearing on the merits, barring Precision from contacting Fresh Tec's customers to notify them that Fresh Tec has not satisfied its payment obligations. At the present time, Plaintiff has no knowledge of any violations of the injunction.

9.

State with specificity and details including date, description and any other details that would help identify the document, if there is a document, of confidential information you are referring to in Count IV, Specific Performance.

Answer:

As set forth in the Complaint entitled *Backus USA, Inc., and Fresh Tec Food Processing Equipment International, LLC v. Precision Fabrication and Controls, Inc. and Advanced Industrial Controls, Inc.* as filed in the Court of Common Pleas of Clearfield County, Pennsylvania, and as consolidated under the present docket number, Defendant AIC was party to a confidentiality agreement which barred disclosure of certain confidential information including customer lists and records, trade secrets, technical information, business records and plans, financial statements, products, inventions, product design information, pricing structure, discounts, costs, computer programs and listings, source codes and/or object codes and other proprietary information. The Confidential Information is not limited to a document per se but may well include other types of information that may have been incorporated into certain designs.

By way of further response, Plaintiff believes that Defendant Precision still has certain construction blueprints relating to bin dumpers, spin dryers, cutters and other equipment in its possession, as well as costing sheets for such machinery.

Respectfully submitted,

David J. Hopkins, Esquire
Attorney for FreshTec Food Processing
Equipment International, LLC

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

FILED ICC
01 3:03 BY Atty Brew
FEB 01 2005
William A. Shaw
Prothonotary/Clerk of Courts

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
vs.	*	

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC
DEFENDANT

*
*
*
* No. 2004 - 1146 CD
* Case transferred from McKean County
* by Order of Court. McKean County No.
* 2004-10915
*

ORDER OF COURT

AND NOW, this 1st day of February, 2005, upon receipt of Plaintiff, Precision Fabrication and Controls, Inc.'s Motion for Sanctions II, IT IS ORDERED:

1. Argument shall be heard on this Motion before the Court on March 7 2005, at 10:00 AM.

2. Counsel for Precision Fabrication and Controls, Inc. may participate in this Argument by telephone conference call.

BY THE COURT:

Paul E. Cheezy
j.

cc: David J. Hopkins, Esq.
Eugene J. Brew, Esq.

FILED

FEB 0 1 2005

William A. Shaw
Prothonotary/Clerk of Courts

CP

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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M 12:10 BA 1 cc to atty

JAN 3 1 2005

William A. Shaw
Prothonotary

PRECISION FABRICATION & CONTROLS, INC.,
PLAINTIFF

vs.

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC
DEFENDANT

* IN THE COURT OF COMMON PLEAS
* OF CLEARFIELD COUNTY,
* PENNSYLVANIA
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* No. 2004 -
* Case transferred from McKean County
* by Order of Court. McKean County No.
* 2004-10915
*
* Type of Case: Contract
*
* Type of Pleading:
* Amended Request for Status Conference
*
*
* Filed on behalf of:
* Precision Fabrication & Controls, Inc.
*
* Counsel of record:
*
* Eugene J. Brew, Esq.
* McClure & Miller LLP
* 717 State Street, Suite 701
* Erie, PA 16501
* (814) 453-3681
* Pa. I.D. No. 06500
*
* Dated: January 28, 2005

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	* * * * *	No. 2004-1146-CD
vs.	* * *	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	* * * * *	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	* * * * * *	No. 04-1577 - CD
vs.	* * *	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	* * * * *	

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 2004 - 1146 CD Case transferred from McKean County by Order of Court. McKean County No. 2004-10915

AMENDED REQUEST FOR STATUS CONFERENCE

Plaintiff, Precision Fabrication and Controls, Inc., by its attorney, Eugene J. Brew, Esq., requests the Court or the Court Administrator to schedule a Status Conference pursuant to Local Rule 212.1:

1. This action was filed August 9, 2004, in McKean County.

2. The action has been transferred by Order of this Court to Clearfield County.

3. The pleadings are closed.

4. The Plaintiff requests the Court to set a date for the close of discovery and to make any other and further Orders as the Court may deem appropriate in order to bring the case to trial.

5. This action, which is for breach of contract for payment for machines manufactured and sold, shall be severed or tried separately from the other two actions, for separate trial.

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls, Inc.

Dated: January 28, 2005

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

FILED 1cc
01/30/2005 Atty Brew
FEB 01 2005
William A. Shaw
Prothonotary/Clerk of Courts

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 2004 - 1146 CD
	*	Case transferred from McKean County by Order of Court. McKean County No. 2004-10915

ORDER OF COURT

AND NOW, this 1st day of February, 2005, after Status Confearence, IT IS ORDERED:

1. The action, Precision Fabrication & Controls, Inc., vs. FreshTec Food processing Equipment International LLC, which was transferred from McKean County by order of Court, shall be given a separate case number, and tried separately.

2. Discovery will close sixty (60) days from the date of this order, after which discovery may not be sought without agreement of the parties or special leave of court.

3. A further Status Conference will be held on March 17, 2005. Counsel for Precision may participate by telephone conference call. at 10:00 A.M.

4. Trial of the within case will be held before this Court on _____, 2005.

BY THE COURT:

Paul E. Cherry J.

cc: David J. Hopkins, Esq.
Eugene J. Brew, Esq.

FILED

FEB 0 1 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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JAN 31 2005
William A. Shaw
Prothonotary/Clerk of Courts

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

vs.

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC
DEFENDANT

No. 2004 - 1146 - CD
Case transferred from McKean County
by Order of Court. McKean County No.
2004-10915

Type of Case: Contract

Type of Pleading:
Request for Admissions

Filed on behalf of:
Precision Fabrication & Controls, Inc.

Counsel of record:

Eugene J. Brew, Esq.
McClure & Miller LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Pa. I.D. No. 06500

Dated: January 28, 2005

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	* * * * *	No. 2004-1146-CD
vs.	* * *	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	* * * * * *	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	* * * * * * *	No. 04-1577 - CD
vs.	* * *	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	* * * * * *	

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	* * *	IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

vs.

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC
DEFENDANT

No. 2004 - 1146 CD
Case transferred from McKean County by Order of Court. McKean County No. 2004-10915

REQUEST FOR ADMISSIONS

Precision Fabrication and Controls, Inc., (Precision) by its attorney, Eugene J. Brew, Esq., requests the Defendant, FreshTec Food Processing Equipment International LLC (FreshTec) to admit the truth of the matters set forth herein, including the genuineness, authenticity, correctness, execution, signing, delivery and mailing or receipt of any document described herein.

Pursuant to Pa. RCP 4014, the matters set forth herein are admitted unless within thirty (30) days of service of this Request an Answer verified by the party, or an objection, signed by the party, or the party's attorney is served upon the below named counsel. If an objection is made, the reasons therefore must be stated.

References to invoice numbers are Precision Invoices to FreshTec.

1.

Attached hereto and marked Exhibit "A" is a true copy of a letter dated and sent July 27, 2004, from counsel of record for FreshTec to Precision.

(a) All the information set forth in Exhibit "A" is incorrect as of the date of this Request for Admissions.

(b) The total of the invoices referred to in the letter, on which counsel states "my client is prepared to pay" is as follows:

Invoice No.	Amount
1042	$31,596.00
1054	12,950.00
1075	28,836.00
1076	5,640.00
1077	8,400.00
1079	150.00
1080	1,560.00
1090	7,560.00
1091	10,800.00
1108	6,480.00
1119	1,900.00
1120	1,900.00
1127	19,440.00
1135	1,900.00
1136	1,900.00
TOTAL	$141,012.00

2.

FreshTec has agreed to pay invoice 1042, in the sum of $31,596.00.

(a) FreshTec has never advised Precision or Precision's counsel of any reasons related to the machinery or equipment described in this invoice, why this invoice should not be paid.

(b) FreshTec never advised Precision in writing that there were any defects or deficiencies in this machinery.

3.

Invoice no. 1054, in the sum of $12,950.00, was used by FreshTec's customer in 2004.

(a) FreshTec claims that $5,000.00 should be withheld from this invoice, for payment for repairs to this machine.

(b) Withholding $5,000.00 on this invoice, would leave a remaining balance due on the invoice of $7,950.00.

(c) FreshTec has never given Precision any reason related to any defects or deficiencies in the machinery in this invoice, why the sum of $7,950.00, should not be paid at this time on this invoice.

(d) FreshTec has never advised Precision in writing of any defects or deficiencies in this machinery.

4.

Invoice no. 1075, for $28,836.00. FreshTec has given no reason to Precision, related to this specific machine, for not paying this invoice.

(a) This machine was shipped to FreshTec's customer, as being used by FreshTec's customer.

(b) FreshTec has given Precision no reason for non-payment of this invoice that is related to this machine.

(c) FreshTec has never advised Precision in writing of any defects or deficiencies in this machine.

5.

Invoice 1076. This machine was completed and shipped in 2004.

(a) FreshTec has never advised Precision of any reasons why this invoice should not be paid, that were related to the machine itself.

(b) The balance due on this machine is $5,640.00.

(c) FreshTec has had no written correspondence with Precision advising of any defects or deficiencies in this machine.

6.

Invoice 1077 is in the amount of $8,400.00.

(a) FreshTec claims that $2,220.00 should be withheld from this invoice for the cost of weld repairs and shipping charges.

(b) This machine was shipped and used by FreshTec's customer in 2004.

(c) FreshTec agrees that the sum of $6,200.00 is due on this invoice, subtracting the $2,200.00, FreshTec claims for weld repairs from the invoice, $8,400.00.

(d) FreshTec has never forwarded to Precision any document substantiating the claimed back-charge for weld repairs and shipping charges of $2,220.00.

(e) Other than the claim for welding repairs and shipping charges, there were no other defects or repairs to this machine.

7.

Invoice 1079, in the amount of $150.00, is admitted by FreshTec as a valid invoice and that it should be paid.

8.

Invoice 1080 in the sum of $1060.00 is admitted by FreshTec as a valid invoice, and that it should be paid.

9.

Invoice 1090 in the sum of $7,560.00. This machine was shipped on June 15, 2004.

(a) FreshTec claims that there were welding failures on this machine which were repaired by FreshTec's customer, and that the customer back-charged FreshTec $2,800.00.

(b) FreshTec agrees that after subtracting the $2,800.00 FreshTec claims as a credit, the balance on the invoice, $4,760.00, should be paid.

(c) FreshTec has never submitted to Precision any document substantiating the claim back-charge of $2,800.00 for welding failure repairs.

(d) Other than the claimed welding failures, there were no other defects or deficiencies in this machine. This machine has been used in 2004 by FreshTec's customer.

(e) FreshTec has been paid for this machine by FreshTec's customer.

10.

Invoice 1091 is in the total sum of $10,800.00.

(a) This machine was shipped on June 16, 2004.

(b) This machine has been used in 2004 by FreshTec's customer.

(c) FreshTec has been paid for this machine by FreshTec's customer.

(d) FreshTec claims that the invoices totaling $10,800.00 should be paid less the down payment made.

11.

Invoice 1108, for an invoice price of $6,480.00, is for a bin dumpster.

(a) FreshTec claims that the price should have been $5,400.00.

(b) FreshTec agrees that the sum of $5,400.00 is due and payable on this invoice.

(c) FreshTec has no complaints or objections to the machine itself.

(d) FreshTec's customer has been using this machine.

(e) FreshTec has been paid for this machine by its customer.

12.

FreshTec has no objections based on defects in the machine, to invoice 1119 in the sum of $1,900.00.

13.

FreshTec has no objections based on defects to the machine, to the payment of invoice no. 1120 in the sum of $1,900.00.

14.

FreshTec has no objections based on defects to the machine, to the payment of invoice no. 1127 in the sum of $19,440.00.

(a) This machine has been shipped to FreshTec's customer.

(b) FreshTec's customer has been using the machine, and has never returned the machine to FreshTec.

(c) FreshTec's customer has paid for the machine.

15.

FreshTec has no objections based upon defects or deficiencies in the machine, to the payment of invoice no. 1135 in the sum of $1,900.00.

16.

FreshTec has no objections based upon defects or deficiencies in the machine, to the payment of invoice no. 1136 in the sum of $1,900.00.

Submitted by:

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls, Inc.

Dated: JAN 25, 2005

CERTIFICATE OF SERVICE

I, EUGENE J. BREW, ESQ., certify that I served a true copy of the within Request for Admissions on Defendant's counsel as follows:

David J. Hopkins, Esq.
Hopkins Heltzel LLP
900 Beaver Drive
DuBois, PA 15801

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls, Inc.

Dated: JAN 25, 2005

HOPKINS HELTZEL LLP

900 Beaver Drive • DuBois, PA 15801

David J. Hopkins
Licensed in PA & NJ
Masters in Taxation

Lea Ann Heltzel
Licensed in PA

• Voice: (814) 375 - 0300
• Fax: (814) 375 - 5035
• Email:hopkinslaw@adelphia.net

July 27, 2004

FAXED 7-27-04

Facsimile: (814) 368-5040

Precision Fabrication & Controls, Inc.
Mr. Benjamin Brechtel
195 Chestnut Street
P.O. Box 331
Bradford, PA 16701

Re: FreshTec Food Processing Equipment International LLC

Dear Brechtel:

As a follow up to our telephonic conversation of last week, I enclose herewith for your review a Confidentiality and Non-Compete Agreement. Would you please review the document and if you have any questions or suggestions, please feel free to contact me or have your attorney contact me to iron out any suggestions you may have.

I have had some discussions with Mr. Salone who is now on the West Coast concerning this matter. My client has several concerns regarding the bills that you have sent which are set forth herein. My comments are based upon FreshTec's records.

Invoice 1042

a. Item 1 is okay.

b. Item 2 is okay.

c. By way of further response this machine was ordered and a down payment was made on January 8, 2004. The machine was not shipped until July 25, 2004. The delay caused FreshtTec's client to be very unhappy. I understand the delay was caused by Precision's inability to purchase materials. Notwithstanding the above, assuming all other provisions of this letter is satisfied, FreshTec will pay Invoice 1042.

EXHIBIT
"A"

Invoice 1054

c. This machine is breaking welds in Canada. FreshTec has had to visit the site and make repairs inasmuch as the customer cannot pull the machine out of production. FreshTec has paid $1,800 USD in repair work to date. FreshTec believes another $3,000.00 will be expended for repairs to this machine.

By way of further comment, this machine was ordered February 19, 2004 and a down payment made. The machine was not shipped until May 25, 2004 causing another FreshTec client to be unhappy. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1054 less $5,000.00.

Invoice 1075

a. This machine was ordered on January 8, 2004 and a down payment was made. The machine was not shipped until June 1, 2004 causing another unhappy customer. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1075.

Invoice 1076

a. This machine was ordered on March 30, 2004 and not shipped until June 1, 2004. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1076.

Invoice 1077

a. This machine has broken welds and has been returned to Wilcox. FreshTec has not yet fully evaluated the problem but it has spent $980.00 on one way freight. It will cost another $980.00 to return the machine. FreshTec anticipates 4 hours in repairing the welds at $65.00 per hour. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1077 less $2,220.00.

Invoice 1079

a. Assuming all other provisions of this letter are met, FreshTec will pay this invoice.

Invoice 1080

a. Assuming all other provisions of this letter are met, FreshTec will pay this invoice.

Invoice 1090

a. This machine was ordered on February 29, 2004 but not shipped until June 15, 2004. I understand welds have broken on this machine because it was skip welded rather than using continuous welds. The customer was initially angry with the delay in shipment and then became furious with the welding failures. The customer did not send the machine back, but rather, had it repaired at his facility. The customer billed FreshTec $2,800.00 for repairs that FreshTec credited the customer. Assuming all the other issues concerning the bin dumpster are resolved, FreshTec will pay this invoice less $2,800.00 it credited its customer for repairs.

Invoice 1091

a. This machine was ordered on March 30, 2004 but not shipped until June 16, 2004. The customer was angry over the delays. I understand Precision claims the units were not safe and had to be redesigned. However, FreshTec disputes this position. FreshTec gave J. R. pictures of other bin dumpsters it had purchased. If AIC or Precision could build the machines at FreshTec's cost, FreshTec would buy them. Design issues were not FreshTec's concern. FreshTec was able to buy the machine in Canada for the same price.

b. If Precision guarantees its workmanship on all bin dumpsters and the other provisions of this letter are completed, FreshTec will pay this bill less the down payment. I am advised the down payment was not included on the invoice.

Invoice 1108

a. The invoice is incorrect. The invoice lists the price as $6,480.00 and all of the bin dumpsters are $5,400.00.

b. As set forth above, assuming all of the other provisions of this document are met and the machine is guaranteed, my clients will pay the correct invoice.

Invoice 1119

a. This invoice is not due until August 7, 2004.

Invoice 1120

a. This invoice is not due until August 13, 2004.

Invoice 1135

a. This invoice is not due until August 18, 2004.

Invoice 1136

a. This invoice is not due until August 19, 2004.

As we discussed last week, my client is concerned that AIC creditors will make a claim against FreshTec for machines notwithstanding FreshTec's payments to Precision as set forth in this letter. My client requires an opinion letter with indemnification from your attorney prior to making payment.

My client is prepared to pay for invoices 1042, 1054, 1075, 1076, 1077, 1079, 1080, 1090, 1091 and 1108 pursuant to the terms of this letter.

I am in court most of today, although I am prepared to meet with you on Wednesday and FreshTec will pay the invoices pursuant to this letter provided we execute the enclosed Confidentiality and Non-Compete Agreement, receive the opinion letter with indemnification from your lawyer and you deliver the blueprints, CAD files and other documents relating to the machines.

Thank you for your consideration of this matter.

Very truly yours,

David J. Hopkins
Attorney at Law

DJH/bjt

cc: FreshTech Food Processing Equipment International, LLC

FAXED
7-27-04

FILED

JAN 3 1 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	No. 2004-1577 C.D.
v.	:	Type of Pleading: Answer to Motion for Sanctions No. 2
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	Prepared on behalf of: FreshTec Food Processing Equipment International, LLC and Backus USA, Inc.
	:	Counsel of Record for this Party:
	:	HOPKINS HELTZEL LLP
	:	David J. Hopkins, Esquire Attorney at Law Supreme Court No. 42519
	:	900 Beaver Drive DuBois, Pennsylvania 15801 (814) 375-0300

FILED 1cc
01:52 BH Atty Hopkins
FEB 03 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1577 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

ANSWER TO MOTION FOR SANCTIONS NO. II

AND NOW, comes FreshTec Food Processing Equipment International, LLC (hereinafter "FreshTec") and Backus USA, Inc. (hereinafter "Backus") by and through their undersigned counsel, Hopkins Heltzel LLP, and answers Precision Fabrication and Controls, Inc.'s Motion for Sanctions as follows:

1. Admitted.

2. Neither admitted nor denied. The Order of Court is self explanatory and does not need to be amplified.

3. Admitted.

4. Denied. The answers are completely responsive to the questions asked of Interrogatory 7, Interrogatory 8, Interrogatory 9 and Interrogatory 10.

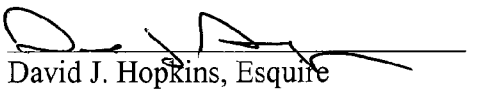
5. Denied. The answers are completely responsive to the questions asked of Interrogatory 7, Interrogatory 8, Interrogatory 9 and Interrogatory 10.

6. Denied. The answers are completely responsive to the questions asked of Interrogatory 7, Interrogatory 8, Interrogatory 9 and Interrogatory 10.

WHEREFORE, FreshTec and Backus respectfully request Precision Fabrication Controls, Inc.'s Motion for Sanctions be denied and the Court order such other and further relief as it deems fair, just and equitable.

Respectfully submitted,

Hopkins Heltzel LLP



David J. Hopkins, Esquire
Attorney for FreshTec Food Processing
Equipment International, LLC

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiffs,	:	No. 2004-1577 C.D.
v.	:	
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Answer to Precision Fabrication Controls, Inc.'s Motion for Sanctions No. 2, filed on behalf of FreshTec Food Processing Equipment International, LLC and Backus USA, Inc., was forwarded by first class

mail, postage prepaid, on the 3rd day of February, 2005, to all counsel of record, addressed as follows:

Eugene J. Brew, Esquire
McClure & Miller LLP
717 State Street, Suite 701
Erie, PA 16501

David J. Hopkins, Esquire
Attorney for FreshTec Food Processing
International LLC and Backus USA, Inc.

FILED
FEB 03 2005
William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

FILED no cc
m/12:54 BY
FEB 07 2005
William A. Shaw
Prothonotary/Clerk of Courts

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 2004 - 1146 CD
	*	Case transferred from McKean County
	*	by Order of Court. McKean County No.
	*	2004-10915

AMENDED REQUEST FOR ADMISSIONS

Precision Fabrication and Controls, Inc., (Precision) by its attorney, Eugene J. Brew, Esq., requests the Defendant, FreshTec Food Processing Equipment International LLC (FreshTec) to admit the

truth of the matters set forth herein, including the genuineness, authenticity, correctness, execution, signing, delivery and mailing or receipt of any document described herein.

Pursuant to Pa. RCP 4014, the matters set forth herein are admitted unless within thirty (30) days of service of this Request an Answer verified by the party, or an objection, signed by the party, or the party's attorney is served upon the below named counsel. If an objection is made, the reasons therefore must be stated.

References to invoice numbers are Precision Invoices to FreshTec.

This is an amendment to the Request for Admissions previously submitted and filed, and dated January 28, 2005. The amendments are either in *italics,* or <u>underlined.</u>

1.

Attached hereto and marked Exhibit "A" is a true copy of a letter dated and sent July 27, 2004, from counsel of record for FreshTec to Precision.

(a) All the information set forth in Exhibit "A" is *correct* as of the date of this Request for Admissions.

(b) The total of the invoices referred to in the letter, on which counsel states "my client is prepared to pay" is as follows:

<u>Invoice No.</u>	<u>Amount</u>
1042	$31,596.00
1054	12,950.00
1075	28,836.00
1076	5,640.00
1077	8,400.00
1079	150.00
1080	1,560.00
1090	7,560.00

1091	***3,240.00***
1108	6,480.00
1119	***3,800.00***
1120	1,900.00
1127	19,440.00
1135	***3,800.00***
1136	***11,400.00***
TOTAL	$***146,752.00***

2.

FreshTec has agreed to pay invoice 1042, in the sum of $31,596.00.

(a) FreshTec has never advised Precision or Precision's counsel of any reasons related to the machinery or equipment described in this invoice, why this invoice should not be paid.

(b) FreshTec never advised Precision in writing that there were any defects or deficiencies in this machinery.

3.

Invoice no. 1054, in the sum of $12,950.00, was used by FreshTec's customer in 2004.

(a) FreshTec claims that $5,000.00 should be withheld from this invoice, for payment for repairs to this machine.

(b) Withholding $5,000.00 on this invoice, would leave a remaining balance due on the invoice of $7,950.00.

(c) FreshTec has never given Precision any reason related to any defects or deficiencies in the machinery in this invoice, why the sum of $7,950.00, should not be paid at this time on this invoice.

(d) FreshTec has never advised Precision in writing of any defects or deficiencies in this

machinery.

4.

Invoice no. 1075, for $28,836.00. FreshTec has given no reason to Precision, related to this specific machine, for not paying this invoice.

(a) This machine was shipped to FreshTec's customer, as being used by FreshTec's customer.

(b) FreshTec has given Precision no reason for non-payment of this invoice that is related to this machine.

(c) FreshTec has never advised Precision in writing of any defects or deficiencies in this machine.

5.

Invoice 1076. This machine was completed and shipped in 2004.

(a) FreshTec has never advised Precision of any reasons why this invoice should not be paid, that were related to the machine itself.

(b) The balance due on this machine is $5,640.00.

(c) FreshTec has had no written correspondence with Precision advising of any defects or deficiencies in this machine.

6.

Invoice 1077 is in the amount of $8,400.00.

(a) FreshTec claims that $2,220.00 should be withheld from this invoice for the cost of weld repairs and shipping charges.

(b) This machine was shipped and used by FreshTec's customer in 2004.

(c) FreshTec agrees that the sum of $6,200.00 is due on this invoice, subtracting the $2,200.00, FreshTec claims for weld repairs from the invoice, $8,400.00.

(d) FreshTec has never forwarded to Precision any document substantiating the claimed back-charge for weld repairs and shipping charges of $2,220.00.

(e) Other than the claim for welding repairs and shipping charges, there were no other defects or repairs to this machine.

7.

Invoice 1079, in the amount of $150.00, is admitted by FreshTec as a valid invoice and that it should be paid.

8.

Invoice 1080 in the sum of $1060.00 is admitted by FreshTec as a valid invoice, and that it should be paid.

9.

Invoice 1090 in the sum of $7,560.00. This machine was shipped on June 15, 2004.

(a) FreshTec claims that there were welding failures on this machine which were repaired by FreshTec's customer, and that the customer back-charged FreshTec $2,800.00.

(b) FreshTec agrees that after subtracting the $2,800.00 FreshTec claims as a credit, the balance on the invoice, $4,760.00, should be paid.

(c) FreshTec has never submitted to Precision any document substantiating the claim back-charge of $2,800.00 for welding failure repairs.

(d) Other than the claimed welding failures, there were no other defects or deficiencies in this machine. This machine has been used in 2004 by FreshTec's customer.

(e) FreshTec has been paid for this machine by FreshTec's customer.

10.

Invoice 1091 is in the total sum of $***3,240.00.***

(a) This machine was shipped on June 16, 2004.

(b) This machine has been used in 2004 by FreshTec's customer.

(c) FreshTec has been paid for this machine by FreshTec's customer.

(d) FreshTec claims that the invoices totaling $***3,240.00*** should be paid less the down payment made.

11.

Invoice 1108, for an invoice price of $6,480.00, is for a bin dumpster.

(a) FreshTec claims that the price should have been $5,400.00.

(b) FreshTec agrees that the sum of $5,400.00 is due and payable on this invoice.

(c) FreshTec has no complaints or objections to the machine itself.

(d) FreshTec's customer has been using this machine.

(e) FreshTec has been paid for this machine by its customer.

12.

FreshTec has no objections based on defects in the machines, to invoice 1119 in the sum of $***3,800.00.***

13.

FreshTec has no objections based on defects to the machine, to the payment of invoice no. 1120 in the sum of $1,900.00.

14.

FreshTec has no objections based on defects to the machine, to the payment of invoice no. 1127 in the sum of $19,440.00.

(a) This machine has been shipped to FreshTec's customer.

(b) FreshTec's customer has been using the machine, and has never returned the machine to FreshTec.

(c) FreshTec's customer has paid for the machine.

15.

FreshTec has no objections based upon defects or deficiencies in the machines, to the payment of invoice no. 1135 in the sum of $***3,800.00.***

16.

FreshTec has no objections based upon defects or deficiencies in the machines (6), to the payment of invoice no. 1136 in the sum of $***11,400.00.***

17.

Attached hereto, made a part hereof and marked Exhibit "A-9" is an invoice number 76317 dated April 15, 2004 from Advanced Industrial Controls, Inc. to FreshTec for repairs to an onion slicer machine.

(a) This machine was manufactured and shipped by AIC.

(b) It was agreed by FreshTec that this invoice would be paid to Precision.

(c) The valuation and repairs were properly completed by Precision.

(d) The machine was returned to FreshTec or FreshTec's customer.

(e) This invoice has never been paid by FreshTec to either AIC or Precision.

18. The invoices referenced in paragraphs 12, 13, 15 and 16 were for upcharges authorized and approved by Larry Salone from FreshTec on June 11, 2004.

Submitted by:

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls, Inc.

Dated: 3/3, 2005

CERTIFICATE OF SERVICE

I, EUGENE J. BREW, ESQ., certify that I served a true copy of the within Request for Admissions on Defendant's counsel as follows:

David J. Hopkins, Esq.
Hopkins Heltzel LLP
900 Beaver Drive
DuBois, PA 15801

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls, Inc.

Dated: 3/3, 2005

HOPKINS HELTZEL LLP

900 Beaver Drive • DuBois, PA 15801

David J. Hopkins
Licensed in PA & NJ
Masters in Taxation

Lea Ann Heltzel
Licensed in PA

• Voice: (814) 375 - 0300
• Fax: (814) 375 - 5035
• Email:hopkinslaw@adelphia.net

July 27, 2004

FAXED 7-27-04

Facsimile: (814) 368-5040

Precision Fabrication & Controls, Inc.
Mr. Benjamin Brechtel
195 Chestnut Street
P.O. Box 331
Bradford, PA 16701

Re: FreshTec Food Processing Equipment International LLC

Dear Brechtel:

As a follow up to our telephonic conversation of last week, I enclose herewith for your review a Confidentiality and Non-Compete Agreement. Would you please review the document and if you have any questions or suggestions, please feel free to contact me or have your attorney contact me to iron out any suggestions you may have.

I have had some discussions with Mr. Salone who is now on the West Coast concerning this matter. My client has several concerns regarding the bills that you have sent which are set forth herein. My comments are based upon FreshTec's records.

Invoice 1042

a. Item 1 is okay.

b. Item 2 is okay.

c. By way of further response this machine was ordered and a down payment was made on January 8, 2004. The machine was not shipped until July 25, 2004. The delay caused FreshtTec's client to be very unhappy. I understand the delay was caused by Precision's inability to purchase materials. Notwithstanding the above, assuming all other provisions of this letter is satisfied, FreshTec will pay Invoice 1042.

EXHIBIT
"A"

Invoice 1054

c. This machine is breaking welds in Canada. FreshTec has had to visit the site and make repairs inasmuch as the customer cannot pull the machine out of production. FreshTec has paid $1,800 USD in repair work to date. FreshTec believes another $3,000.00 will be expended for repairs to this machine.

By way of further comment, this machine was ordered February 19, 2004 and a down payment made. The machine was not shipped until May 25, 2004 causing another FreshTec client to be unhappy. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1054 less $5,000.00.

Invoice 1075

a. This machine was ordered on January 8, 2004 and a down payment was made. The machine was not shipped until June 1, 2004 causing another unhappy customer. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1075.

Invoice 1076

a. This machine was ordered on March 30, 2004 and not shipped until June 1, 2004. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1076.

Invoice 1077

a. This machine has broken welds and has been returned to Wilcox. FreshTec has not yet fully evaluated the problem but it has spent $980.00 on one way freight. It will cost another $980.00 to return the machine. FreshTec anticipates 4 hours in repairing the welds at $65.00 per hour. Notwithstanding the above, assuming all other provisions of this letter are satisfied, FreshTec will pay Invoice No. 1077 less $2,220.00.

Invoice 1079

a. Assuming all other provisions of this letter are met, FreshTec will pay this invoice.

Invoice 1080

a. Assuming all other provisions of this letter are met, FreshTec will pay this invoice.

Invoice 1090

a. This machine was ordered on February 29, 2004 but not shipped until June 15, 2004. I understand welds have broken on this machine because it was skip welded rather than using continuous welds. The customer was initially angry with the delay in shipment and then became furious with the welding failures. The customer did not send the machine back, but rather, had it repaired at his facility. The customer billed FreshTec $2,800.00 for repairs that FreshTec credited the customer. Assuming all the other issues concerning the bin dumpster are resolved, FreshTec will pay this invoice less $2,800.00 it credited its customer for repairs.

Invoice 1091

a. This machine was ordered on March 30, 2004 but not shipped until June 16, 2004. The customer was angry over the delays. I understand Precision claims the units were not safe and had to be redesigned. However, FreshTec disputes this position. FreshTec gave J. R. pictures of other bin dumpsters it had purchased. If AIC or Precision could build the machines at FreshTec's cost, FreshTec would buy them. Design issues were not FreshTec's concern. FreshTec was able to buy the machine in Canada for the same price.

b. If Precision guarantees its workmanship on all bin dumpsters and the other provisions of this letter are completed, FreshTec will pay this bill less the down payment. I am advised the down payment was not included on the invoice.

Invoice 1108

a. The invoice is incorrect. The invoice lists the price as $6,480.00 and all of the bin dumpsters are $5,400.00.

b. As set forth above, assuming all of the other provisions of this document are met and the machine is guaranteed, my clients will pay the correct invoice.

Invoice 1119

a. This invoice is not due until August 7, 2004.

Invoice 1120

a. This invoice is not due until August 13, 2004.

Invoice 1135

a. This invoice is not due until August 18, 2004.

Invoice 1136

a. This invoice is not due until August 19, 2004.

As we discussed last week, my client is concerned that AIC creditors will make a claim against FreshTec for machines notwithstanding FreshTec's payments to Precision as set forth in this letter. My client requires an opinion letter with indemnification from your attorney prior to making payment.

My client is prepared to pay for invoices 1042, 1054, 1075, 1076, 1077, 1079, 1080, 1090, 1091 and 1108 pursuant to the terms of this letter.

I am in court most of today, although I am prepared to meet with you on Wednesday and FreshTec will pay the invoices pursuant to this letter provided we execute the enclosed Confidentiality and Non-Compete Agreement, receive the opinion letter with indemnification from your lawyer and you deliver the blueprints, CAD files and other documents relating to the machines.

Thank you for your consideration of this matter.

Very truly yours,

David J. Hopkins
Attorney at Law

DJH/bjt

cc: FreshTech Food Processing Equipment International, LLC

FAXED
7-27-04

INVOICE

FEDERAL ID# 25-1792709

PLEASE PAY FROM THIS INVOICE
WE DO NOT ISSUE STATEMENTS.

4/15/04	76317

ADVANCED INDUSTRIAL CONTROLS, INC.

536 E. MAIN STREET
P.O. BOX 977
BRADFORD, PA. 16701

CONTROL PANEL SYSTEMS
METAL FABRICATION
PH. (814) 368-4178
FAX (814) 368-5040

SOLD TO
FRESHTEC/ INT'L LLC
PO BOX 585
DUBOIS PA 15801

SHIP TO
SNIPPED FRESH PRODUCE
ATTN: JOEY
65 MARKET STREET
CHELSEA MA 02150

9:20AM LOCATION 5

ACCOUNT	CONTACT/PO NO.	SALESMAN	SHIP VIA	DATE SHIPPED	INVOICE NO.	TERMS
25141	VBL-DAVID KNOX	5	PITT OHIO	4/15/04	43959	NET 30 DAY

ORDERED	SHIPPED	B/O	PART NUMBER	DESCRIPTION	UNIT PRICE	U/M	AMOUNT
1	0	1	*90o50009999	ONION SLICER MACHINE RETURNED FOR NON-WARRANTY EVALUATION / REPAIR. COMPLETE DIAGNOSTIC TESTING AND WIRING POINT-TO-POINT TRACEABILITY WAS PERFORMED. THE FOLLOWING WAS FOUND AND CORRECTED. UNIT IS NOW FUNCTIONING ELECTRICALLY. * START CIRCUIT REQUIRED RE-WIRING * SAFETY RELAY REQUIRED RE-WIRING * FAN COVER DENT CREATING LOCK ROTOR * STANDOFF MOUNTED FOR GUARD CONTROL * NAME TAG FOR GUARD INSTRUCTIONS * CLEANED AND REPACKED UNIT PLEASE REMIT TO P O BOX 977 BRADFORD PA 16701	600.00	EA	600.00

GROSS AMOUNT	TAX	SHIPPING & HANDLING	PAY THIS AMOUNT
600.00			600.00

ITEMS NOT SHIPPED WILL BE BACK ORDERED OTHERWISE NOTED.

1½% Per Month (18% PER ANNUM) Charged on Delinquent Accounts.

NO CREDIT WILL BE ALLOWED FOR GOODS RETURNED WITHOUT OUR PERMISSION. A MINIMUM OF 15% SERVICE CHARGE WILL BE MADE. TRANSPORTATION CHARGES ON GOODS RETURNED MUST BE PREPAID. WE HEREBY CERTIFY THAT WE ARE COMPLYING WITH THE REQUIREMENTS OF THE "FAIR LABOR STANDARDS ACT" OF 1938 AS AMENDED. THE PRICES ON THIS INVOICE ARE TO THE BEST OF OUR KNOWLEDGE AND BELIEF, NOT IN VIOLATION OF ANY APPLICABLE CEILING PRICE LAWS OR REGULATIONS.

NO MATERIAL RETURNS WILL BE ACCEPTED WITHOUT PRIOR AUTHORIZATION

ORIGIN/

EXHIBIT "A-9"

tabbies

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania Limited Liability Company	:	
vs.	:	No. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	

ORDER

AND NOW, this 14th day of February, 2005, it is the ORDER of the Court that the status conference and Defendants' Motion for Sanctions II in the above matter has been rescheduled from March 17, 2005 to **Monday, March 28, 2005 at 2:30 P.M.**, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

Paul E. Cherry

PAUL E. CHERRY
Judge

FILED
0 2:53 BB 1cc Atty Hopkins
1cc Atty Shaw
FEB 14 2005

William A. Shaw
Prothonotary

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

FILED 1cc
01:52 BL
MAR 09 2005
William A. Shaw
Prothonotary/Clerk of Courts

BACKUS USA, INC, a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1577-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

PRECISION FABRICATION AND CONTROLS, INC., Plaintiff	:	
v.	:	No. 2004-1146
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant	:	Case transferred from McKean County by Order of Court. McKean County No. 2004-10915

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Response to Amended Request for Admissions, filed on behalf of FreshTec Food Processing Equipment International, LLC, was forwarded by facsimile and overnight carrier, on the 28th day of February, 2005, to all counsel of record, addressed as follows:

(814) 454-1154
Eugene J. Brew, Esquire
McClure & Miller LLP
717 State Street, Suite 701
Erie, PA 16501

David J. Hopkins, Esquire
Attorney for FreshTec Food Processing International LLC

FILED

MAR 09 2005

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FRESHTEC FOOD PROCESSING :

EQUIPMENT INTERNATIONAL, LLC :

VS. : NO. 04-1146-CD

PRECISION FABRICATION and :

CONTROLS, INC., et al. :

O R D E R

NOW, this 28th day of March, 2005, this being the date set for argument on Motion for Sanctions filed on behalf of the Defendant, Precision Fabrication and Controls, Inc., it is the ORDER of this Court that counsel for Plaintiff, Freshtec Food Processing Equipment International, LLC, shall, within no more than fifteen (15) days from today's date, answer with specificity Question Nos. 7, 8 and 9 of the Interrogatories and Request for Documents filed by Defendants.

BY THE COURT:

Paul E. Cherry

Judge

FILED 1cc Attys:
01/2:40 BH Hopkins
MAR 29 2005 (GK) Brew
William A. Shaw
Prothonotary/Clerk of Courts

1cc Def.
Advanced Ind.
536 E. Main St.
Bradford, PA
16701

FILED

MAR 29 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FRESHTEC FOOD PROCESSING :

EQUIPMENT INTERNATIONAL, LLC :

VS. : NO. 04-1146-CD

PRECISION FABRICATION and :

CONTROLS, INC., et al. :

O R D E R

NOW, this 28th day of March, 2005, this being the date set for status conference in the above-captioned matter; following discussion, it appearing that the parties are still in the process of discovery, it is the ORDER of this Court that status conference shall be rescheduled for the 20th day of June, 2005, at 10:30 a.m.

BY THE COURT:

Paul E. Cherry

Judge

FILED 1 cc Attys: Hopkins Brew Advanced Industrial 536 E. Main St. Bradford, PA 16701

01 10:43 BOI

MAR 30 2005

William A. Shaw
Prothonotary/Clerk of Courts

60

FILED

MAR 30 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

FILED no cc
m 12:15 BL
APR 04 2005
William A. Shaw
Prothonotary/Clerk of Courts

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 2004 - 1146 CD Case transferred from McKean County by Order of Court. McKean County No. 2004-10915
	*	Type of Case: Contract Type of Pleading: Motion to Order Bond Posted Filed on behalf of: Precision Fabrication & Controls, Inc. Counsel of Record: Eugene J. Brew, Esq. McClure & Miller LLP 717 State St., Suite 701, Erie, PA 16501 (814) 453-3681 Pa. I.D. No. 06500 Dated: April / , 2005

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 2004 - 1146 CD Case transferred from McKean County by Order of Court. McKean County No. 2004-10915

DEFENDANT, PRECISION FABRICATION & CONTROLS, INC.
MOTION TO REQUIRE PLAINTIFFS TO POST BOND

Precision Fabrication & Controls, Inc. (Precision) by its attorney, Eugene J. Brew, Esq., files this Motion requesting the Court to order and direct the Plaintiffs, FreshTec Food Processing Equipment International LLC

(FreshTec) and Backus USA, Inc. (Backus) to post an Injunction Bond in accordance with Rules of Court and to deposit the funds currently escrowed with counsel with the Prothonotary, in accordance with Rules of Court and sets forth:

1. By Order of Court dated November 9, 2004, in the action Backus vs. Precision, at No. 04-1577-CD, this Court enjoined Precision from

> manufacturing, developing, producing or fabricating for sale or distribution any food processing equipment that performs the same function as any machinery previously produced or fabricated for or on behalf of Plaintiffs (Backus and FreshTec).

2. The Injunction was to remain in effect until further Order of Court. It was temporary in nature and not intended to be the final Order of the Court relative to the Preliminary Injunction.

3. As of April 9, 2005, the Temporary Order will be in effect for five (5) months.

4. Precision has been obeying the Temporary Order.

5. The Court issued no Order requiring the Plaintiffs, Backus and FreshTec, to file a bond or deposit funds with the Prothonotary under the same condition as provided in an Injunction Bond. Pa. R.C.P. 1531(b)(1), (2).

6. Pa. R.C.P. 1531 requires either the posting of a bond, or a deposit with the Prothonotary.

7. On September 16, 2004, counsel for FreshTec deposited the sum of Ninety-one Thousand Twelve Dollars ($91,012.00) in an individual account, in counsels' name, at the Farmers National Bank, DuBois, PA. Prior to that time these funds were in counsel's general account.

8. Precision requests the Court to order that this account, plus any accumulated interest, be immediately deposited with the Prothonotary of Clearfield County, PA, pursuant to Pa. R.C.P. 1531(b)(2), upon the same condition as provided for in the Injunction Bond.

9. The Court is requested to order that FreshTec and Backus sign and file with the Prothonotary an Injunction Bond in the form attached hereto and marked Exhibit "A".

WHEREFORE, Precision requests the Court for the relief as set forth herein.

Respectfully submitted,

Eugene J. Brew, Jr., Esq.
McCLURE & MILLER
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication & Controls, Inc.
Plaintiff

Dated: April / , 2005

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 2004 - 1146 CD Case transferred from McKean County by Order of Court. McKean County No. 2004-10915

BOND

KNOW ALL MEN BY THESE PRESENTS, that we, FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC, and BACKUS USA, INC., are held and firmly bound unto the Commonwealth of Pennsylvania, in the sum of Ninety-One Thousand Twelve Dollars ($91,012.00) to be paid to the Commonwealth

EXHIBIT "A"

of Pennsylvania; to which payment, well and truly to be made we bind ourselves, our and each of our assigns and transferees, firmly by these presents.

Sealed with our seals.

Dated this _____ day of _____, 2005.

WHEREAS, the Plaintiffs, Backus USA, Inc., and FreshTec Food Processing Equipment International LLC filed a Complaint in Equity in the Court of Common Pleas of Clearfield County, PA, at No. 04-1577-CD against Precision Fabrication & Controls, Inc. and Advanced Industrial Controls, Inc., Defendants, requesting an injunction to restrain the Defendants as therein particularly set forth, which said injunction was duly granted by the Court by Order dated November 9, 2004.

NOW the condition of this obligation is such that if the injunction is dissolved because improperly granted, or for failure to hold a Hearing, the Plaintiffs shall pay to any of the Defendants injured all damages sustained by reason of granting the injunction and all legally taxable costs and fees, this obligation then to be void; otherwise, it is to remain in full force and effect.

BACKUS USA, INC.

By _____

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC

By _____

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	No. 2004 - 1146 CD Case transferred from McKean County by Order of Court. McKean County No. 2004-10915
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	

ORDER OF COURT

AND NOW, this _____ day of _____, 2005, after Argument on Defendant, Precision Fabrication & Controls, Inc.'s Motion to Post Bond, IT IS ORDERED:

1. Plaintiffs, FreshTec Food Processing Equipment International LLC and Backus USA, Inc., shall

within ten (10) days of the date of this Order, post a Bond in the form attached to the Motion as Exhibit "A", by filing the same with the Prothonotary, and serving a copy upon counsel for Precision.

2. Within ten (10) days from the date of this Order, counsel for FreshTec and Backus shall deposit with the Prothonotary of Clearfield County, PA, the Ninety-one Thousand Twelve Dollars ($91,012.00) plus any accumulated interest, that counsel is presently holding in an individual account, said amount to be held by the Prothonotary upon the same condition as provided for in the Injunction Bond, to be filed pursuant to this Order.

3. Upon failure to comply with this Order, the injunction entered by Order on November 9, 2004, will be dissolved.

BY THE COURT:

_____

J.

cc: David J. Hopkins, Esq.

Eugene J. Brew, Esq.

CERTIFICATE OF SERVICE

I, EUGENE J. BREW, ESQ., certify that I served a true copy of the within Motion on Plaintiffs' counsel on the below address, on the below date by First Class Mail, postage pre-paid:

David J. Hopkins, Eq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

Eugene J. Brew, Jr., Esq.
McCLURE & MILLER
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication & Controls, Inc.

Dated: April 1, 2005

FILED

APR 0 4 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

FILED 2cc Atty Brew
01/4:00 BOI
APR 11 2005 GK
William A. Shaw
Prothonotary/Clerk of Courts

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 2004 - 1146 CD Case transferred from McKean County by Order of Court. McKean County No. 2004-10915 Type of Case: Contract

ORDER OF COURT

AND NOW, this 8th day of April, 2005, upon receipt of Plaintiff, Precision Fabrication & Controls, Inc.'s Motion to Require Bond, IT IS ORDERED:

1. Argument shall be heard on this Motion before the Court on May 11, 2005, at 10:30 A.M.

2. Counsel for Precision Fabrication & Controls, Inc. may participate in this Argument by telephone conference call.

BY THE COURT:

Paul E Cherry

J.

cc: David J. Hopkins, Esq.

Eugene J. Brew, Esq.

FILED

APR 1 1 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

FILED 2cc
01:00/3/ Atty
APR 11 2005 Brew
William A. Shaw GP
Prothonotary/Clerk of Courts

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 2004 - 1146 CD Case transferred from McKean County by Order of Court. McKean County No. 2004-10915

ORDER OF COURT

AND NOW, this 8th day of April, 2005, upon receipt of Precision Fabrication & Controls, Inc.'s Motion for Sanctions III, IT IS ORDERED:

1. Argument shall be heard on this Motion before the Court on May 11, 2005, at 10:30, A.M.

2. Counsel for Precision Fabrication & Controls, Inc. may participate in this Argument by telephone conference call.

BY THE COURT:

Paul E Cherry

J.

cc: David J. Hopkins, Esq.
Eugene J. Brew, Esq.

FILED

APR 1 1 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

FILED no cc
m/11:24 bl
APR 06 2005
William A. Shaw
Prothonotary/Clerk of Courts

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 2004 - 1146 CD Case transferred from McKean County by Order of Court. McKean County No. 2004-10915
	*	Type of Case: Contract Type of Pleading: Motion for Sanctions III Filed on behalf of: Precision Fabrication & Controls, Inc. Counsel of Record: Eugene J. Brew, Esq. McClure & Miller LLP 717 State St., Suite 701, Erie, PA 16501 (814) 453-3681 Pa. I.D. No. 06500 Dated: April 4, 2005

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 2004 - 1146 CD Case transferred from McKean County by Order of Court. McKean County No. 2004-10915

DEFENDANT, PRECISION FABRICATION & CONTROLS, INC.'S MOTION FOR SANCTIONS III REQUESTING AN ORDER DIRECTING DEFENDANT TO ANSWER INTERROGATORIES

Precision Fabrication & Controls, Inc. (Precision) by its Attorney Eugene J. Brew, files this Motion for Sanctions III Requesting the Court to Order and Direct FreshTec Food Processing Equipment International LLC (FreshTec) and Backus USA, Inc. (Backus) to serve responsive answers to Precision's Interrogatories and Request

for Production of Documents and sets forth:

1. Precision served Interrogatories and Request for Documents on counsel for FreshTec and Backus on January 24, 2005.

2. A copy of the Interrogatories are attached hereto and made a part hereof and marked Exhibit "A".

3. The responses to the Interrogatories were due on or about February 25, 2005.

4. When requested to file the responses, when they became overdue, counsel for Backus and FreshTec advised that the responses would be filed on or before March 31, 2005.

5. The responses have not been filed.

WHEREFORE, Precision requests the Court to Order and direct FreshTec and Backus to file responses to the Request for Documents and Interrogatories.

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication & Controls, Inc.

Dated: April 4, 2005

CERTIFICATE OF SERVICE

I, EUGENE J. BREW, ESQ., certify that I served a true copy of the within Motion for Sanctions III on Plaintiffs' counsel on the below address, on the below date by First Class Mail, postage pre-paid:

David J. Hopkins, Eq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

Eugene J. Brew, Jr., Esq.
McCLURE & MILLER
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication & Controls, Inc.

Dated: April 4, 2005

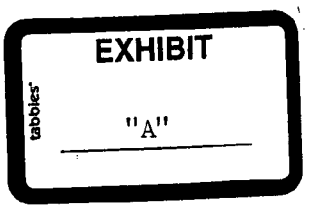
1-24-05

PRECISION FABRICATION & CONTROLS, INC.,
PLAINTIFF

vs.

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC
DEFENDANT

* IN THE COURT OF COMMON PLEAS
* OF CLEARFIELD COUNTY,
* PENNSYLVANIA
*
*
*
*
*
*
* Case transferred from McKean County
* by Order of Court. McKean County No.
* 2004-10915
*
* Type of Case: Contract
*
* Type of Pleading: Interrogatories and
* Request for Production of Documents to
* Defendant
*
* Filed on behalf of:
* Precision Fabrication & Controls, Inc.
*
* Counsel of record:
*
* Eugene J. Brew, Esq.
* McClure & Miller LLP
* 717 State Street, Suite 701
* Erie, PA 16501
* (814) 453-3681
* Pa. I.D. No. 06500
*
* Dated: January 24, 2005



PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 2004 -

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT (FIRST SET)

TO: FreshTec Food Processing Equipment International LLC
c/o David Hopkins, Esq.

Plaintiff, by their attorney, EUGENE J. BREW, ESQ., serves the following Interrogatories and Request for Production of Documents on the Defendant, requiring answers under oath within thirty (30) days after service of the Interrogatories in accordance with Pa. R.C.P. 4006, and requesting responses to the Request for Documents within thirty (30) days after service in accordance with Pa. R.C.P. 4009.12, et. seq.:

DEFINITIONS

1. "Defendant", "FreshTec", or "you" shall mean FreshTec Food Processing Equipment International LLC, and/or its employees, representatives, agents, attorney, supervisors, elected officials, and successors, and any and all persons acting or purporting to act on its behalf.

2. "Plaintiff", or "Precision" shall mean Precision Fabrications & Controls, Inc., its officers, employees, representatives, agents, and attorneys.

3. The term "document" refers to written, printed, typed, computerized, computer-generated, computer-stored, tape recorded, and visually or orally reproduced material of any kind, whether or not privileged, and includes, but is not limited to, correspondences, faxes, e-mail communications, stenographic, handwritten or any other notes, memoranda, books,

pamphlets, records, minutes, bills, contracts, agreements, orders, receipts, drawings or sketches, advertising or promotional literature, operating manuals or instructions, bulletins, cables or telegrams, tape or other recordings, computer disks, test data, studies, surveys, reports, publications, pictures, computer printouts, films, objects and other tangible things, including all non-identical copies of any such material.

4. The term "person" refers both to natural persons and to corporate or other business entities. Documents within the possession or control of a person are defined to include the documents in the possession or control of that persons's supervisors, elected officials, officers, members, employees, representatives, agents and attorneys.

5. The term "Answer" or "your answer" refers to your Answer filed in the within case.

1.

State the name, address, job title, employer of all persons who assisted in responding to these Interrogatories.

ANSWER:

2.

State the name, address, job title, employer and phone number of all persons who have any knowledge of any of the facts set forth in the Complaint in the within action, or in your Answer to the Complaint:

ANSWER:

3.

Please state the names and present addresses of each person who is an expert whom you expect to call as an expert witness at trial.

ANSWER:

4.

With respect to those persons identified in your answer to Interrogatory No. 3, please state the subject matter on which each expert witnesses is expected to testify.

ANSWER:

5.

With respect to those persons identified in your answer to Interrogatory No. 3, please state:

(a) His or her occupation, specialization, qualifications, including education and other training and professional experience; and

ANSWER:

(b) The substance of the facts and opinions to which each is expected to testify and a summary of the grounds for each opinion, including any text materials relied upon.

ANSWER:

(In answering Interrogatories 4 and 5, the signature of each person is required to be affixed to the answer hereto or to a separate report provided in lieu of an answer hereto.)

6.

Submit copies of any documents that you intend to use as evidence at trial of the within matter.

ANSWER:

The following Interrogatories and Request for Documents pertain to your Answer.

7.

In paragraph ¶ 7, you state that "delivery of the machinery was so untimely". State separately, for each machine delivered, date of its delivery, and to whom the delivery was made.

ANSWER:

8.

In paragraph ¶ 7, you state that "Defendant received numerous complaints from its customers". State specifically, for each machine delivered, whether or not a complaint was made, whether it was oral or written, the date it was made, and specifically what the complaint was for each machine. If the complaint was written, attach a copy of the writing. If the complaint was oral, state by whom the complaint was made, and to whom.

ANSWER:

9.

In paragraph ¶ 7 and ¶ 10, you state that certain machines "required extensive repairs". For each machine that required repairs, identify the machine and the purchase order, and state with specificity what repairs were made, the date they were made, by whom they were made, the cost of the repairs, and the amount of any money paid for any repairs.

ANSWER:

10.

In paragraph ¶ 10, you state that "welds have broken". Identify by purchase order number and description of machine, all machines on which welds have broken. State the date when you were first advised on each machine that welds had broken. State who repaired the welds, the date repairs were made, any charge or cost to repair the welds.

ANSWER:

11.

In paragraph ¶ 10 you state that "machines have collapsed". Identify by types of machine, purchase order, all of the machines that collapsed, and give the date you were first notified of the collapse, who notified you, what if any repairs were made to the machine that collapsed, by whom, and the cost of making the repairs.

ANSWER:

12.

In paragraph ¶ 10, you state that "finishes have eroded." State in detail which machines, identifying them by name or description, purchase order, had finishes eroded. State the dates you first learned on each machine that finishes had eroded. State any repairs or corrections that were made to machines on which finishes had eroded, who made the repairs or corrections, and the cost of making the repairs.

ANSWER:

13.

In paragraph ¶ 10, you state that you have "incurred significant shipping" costs in connection with the defective machinery. State in detail the total amount of shipping costs incurred, attaching documents in support of the same.

ANSWER:

14.

In paragraph ¶ 10, you state that you incurred "repair costs" in connection with the defective machinery. If you have not answered previously, state in detail for each machine repaired, by description of machine and purchase order, the repair costs that you incurred for each machine.

ANSWER:

15.

In paragraph ¶ 10, you state that you believe Precision "improperly substituted materials". State with specificity each and every machine, identifying by description of machine, purchase order which machines you believe materials were substituted in, and state whether or not you have made any repairs, changes or corrections to these machines, and the cost of any such repairs or corrections.

ANSWER:

16.

State specifically what you mean by "improperly substituted materials".

ANSWER:

17.

In paragraph ¶ 10, you state that Precision "failed to follow Defendant's specifications or industry standards". For each machine or purchase order that you believe this occurred, state specifically, and identify by machine, purchase order that this occurred on, and state specifically what specifications or industry standards were not followed for each machine or purchase order.

ANSWER:

18.

In paragraph ¶ 10, you state that your customers have "refused to pay" for some of the machines. State specifically what machines, what purchase orders, and what customers, with amounts, have not been made as of the date of your Answer. State the date that payments were made on all machines by all customers. State the name and address of the customers.

ANSWER:

19.

In paragraph ¶ 12, you state that there were "certain errors in pricing" on invoices. State specifically by invoice number and date, what the pricing errors were, the amount of the error, whether and what date the errors were corrected.

ANSWER:

Submitted by:

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication & Controls, Inc.

Date Submitted: January 24, 2005

FILED

APR 06 2005

William A. Shaw
Prothonotary/Clerk of Courts

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MAY 09 2005
William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	No. 04-1577-CD
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	

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

PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	No. 2004 – 1146 C.D. Case transferred from McKean County by Order of Court McKean County No. 2004-10915 Type of Case: Contract

PRAECIPE

TO THE PROTHONTARY:

Kindly enter our appearance for **Precision Fabrication and Controls,**

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

Inc., in the above entitled matter.

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Precision
Fabrication & Controls, Inc.

Dated: May 6, 2005

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

FILED

MAY 09 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	No. 2004 – 1146 C.D. Case transferred from McKean County by Order of Court McKean County No. 2004-10915 Type of Case: Contract

PRAECIPE

TO THE PROTHONTARY:

Please list the above entitled matter for trial. The listing party hereby certifies as follows:

1) That no motions are outstanding and that and order of the court has been entered limiting the discovery to a period ending more than thirty (30) days prior to the filing of the praecipe;

2) The case is to be heard

3) Notice of the praecipe has been given to the attorney or attorneys representing the other parties.

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Plaintiff

Dated: May 12, 2005

FILED

MAY 16 2005 @
m/11:55/n
William A. Shaw
Prothonotary
No C/C COPY TO C/A

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the foregoing document upon the person and in the manner indicated below, which service satisfies the requirements of the Pennsylvania Rules of Civil Procedure, by depositing in the United States Mail, Bradford, Pennsylvania, with first class postage, prepaid, as follows:

David J. Hopkins, Esq.
Attorney at Law
900 Beaver Drive
DuBois, PA 15801

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Plaintiff
13 Main Street
P.O. Box 647
Bradford, Pa. 16701
814-362-3538

DATED: May 12, 2005

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

FILED

MAY 16 2005

William A. Shaw
Prothonotary

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
V.	:	NO. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendant	:	

ORDER

AND NOW, this 18th day of May, 2005, following argument on Defendant's Motion to Require Bond and upon consideration of the same, the Court being satisfied that the Defendant provided no evidence which would support the imposition of a bond in the amount requested by Defendant, it is the ORDER of this Court that said Motion be and is hereby GRANTED. Plaintiff shall post bond in the amount of Seventy Five Thousand Dollars ($75,000.00) within no more than ten (10) days from today's date.

BY THE COURT,

Paul E. Cherry

PAUL E. CHERRY,
JUDGE

FILED
013:00 BOX
MAY 19 2005
William A. Shaw
Prothonotary/Clerk of Courts

1 cc Attys: Hopkins
Brew
Mutzabaugh
Advanced Ind.

FILED

MAY 19 2005

William A. Shaw
Prothonotary/Clerk of Courts

GA

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
V.	:	NO. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendant	:	

ORDER

AND NOW, this 18th day of May, 2005, following argument on Defendant's Preliminary Objections and the timely receipt of Briefs and upon consideration of same, it is the ORDER of this Court that said Preliminary Objections be and are hereby DISMISSED.

BY THE COURT,

Paul E. Cherry

PAUL E. CHERRY,
JUDGE

FILED 1cc Attys: Hopkins Brew Mutchabaugh Advanced Industrial
013:00/BL
MAY 19 2005
William A. Shaw
Prothonotary/Clerk of Courts

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MAY 19 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
V.	:	NO. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendant	:	

ORDER

AND NOW, this 19th day of May, 2005, it is the ORDER of this Court that hearing shall be held on the 11th and 12th days of July, 2005, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

Paul E. Cherry

PAUL E. CHERRY,
JUDGE

FILED 1cc Atty: Hopkins
01 3:00 BH Brew
MAY 19 2005 Mutzabaugh
William A. Shaw Advanced Ind.
Prothonotary/Clerk of Courts

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MAY 19 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1577 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	Type of Pleading: Motion to Consolidate
	:	Filed on behalf of: FreshTec Food Processing Equipment, International, LLC.
	:	Counsel of Record for this Party:
	:	HOPKINS HELTZEL, LLP
	:	David J. Hopkins, Esquire Attorney at Law Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801 (814) 375-0300

FILED

MAY 20 2005

11:45 I

William A. Shaw
Prothonotary/Clerk of Courts

No cert.

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1577 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

MOTION TO CONSOLIDATE

AND NOW, comes Defendants, Backus USA, Inc. ("Backus") and FreshTec Food Processing Equipment International, LLC ("FreshTec"), by and through their undersigned attorneys, Hopkins Heltzel LLC, and files the within Motion and states as follows:

1. Movant, Backus USA, Inc., is a Delaware corporation with its principal place of business located at P.O. Box 585, DuBois, PA 15801.

2. Movant, FreshTec Food Processing Equipment International, LLC, is a Pennsylvania limited liability corporation with its principal place of business located at P.O. Box 585, DuBois, Pennsylvania 15801.

3. Respondent is Precision Fabrication & Controls, Inc., a Pennsylvania corporation with offices located at 195 Chestnut Street, Bradford, PA 16701.

4. Respondent is Advanced Industrial Controls, Inc., a Pennsylvania corporation with an unknown location.

5. FreshTec commenced an action in equity in the Court of Common Pleas of Clearfield County Pennsylvania at No. 2004-1146-CD on July 28, 2004, against both Precision and Advance Industrial Controls, Inc., seeking entry of a decree with respect to the proper party to receive payment for the machinery ordered; and asserting claims for defamation and, tortious interference with contractual relationships and seeking specific performance.

6. Simultaneously, FreshTec sought a preliminary injunction against Precision. The injunction was granted by the Court on July 29, 2004, and precluded Precision and AIC from contacting FreshTec's customers or taking any action to encumber any machinery held by or in the possession of FreshTec's customers based upon FreshTec's alleged failure and/or refusal to pay Precision's invoices relating to machinery produced by Precision.

7. Backus and FreshTec commenced a civil action against Precision and AIC by Complaint filed on October 12, 2004 in the Court of Common Pleas of Clearfield County, Pennsylvania, at No. 2004-1577, asserting claims for breach of contract relating to a noncompete agreement and confidentiality agreement, both of which were executed by the parties as a prerequisite to the manufacture of the food processing equipment for customers of Backus and FreshTec.

8. Precision commenced a civil action against FreshTec by Complaint filed on August 9, 2004 in the Court of Common Pleas of McKean County, Pennsylvania, at No. 915-CD 2004, seeking payment of the invoices (as referenced in paragraph 6 herein) in the amount of $147,352.

9. FreshTec filed an Answer and New Matter to the Complaint, setting forth claims regarding extensive defects in the equipment supplied by Defendants, and costs incurred by FreshTec relating to such defects.

10. On September 22, 2004, Plaintiffs filed a Petition to Coordinate Actions with this Honorable Court at Docket No. 04-1146, requesting that the case captioned Precision Fabrication and Controls, Inc. v. FreshTec Food Processing Equipment International, LLC, filed in the Court of Common Pleas of McKean County at Docket No. 915 C.D. 2004, be consolidated with the action filed in the Court of Common Pleas of Clearfield County captioned FreshTec Food Processing Equipment International, LLC v. Precision Fabrication and Controls, Inc. and Advanced Industrial Controls, Inc., Docket No. 2004-1146.

11. On November 5, 2004, Plaintiffs filed a Motion to Consolidate Actions Pursuant to Pa.R.C.P. 213(a), requesting that this Court consolidate the actions filed at Docket Numbers 04-1146 and 04-1577; require all discovery and pretrial matters in the consolidated cases be filed in the Court of Common Please of Clearfield County under Docket No. 2004-1146-C.D; and require that trial of the coordinated cases be conducted under Docket No. 2004-1146-CD.

12. This Honorable Court entered an Order dated November 9, 2004, providing that the case captioned Precision Fabrication and Controls, Inc. v. FreshTec Food Processing Equipment International, LLC, as filed in the Court of Common Pleas of McKean County at

Docket No. 915 C.D. 2004, be consolidated with all Clearfield County matters filed to Docket Numbers 2004-1577-CD and 2004-1146-CD; and that all three cases are coordinated and to be heard together for purposes of discovery, trial and appeals.

13. On February 1, 2005, despite this Honorable Court's Order of November 9, 2004 consolidating the McKean County action with the two Clearfield County cases, this Honorable Court entered another Order providing that

> The action, Precision Fabrication & Controls, Inc. v. FreshTec Food Processing Equipment International LLC, which was transferred from McKean County by Order of Court, shall be given a separate case number, and tried separately.

14. The fundamental issues in the Clearfield cases (as consolidated at Docket No. 04-1146) and the McKean County case are the transactions surrounding the manufacture and sale of food processing machinery by Defendants including actions threatened by Defendants in connection with FreshTec's failure to pay the invoices.

15. Pa.R.C.P. No. 213(a) sanctions the consolidation of actions in this case because both cases arise out of a common question of law and fact and from the same occurrence.

16. Pursuant to Pa.R.C.P. No. 213(a), it is appropriate to consolidate the two actions:

- The issue concerning whether AIC or Precision is the contracting party with respect to the manufacture of the fresh cut food processing equipment; the sums due and owing under the invoices; Precision's threat to contact FreshTec's customers regarding its failure to pay the invoices; and designs and other confidential information relating to the manufacture of the fresh cut food processing equipment which were referenced in the invoices are critical issues in both actions, and predominant and significant to the litigation;

- Consolidation will result in an expeditious resolution of the issues raised in these actions. Consolidation will be the more efficient utilization of judicial facilities and personnel and will result in the just and efficient conduct of the actions;

- Failure to consolidate could cause duplicative and inconsistent rulings, orders or judgments; and

- Settlement is more likely if the actions are consolidated.

WHEREFORE, Petitioner, FreshTec Food Processing Equipment International, LLC prays this Honorable Court to:

1. Consolidate Court of Common Pleas of Clearfield County case of FreshTec Food Processing Equipment International, LLC v. Precision Fabrication and Controls, Inc. and Advanced Industrial Controls, Inc., filed to Docket No. 2004-1146-CD, with the Court of Common Pleas of McKean County case of Precision Fabrication & Controls, Inc. v. FreshTec Food Processing Equipment International, LLC, filed to Docket No. 915 CD 2004.

2. Require all discovery and pretrial matters in the coordinated cases (including Clearfield County Court of Common Pleas Docket No. 2004-1577) be filed in the Court of Common Pleas of Clearfield County under Docket No. 2004-1146-C.D.

3. Conduct the trial of the coordinated cases in the Court of Common Pleas of Clearfield County under Docket No. 2004-1146-CD and

4. Make any other appropriate Orders as the Court deems necessary.

Respectfully submitted,

HOPKINS HELTZEL LLP

David J. Hopkins, Esquire
Attorney for Plaintiffs

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1577 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Motion to Consolidate filed on behalf of Plaintiffs, was forwarded by first class mail, postage prepaid, on the 20th of May 2005, to all counsel of record, addressed as follows:

Eugene J. Brew, Esquire
McClure & Miller LLP
717 State Street, Suite 701
Erie, PA 16501

Richard W. Mutzabaugh, Esquire
Mutzabaugh & Saunders, LLP
13 Main Street
P.O. Box 647
Bradford, PA 16701

David J. Hopkins, Esquire
Attorney for Plaintiffs

FILED
MAY 20 2005
William A. Shaw
Prothonotary/Clerk of Courts

HOPKINS HELTZEL LLP

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

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

FILED 1cc
01 9:36 BM Atty
MAY 24 2005 Hopkins
William A. Shaw
Prothonotary/Clerk of Courts

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1577 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

ORDER

AND NOW, this 23rd day of May, 2005, it is hereby ORDERED, ADJUDGED and DECREED, that Plaintiff's Motion to Consolidate Court Filings, be and is hereby GRANTED, as follows

1. Common Pleas of Clearfield County case of FreshTec Food Processing Equipment International, LLC v. Precision Fabrication and Controls, Inc. and Advanced

Industrial Controls, Inc., filed to Docket No. 2004-1146-CD is hereby consolidated with the Court of Common Pleas of McKean County case of Precision Fabrication & Controls, Inc. v. FreshTec Food Processing Equipment International, LLC, filed to McKean County Court of Common Pleas Docket No. 915 CD 2004;

2. All discovery and pretrial matters in the consolidated cases (including Clearfield County Court of Common Pleas Docket No. 2004-1577) shall be filed in the Court of Common Pleas of Clearfield County under Docket No. 2004-1146-C.D. Filings to all other docket numbers shall cease;

3. Trial of the consolidated cases shall be conducted under Docket No. 2004-1146-CD.

BY THE COURT,

Paul E Cherry

JUDGE

FILED

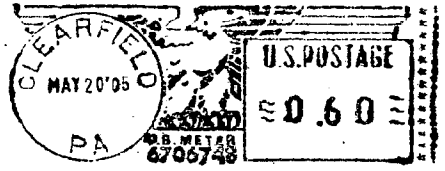
MAY 2 4 2005

William A. Shaw
Prothonotary/Clerk of Courts

WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830

FILED
m/11:04 BA
MAY 27 2005 (GK)
William A. Shaw
Prothonotary/Clerk of Courts

04-1577-CD
and
04-1146-CD



Advanced Industrial Controls Inc.
536 E. Main Street
Bradford, PA 16701

Bx 977

ADVA977 157012026 1505 07 05/24/05
RETURN TO SENDER
:ADVANCED END CONTROL
BOX CLOSED
UNABLE TO FORWARD
RETURN TO SENDER

16701

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
V.	:	NO. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendant	:	

ORDER

AND NOW, this 18th day of May, 2005, following argument on Defendant's Preliminary Objections and the timely receipt of Briefs and upon consideration of same, it is the ORDER of this Court that said Preliminary Objections be and are hereby DISMISSED.

BY THE COURT,

/s/ Paul E. Cherry

PAUL E. CHERRY,
JUDGE

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

MAY 19 2005

Attest.

Prothonotary/
Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
V.	:	NO. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendant	:	

ORDER

AND NOW, this 19th day of May, 2005, it is the ORDER of this Court that hearing shall be held on the 11th and 12th days of July, 2005, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

/s/ Paul E. Cherry

PAUL E. CHERRY,
JUDGE

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

MAY 19 2005

Attest.

Prothonotary/
Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
V.	:	NO. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendant	:	

ORDER

AND NOW, this 18th day of May, 2005, following argument on Defendant's Motion to Require Bond and upon consideration of the same, the Court being satisfied that the Defendant provided no evidence which would support the imposition of a bond in the amount requested by Defendant, it is the ORDER of this Court that said Motion be and is hereby GRANTED. Plaintiff shall post bond in the amount of Seventy Five Thousand Dollars ($75,000.00) within no more than ten (10) days from today's date.

BY THE COURT,

/s/ Paul E. Cherry

PAUL E. CHERRY,
JUDGE

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

MAY 19 2005

Attest.

Prothonotary/
Clerk of Courts

CA

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania Limited Liability Company	:	
vs.	:	No. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC. a Pennsylvania Limited Liability Company	:	
vs.	:	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	

FILED 1cc Attys:
03:31 BY Brew
JUN 01 2005 Mutzabaugh
William A. Shaw Hopkins
Prothonotary/Clerk of Courts
(GK)

ORDER

AND NOW, this 31st day of May, 2005, it is the ORDER of the Court that Hearing in the above matter has been rescheduled from July 11 and 12, 2005 to **Wednesday, September 7, 2005 and Thursday, September 8, 2005 at 9:00 A.M.**, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

Paul E. Cherry

PAUL E. CHERRY
Judge

FILED

JUN 0 1 2005

William A. Shaw
Prothonotary/Clerk of Courts

FILED 2 cc Attys.
013:36 BH Hopkins
JUN 20 2005 Brew
William A. Shaw Mutzabaugh
Prothonotary/Clerk of Courts

Def. Advanced
536 E. Main St.
Bradford, PA
16701

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	
VS.	:	NO. 04-1146-CD
PRECISION FABRICATION and CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	

AND

BACKUS USA, INC., and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATION, LLC	:	
VS.	:	NO. 04-1577-CD
PRECISION FABRICATION and CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	

O R D E R

NOW, this 20th day of June, 2005, following status conference; the Court being advised by counsel for Plaintiffs that Plaintiffs have failed to post bond pursuant to this Court's Order of May 18, 2005; and that Plaintiffs will not post said bond, it is the ORDER of this Court that this Court's Order of May 18, 2005, be and is hereby vacated. It is the further Order of this Court that the Preliminary Injunction issued in this matter be and is hereby dissolved. All money presently being held in escrow shall be returned to Plaintiffs forthwith.

Hearing scheduled for September 7 and 8, 2005, is nct longer necessary and is hereby cancelled.

BY THE COURT:

Judge

FILED

JUN 2 0 2005

William A. Shaw
Prothonotary/Clerk of Courts

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

BACKUS USA, INC. AND
FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC

vs.

PRECISION FABRICATION
AND CONTROLS, INC.
And ADVANCED INDUSTRIAL
CONTROLS, INC.

Defendant(s)

DATED: June 20, 2005

CIVIL ACTION - LAW
No. 2004-1146 C.D.
04-1577 C.D.
2004-1146-CD-Transferred from McKean County - **Consolidated Cases**

Type of Case:

Type of Pleading: **Motion for Jury Trial**

Filed on Behalf of: Defendant Precision

Counsel of Record for this Party:
Richard W. Mutzabaugh
Supreme Court No: 06741

MUTZABAUGH & SAUNDERS

P.O. Box 647, 13 Main Street
Bradford, PA 16701
814-362-3538

Counsel of Record for Adverse Party:

David J. Hopkins, Esq.
900 Beaver Drive
DuBois, PA 16801

FILED No CC
m12:02 BCC
JUN 27 2005
William A. Shaw
Prothonotary/Clerk of Courts

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

FILED

JUN 27 2005

William A. Shaw
Prothonotary/Clerk of Courts

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	No. 2004-1577-CD
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	No. 2004 – 1146 C.D. Case transferred from McKean

ORDER

NOW, _____, 2005, upon consideration of Motion of Precision Fabrication & Controls, Inc., for a jury trial, said motion is hereby granted.

BY THE COURT:

_____ J.

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

BACKUS USA, INC. AND
FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC

vs.

PRECISION FABRICATION
AND CONTROLS, INC.
And ADVANCED INDUSTRIAL
CONTROLS, INC.

Defendant(s)

CIVIL ACTION - LAW
No. 2004-1146 C.D.
04-1577 C.D.
2004-1146-CD-Transferred from McKean County - **Consolidated Cases**

Type of Case:

Type of Pleading: **Motion for Reconsideration**

Filed on Behalf of: Defendant Precision

Counsel of Record for this Party:
Richard W. Mutzabaugh
Supreme Court No: 06741

MUTZABAUGH & SAUNDERS

P.O. Box 647, 13 Main Street
Bradford, PA 16701
814-362-3538

Counsel of Record for Adverse Party:

David J. Hopkins, Esq.
900 Beaver Drive
DuBois, PA 16801

DATED: June 20, 2005

FILED NO CC
m/12:02 BY
JUN 27 2005 (GK)
William A. Shaw
Prothonotary/Clerk of Courts

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	No. 2004-1577-CD
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	

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

PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	No. 2004 – 1146 C.D. Case transferred from McKean County by Order of Court McKean County No. 2004-10915 Type of Case: Contract

MOTION FOR RECONSIDERATION

NOW COMES Precision Fabrication and Controls, Inc., by its Attorneys, **Eugene J. Brew** of McClure & Miller, LLP and **Richard W. Mutzabaugh,** of Mutzabaugh & Saunders, LLP, and move this Honorable Court to reconsider its Order of May 23, 2005 consolidating the above cases, and in support thereof, sets forth the following.

1. On February 1, 2005, this Honorable Court entered an Order separating the case of Precision Fabrication & Controls, Inc., Plaintiff. V. Freshtec Food Processing Equipment International, LLC, Defendant (No. 2004-01146 C.D.) The Court's Order further directed that the case be tried separately. A copy of said Order is attached to this Motion as Exhibit "1", and based upon that order, Precision listed this case for trial. A copy of said listing is attached as Exhibit "2".

2. On May 20, 2005, a Friday, Attorney for FreshTec Food Processing Equipment International, LLC and Backus USA, Inc. filed a motion with this Honorable Court to consolidate the three cases, a copy of said motion being attached hereto as Exhibit "3". Said Motion was not received by counsel for Precision until May 23, 2005.

4. On May 23, 2005, the following Monday, this Court entered an order consolidating the three cases. A copy of the Court's Order is attached hereto as Exhibit "4".

5. Precision, at no time was given an opportunity to respond, within the twenty (20) days permitted by the Rules of Civil Procedure, because it was not immediately made aware of the court's order.

5. Precision, at no time was given an opportunity to respond, within the twenty (20) days permitted by the Rules of Civil Procedure, because it was not immediately made aware of the court's order.

WHEREFORE, it is requested that this Honorable Court, for the reasons set out above, open the order of consolidation and permit Precision, the respondent, to oppose the consolidation of the cases, as the causes of action are not the same, and as a matter of fact, even the parties are different in those cases.

McCLURE & MILLER

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Precision

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the foregoing document upon the person and in the manner indicated below, which service satisfies the requirements of the Pennsylvania Rules of Civil Procedure, by depositing in the United States Mail, Bradford, Pennsylvania, with first class postage, prepaid, as follows:

David J. Hopkins, Esq.
Attorney at Law
900 Beaver Drive
DuBois, PA 15801

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Plaintiff
13 Main Street
P.O. Box 647
Bradford, Pa. 16701
814-362-3538

DATED: June 23, 2005

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	No. 2004-1577-CD
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	No. 2004 – 1146 C.D. Case transferred from McKean

ORDER

NOW, _____, 2005, upon consideration of Motion of Precision Fabrication & Controls, Inc., for reconsideration of this Court's Order consolidating the above cases, reconsideration is hereby granted, and argument is

on the consolidation of the cases is scheduled for July 18, 2005 at 11:00 A.M., Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

_____

J.

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 2004 - 1146 CD Case transferred from McKean County by Order of Court. McKean County No. 2004-10915

ORDER OF COURT

AND NOW, this 1st day of February 2005, after Status Confearence, IT IS ORDERED:

1. The action, Precision Fabrication & Controls, Inc., vs. FreshTec Food processing Equipment International LLC, which was transferred from McKean County by order of Court, shall be given a separate case number, and tried separately.

2. Discovery will close sixty (60) days from the date of this order, after which discovery may not be sought without agreement of the parties or special leave of court.

3. A further Status Conference will be held on March 17, 2005. Counsel for Precision may participate by telephone conference call. at 10:00 A.M.

~~4. Trial of the within case will be held before this Court on _____, 2005.~~ RESCHED

BY THE COURT:

/s/ Paul E. Cherry

J.

cc: David J. Hopkins, Esq.
Eugene J. Brew, Esq.

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

FEB 01 2005

Attest: Exhibit 1
Prothonotary/
Clerk of Courts

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

PRECISION FABRICATION & CONTROLS, INC. Plaintiff Vs. **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC** Defendant	No. 2004 – 1146 C.D. Case transferred from McKean County by Order of Court McKean County No. 2004-10915 Type of Case: Contract

PRAECIPE

TO THE PROTHONTARY:

Please list the above entitled matter for trial. The listing party hereby certifies as follows:

1) That no motions are outstanding and that and order of the court has been entered limiting the discovery to a period ending more than thirty (30) days prior to the filing of the praecipe;

2) The case is to be heard

3) Notice of the praecipe has been given to the attorney or attorneys representing the other parties.

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Plaintiff

Dated: May 12, 2005

Exhibit 2

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the foregoing document upon the person and in the manner indicated below, which service satisfies the requirements of the Pennsylvania Rules of Civil Procedure, by depositing in the United States Mail, Bradford, Pennsylvania, with first class postage, prepaid, as follows:

David J. Hopkins, Esq.
Attorney at Law
900 Beaver Drive
DuBois, PA 15801

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Plaintiff
13 Main Street
P.O. Box 647
Bradford, Pa. 16701
814-362-3538

DATED: May 12, 2005

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1577 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	Type of Pleading: Motion to Consolidate
	:	Filed on behalf of: FreshTec Food Processing Equipment, International, LLC.
	:	Counsel of Record for this Party:
	:	HOPKINS HELTZEL, LLP
	:	David J. Hopkins, Esquire Attorney at Law Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801 (814) 375-0300

Exhibit 3

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1577 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

MOTION TO CONSOLIDATE

AND NOW, comes Defendants, Backus USA, Inc. ("Backus") and FreshTec Food Processing Equipment International, LLC ("FreshTec"), by and through their undersigned attorneys, Hopkins Heltzel LLC, and files the within Motion and states as follows:

1. Movant, Backus USA, Inc., is a Delaware corporation with its principal place of business located at P.O. Box 585, DuBois, PA 15801.

2. Movant, FreshTec Food Processing Equipment International, LLC, is a Pennsylvania limited liability corporation with its principal place of business located at P.O. Box 585, DuBois, Pennsylvania 15801.

3. Respondent is Precision Fabrication & Controls, Inc., a Pennsylvania corporation with offices located at 195 Chestnut Street, Bradford, PA 16701.

4. Respondent is Advanced Industrial Controls, Inc., a Pennsylvania corporation with an unknown location.

5. FreshTec commenced an action in equity in the Court of Common Pleas of Clearfield County Pennsylvania at No. 2004-1146-CD on July 28, 2004, against both Precision and Advance Industrial Controls, Inc., seeking entry of a decree with respect to the proper party to receive payment for the machinery ordered; and asserting claims for defamation and, tortious interference with contractual relationships and seeking specific performance.

6. Simultaneously, FreshTec sought a preliminary injunction against Precision. The injunction was granted by the Court on July 29, 2004, and precluded Precision and AIC from contacting FreshTec's customers or taking any action to encumber any machinery held by or in the possession of FreshTec's customers based upon FreshTec's alleged failure and/or refusal to pay Precision's invoices relating to machinery produced by Precision.

7. Backus and FreshTec commenced a civil action against Precision and AIC by Complaint filed on October 12, 2004 in the Court of Common Pleas of Clearfield County, Pennsylvania, at No. 2004-1577, asserting claims for breach of contract relating to a noncompete agreement and confidentiality agreement, both of which were executed by the parties as a prerequisite to the manufacture of the food processing equipment for customers of Backus and FreshTec.

8. Precision commenced a civil action against FreshTec by Complaint filed on August 9, 2004 in the Court of Common Pleas of McKean County, Pennsylvania, at No. 915-CD 2004, seeking payment of the invoices (as referenced in paragraph 6 herein) in the amount of $147,352.

9. FreshTec filed an Answer and New Matter to the Complaint, setting forth claims regarding extensive defects in the equipment supplied by Defendants, and costs incurred by FreshTec relating to such defects.

10. On September 22, 2004, Plaintiffs filed a Petition to Coordinate Actions with this Honorable Court at Docket No. 04-1146, requesting that the case captioned Precision Fabrication and Controls, Inc. v. FreshTec Food Processing Equipment International, LLC, filed in the Court of Common Pleas of McKean County at Docket No. 915 C.D. 2004, be consolidated with the action filed in the Court of Common Pleas of Clearfield County captioned FreshTec Food Processing Equipment International, LLC v. Precision Fabrication and Controls, Inc. and Advanced Industrial Controls, Inc., Docket No. 2004-1146.

11. On November 5, 2004, Plaintiffs filed a Motion to Consolidate Actions Pursuant to Pa.R.C.P. 213(a), requesting that this Court consolidate the actions filed at Docket Numbers 04-1146 and 04-1577; require all discovery and pretrial matters in the consolidated cases be filed in the Court of Common Please of Clearfield County under Docket No. 2004-1146-C.D; and require that trial of the coordinated cases be conducted under Docket No. 2004-1146-CD.

12. This Honorable Court entered an Order dated November 9, 2004, providing that the case captioned Precision Fabrication and Controls, Inc. v. FreshTec Food Processing Equipment International, LLC, as filed in the Court of Common Pleas of McKean County at

Docket No. 915 C.D. 2004, be consolidated with all Clearfield County matters filed to Docket Numbers 2004-1577-CD and 2004-1146-CD; and that all three cases are coordinated and to be heard together for purposes of discovery, trial and appeals.

13. On February 1, 2005, despite this Honorable Court's Order of November 9, 2004 consolidating the McKean County action with the two Clearfield County cases, this Honorable Court entered another Order providing that

> The action, Precision Fabrication & Controls, Inc. v. FreshTec Food Processing Equipment International LLC, which was transferred from McKean County by Order of Court, shall be given a separate case number, and tried separately.

14. The fundamental issues in the Clearfield cases (as consolidated at Docket No. 04-1146) and the McKean County case are the transactions surrounding the manufacture and sale of food processing machinery by Defendants including actions threatened by Defendants in connection with FreshTec's failure to pay the invoices.

15. Pa.R.C.P. No. 213(a) sanctions the consolidation of actions in this case because both cases arise out of a common question of law and fact and from the same occurrence.

16. Pursuant to Pa.R.C.P. No. 213(a), it is appropriate to consolidate the two actions:

- The issue concerning whether AIC or Precision is the contracting party with respect to the manufacture of the fresh cut food processing equipment; the sums due and owing under the invoices; Precision's threat to contact FreshTec's customers regarding its failure to pay the invoices; and designs and other confidential information relating to the manufacture of the fresh cut food processing equipment which were referenced in the invoices are critical issues in both actions, and predominant and significant to the litigation;

- Consolidation will result in an expeditious resolution of the issues raised in these actions. Consolidation will be the more efficient utilization of judicial facilities and personnel and will result in the just and efficient conduct of the actions;

- Failure to consolidate could cause duplicative and inconsistent rulings, orders or judgments; and

- Settlement is more likely if the actions are consolidated.

WHEREFORE, Petitioner, FreshTec Food Processing Equipment International, LLC prays this Honorable Court to:

1. Consolidate Court of Common Pleas of Clearfield County case of FreshTec Food Processing Equipment International, LLC v. Precision Fabrication and Controls, Inc. and Advanced Industrial Controls, Inc., filed to Docket No. 2004-1146-CD, with the Court of Common Pleas of McKean County case of Precision Fabrication & Controls, Inc. v. FreshTec Food Processing Equipment International, LLC, filed to Docket No. 915 CD 2004.

2. Require all discovery and pretrial matters in the coordinated cases (including Clearfield County Court of Common Pleas Docket No. 2004-1577) be filed in the Court of Common Pleas of Clearfield County under Docket No. 2004-1146-C.D.

3. Conduct the trial of the coordinated cases in the Court of Common Pleas of Clearfield County under Docket No. 2004-1146-CD and

4. Make any other appropriate Orders as the Court deems necessary.

Respectfully submitted,

HOPKINS HELTZEL LLP

David J. Hopkins, Esquire
Attorney for Plaintiffs

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1577 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Motion to Consolidate filed on behalf of Plaintiffs, was forwarded by first class mail, postage prepaid, on the 20th of May 2005, to all counsel of record, addressed as follows:

Eugene J. Brew, Esquire
McClure & Miller LLP
717 State Street, Suite 701
Erie, PA 16501

Richard W. Mutzabaugh, Esquire
Mutzabaugh & Saunders, LLP
13 Main Street
P.O. Box 647
Bradford, PA 16701

David J. Hopkins, Esquire
Attorney for Plaintiffs

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1577 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

ORDER

AND NOW, this _____ day of _____, 2005, it is hereby ORDERED, ADJUDGED and DECREED, that Plaintiff's Motion to Consolidate Court Filings, be and is hereby GRANTED, as follows

1. Common Pleas of Clearfield County case of FreshTec Food Processing Equipment International, LLC v. Precision Fabrication and Controls, Inc. and Advanced

Industrial Controls, Inc., filed to Docket No. 2004-1146-CD is hereby consolidated with the Court of Common Pleas of McKean County case of Precision Fabrication & Controls, Inc. v. FreshTec Food Processing Equipment International, LLC, filed to McKean County Court of Common Pleas Docket No. 915 CD 2004;

2. All discovery and pretrial matters in the consolidated cases (including Clearfield County Court of Common Pleas Docket No. 2004-1577) shall be filed in the Court of Common Pleas of Clearfield County under Docket No. 2004-1146-C.D. Filings to all other docket numbers shall cease;

3. Trial of the consolidated cases shall be conducted under Docket No. 2004-1146-CD.

BY THE COURT,

_____

JUDGE

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

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

MAY 24 2005

Attest.

Prothonotary/
Clerk of Courts

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1577 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

ORDER

AND NOW, this 23rd day of May, 2005, it is hereby ORDERED, ADJUDGED and DECREED, that Plaintiff's Motion to Consolidate Court Filings, be and is hereby GRANTED, as follows

1. Common Pleas of Clearfield County case of FreshTec Food Processing Equipment International, LLC v. Precision Fabrication and Controls, Inc. and Advanced

Exhibit 4

Industrial Controls, Inc., filed to Docket No. 2004-1146-CD is hereby consolidated with the Court of Common Pleas of McKean County case of Precision Fabrication & Controls, Inc. v. FreshTec Food Processing Equipment International, LLC, filed to McKean County Court of Common Pleas Docket No. 915 CD 2004;

2. All discovery and pretrial matters in the consolidated cases (including Clearfield County Court of Common Pleas Docket No. 2004-1577) shall be filed in the Court of Common Pleas of Clearfield County under Docket No. 2004-1146-C.D. Filings to all other docket numbers shall cease;

3. Trial of the consolidated cases shall be conducted under Docket No. 2004-1146-CD.

BY THE COURT,

/s/ Paul E. Cherry

JUDGE

FILED

JUN 27 2005

William A. Shaw
Prothonotary/Clerk of Courts

WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830

FILED
JUN 29 2005
10:34 AM
William A. Shaw
Prothonotary/Clerk of Courts
cc

CLEARFIELD PA JUN 21'05
U.S.POSTAGE
$0.37
P.B. METER 6706748

Advanced Industrial Controls, Inc.
536 E. Main St.
Brad[illegible]

A C S
☐ INSUFFICIENT ADDRESS
☐ ATTEMPTED NOT KNOWN
☐ NO SUCH NUMBER/ STREET
☑ NOT DELIVERABLE AS ADDRESSED - UNABLE TO FORWARD
☐ OTHER

RTS
RETURN TO SENDER

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	
VS.	:	NO. 04-1146-CD
PRECISION FABRICATION and CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	

AND

BACKUS USA, INC., and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATION, LLC	:	
VS.	:	NO. 04-1577-CD
PRECISION FABRICATION and CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	

O R D E R

NOW, this 20th day of June, 2005, following status conference; the Court being advised by counsel for Plaintiffs that Plaintiffs have failed to post bond pursuant to this Court's Order of May 18, 2005; and that Plaintiffs will not post said bond, it is the ORDER of this Court that this Court's Order of May 18, 2005, be and is hereby vacated. It is the further Order of this Court that the Preliminary Injunction issued in this matter be and is hereby dissolved. All money presently being held in escrow shall be returned to Plaintiffs forthwith.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	
VS.	:	NO. 04-1146-CD
PRECISION FABRICATION and CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
AND		
BACKUS USA, INC., and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATION, LLC	:	
VS.	:	NO. 04-1577-CD
PRECISION FABRICATION and CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	

O R D E R

NOW, this 20th day of June, 2005, following status conference; the Court being advised by counsel for Plaintiffs that Plaintiffs have failed to post bond pursuant to this Court's Order of May 18, 2005; and that Plaintiffs will not post said bond, it is the ORDER of this Court that this Court's Order of May 18, 2005, be and is hereby vacated. It is the further Order of this Court that the Preliminary Injunction issued in this matter be and is hereby dissolved. All money presently being held in escrow shall be returned to Plaintiffs forthwith.

Hearing scheduled for September 7 and 8, 2005, is not longer necessary and is hereby cancelled.

BY THE COURT:

/s/ Paul E. Cherry

Judge

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

JUN 20 2005

Attest.

Prothonotary/
Clerk of Courts

CA

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff v. PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS INC., Defendant	:	NO. 04-1146-CD
BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania Limited Liability Company, Plaintiff v. PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC., Defendants	:	NO. 04-1577-CD
PRECISION FABRICATION & CONTROLS, INC., Plaintiff v. FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant	:	NO. 04-1146-CD Case transferred from McKean County by Order of Court McKean County No. 2004-10915 Type of Case: Contract

FILED
02:49 BL
JUN 29 2005
William A. Shaw
Prothonotary/Clerk of Courts

ICC Attys: Hopkins
Brew
Mutzabaugh

ICC Advanced - 536 E. Main St. Bradford, PA 16701

GW

ORDER

AND NOW, this 28th day of June, 2005, upon consideration of the Motion from Precision Fabrication and Controls, Inc. for Reconsideration of this Court's Order

consolidating the above cases, it is the ORDER of this Court that said Motion be and is hereby DENIED.

BY THE COURT,

PAUL E. CHERRY,
JUDGE

FILED

JUN 29 2005

William A. Shaw
Prothonotary/Clerk of Courts

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	Consolidated Cases

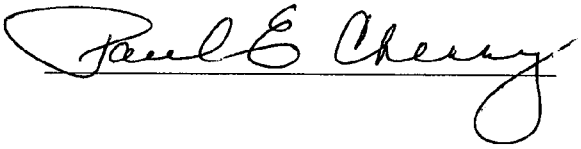
FILED
01/12:16 BL
JUL 07 2005
William A. Shaw
Prothonotary/Clerk of Courts
3 CC Atty Mutzabaugh

ORDER

NOW, this 6th day of July, 2005, upon consideration of Motion by Precision for the establishment of a discovery deadline, it is hereby ordered that discovery will close ninety (90) days from the date of this order, after

which discovery may not be sought without agreement of the parties or special leave of court.

BY THE COURT:



J.

FILED

JUL 07 2005

William A. Shaw
Prothonotary/Clerk of Courts

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

BACKUS USA, INC. AND FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC	CIVIL ACTION - LAW No. 2004-1146 - Consolidated CAses
	Type of Case:
	Type of Pleading: **Motion for Discovery Deadline**
vs.	Filed on Behalf of: Defendant Precision
PRECISION FABRICATION AND CONTROLS, INC. And ADVANCED INDUSTRIAL CONTROLS, INC.	Counsel of Record for this Party: Richard W. Mutzabaugh Supreme Court No: 06741 **MUTZABAUGH & SAUNDERS** P.O. Box 647, 13 Main Street Bradford, PA 16701 814-362-3538
Defendant(s)	Counsel of Record for Adverse Party: David J. Hopkins, Esq. 900 Beaver Drive DuBois, PA 16801

DATED: June 29, 2005

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

FILED NO
m/12:58 CC
JUL 01 2005
William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	Consolidated Cases

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

MOTION FOR DISCOVERY DEADLINE

NOW COMES ***Precision Fabrication & Controls, Inc.***, by and through its counsel, ***Mutzabaugh & Saunders,*** and moves this Honorable Court

to establish a deadline for the completion of discovery in the above entitled matter, and in support thereof, sets forth the following:

1. David Hopkins, counsel for Backus USA, Inc. and Freshtec Food Processing Equipment International, LLC, indicated an intention to conduct additional discovery in this case prior to any trial. Said representation was made at the time of the status conference held on June 20, 2005 before this Honorable Court.

2. Counsel for Precision also wish to complete discovery before any trial in this matter.

3. The establishment of a discovery deadline by this Honorable Court would serve to avoid any delay in the trial of this matter.

4. Should this Honorable Court establish a discovery deadline, it is suggested that the deadline date be ninety (90) days from the date hereof.

WHEREFORE, it is requested that this Honorable Court establish a discovery deadline for the above matter.

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Precision

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the foregoing document upon the person and in the manner indicated below, which service satisfies the requirements of the Pennsylvania Rules of Civil Procedure, by depositing in the United States Mail, Bradford, Pennsylvania, with first class postage, prepaid, as follows:

David J. Hopkins, Esq.
Attorney at Law
900 Beaver Drive
DuBois, PA 15801

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Plaintiff
13 Main Street
P.O. Box 647
Bradford, Pa. 16701
814-362-3538

DATED: June 29, 2005

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

FILED

JUL 0 1 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

FILED NO CC
m 11:46 BL
JUL 07 2005 (GK)
William A. Shaw
Prothonotary/Clerk of Courts
copy to C/A

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 2004 - 1146 CD Case transferred from McKean County by Order of Court. McKean County No. 2004-10915

Type of Case: Contract
Type of Pleading: Withdrawal of Appearance
Filed on behalf of: Precision Fabrication & Controls, Inc.
Counsel of Record: Eugene J. Brew, Esq.
McClure & Miller LLP
717 State St., Suite 701, Erie, PA 16501
(814) 453-3681
Pa. I.D. No. 06500
Dated: July 5, 2005

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 04-1577 - CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

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

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 2004 - 1146 CD
	*	Case transferred from McKean County
	*	by Order of Court. McKean County No.
	*	2004-10915
	*	
	*	Type of Case: Contract
	*	Type of Pleading: Withdrawal of Appearance
	*	Filed on behalf of: Precision Fabrication & Controls, Inc.
	*	Counsel of Record: Eugene J. Brew, Esq.
	*	McClure & Miller LLP
	*	717 State St., Suite 701, Erie, PA 16501
	*	(814) 453-3681
	*	Pa. I.D. No. 06500

WITHDRAWAL OF APPEARANCE

TO THE PROTHONOTARY:

Withdraw my appearance for Precision Fabrication & Controls, Inc., in all three (3) of the above pending actions.

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication & Controls, Inc.

Dated: July 5, 2005

CERTIFICATE OF SERVICE

I, EUGENE J. BREW, ESQ., certify that I mailed a true copy of the within Withdrawal of Appearance to the following on the below date:

David J. Hopkins, Esq.
Hopkins Heltzel LLP
900 Beaver Drive
DuBois, PA 15801
Attorney for FreshTec and Backus

Richard W. Mutzbaugh, Esq.
Mutzabaugh & Saunders LLP
P. O. Box 647
13 Main Street
Bradford, PA 16701
Attorney for Precision Fabrication & Controls, Inc.

Robert J. Stewart
Precision Fabrication & Controls, Inc.
195 Chestnut St.
P. O. Box 331
Bradford, PA 16701

Honorable Paul E. Cherry, Judge
Court of Common Pleas
Clearfield County Court House
230 E. Market St.
Clearfield, PA 16830

Civil Court Administrator
Clearfield County
Clearfield County Court House
230 E. Market St.
Clearfield, PA 16830

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication & Controls, Inc.

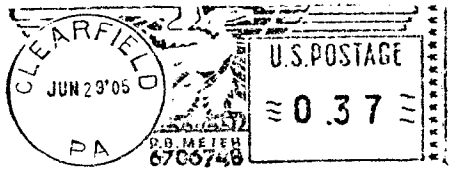
Dated: July 5, 2005

FILED

JUL 07 2005

William A. Shaw
Prothonotary/Clerk of Courts

WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830



FILED
10:25 BV
JUL 07 2005
William A. Shaw
Prothonotary/Clerk of Courts

Advanced Industrial Controls, Inc..
536 E. Main St
Bradford, PA

ADVA536 167012092 1505 08 07/02/05
RETURN TO SENDER
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MOVED LEFT NO ADDRESS
UNABLE TO FORWARD
RETURN TO SENDER

167011837 13

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff v. PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS INC., Defendant	NO.	04-1146-CD
BACKUS USA, INC., a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania Limited Liability Company, Plaintiff v. PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC., Defendants	NO.	04-1577-CD
PRECISION FABRICATION & CONTROLS, INC., Plaintiff v. FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant	NO.	04-1146-CD Case transferred from McKean County by Order of Court McKean County No. 2004-10915 Type of Case: Contract

ORDER

AND NOW, this 28th day of June, 2005, upon consideration of the Motion from Precision Fabrication and Controls, Inc. for Reconsideration of this Court's Order

consolidating the above cases, it is the ORDER of this Court that said Motion be and is hereby DENIED.

BY THE COURT,

/s/ Paul E. Cherry

PAUL E. CHERRY,
JUDGE

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

JUN 29 2005

Attest.

Prothonotary/
Clerk of Courts

CA

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company,	:	
V.	:	NO. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
AND	:	
BACKUS USA, INC., a Pennsylvania Corporation and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania Limited Liability Company	:	
V.	:	
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
AND	:	
PRECISION FABRICATION AND CONTROLS, INC.	:	
V.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	

FILED
012:18 BW
AUG 04 2005 GK
William A. Shaw
Prothonotary/Clerk of Courts
1 CC Attys: Hopkins
Mutzabaugh
Brew
Advanced Ind. Controls

ORDER

AND NOW, this 4th day of August, 2005, following Pre-Trial Conference with regard to this matter, it is the ORDER of Court as follows:

1. Jury Selection in this matter is scheduled for August 30, 2005, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

2. Trial in this matter is scheduled for November 29, 30, 2005 and December 1, 2, 2005, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

3. The deadline for providing any and all outstanding discovery shall be by and no later than October 6, 2005.

4. Counsel for the parties, if they so desire, may submit a Trial Brief to the Court no more than thirty (30) days prior to the commencement of trial.

5. The deadline for submitting any and all Motions shall be by and no later than October 21, 2005.

6. Points for Charge shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.

7. Proposed Verdict Slip shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.

8. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

BY THE COURT,

Paul E Cherry

PAUL E. CHERRY,
JUDGE

FILED

AUG 0 4 2005

William A. Shaw
Prothonotary/Clerk of Courts

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	Consolidated Cases

FILED

AUG 11 2005

William A. Shaw
Prothonotary/Clerk of Courts

1 cert to Atty

NOTICE OF SERVICE OF INTERROGATORIES AND REQUESTS PRODUCTION OF DOCUMENTS

Take notice, that Interrogatories and Requests for Production of Documents directed to FreshTec Food Processing Equipment International, LLC and Backus USA, Inc. were served on David J. Hopkins, Esq., 900 Beaver Drive, DuBois, PA 15801, counsel of record for FreshTec and Backus, by delivering to him via Federal Express the original copies on August 9, 2005.

MUTZABAUGH & SAUNDERS

Dated: August 9, 2005

By _____
Attorneys for Precision

FILED
AUG 11 2005
William A. Shaw
Prothonotary/Clerk of Courts

1. Jury Selection in this matter is scheduled for August 30, 2005, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

2. Trial in this matter is scheduled for November 29, 30, 2005 and December 1, 2, 2005, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

3. The deadline for providing any and all outstanding discovery shall be by and no later than October 6, 2005.

4. Counsel for the parties, if they so desire, may submit a Trial Brief to the Court no more than thirty (30) days prior to the commencement of trial.

5. The deadline for submitting any and all Motions shall be by and no later than October 21, 2005.

6. Points for Charge shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.

7. Proposed Verdict Slip shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.

8. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

BY THE COURT,

/s/ Paul E. Cherry

PAUL E. CHERRY,
JUDGE

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

AUG 04 2005

Attest.

Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - (LAW)

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
A Pennsylvania Limited Liability Company
PLAINTIFF

vs.

PRECISION FABRICATION AND
CONTROLS, INC. and ADVANCED
INDUSTRIAL CONTROLS, INC.
DEFENDANTS

No. 2004-1146-CD

Type of Case: Equity -
Injunctive Relief

Type of Pleading: Brief in Support
of Motion for Summary Judgment
or Partial Summary Judgment

Filed on behalf of:
Precision Fabrication & Controls,
Inc.
Defendant

Counsel of record for this party:

Eugene J. Brew, Esq.
McClure & Miller LLP
717 State St., Suite 701
Erie, PA 16501
(814) 453-3681
Supreme Court No. 06500

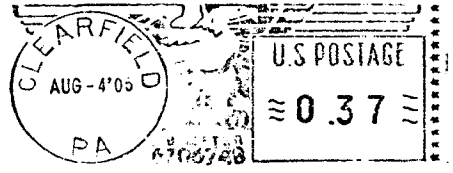
Counsel of Record for Adverse
Party:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

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OFFICE

Dated: Oct. 4 , 2004

WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830



FILED
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AUG 17 2005
William A. Shaw
Prothonotary/Clerk of Courts

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Advanced Industrial Controls, Inc.
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IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company,	:	
V.	:	NO. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
AND	:	
BACKUS USA, INC., a Pennsylvania Corporation and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania Limited Liability Company	:	
V.	:	
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
AND	:	
PRECISION FABRICATION AND CONTROLS, INC.	:	
V.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	

ORDER

AND NOW, this 4th day of August, 2005, following Pre-Trial Conference with regard to this matter, it is the ORDER of Court as follows:

1. Jury Selection in this matter is scheduled for August 30, 2005, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

2. Trial in this matter is scheduled for November 29, 30, 2005 and December 1, 2, 2005, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

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8. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

BY THE COURT,

/s/ Paul E. Cherry

PAUL E. CHERRY,
JUDGE

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

AUG 04 2005

Attest.

Prothonotary/
Clerk of Courts

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BY THE COURT,

/s/ Paul E. Cherry

PAUL E. CHERRY,
JUDGE

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

AUG 04 2005

Attest.

Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - (LAW)

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
A Pennsylvania Limited Liability Company
PLAINTIFF

vs.

PRECISION FABRICATION AND
CONTROLS, INC. and ADVANCED
INDUSTRIAL CONTROLS, INC.
DEFENDANTS

No. 2004-1146-CD

Type of Case: Equity -
Injunctive Relief

Type of Pleading: Brief in Support
of Motion for Summary Judgment
or Partial Summary Judgment

Filed on behalf of:
Precision Fabrication & Controls,
Inc.
Defendant

Counsel of record for this party:

Eugene J. Brew, Esq.
McClure & Miller LLP
717 State St., Suite 701
Erie, PA 16501
(814) 453-3681
Supreme Court No. 06500

Counsel of Record for Adverse
Party:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

RECEIVED
OCT 0 6 2004
COURT ADMINISTRATOR'S
OFFICE

Dated: Oct. 4 , 2004

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

DEFENDANT, PRECISION FABRICATION AND CONTROLS, INC. BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR PARTIAL SUMMARY JUDGMENT

Defendant, Precision Fabrication and Controls, Inc. (Precision) by its Attorney, Eugene J. Brew, Esq., files this Brief in Support of it's Motion for Summary Judgment or Partial Summary Judgment on all Four Counts in Plaintiff's Complaint.

I. BACKGROUND FACTS

FreshTec brought this equity action for injunctive relief against Precision and Advanced Industrial Controls, Inc. (AIC), in four Counts. FreshTech ordered the manufacture of machinery for their customers from AIC, and later Precision. AIC went out-of-business, and Precision took over the completion of the manufacture of those machines that had been ordered through AIC, after a meeting and agreement of all three parties, FreshTec, Precision and AIC, held on April 28, 2004. ***Robert J. Stewart Affidavit, ¶ 5.*** Precision purchased the assets and outstanding contracts from AIC. FreshTec owes Precision $147,352.00 for machines delivered to FreshTec

and not paid for. FreshTec was ordered by this Court to place in escrow the sum of $91,012.00 on July 29, 2004. Count I of the Complaint seeks a Decree from the Court advising which Defendant, Precision or AIC, payment should be made to. AIC is out-of-business, and has not appeared in this litigation. Count II is for defamation, and seeks an injunction enjoining Precision from telling any of FreshTec's customers in the food processing industry currently using products received from FreshTec that FreshTec has not satisfied its payment obligations. At the present time, this would be a true statement. In Count III, FreshTec sets forth a tort claim of tortious interference with contractual relationships, claiming that by advising FreshTec customers of their failure to pay Precision (which would be a true statement) this would be an inducement for the customers to terminate their relationship with FreshTec. Prayer for relief in this Count is for the Court to enter "judgment in (FrechTec's) favor and against (Precision)". In Count IV, FreshTec seeks the return of what it claims is "confidential information", related to the construction of the machinery manufactured by Precision, and given to it by FreshTec.

After a Hearing before the Court on August 19, 2004, and by agreement of the parties, the Court ordered that Precision not contact FreshTec's customers regarding any monies due under invoices, or take any action to encumber any machinery in the possession of FreshTec's customers.

FreshTec's Answer was filed on August 16, 2004. The pleadings are closed.

II. QUESTION PRESENTED

SHOULD SUMMARY JUDGMENT BE GRANTED BY THE COURT IN FAVOR OF PRECISION AND AGAINST FRESHTEC ON ALL OF, OR ANY OF THE FOUR COUNTS IN THE COMPLAINT?

SUGGESTED ANSWER: SUMMARY JUDGMENT SHOULD BE GRANTED IN FAVOR OF PRECISION ON ALL FOUR COUNTS IN THE COMPLAINT.

III. ARGUMENT

A motion for summary judgment may properly be granted when the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Summary judgment may be entered only in cases that are clear and free from doubt. Additionally, the record must be examined in the light most favorable to the non-moving party, accepting as true all well-pleaded facts in its pleadings and giving that party the benefit of all reasonable inferences drawn therefrom. Moreover, in summary judgment proceedings, the court's function is not to determine the facts, but only to determine if a material issue of fact exists.

Kaller's Inc. v. John J. Spencer Roofing, Inc., 388 Pa. Super. 361, 364, 565 A.2d 794, 795-96 (1989) (citations omitted); see also Pa.R.Civ.P. 1035(b)

Rule 1035.2. Motion

After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may move for **summary judgment** in whole or in part as a matter of law

(1) whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report, or

(2) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

(Motion for Summary Judgment Pa.R.C.P. 1035.2)

A. COUNT I - PAYMENT ISSUE

FreshTec was initially dealing with AIC for the manufacture of the machines that they were selling to their customers. AIC sold their assets and assigned all of their contracts to Precision on April 7, 2004. AIC later ceased doing business. Precision took over the completion of the purchase orders that FreshTec had with AIC, agreed to complete them, with the understanding that payment would be made upon completion of the work to Precision. Precision has advised FreshTec that payment checks could be made out to both AIC and Precision, which would satisfy FreshTec's concern that payment to Precision could obligate FreshTec to a claim by AIC. ***Answer ¶ 29.*** FreshTec is using this Count as an attempt to keep admittedly due funds to Precision from them, to attempt to harm their newly formed business. The balance presently due Precision on these machines is $147,352.00, and FreshTec has only escrowed the sum of $91,012.00, leaving a balance due the escrow account of $56,340.00.

AIC has never entered an Appearance in this action, or indicated that they intended to do so, or to hire counsel. Precision has never heard from any counsel on behalf of AIC. FreshTec is thus in a position to take a default judgment against AIC, which would moot the issue in this Count. FreshTec, by their refusal and neglect in taking a default judgment, shows their intent to keep this litigation active, when there is no need for it.

The Court is requested to enter Summary Judgment on Count I in favor Precision and against FreshTec and AIC, and direct that the escrowed funds, $91,012.00, plus any accumulated interest, be paid to Precision.

B. COUNT II - DEFAMATION

In this Count, FreshTec seeks an injunction enjoining Precision from "disparaging the reputation and good will of (FreshTec)". At the Hearing on the Preliminary Injunction before the Court on August 19, 2004, Precision agreed to the continuance of the Court's Order of July 29, 2004 enjoining Precision from contacting FreshTec's customers with regard to any sums due and owing Precision or taking any action to encumber any machinery held by FreshTec's customers. Precision does not wish to be permanently enjoined from any activity, to preclude later disagreements between the parties, which might result in FreshTec initiating contempt proceedings that were unwarranted.

Precision has not contacted any of FreshTec's customers and advised them of the failure of FreshTec to pay the Precision invoices. ***Robert J. Stewart, Affidavit, ¶13, 14.*** Without any such proof, an injunction would not be warranted.

In addition, an injunction against speech is not favored by Pennsylvania Courts. Even admittedly libelous statements have been refused to be enjoined. Kramer v. Thompson, 947 F.2d 666 (CA3 1991). Such an injunction would contravene the free speech provisions of both the United States and Pennsylvania Constitutions. In Willing v. Mazzocone, 393 A.2d 1155 (Pa. Supreme 1978) the Court would not enjoin libelous speech. A prior restraint on speech in Pennsylvania by an injunction has not been allowed.

For the above reasons, the Court is requested to enter Summary Judgment in favor of Precision on Count II, the Defamation Count.

C. COUNT III - TORTIOUS INTERFERENCE

In this Count, FreshTec seeks a "judgment" in its favor on allegations that Precision has indicated it will contact FreshTec's customers and notify them of FreshTec's failure to pay the invoices, presumably the ones sent to FreshTec by Precision. At the present time, such a statement would not be "materially false and misleading" as FreshTec pleads. ***Complaint, ¶ 39.*** There is no allegation that Precision did any overt act to attempt to take these customers away from FreshTec. It is only FreshTec's supposition, and belief that Precision wants to take the customers away. This Count does not state a cause of action for tortious interference with "contractual relationships". The four elements to this cause of action are:

(1) the existence of a contractual relationship;

(2) an intent on the part of the Defendant to harm the Plaintiff by interfering with that contractual relationship;

(3) the absence of a privilege or justification for such interference; and

(4) damages resulting from the Defendant's conduct.

Triffin v. Janssen, 626 A.2d 571, 574 (1993).

There is no averment of any monetary damages resulting from the claimed conduct of Precision. FreshTec only asked for a "judgment" in its favor. There is no claim that Precision is interfering with FreshTec's existing contracts with its customers. There is only a vague claim that Precision is attempting to induce the customers to leave FreshTec and go with Precision, although the pleading is not sufficiently specific in this regard. ***Complaint, ¶ 40.***

One cannot tell from a reading of this Count whether FreshTec is seeking injunctive relief, or monetary damages.

There is no allegation, proof or evidence that Precision is presently contacting, or has contacted FreshTec's customers, only that they will contact FreshTec's customers. With these facts, there is no viable claim of tortious interference with contract. Further, the contracts have been completed by Precision, and the machines shipped. There are no existing, unexecuted contracts between FreshTec, its customers, and Precision.

The cases cited above, regarding free speech, also preclude the Court from allowing any sort of judgment in favor of FreshTec in the tortious interference claim.

The Court is requested to enter Summary Judgment in Precision's favor on this Count.

D. COUNT IV - CONFIDENTIAL INFORMATION

In this, the final Count in the Complaint, FreshTec alleges that its predecessor in interest, Backus, U.S.A., Inc. (Backus) had a Confidentiality and Non-Compete Agreement with AIC related to the construction of machines, but there is no allegation that FreshTec had any such Confidentiality Agreement with Precision. FreshTec alleges that it divulged confidential information related to the machinery to Precision, but does not state specifically what this confidential information was. FreshTec requests that this confidential information be returned. Precision has returned any such information related to the machinery that FreshTec could claim as being confidential or to FreshTec's customers when the machines were shipped. ***Robert J. Stewart Affidavit, ¶ 15, 16.*** FreshTec has an adequate remedy at law. It could file a replevin action seeking return of any documents, whether they are held to be confidential or not, that are the property of FreshTec.

The Court is requested to enter Summary Judgment in favor of Precision on this Count.

IV. CONCLUSION

The Court is requested to grant Summary Judgment in favor of Precision and against

FreshTec on all four Counts in FreshTec's Complaint. In the alternative, should the Court believe that any of the Counts have merit and should survive Summary Judgment, the Court is requested to enter Partial Summary Judgment on those Counts that the Court believes have no merit.

Respectfully submitted:

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls, Inc.

Dated: October 4, 2004

CERTIFICATE OF MAILING

I, EUGENE J. BREW, ESQ., certify that on the below date I served a true copy of the within pleading by mailing the same to the following by postage pre-paid on the following date:

Honorable Paul E. Cherry,
Judge of the Court of Common Pleas
Clearfield County
Clearfield County Court House
230 E. Market St.
Clearfield, PA 16830

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801
Attorney for Plaintiff

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication and Controls, Inc.

Dated: October 4, 2004

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PRECISION FABRICATION AND CONTROLS, INC., Plaintiff	:	
v.	:	No. 915 C.D. 2004
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant	:	
	:	Type of Pleading: Brief in Support of Petition to Coordinate Actions Pursuant to Pa.R.C.P. §213.1
	:	Filed on behalf of: FreshTec Food Processing Equipment International, LLC
	:	Counsel of Record for this party:
	:	HOPKINS HELTZEL, LLP
	:	DAVID J. HOPKINS, ESQUIRE Attorney at Law Supreme Court No. 42519
	:	900 Beaver Drive DuBois, Pennsylvania 15801 (814) 375-0300

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PRECISION FABRICATION AND CONTROLS, INC., Plaintiff	:	
v.	:	No. 915 C.D. 2004
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant	:	

BRIEF IN SUPPORT OF PETITION TO COORDINATE ACTIONS PURSUANT TO Pa.R.C.P. 213.1

AND NOW, comes FreshTec Food Processing Equipment International, LLC ("FreshTec"), by and through its undersigned attorneys, Hopkins Heltzel LLP, and submits this Brief in Support of its Petition to Coordinate Actions.

I. Background

Freshtec commenced an action in equity in the Court of Common Pleas of Clearfield County Pennsylvania at No. 2004-1146-CD on July 28, 2004, against both Precision Fabrication and Controls, Inc. ("Precision") and Advance Industrial Controls, Inc. ("AIC"), seeking entry of a decree with respect to the proper party to receive

payment for the machinery ordered; and asserting claims for defamation, tortious interference with contractual relationships and seeking specific performance. Simultaneously, Freshtec sought and obtained a preliminary injunction against Precision, precluding Precision and AIC from contacting Freshtec's customers regarding sums due and owing under any invoices or on any other issue and from taking any action to encumber any machinery held by or in the possession of Freshtec's customers. Following hearing on August 19, 2004, this Honorable Court ordered that the July 29, 2004 injunction "remain in full force and effect pending hearing on the merits of this case."

Thereafter, Precision commenced a civil action against Freshtec by Complaint filed on August 9, 2004 in the Court of Common Pleas of McKean County, Pennsylvania, at No. 915-CD 2004, seeking payment of the same invoices as referenced above in the amount of $147,352.

FreshTec filed a Petition to Coordinate these two actions on September 21, 2004, to which Precision has filed its Answer.

II. Argument

In opposition to FreshTec's Petition to Coordinate, Precision argues that these actions should not be consolidated because the issues raised in the Clearfield action with respect to whom payment can be made can be resolved by writing a check made payable to both Precision and AIC, and the tortious interference claim can be resolved by summary judgment.

Precision's arguments in opposition to the Petition to Coordinate disregard the common issues of law and fact raised in the two actions. First, the Clearfield County

action raises the issue of the legal relationship between AIC and Precision, and hence the identity of the contracting party, resolution of which is critical to the entire suit brought by Plaintiff. Similarly, in the McKean County action, the identity of the contracting party is likewise critical because, as raised in FreshTec's Answer and New Matter, serious defects exist in the machinery which FreshTec contends amount to breaches of warranty. In fact, the machinery is so poorly constructed that it is probably valueless, if not dangerous. Thus, a determination as to who is responsible for these breaches of warranty is critical the McKean County lawsuit. Second, the crux of the Clearfield County case is the issue of payment of the invoices. The facts surrounding the parties failed efforts to resolve the payment issue was the reason for the lawsuit in Clearfield in the first place. To litigate FreshTec's liability on these invoices in McKean County would be duplicative and a waste of judicial resources, and could easily result in an inconsistent ruling. Coordination is necessary to avoid any such result.

Additionally, while Precision argues that the actions can be coordinated without transferring either action to a new county, FreshTec asserts that separate resolution could lead to inconsistent rulings. For example, if the McKean County Court orders FreshTec to pay Precision, the Clearfield County Court could determine that AIC is the proper party for payment. As such, coordination of these two cases in one venue is a more efficient means of dealing with this litigation.

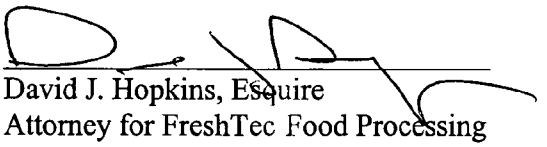
Conclusion

FreshTec asserts that coordination and consolidation of the McKean County and Clearfield County actions coordination will result in the efficacious resolution of the disputes presented in both cases; a more efficient utilization of judicial facilities and

personnel and will result in the just and efficient conduct of the actions. Moreover, failure to coordinate could cause duplicative and inconsistent rulings, orders or judgments. Conduct of this litigation involving payment of the invoices in one venue is more likely to result in settlement.

Respectfully submitted,

HOPKINS HELTZEL LLP



David J. Hopkins, Esquire
Attorney for FreshTec Food Processing Equipment International, LLC

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

PRECISION FABRICATION AND CONTROLS, INC., Plaintiff	:	
	:	No. 915 C.D. 2004
v.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant	:	

CERTIFICATE OF SERVICE

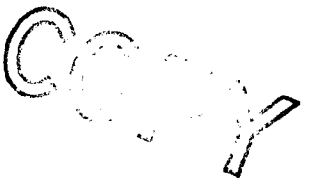
I, the undersigned, hereby certify that a true and correct copy of Brief in Opposition to Motion for Summary Judgment or Partial Summary Judgment, filed on behalf of FreshTec Food Processing Equipment International, LLC, was forwarded by facsimile and first class mail, postage prepaid, on the 5th day of November, 2004, to all counsel of record, addressed as follows:

Facsimile: (814) 454-1554

Eugene J. Brew, Esquire
McClure & Miller LLP
717 State Street, Suite 701
Erie, PA 16501

Advanced Industrial Controls, Inc.
536 East Main Street
Bradford, PA 16701

David J. Hopkins, Esquire
Attorney for FreshTec Food Processing
International LLC



January 25, 2005

Eugene J. Brew, Esq.
717 State St., Ste. 701
Erie, PA 16501

Re: 04-1146-CD; 04-1577-CD
Freshtec Food vs. Precision; Backus vs. Precision

Dear Mr. Brew,

Please find enclosed a copy of your request for status conference received by the Court Administrator. The court will not entertain your request without a proposed scheduling order. Please note that your original did not contain a case number. Please file an Amended Request for Status Conference showing both case numbers and captions, if that is your intention. We will require two originals, each with an order attached. Both originals can reflect both case captions.

Additionally, the court will not entertain your Motion for Sanctions No. 2 filed to both case numbers. Please submit to the Court Administrator's office two copies of a proposed scheduling order for this Motion, with a copy of the Motion being attached to each.

If you have any questions, please contact me at (814) 765-2641, ext. 1331 or the Court Administrator's office at (814) 765-2641, ext. 5982.

Sincerely,

William A. Shaw
Prothonotary

Enclosures

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,
a Pennsylvania limited liability company,
Plaintiff,

v.

PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.
Defendants.

No. 2004-1146-CD

Type of Pleading: Brief in Opposition to Motion for Summary Judgment or Partial Summary Judgment

Filed on behalf of: FreshTec Food Processing Equipment International, LLC

RECEIVED

NOV 0 5 2004

COURT ADMINISTRATOR'S OFFICE

Counsel of Record for this party:

HOPKINS HELTZEL, LLP

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

900 Beaver Drive
DuBois, Pennsylvania 15801
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

BRIEF IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT OR PARTIAL SUMMARY JUDGMENT

AND NOW, comes Plaintiff, FreshTec Food Processing Equipment International, LLC ("FreshTec"), by and through its undersigned counsel, Hopkins Heltzel LLP, and files this Brief in Opposition to Defendant Precision Fabrication and Controls, Inc.'s Motion for Summary Judgment or Partial Summary Judgment and in support says as follows:

I. FACTS

FreshTec is engaged in the business of designing and selling machines to the food processing industry. In connection with this business, Plaintiff provided Defendants Advanced Industrial Controls, Inc. ("AIC") and Precision with certain confidential information, including designs, blueprints, CAD files, drawings, and specifications, relating to the construction of machinery for Plaintiff's customers for use in the food processing business. Defendants use such information to construct machinery customized to Plaintiff's customers' needs.

Over a certain period of time, Plaintiff entered into contracts for the fabrication of certain food processing machines with Defendant AIC. In connection with this fabrication process, agents of Plaintiff had discussions agents of AIC with respect to the design of such machinery.

of $91,012.00 in escrow with the Court pending resolution of the issues set forth in the Complaint.

Thereafter, on August 9, 2004, Precision commenced a civil action against FreshTec in the Court of Common Pleas of McKean County, Pennsylvania, at number 915-CD-2004, seeking payment of the invoices referenced in the above action in the amount of $147,352.00. Due to the common questions of law and fact involved in these actions, Plaintiff filed a Motion to Coordinate with both Courts.

II. ARGUMENT

QUESTION PRESENTED: Should summary judgment be granted by the court in favor of Precision and against FreshTec on all of, or any of, the four counts in the complaint?

SUGGESTED ANSWER: No.

Pennsylvania Rule of Civil Procedure 1035.2(2) provides that a party may move for summary judgment when "an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury." Pa.R.Civ.P. 1035.2(2). " Summary judgment is proper where the pleadings, depositions, answers to interrogatories, admissions and affidavits and other materials demonstrate that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Huntington National Bank v. Global Publishing Papers, Inc., 853 A.2d 396, 400 (Pa.Super.,2004), In reviewing a motion for summary judgment, the Court must review "the record in the light most favorable to the party opposing the motion and resolve all doubts as to the existence of a genuine issue of material fact in favor of the nonmoving party." Id., citing, Philadelphia Ambulatory Care Center, Inc. v. Rite Aid Corp., 805 A.2d 613, 614 (Pa.Super.2002) (citations and quotations omitted). The Court

must "accept[ ] as true all well-pleaded facts and giv[e] [the non-moving] party the benefit of all reasonable inferences which can be drawn from those facts." Ryan v. Asbestos Corp., Ltd., 829 A.2d 686, 688 (Pa.Super. 2003). "It is fundamental that the moving party's evidence must clearly exclude any genuine issue of material fact." Taylor v. Owens-Corning Fiberglas Corp., 666 A.2d 681, 686 (Pa.Super. 1995).

A. Count I-Designation of Proper Payee

In its Motion for Summary Judgment or Partial Summary Judgment, Precision that Count I of Plaintiff's Complaint, which seeks a decree designating the proper party for payment, should be fails to state a claim upon which relief can be granted. First, Precision claims that it took over completion of the purchase orders that FreshTec had with AIC, agreed to complete them, and had an understanding with FreshTec that payment would be made upon completion of the work to Precision and not AIC. Precision argues that payment could be made by checks made out to both AIC and Precision, thus resolving FreshTec's concern of continuing liability for payment to AIC. Next, Precision asserts that because AIC has never entered an appearance in this action, Plaintiff's recourse is to take a default judgment against AIC. Neither of these arguments supports a finding that there is no genuine issue of material fact and that Precision is entitled to judgment as a matter of law. Moreover, these arguments redirect attention from the critical issue in this case: who is the legally responsible contracting party with respect to the food processing machinery?

First, FreshTec, at no time, received any notification in writing that Precision was the proper party to receive payment on the purchase orders. FreshTec did not receive any assignment or other documentation indicating that Precision was legally assuming both the benefits and burdens of the contracts with FreshTec. As such, not only does FreshTec now know

to whom payment should be made, it also is unclear to whom the issues concerns defective design and operation, and delayed delivery should properly be addressed. Until the Court makes a ruling as to the identity of the contracting party, there exists a genuine issue of material fact defeating any motion for summary judgment.

Next, Precision's argument that taking a default judgment against AIC would moot this issue, is meritless. Regardless of whether AIC has entered an appearance in this action[1], Plaintiff still remains in the position of not knowing with whom it is dealing and on what terms. Moreover, this argument disregards Precision's own statement in its brief that AIC has ceased doing business and that Precision has taken over the assets and contracts of AIC. If this statement is true, Precision is most definitely a proper party in this litigation and Precision's motion for summary judgment on this Count must be denied.

Finally, Plaintiff notes that counsel for FreshTec attempted to resolve this issue by asking for such statement that Precision was the proper party for payment from Precision's vice president, Mr. Brechtel, thereby releasing FreshTec from any further obligation to AIC. Mr. Brechtel refused to make any such representation to FreshTec's counsel. As such, Precision's allegation that FreshTec is using this Count as an attempt to keep admittedly due funds to Precision in an attempt to harm Precision's business is completely without merit. Precision has failed to satisfy its burden that there exists no genuine issue of material fact with respect to Count I, and as such, summary judgment with respect to Count I of Plaintiff's Complaint must be denied.

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[1] Interestingly in contrast to Precision's statement in its brief that "Precision has never heard from any counsel on behalf of AIC," in the case captioned Backus USA, Inc., and FreshTec Food Processing Equipment International, LLC v. Precision Fabrication and Controls, Inc. and Advanced Industrial Controls, Inc., filed with this Court at Docket No. 2004-1577-CD, McClure & Miller, Precision's counsel in the present matter, has entered an appearance on behalf of both Precision and AIC.

B. Count Two- Defamation

Precision argues that the injunction entered by this Honorable Court on July 29, 2004, and continued on August 19, 2004, which prevents Precision from contacting FreshTec's customers with regard to any sums due and owing Precision or from taking any action to encumber any machinery held by FreshTec's customers is inappropriate. Precision indicates it has not contacted FreshTec's customers. However, Precision has not contacted FreshTec's because to do so would be a direct violation of this Honorable Court's Order. Again, assuming Precision's statement that AIC is no longer in business is accurate, any ongoing disparagement of FreshTec by Precision would be actionable.

Moreover, Precision is attempting to re-litigate the propriety of the issuance of the injunction by this Honorable Court. This Honorable Court has on two occasions determined that Plaintiff satisfied its burden of proving the necessity of the injunction to prevent irreparable harm to its goodwill and reputation with its customers. As set forth in both Plaintiff's Complaint and Motion for Preliminary Injunction, Benjamin Brechtel, vice president of Precision, indicated to Plaintiff that payment was due in full for all invoices and that if payment issues were not resolved immediately, Precision would take further action in the form of placing liens against all equipment and encumbrances on outstanding receivables with FreshTec's customers holding equipment associated with outstanding payments. Given the disputes surrounding the sums due and owing on the invoices, any such statements made to Plaintiff's customers would have disparaged the good will and reputation of Plaintiff. As such, Plaintiff has set forth a claim for defamation, and Precision has failed to satisfy its burden of showing that there is no genuine

issue of material fact as to any element of this cause of action. Precision's motion for summary judgment with respect to Count II of Plaintiff's Complaint must be denied.

C. Court Three-Tortious Interference

A plaintiff must establish four elements to set forth a claim for tortious interference:

1. the existence of a contractual relationship;
2. an intent on the part of the Defendant to harm the Plaintiff by interfering with that contractual relationship;
3. the absence of a privilege or justification for such interference; and
4. damages resulting from the Defendant's conduct.

Triffin v. Janssen, 626 A.2d 571, 574 (Pa. Super. 1993).

Precision argues that Plaintiff has failed to establish that Precision is interfering with Plaintiff's existing contracts with its customers, and that it has sustained damages in this regard. As set forth in Plaintiff's Complaint, Precision's threat to contact Plaintiff's customers with respect to the unresolved payment issues is clearly intended to harm Plaintiff's relationships with its customers. Again, this Honorable Court has entered an injunction specifically preventing Precision from contacting Plaintiff's customers with respect to the payment issues referenced herein, and thus interfering with Plaintiff's relationships with its customers. As such, given that an injunction is in place, Precision's motion for summary judgment on this Count is inappropriate and must be denied.

D. Count Four-Confidential Information

Precision argues that summary judgment should be ordered with respect to Count IV of Plaintiff's Complaint because (1) there is no allegation that FreshTec has a confidentiality agreement with Precision; (2) FreshTec has not specifically alleged what the confidential information is; and (3) any information related to the machinery has been returned to FreshTec,

and in the event that it has not, FreshTec could file a replevin action seeking return of such information.

Plaintiff notes that there was a confidentiality agreement between Backus USA, Inc., it predecessor in interest and AIC.[2] Again, given that Plaintiff has no knowledge of the legal relationship between AIC and Precision, it has no way of knowing whether such confidentiality agreement has been assigned to Precision. Plaintiff requires the execution of such confidentiality agreements prior to the fabrication of any machinery on its behalf, and if Precision took over operations from AIC and had access to its confidential designs and plans and other information relating to food processing equipment without accepting the terms of the confidentiality agreement, Plaintiff will suffer irreparable harm to its competitive position in this industry. This leads inevitably back to the question of the legal relationship between AIC and Precision. As such, Plaintiff maintains that until this critical issue is resolved by this Honorable Court, summary judgment is totally inappropriate.

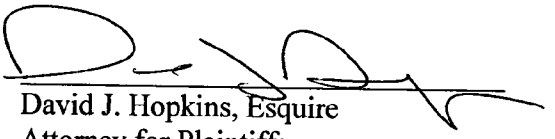
[2] Plaintiff has filed a Motion to Consolidate the action captioned, Backus USA, Inc., and FreshTec Food Processing Equipment International, LLC v. Precision Fabrication and Controls, Inc. and Advanced Industrial Controls, Inc., filed with this Court at Docket No. 2004-1577-CD. This action sets forth claims for breach of a confidentiality agreement and non-compete agreement by and among FreshTec and Backus USA, Inc. and Precision and AIC. Docket No. 2004-1577

CONCLUSION

Plaintiff FreshTec Food Processing Equipment International, LLC asserts that Defendant's Motion for Summary Judgment or Partial Summary Judgment must be denied.

Respectfully submitted,

HOPKINS HELTZEL LLP



David J. Hopkins, Esquire
Attorney for Plaintiffs

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-01146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

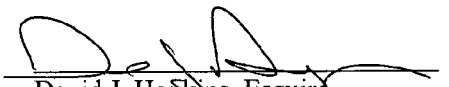
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of Brief in Opposition to Motion for Summary Judgment or Partial Summary Judgment, filed on behalf of FreshTec Food Processing Equipment International, LLC, was forwarded by facsimile and first class mail, postage prepaid, on the 5th day of November, 2004, to all counsel of record, addressed as follows:

Facsimile: (814) 454-1554

Eugene J. Brew, Esquire
McClure & Miller LLP
717 State Street, Suite 701
Erie, PA 16501

Advanced Industrial Controls, Inc.
536 East Main Street
Bradford, PA 16701



David J. Hopkins, Esquire
Attorney for FreshTec Food Processing
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McCLURE & MILLER LLP

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Daniel L. R. Miller
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Telephone: (814) 453-3681
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October 27, 2004

RECEIVED
OCT 29 2004
COURT ADMINISTRATOR'S OFFICE

Court Administrator
Clearfield County
Clearfield County Court House
2nd & Market Streets
Clearfield, PA 16830

In Re: **FreshTec vs. Precision and AIC - No. 2004-1146-CD**

Dear Court Administrator:

Enclosed please find a copy of Precision Fabrication and Controls, Inc. Brief in Opposition to Plaintiff, FreshTec's Petition to Coordinate this action with the action in McKean County at No. 915 C.D. 2004. We have filed the original of the Brief with the Prothonotary.

Would you kindly request the Court to allow us to argue this matter by speaker telephone conference, pursuant to your local Rule?

Thank you.

Very truly yours,

McCLURE & MILLER LLP

By _____
Eugene J. Brew, Esq.

EJB:shb
Enclosures
cc: David J. Hopkins, Esq. (With copy of Brief)

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION - (LAW)

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
A Pennsylvania Limited Liability Company
PLAINTIFF

vs.

PRECISION FABRICATION AND
CONTROLS, INC. and ADVANCED

INDUSTRIAL CONTROLS, INC.
DEFENDANTS

No. 2004-1146-CD

Type of Case: Equity -
Injunctive Relief

Type of Pleading:
Precision Brief in Opposition to
FreshTec Petition to Coordinate
Actions

Filed on behalf of:
Precision Fabrication & Controls,
Inc.
Defendant

Counsel of record for this party:

Eugene J. Brew, Esq.
McClure & Miller LLP
717 State St., Suite 701
Erie, PA 16501
(814) 453-3681
Supreme Court No. 06500

Counsel of Record for Adverse
Party:

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, PA 15801

RECEIVED

OCT 29 2004

COURT ADMINISTRATOR'S
OFFICE

Dated: October 27, 2004

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company Plaintiff	*	No. 2004-1146-CD
vs.	*	
PRECISION FABRICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants	*	

PRECISION FABRICATION & CONTROLS, INC., PLAINTIFF	*	IN THE COURT OF COMMON PLEAS OF McKEAN COUNTY, PENNSYLVANIA
vs.	*	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL LLC DEFENDANT	*	No. 915 C.D. 2004

PRECISION BRIEF IN OPPOSITION TO FRESHTEC PETITION TO COORDINATE ACTIONS

Precision Fabrication & Controls, Inc. (Precision) by its attorney, Eugene J. Brew, Esq., files this Brief in Opposition to the Petition of FreshTec Food Processing Equipment International LLC (FreshTec) to Coordinate the above actions pursuant to PA. R.C.P., §213.1.

I. HISTORY OF THE CASE

FreshTec filed a Complaint in Equity against Precision and Advanced Industrial Controls, Inc. (AIC) on July 28, 2004, seeking in separate Counts (I) a Decree of Court advising FreshTec of the proper party to make payment to on invoices for machinery manufactured and sold to

FreshTec, (II) an Injunction ordering Precision and AIC to cease making statements that are false and misleading, and detrimental to FreshTec's reputation, (III) an Order directing Precision and AIC to cease notifying FreshTec's customers that FreshTec has not paid its invoices received from Precision or AIC, and (IV) an Order directing the return of alleged confidential information given to Precision and AIC. After a Hearing on August 19, 2004, the Court ordered that its Order of July 29, 2004, restraining Precision from contacting FreshTec's customers over payment issues, or encumbering any customers' machinery, "remain in full force and effect pending Hearing on the merits of this case". Precision filed its Answer to the Complaint on August 18, 2004.

On August 10, 2004, Precision filed the action in McKean County against FreshTec, for non-payment of invoices covering the sale of food processing machines manufactured and shipped to either FreshTec or FreshTec's customers during the year, the balance due on said invoices being $147,352.00. After making the initial down payments on the machines ordered, FreshTec took delivery on all of them, but made no further payments. FreshTec filed an Answer with New Matter. Precision filed a Reply to the New Matter. The pleadings in the McKean County action are closed.

On September 21, 2004, FreshTec filed a Petition to Coordinate both actions. Precision filed its Answer to this Petition.

II. STATEMENT OF QUESTIONS INVOLVED

A. IS IT NECESSARY FOR THE CASES TO BE CONSOLIDATED FOR TRIAL?

SUGGESTED ANSWER: NO.

B. CAN THE COURT COORDINATE THE TWO ACTIONS WITHOUT TRANSFERRING EITHER ACTION TO A NEW COUNTY?

SUGGESTED ANSWER: YES.

C. IF THE ACTIONS ARE ALLOWED TO PROCEED IN THE COUNTIES IN WHICH THEY WERE BROUGHT, WILL THERE BE ANY "DUPLICATIVE AND INCONSISTENT RULINGS, ORDERS OR JUDGMENTS"?

SUGGESTED ANSWER: NO.

D. SHOULD THE COURT ORDERED STAY OF THE COLLECTION ACTION IN McKEAN COUNTY BE LIFTED?

SUGGESTED ANSWER: YES.

III. RELEVANT DOCUMENTS

Pleadings filed in both actions.

IV. ARGUMENT

The Court has discretion under Rule 213.1 to enter an Order accepting the coordination, to consolidate the cases for trial, to transfer the cases to a different venue, to hold a Hearing on the question of coordination, or to rule without a Hearing. Lincoln General Insurance Company vs. Donahue, 616 A.2d 1076 (Pa. Comwlth. 1992).

A. IT IS NOT NECESSARY FOR THE COURT TO CONSOLIDATE THE TWO CASES FOR TRIAL.

FreshTec requests the Court to consolidate the actions, the McKean County action for non-payment of invoices totaling $147,352.00, with the Clearfield County action for injunctive relief in four counts, in which Precision has already stipulated on two of the counts. The third count as to whom payment should be made, can easily be resolved by making the check payable to both parties, Precision and AIC, and the fourth count for tortious interference, should be

resolved on the Motion for Summary Judgment or trial separate from the McKean County collection action. There is no good reason to consolidate these two actions.

B. THIS COURT CAN COORDINATE THE TWO ACTIONS WITHOUT TRANSFERRING EITHER ACTION TO A NEW COUNTY.

There is no reason that the actions cannot continue to resolution in the respective counties in which they were filed. The McKean County action will end up either with a judgment in favor of Precision on its claim for unpaid invoices, many of which are admittedly due by FreshTec, or a judgment in favor of FreshTec.

C. THERE IS NO CHANCE OF ANY DUPLICATIVE OR INCONSISTENT RULINGS, ORDERS OR JUDGMENTS IF THE CASES ARE ALLOWED TO REMAIN IN THE COUNTIES IN WHICH THEY WERE BROUGHT.

The Clearfield County injunction action will also be resolved by this Court one way or another. Because of the relief sought in the injunction action, there is no chance of any inconsistent rulings by the two Courts.

D. THE COURT SHOULD LIFT THE STAY OF THE McKEAN COUNTY COLLECTION LAWSUIT.

It is not necessary for the Court to maintain the stay on the McKean County action that was included in the Rule to Show Cause dated September 22, 2004. This case involves a substantial sum of money, $147,352.00, overdue to a small company.

V. CONCLUSION

The Court is requested to take the following action on FreshTec's Petition to Coordinate these two actions:

(a) refuse to Order coordination, but if the Court does Order coordination, then

(b) Order that the cases will not be consolidated, and

(c) that each action will continue in its respective county, and

(d) the stay ordered is immediately lifted.

Respectfully submitted:

Eugene J. Brew, Esq.
McCLURE & MILLER LLP
717 State Street, Suite 701
Erie, PA 16501
(814) 453-3681
Attorney for Precision Fabrication & Controls, Inc.

Dated: October 27, 2004

CERTIFICATE OF MAILING

I, EUGENE J. BREW, ESQ., certify that on the below date I served a true copy of the within Brief on the following by mailing the same to the following by postage pre-paid on the following date:

Civil Court Administrator
Clearfield county
Clearfield County Court House
230 E. Market St.
Clearfield, PA 16830

David J. Hopkins, Esq.
Hopkins Heltzel, LLP
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Eugene J. Brew, Esq.
McCLURE & MILLER LLP
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Attorney for Precision Fabrication & Controls, Inc.

Dated: October 27, 2004

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Fax

To: David Meholick, Court Administrator **From:** R. W. Mutzabaugh

765-7649

David Hopkins 375-5035

Fax: **Pages:** (including cover page)

Phone: **Date:** August 29, 2005

Re: Freshtec et al v. Precision **CC:**

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• **Comments:**

Motion in Limine follows.

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COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

BACKUS USA, INC. AND
FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC
Vs

PRECISION FABRICATION AND
CONTROLS, INC., and ADVANCED
INDUSTRIAL CONTROLS, INC.

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
Vs.
PRECISION FABRICATION
AND CONTROLS, INC.
And ADVANCED INDUSTRIAL
CONTROLS, INC.

PRECISION FABRICATION AND
CONTROLS, INC.
Vs.

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC

CIVIL ACTION - LAW
No. 2004-1146
Consolidated Cases
Type of Case:

Type of Pleading: Motion in Limine

Filed on Behalf of: Precision

Counsel of Record for this
Party:
Richard W. Mutzabaugh
Supreme Court No: 06741

MUTZABAUGH & SAUNDERS

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Counsel of Record for Adverse
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David J. Hopkins, Esq.
900 Beaver Drive
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DATED: August 29, 2005

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC
A Pennsylvania Limited Liability Company,
Plaintiff

Vs.

PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.**,
Defendants

No. 2004-1146-CD

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

BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC**, a Pennsylvania Limited Liability Company,
Plaintiff

Vs.

PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.**,
Defendants

No. 2004-1577-CD

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

PRECISION FABRICATION & CONTROLS, INC.
Plaintiff

Vs.

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC
Defendant

No. 2004 - 1146 C.D.
Case transferred from McKean County by Order of Court McKean County No. 2004-10915
Type of Case: Contract

MOTION IN LIMINE

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

NOW COMES Precision Fabrication and Controls, Inc., by its Attorney, **Richard W. Mutzabaugh,** Mutzabaugh & Saunders, LLP, and moves this Honorable Court to order David Hopkins, Attorney for FreshTec and Backus, not to comment on any counterclaim FreshTec may have to the litigation for monies owed brought by Precision against FreshTec, for the reason that the counterclaim is based upon alleged defects in the manufactured items delivered to FreshTec, Precision never having been given an opportunity to view said defects to determine whether the alleged defects are its responsibility or due to some other cause, known or unknown. Until this matter is totally resolved, it would be prejudicial to Precision to allow said comments.

MUTZABAUGH & SAUNDERS

By _____
Richard W. Mutzabaugh
Attorneys for Precision

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 847
Bradford, Pennsylvania 16701
(814) 362-3538

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company,
Plaintiff

Vs.

PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,**
Defendants

No. 2004-1146-CD

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company,
Plaintiff

Vs.

PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,**
Defendants

No. 2004-1577-CD

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

PRECISION FABRICATION & CONTROLS, INC.
Plaintiff

Vs.

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC
Defendant

No. 2004 – 1146 C.D.
Case transferred from McKean

ORDER

NOW, _____, 2005, upon consideration of Motion in Limine of Precision Fabrication & Controls, Inc., said motion is hereby granted, and David Hopkins, counsel for FreshTec and Backus is ordered not to make any

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

comment on any counterclaim FreshTec may have to the litigation for monies owed brought by Precision against FreshTec.

BY THE COURT:

_____

P.J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FILED
01 12:59 BK
AUG 31 2005
William A. Shaw
Prothonotary/Clerk of Courts

1CC Attys: Hopkins
Mutzabaugh
Brew

1CC Advanced Industrial
536 E. Main St.
Bradford, PA 16701

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	
VS.	:	NO. 04-1146-CD
PRECISION FABRICATION and CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
AND		
BACKUS USA, INC., and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATION, LLC	:	
VS.	:	NO. 04-1577-CD
PRECISION FABRICATION and CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	

O R D E R

NOW, this 30th day of August, 2005, following argument on Defendant's Motion in Limine; upon presentation of issues before the Court, it is the ORDER of this Court that said motion be and is hereby granted and David J. Hopkins, Esquire, counsel for Freshtec and Backus, shall not make any comment at jury selection on the reason for the counterclaim Freshtec may have in this litigation for monies owed to Freshtec.

BY THE COURT,

Paul E. Cherry

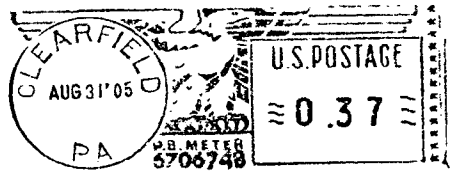
Judge

FILED

AUG 3 1 2005

William A. Shaw
Prothonotary/Clerk of Courts

WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830





Bx 977

Advanced Industrial Controls, Inc.
536 E. Main Street
Bradford, PA

ADVA977 1670120631505 08 09/05/05
RETURN TO SENDER
:ADVANCED IND CONTROL
BOX CLOSED
UNABLE TO FORWARD
RETURN TO SENDER

1670 1+1837-38 C012

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	
VS.	:	NO. 04-1146-CD
PRECISION FABRICATION and CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
AND		
BACKUS USA, INC., and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATION, LLC	:	
VS.	:	NO. 04-1577-CD
PRECISION FABRICATION and CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	

O R D E R

NOW, this 30th day of August, 2005, following argument on Defendant's Motion in Limine; upon presentation of issues before the Court, it is the ORDER of this Court that said motion be and is hereby granted and David J. Hopkins, Esquire, counsel for Freshtec and Backus, shall not make any comment at jury selection on the reason for the counterclaim Freshtec may have in this litigation for monies owed to Freshtec.

BY THE COURT,

/s/ Paul E. Cherry

Judge

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

AUG 31 2005

Attest.

William L. Shaw
Prothonotary/
Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	Consolidated Cases

FILED NO CC
m/11:43 bl
SEP 12 2005
William A. Shaw
Prothonotary/Clerk of Courts

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

NOTICE OF SERVICE OF REQUESTS FOR ADMISSIONS

Take notice, that Requests for Admissions directed to FreshTec Food Processing Equipment International, LLC were served on David J. Hopkins, Esq., 900 Beaver Drive, DuBois, PA 15801, counsel of record for FreshTec, by delivering to him via First Class Mail the original copies on September 8, 2005.

MUTZABAUGH & SAUNDERS

Dated: September 8, 2005

By _____
Attorneys for Precision

FILED

SEP 12 2005

William A. Shaw
Prothonotary/Clerk of Courts

CA

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

BACKUS USA, INC. AND
FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC
Vs

PRECISION FABRICATION AND
CONTROLS, INC., and ADVANCED

INDUSTRIAL CONTROLS, INC.

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
Vs.
PRECISION FABRICATION
AND CONTROLS, INC.
And ADVANCED INDUSTRIAL
CONTROLS, INC.

PRECISION FABRICATION AND
CONTROLS, INC.
Vs.

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC

DATED: September 13, 2005

CIVIL ACTION - LAW
No. 2004-1146
Consolidated Cases
Type of Case:

Type of Pleading: **Motion in Limine-**
(Spoliation of Evidence)

Filed on Behalf of: Precision

Counsel of Record for this
Party:
Richard W. Mutzabaugh
Supreme Court No: 06741

MUTZABAUGH & SAUNDERS

P.O. Box 647, 13 Main Street
Bradford, PA 16701
814-362-3538
Counsel of Record for Adverse
Party:

David J. Hopkins, Esq.
900 Beaver Drive
DuBois, PA 16801

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

FILED 10 cc
m/1:30 bl
SEP 15 2005
William A. Shaw
Prothonotary/Clerk of Courts

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	Consolidated Cases
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	

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

BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	No. 2004-1577-CD
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	

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

PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	No. 2004 – 1146 C.D. Case transferred from McKean County by Order of Court McKean County No. 2004-10915 Type of Case: Contract

MOTION IN LIMINE
(Spoliation of Evidence)

NOW COMES Precision Fabrication and Controls, Inc., (Precisions) by its Attorney, **Richard W. Mutzabaugh,** Mutzabaugh & Saunders, LLP, and moves this Honorable Court to order FreshTec Food Processing Equipment International, LLC, (FreshTec) to present no evidence regarding any matter set forth in its Counterclaim to the Complaint of Precision at the above docket number for payment of monies due, for the following reasons:

1) The alleged defectively manufactured equipment was repaired, either by FreshTec or at FreshTec's instructions, or by the third party user.

2) Precision did not see, nor was it given an opportunity to have an expert examine the defective products before said repairs were made and kept by the third party user or returned by FreshTec to the third party user.

3) This is a classic case of spoliation of evidence by FreshTec, and to permit the presentation of the matters regarding the cause of any alleged defect in design or manufacture as a counterclaim by FreshTec, without Precision being able to present evidence to the contrary, is highly prejudicial to Precision.

4) Precision has had no opportunity to have said products examined prior to any repairs, which have already been made, as alleged by FreshTec. Therefore, Precision cannot determine whether said malfunctions or breakdowns of said manufactured equipment was caused by any negligence on behalf or Precision or by:

(a) Improper usage other than intended use of equipment;

(b) Improper loading caused by excessive weight;

(c) Lack of maintenance of equipment;

(d) Improper installation of equipment;

or another possible cause.

WHEREFORE, Precision requests this Honorable Court to order and direct FreshTec to present no evidence regarding any matter set forth in its Counterclaim to the Complaint of Precision for payment of monies due.

MUTZABAUGH & SAUNDERS

By _____
Richard W. Mutzabaugh
Attorneys for Precision

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	CONSOLIDATED CASES

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	No. 2004-1577-CD
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	No. 2004 – 1146 C.D. Case transferred from McKean

ORDER

NOW, _____, 2005, upon consideration of Motion in Limine of Precision Fabrication & Controls, Inc., said motion is hereby granted, and David Hopkins, counsel for FreshTec and Backus is ordered not to present any evidence regarding the defects allegedly necessitating repairs in the

equipment manufactured by Precision and as referred to in the Counterclaim of FreshTech to Precision's Complaint, nor to comment upon any cost of repairs as a setoff, as Precision had had no opportunity, nor was it given an opportunity, to inspect the subject items prior to repair and/or return to the customer..

BY THE COURT:

P.J.

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	CONSOLIDATED CASES

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	No. 2004-1577-CD
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	No. 2004 – 1146 C.D. Case transferred from McKean

AFFIDAVIT

The undersigned, ***Robert J. Stewart***, hereby swears and affirms as follows:

That he is President of Precision Fabrication & Controls, Inc.

As President he is intensely involved and knowledgable as to the business, affairs and operations of the corporation.

That he was not aware of any defect in the equipment as alleged in FreshTec's Counterclaim to Precision's Complaint, until after any repairs had been made to said equipment by FreshTec, and Precision had no opportunity to examine said equipment prior to any repairs.

I verify the statements made in this Affidavit are true and correct.

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

Robert J. Stewart, President
Robert J. Stewart

DATED: September 9, 2005

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	CONSOLIDATED CASES

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	No. 2004-1577-CD
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	No. 2004 – 1146 C.D. Case transferred from McKean

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

AFFIDAVIT

The undersigned, ***Benjamin D. Brechtel***, hereby swears and affirms as follows:

That he is Vice President of Precision Fabrication & Controls, Inc.

As Vice-President he is intensely involved and knowledgable as to the business, affairs and operations of the corporation.

That he was not aware of any defect in the equipment as alleged in FreshTec's Counterclaim to Precision's Complaint, until after any repairs had been made to said equipment by FreshTec, and Precision had no opportunity to examine said equipment prior to any repairs.

I verify the statements made in this Affidavit are true and correct.

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

Benjamin D. Brechtel VP

Dated: September 9, 2005

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the foregoing document upon the person and in the manner indicated below, which service satisfies the requirements of the Pennsylvania Rules of Civil Procedure, by depositing in the United States Mail, Bradford, Pennsylvania, with first class postage, prepaid, as follows:

David J. Hopkins, Esq.
Attorney at Law
900 Beaver Drive
DuBois, PA 15801

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Plaintiff
13 Main Street
P.O. Box 647
Bradford, Pa. 16701
814-362-3538

DATED: September 13, 2005

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

FILED

SEP 15 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

FILED ICC Atty's:
01/10:04/BA
SEP 19 2005 Hopkins
William A. Shaw Mutzabaugh
Prothonotary/Clerk of Courts Brew
ICC Advanced Ind.
532 E. Main St.
Bradford, PA
16701

BACKUS USA, INC. AND FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC: vs. PRECISION FARICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC vs. PRECISION FARICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	No. 04-1146-CD
PRECISION FARICATION AND CONTROLS, INC. vs. FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	

ORDER

AND NOW, this 15th day of September, 2005, it is the ORDER of the Court that argument on Attorney Mutzabaugh's Motion In Limine filed in the above matter has been scheduled for the 17th day of October, 2005, at 3:30 P.M, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

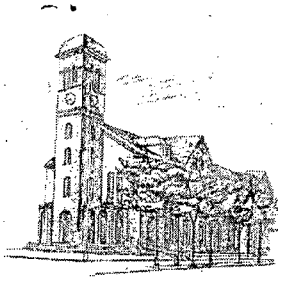
Paul E. Cherry

PAUL E. CHERRY
Judge

FILED

SEP 19 2005

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

_____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

__X__Plaintiff(s)/Attorney(s)

__X__Defendant(s)/Attorney(s)

_____Other

_____Special Instructions:

CA

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

BACKUS USA, INC. AND
FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC
Vs

PRECISION FABRICATION AND
CONTROLS, INC., and ADVANCED
INDUSTRIAL CONTROLS, INC.

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
Vs.
PRECISION FABRICATION
AND CONTROLS, INC.
And ADVANCED INDUSTRIAL
CONTROLS, INC.

PRECISION FABRICATION AND
CONTROLS, INC.
Vs.

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC

DATED: September 19, 2005

CIVIL ACTION - LAW
No. 2004-1146
Consolidated Cases
Type of Case:

Type of Pleading: **Motion for Compliance**

Filed on Behalf of: Precision

Counsel of Record for this
Party:
Richard W. Mutzabaugh
Supreme Court No: 06741

MUTZABAUGH & SAUNDERS

P.O. Box 647, 13 Main Street
Bradford, PA 16701
814-362-3538
Counsel of Record for Adverse
Party:

David J. Hopkins, Esq.
900 Beaver Drive
DuBois, PA 16801

FILED NO CC
m 11:46 BH
SEP 22 2005 (GK)

William A. Shaw
Prothonotary/Clerk of Courts

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	
Vs.	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	
Vs.	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff	
Vs.	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	Consolidated Cases

MOTION FOR COMPLIANCE

NOW COME ***Mutzabaugh & Saunders***, Attorneys for Precision Fabrication & Controls, Inc. in the above entitled action, and move this Honorable Court to compel FreshTec Food Processing Equipment International, LLC and Backus, USA, Inc. to file answers to written interrogatories, and set forth the following:

1. On the 11th day of August, 2005, Precision, through its attorneys, served upon FreshTec Food Processing Equipment International, LLC and Backus USA, Inc. a set of Interrogatories and Request for Production of Documents, requiring answer thereto within thirty (30) days, a copy of the Notice of Service, time-stamped by the Prothonotary, being attached hereto, marked Exhibit "A" and made an integral part hereof.

2. As of the 19th day of September, 2005, a period of 39 days has elapsed and FreshTec and Backus have failed to answer said Interrogatories and respond to the Requests for Production, although said Interrogatories and Requests were to be answered within thirty (30) days, as required by the Pennsylvania Rules of Civil Procedure, and further, the time for filing objections to any of the Interrogatories or Requests has passed.

3. The deadline for discovery in this case is October 6, 2005.

WHEREFORE, it is requested that this Honorable Court order answers to said Interrogatories and Requests for Production of Documents to be filed within ten (10) days or further sanctions be imposed against FreshTec and Backus under Pa. R.C.P. 4019(c) for failure to serve answers to Interrogatories under Pa. R.C.P. 4005, and further, to order FreshTec and Backus to reimburse Precision for all attorneys fees and costs incurred by Precision in filing this motion and in acquiring this order.

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Precision

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the foregoing document upon the person and in the manner indicated below, which service satisfies the requirements of the Pennsylvania Rules of Civil Procedure, by depositing in the United States Mail, Bradford, Pennsylvania, with first class postage, prepaid, as follows:

David J. Hopkins, Esq.
Attorney at Law
900 Beaver Drive
DuBois, PA 15801

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Plaintiff
13 Main Street
P.O. Box 647
Bradford, Pa. 16701
814-362-3538

DATED: September 19, 2005

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	Consolidated Cases

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

AUG 11 2005

Attest.

Prothonotary/
Clerk of Courts

NOTICE OF SERVICE OF INTERROGATORIES AND REQUESTS PRODUCTION OF DOCUMENTS

Take notice, that Interrogatories and Requests for Production of Documents directed to FreshTec Food Processing Equipment International, LLC and Backus USA, Inc. were served on David J. Hopkins, Esq., 900 Beaver Drive, DuBois, PA 15801, counsel of record for FreshTec and Backus, by delivering to him via Federal Express the original copies on August 9, 2005.

MUTZABAUGH & SAUNDERS

Dated: August 9, 2005

By _____
Attorneys for Precision

Exhibit "A"

FILED

SEP 22 2005

William A. Shaw
Prothonotary/Clerk of Courts

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company,
Plaintiff

Vs.

PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,**
Defendants

No. 2004-1146-CD

BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company,
Plaintiff

Vs.

PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,**
Defendants

PRECISION FABRICATION & CONTROLS, INC.
Plaintiff

Vs.

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC
Defendant

Consolidated Cases

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

ORDER

AND NOW, this 23rd day of September 2005, a hearing on the within Motion for Compliance is hereby scheduled for the 17th day of October, 2005, at 3:30 P.M., Court House, Clearfield, Pennsylvania.

BY THE COURT:

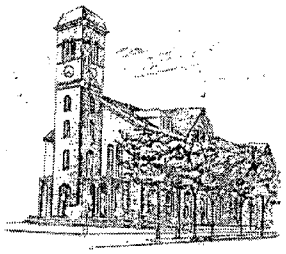
Paul E. Cherry, P.J.

FILED 4cc
09:55 BL Atty Mutzabaugh
SEP 28 2005
William A. Shaw
Prothonotary/Clerk of Courts

FILED

SEP 28 2005

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

__X__ You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830

FILED
11:25 AM
SEP 28 2005
William A. Shaw
Prothonotary/Clerk of Courts

CLEARFIELD PA SEP 19'05

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PO Box 977

Advanced Industrial Controls, Inc.
536 E. Main St
Bradford, PA

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

BACKUS USA, INC. AND FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC:	:	
vs.	:	
PRECISION FARICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	
vs.	:	No. 04-1146-CD
PRECISION FARICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
	:	
PRECISION FARICATION AND CONTROLS, INC.	:	
vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	

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

SEP 19 2005

Attest.

Prothonotary/
Clerk of Courts

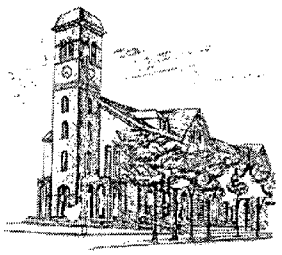
ORDER

AND NOW, this 15th day of September, 2005, it is the ORDER of the Court that argument on Attorney Mutzabaugh's Motion In Limine filed in the above matter has been scheduled for the 17th day of October, 2005, at 3:30 P.M, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

/s/ Paul E. Cherry

PAUL E. CHERRY
Judge



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

_____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

__X__Plaintiff(s)/Attorney(s)

__X__Defendant(s)/Attorney(s)

_____Other

_____Special Instructions:

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

BACKUS USA, INC. AND
FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC
Vs

PRECISION FABRICATION AND
CONTROLS, INC., and ADVANCED

INDUSTRIAL CONTROLS, INC.

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
Vs.
PRECISION FABRICATION
AND CONTROLS, INC.
And ADVANCED INDUSTRIAL
CONTROLS, INC.

PRECISION FABRICATION AND
CONTROLS, INC.
Vs.

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC

DATED: September 27, 2005

CIVIL ACTION - LAW
No. 2004-1146
Consolidated Cases
Type of Case:

Type of Pleading: **Objection to Discovery Requests**

Filed on Behalf of: Precision

Counsel of Record for this Party:
Richard W. Mutzabaugh
Supreme Court No: 06741

MUTZABAUGH & SAUNDERS

P.O. Box 647, 13 Main Street
Bradford, PA 16701
814-362-3538
Counsel of Record for Adverse Party:

David J. Hopkins, Esq.
900 Beaver Drive
DuBois, PA 16801

FILED no cc
m12:10 Bol
SEP 29 2005 (GK)
William A. Shaw
Prothonotary/Clerk of Courts

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	Consolidated Cases

OBJECTION TO DISCOVERY REQUESTS

NOW COME ***Mutzabaugh & Saunders***, Attorneys for Precision Fabrication & Controls, Inc. in the above entitled action, and objects to the discovery requests served upon it by Plaintiffs as follows:

1. On September 23, 2005, FreshTec and Backus served upon Precision its Second Set of Interrogatories and Requests for Production of Documents, consisting of 16 interrogatories and 5 Requests for Production.

2. Said discovery requests require response within thirty (30) days of service, or by October 24, 2005.

3. By Order of this Honorable Court dated August 4, 2005, the deadline for providing any and all outstanding discovery was established as October 6, 2005. A copy of the Court's Order is attached as Exhibit "A".

4. Precision objects to these discovery requests as being filed too late, for Precision is not allotted sufficient time to answer same and to meet this Honorable Court's discovery deadline.

5. Precision served a set of Interrogatories and Requests for Production of Documents upon FreshTec and Backus on August 11, 2005, which Interrogatories and Requests have not been answered as of the date hereof, and which is the subject of a Motion for Compliance presently before this Honorable Court.

WHEREFORE, Precision requests the Honorable Court to dismiss Plaintiffs' Interrogatories and Requests for Production of Documents as being untimely filed, and further, if the Court orders argument on these Objections, a stay of all proceedings on the Plaintiffs' Interrogatories and Requests to Precision is requested pending the outcome of any argument.

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Precision

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	Consolidated Cases

FILED
01/2:55 BH
OCT 03 2005
William A. Shaw
Prothonotary/Clerk of Courts
1 CC Atty Mutzabaugh

ORDER

NOW, September 30, 2005, upon consideration of Precision's Objection to Discovery Requests, argument on said Objection is hereby scheduled for the 17th day of October, 2005, at 3:30 o'clock P.M., Court House, Clearfield, Pennsylvania.

All proceedings on Plaintiffs' Interrogatories and Requests for Production of Documents to stay meanwhile.

BY THE COURT:

Paul E Cherry P.J.

FILED

OCT 0 3 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	Consolidated Cases

ORDER

AND NOW, this ____ day of _____ 2005, upon consideration of the foregoing Motion, said Motion is hereby granted and the Interrogatories and Requests for Production of Documents of Plaintiffs FreshTec and Backus are dismissed.

BY THE COURT:

_____P.J.

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

AUG. 08 RECD

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company,	:	
V.	:	NO. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
AND	:	
BACKUS USA, INC., a Pennsylvania Corporation and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania Limited Liability Company	:	
V.	:	
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
AND	:	
PRECISION FABRICATION AND CONTROLS, INC.	:	
V.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	

ORDER

AND NOW, this 4th day of August, 2005, following Pre-Trial Conference with regard to this matter, it is the ORDER of Court as follows:

Exhibit 'A'

1. Jury Selection in this matter is scheduled for August 30, 2005, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

2. Trial in this matter is scheduled for November 29, 30, 2005 and December 1, 2, 2005, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

3. The deadline for providing any and all outstanding discovery shall be by and no later than October 6, 2005.

4. Counsel for the parties, if they so desire, may submit a Trial Brief to the Court no more than thirty (30) days prior to the commencement of trial.

5. The deadline for submitting any and all Motions shall be by and no later than October 21, 2005.

6. Points for Charge shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.

7. Proposed Verdict Slip shall be submitted to the Court by and no later than fifteen (15) days prior to the commencement of trial.

8. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

BY THE COURT,

/s/ Paul E. Cherry

PAUL E. CHERRY,
JUDGE

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

AUG 04 2005

Attest.

Prothonotary/
Clerk of Courts

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the foregoing document upon the person and in the manner indicated below, which service satisfies the requirements of the Pennsylvania Rules of Civil Procedure, by depositing in the United States Mail, Bradford, Pennsylvania, with first class postage, prepaid, as follows:

David J. Hopkins, Esq.
Attorney at Law
900 Beaver Drive
DuBois, PA 15801

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Plaintiff
13 Main Street
P.O. Box 647
Bradford, Pa. 16701
814-362-3538

DATED: September 27, 2005

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

FILED

SEP 29 2005

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

___X___ You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

BACKUS USA, INC. AND
FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC
Vs

PRECISION FABRICATION AND
CONTROLS, INC., and ADVANCED

INDUSTRIAL CONTROLS, INC.

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
Vs.
PRECISION FABRICATION
AND CONTROLS, INC.
And ADVANCED INDUSTRIAL
CONTROLS, INC.

PRECISION FABRICATION AND
CONTROLS, INC.
Vs.

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC

DATED: September 29, 2005

CIVIL ACTION - LAW
No. 2004-1146
Consolidated Cases
Type of Case:

Type of Pleading: **Motion for Sanctions**

Filed on Behalf of: Precision

Counsel of Record for this
Party:
Richard W. Mutzabaugh
Supreme Court No: 06741

MUTZABAUGH & SAUNDERS

P.O. Box 647, 13 Main Street
Bradford, PA 16701
814-362-3538
Counsel of Record for Adverse
Party:

David J. Hopkins, Esq.
900 Beaver Drive
DuBois, PA 16801

FILED
m/1:39/BA NO CC
OCT 03 2005 GK
William A. Shaw
Prothonotary/Clerk of Courts

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	Consolidated Cases

MOTION FOR SANCTIONS

NOW COMES ***Precision Fabrication & Controls, Inc.***, by and through its counsel, ***Mutzabaugh & Saunders,*** and moves this Honorable Court to impose sanctions upon FreshTec Food Processing Equipment International,

LLC (FreshTec) and Backus USA, Inc. (Backus) for late filing of their Pre-Trial Memorandum, and in support thereof, sets forth the following:

1. On July 7, 2005 a Memo was issued by David S. Meholick, Court Administrator, scheduling the Pre-Trial Conference in this case for August 4, 2005.

2. Said Memo further indicated that in accordance with Clearfield County Local Rules, the Pre-Trial Statement must be submitted within one week prior to the date of the pre-trial conference with copy to opposing counsel.

3. Clearfield County Local Rule 212.4(e) requires that:

> "One week before the date set for the pre-trial conference each party shall submit to the Court and other counsel a pre-trial statement containing. . . ."

4. Rule 212.1 of the Rules of Civil Procedure also mandates that a pre-trial statement shall be filed, in the case of the plaintiff, not later than sixty days prior to the earliest trial date, but further provides under subsection (c)(2) that "the times set forth. . .may be made earlier by published local rule or by special order or as set forth in a trial list published in the county law journal or otherwise made available to the parties."

5. Rule 212.2, which, under subsection (a), mandates what a pre-trial statement shall contain, also provides under subsection (c) as follows:

> "Where the trial judge determines that unfair prejudice shall occur as the result of non-compliance with subdivisions (a) and (b), the trial judge shall grant appropriate relief, which may include:
>
> (1) the preclusion or limitation of the testimony of

(i) Any witness whose identity is not disclosed in the pre-trial statement, or

(ii) Any expert witness whose opinions have not been set forth in the report submitted with the pre-trial statement or otherwise specifically referred to in the pre-trial statement, consistent with Rule 4003.5, and

(2) The preclusion of exhibits not listed in the pre-trial statement and made available."

6. Pre-Trial Memorandum of Precision was filed and delivered to opposing counsel at the Calendar Call of the case of July 28, 2005, within the time period prescribed by the Court.

7. FreshTec and Backus did not file their Pre-Trial Memorandum until August 3, 2005, the day before the Pre-Trial Conference, and counsel for Precision was never provided with a copy of the Memorandum until the time of the Pre-Trial Conference.

8. The non-compliance of FreshTec and Backus with the Pennsylvania Rules of Civil Procedure and the Local Rules resulted in unfair prejudice to Precision, in that it was not afforded the same opportunity of receiving and reviewing the memorandum, containing the names of their witnesses, experts, and exhibits, and other trial-relevant material, prior to the conference itself.

9. As a result of its non-compliance, FreshTec and Backus should be sanctioned, including the preclusion of the testimony of the witnesses, including expert witnesses, they intend to call at the trial, and the preclusion of any exhibits they intend to present at the trial.

WHEREFORE, Precision moves this Honorable Court to impose the requested sanctions upon FreshTec and Backus as requested for the late filing of its pre-trial memorandum.

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Precision

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the foregoing document upon the person and in the manner indicated below, which service satisfies the requirements of the Pennsylvania Rules of Civil Procedure, by depositing in the United States Mail, Bradford, Pennsylvania, with first class postage, prepaid, as follows:

David J. Hopkins, Esq.
Attorney at Law
900 Beaver Drive
DuBois, PA 15801

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Plaintiff
13 Main Street
P.O. Box 647
Bradford, Pa. 16701
814-362-3538

DATED: September 29, 2005

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

FILED

OCT 0 3 2005

William A. Shaw
Prothonotary/Clerk of Courts

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	Consolidated Cases

ORDER

NOW, this _____ day of _____, 2005, upon consideration of Motion for Sanctions of Precision, said Motion is hereby granted. FreshTec and Backus are hereby precluded from presenting the testimony of all witnesses,

including expert witnesses, listed in their pre-trial memorandum and are further precluded from presenting any exhibits contained in their pre-trial memorandum.

BY THE COURT:

_____P.J.

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

BACKUS USA, INC. AND
FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC
Vs

PRECISION FABRICATION AND
CONTROLS, INC., and ADVANCED

INDUSTRIAL CONTROLS, INC.

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL, LLC
Vs.
PRECISION FABRICATION
AND CONTROLS, INC.
And ADVANCED INDUSTRIAL
CONTROLS, INC.

PRECISION FABRICATION AND
CONTROLS, INC.
Vs.

FRESHTEC FOOD PROCESSING
EQUIPMENT INTERNATIONAL LLC

DATED: September 29, 2005

CIVIL ACTION - LAW
No. 2004-1146
Consolidated Cases
Type of Case:

Type of Pleading: **Motion in Limine**
(Confidentiality Agreement)

Filed on Behalf of: Precision

Counsel of Record for this
Party:
Richard W. Mutzabaugh
Supreme Court No: 06741

MUTZABAUGH & SAUNDERS

P.O. Box 647, 13 Main Street
Bradford, PA 16701
814-362-3538
Counsel of Record for Adverse
Party:

David J. Hopkins, Esq.
900 Beaver Drive
DuBois, PA 16801

FILED no cc
01:39 BY
OCT 03 2005
William A. Shaw
Prothonotary/Clerk of Courts

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	Consolidated Cases

MOTION IN LIMINE
(Confidentiality Agreement)

NOW COMES ***Precision Fabrication & Controls, Inc.***, by and through its counsel, ***Mutzabaugh & Saunders,*** and moves this Honorable Court to prohibit the presentation of the Confidentiality Agreement as evidence without

first establishing proof of the assignment of the Agreement by Advanced Industrial Controls and Freshtec. In support of this Motion, Precision sets forth the following:

1. FreshTec and Backus plead in their complaints and by way of affirmative defenses the existence of the Confidentiality Agreement between Backus and AIC dated June 1, 2002, which they have attached an Exhibit "A" to their Complaint.

2. It is the position of FreshTec and Backus that pursuant to the sale of assets by AIC to Precision, Precision succeeded to the Confidentiality Agreement.

3. FreshTec and Backus have listed the said Confidentiality Agreement as an exhibit which they intend to present at the trial of this case.

4. The very wording of the Confidentiality Agreement states that such agreement "shall not be assignable by either party, and neither party may delegate its duties under this Agreement."

5. Precision is not a party to this Confidentiality Agreement and thi Agreement was never assigned to Precision.

6. As such, the presentation of this Confidentiality Agreement without the presentation of proof of an assignment of its terms to Precision should be prohibited.

WHEREFORE, Precision moves this Honorable Court grants its motion in limine and preclude FreshTec and Backus from presenting the

Confidentiality Agreement as evidence unless proof is first presented and established showing an assignment of the said Agreement to Precision.

MUTZABAUGH & SAUNDERS

By_____
Attorneys for Precision

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	Consolidated Cases

ORDER

NOW, this _____ day of _____, 2005, upon consideration of Motion in Limine by Precision, said Motion is hereby granted. FresTec and Backus are precluded from presenting the Confidentiality Agreement as evidence

without first presenting and establishing proof showing an assignment of the said Agreement to Precision.

BY THE COURT:

_____P.J.

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the foregoing document upon the person and in the manner indicated below, which service satisfies the requirements of the Pennsylvania Rules of Civil Procedure, by depositing in the United States Mail, Bradford, Pennsylvania, with first class postage, prepaid, as follows:

David J. Hopkins, Esq.
Attorney at Law
900 Beaver Drive
DuBois, PA 15801

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Plaintiff
13 Main Street
P.O. Box 647
Bradford, Pa. 16701
814-362-3538

DATED: September 29, 2005

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

FILED

OCT 0 3 2005

William A. Shaw
Prothonotary/Clerk of Courts

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	Consolidated Cases

FILED NO CC
OCT 03 2005
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the attached Order upon the person and in the manner indicated below, which service satisfies the requirements of the Pennsylvania Rules of Civil Procedure, by depositing in the

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC
A Pennsylvania Limited Liability Company,
Plaintiff

Vs.

PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,**
Defendants

No. 2004-1146-CD

BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company,
Plaintiff

Vs.

PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,**
Defendants

PRECISION FABRICATION & CONTROLS, INC.
Plaintiff

Vs.

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC
Defendant

Consolidated Cases

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

ORDER

AND NOW, this 23rd day of September 2005, a hearing on the within Motion for Compliance is hereby scheduled for the 17th day of October, 2005, at 3:30 P.M., Court House, Clearfield, Pennsylvania.

BY THE COURT:

/s/ Paul E. Cherry J.

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

SEP 28 2005

Attest.

Prothonotary/
Clerk of Courts

SEP. 30 RECD

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	Consolidated Cases

FILED no cc
m/11:00/bl
OCT 07 2005
William A. Shaw
Prothonotary/Clerk of Courts

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a copy of the attached Order upon the person and in the manner indicated below, which service satisfies the requirements of the Pennsylvania Rules of Civil Procedure, by depositing in the

United States Mail, Bradford, Pennsylvania, with first class postage, prepaid, as follows:

David J. Hopkins, Esq.
Attorney at Law
900 Beaver Drive
DuBois, PA 15801

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Plaintiff
13 Main Street
P.O. Box 647
Bradford, Pa. 16701
814-362-3538

DATED: October 5, 2005

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff Vs. **PRECISION FABRICATION AND CONTROLS, INC.**, and **ADVANCED INDUSTRIAL CONTROLS, INC.**, Defendants	No. 2004-1146-CD
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff Vs. **PRECISION FABRICATION AND CONTROLS, INC.** and **ADVANCED INDUSTRIAL CONTROLS, INC.**, Defendants	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff Vs. **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC** Defendant	Consolidated Cases

ORDER

NOW, September 30, 2005, upon consideration of Precision's Objection to Discovery Requests, argument on said Objection is hereby scheduled for the 17th day of October, 2005, at 3:30 o'clock P.M., Court House, Clearfield, Pennsylvania.

All proceedings on Plaintiffs' Interrogatories and Requests for Production of Documents to stay meanwhile.

BY THE COURT:

/s/ Paul E. Cherry

J.

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

OCT 03 2005

Attest.

Prothonotary/
Clerk of Courts

FILED

OCT 07 2005

William A. Shaw
Prothonotary/Clerk of Courts

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

FILED 1CC Attys: Hopkins Mutzabaugh Brew
01:51 BY
OCT 12 2005
William A. Shaw
Prothonotary/Clerk of Courts

BACKUS USA, INC. AND FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC:	:	
vs.	:	
PRECISION FARICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	
vs.	:	No. 04-1146-CD
PRECISION FARICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
	:	
PRECISION FARICATION AND CONTROLS, INC.	:	
vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	

ORDER

AND NOW, this 11th day of October, 2005, it is the ORDER of the Court that argument on Attorney Mutzabaugh's Motion In Limine filed in the above matter has been scheduled for the 1st day of November, 2005, at 10:00 A.M, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

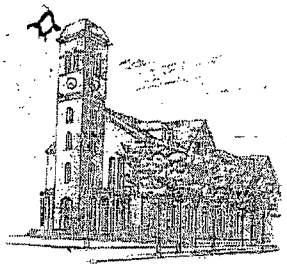
Paul E. Cherry

PAUL E. CHERRY
Judge

FILED

OCT 12 2005

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

_____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

__X__Plaintiff(s)/Attorney(s)

__X__Defendant(s)/Attorney(s)

_____Other

_____Special Instructions:

CA

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

BACKUS USA, INC. AND FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC: vs. PRECISION FARICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC vs. PRECISION FARICATION AND CONTROLS, INC., and ADVANCED INDUSTRIAL CONTROLS, INC.	:	No. 04-1146-CD
PRECISION FARICATION AND CONTROLS, INC. vs. FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	

FILED 1cc
01:53 BL Attys:
OCT 12 2005 Hopkins
William A. Shaw Mutzabaugh
Prothonotary/Clerk of Courts Brew

ORDER

AND NOW, this 11th day of October, 2005, it is the ORDER of the Court that argument on Attorney Mutzabaugh's Motion for Sanctions filed in the above matter has been scheduled for the 1st day of November, 2005, at 10:00 A.M, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

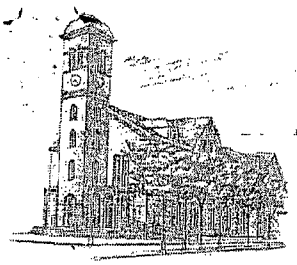
Paul E. Cherry

PAUL E. CHERRY
Judge

FILED

OCT 12 2005

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

_____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

__X__Plaintiff(s)/Attorney(s)

__X__Defendant(s)/Attorney(s)

_____Other

_____Special Instructions:

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

FILED
04:00 BY
OCT 18 2005
William A. Shaw
Prothonotary/Clerk of Courts
2 CC Atys: Hopkins
Mutzabaugh

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company,	:	
V.	:	NO. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
AND	:	
BACKUS USA, INC., a Pennsylvania Corporation and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania Limited Liability Company	:	
V.	:	
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
AND	:	
PRECISION FABRICATION AND CONTROLS, INC.	:	
V.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	

ORDER

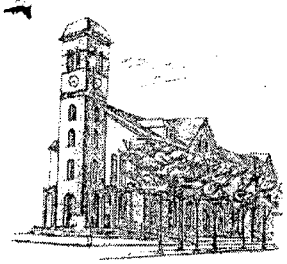
AND NOW, this 17th day of October, 2005, it is the ORDER of this Court that Argument on Attorney Mutzabaugh's Motion for Compliance, Motion in Limine and

Objection to Discovery Requests be and is hereby continued until the 1st day of November, 2005, beginning at 10:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

Paul E. Cherry

PAUL E. CHERRY,
JUDGE



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

_____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

__X__Plaintiff(s)/Attorney(s)

__X__Defendant(s)/Attorney(s)

_____Other

_____Special Instructions:

CA

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania Limited Liability Company

-vs-

PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.

and

BACKUS USA, INC., a Pennsylvania Corporation and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania Limited Liability Company

-vs-

No. 04-1146-CD

PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.

and

PRECISION FABRICATION & CONTROLS, INC.

-vs-

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC

FILED 2CC Attys: Hopkins Mutzabaugh Brew
01 10:49 BCH
NOV 02 2005
William A. Shaw
Prothonotary/Clerk of Courts
GK

ORDER

NOW, this 1st day of November, 2005, following argument on Motion in Limine, it is the ORDER of this Court

that said Motion be and is hereby granted insofar as Freshtec Food Processing Equipment International, LLC, is hereby precluded from presenting the confidential agreement as evidence.

BY THE COURT,

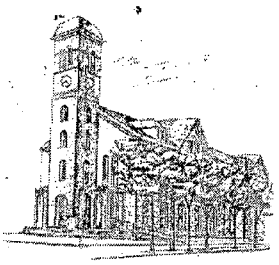
Paul E Cheney

Judge

FILED

NOV 0 2 2005

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

_____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

__X__Plaintiff(s)/Attorney(s)

__X__Defendant(s)/Attorney(s)

_____Other

_____Special Instructions:

CA

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania Limited Liability Company

-vs-

PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.

and

BACKUS USA, INC., a Pennsylvania Corporation and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania Limited Liability Company

-vs-

No. 04-1146-CD

PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.

and

PRECISION FABRICATION & CONTROLS, INC.

-vs-

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC

FILED 6P
01:10:46 2CC Attys:
NOV 02 2005 Hopkins
Metzabaugh
William A. Shaw Brew
Prothonotary/Clerk of Courts

ORDER

NOW, this 1st day of November, 2005, the Court being advised by counsel for Defendant Precision

Fabrication and Controls, Inc., that he wishes to withdraw his Objections to Discovery Requests, it is the ORDER of this Court that said Objections be and are hereby withdrawn. Counsel for Defendant Precision Fabrication and Controls, Inc., shall file appropriate answers by no later than November 11, 2005.

BY THE COURT,

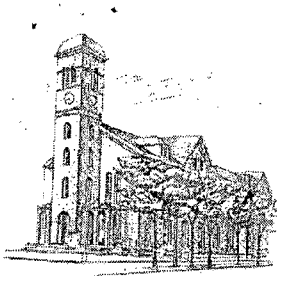
Paul E Cheney

Judge

FILED

NOV 0 2 2005

William A. Shaw
Prothonotary, Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

_____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

__X__Plaintiff(s)/Attorney(s)

__X__Defendant(s)/Attorney(s)

_____Other

_____Special Instructions:

CA

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FILED 2 cc Atty's: Hopkins Mutzabaugh Brew
01 10:39 BOI
NOV 02 2005
William A. Shaw
Prothonotary/Clerk of Courts

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania Limited Liability Company	:	
-vs-	:	
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
and		
BACKUS USA, INC., a Pennsylvania Corporation and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania Limited Liability Company	:	
-vs-	:	No. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
and		
PRECISION FABRICATION & CONTROLS, INC.	:	
-vs-	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	

O R D E R

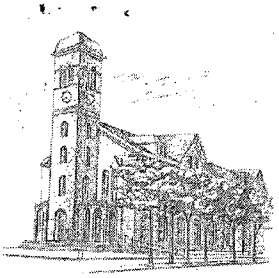
NOW, this 1st day of November, 2005, it is the ORDER of this Court that Freshtec Food Processing Equipment

International, LLC, shall file completed and appropriate answers to the set of interrogatories and request for production of documents within no more than seven (7) days from today's date.

BY THE COURT,

Paul E Cherry

Judge



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

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Sincerely,

William A. Shaw
Prothonotary

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__X__The Prothonotary's office has provided service to the following parties:

____X____Plaintiff(s)/Attorney(s)

____X____Defendant(s)/Attorney(s)

_____Other

_____Special Instructions:

CA

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

FILED
NOV 21 2005
William A. Shaw
Prothonotary/Clerk of Courts
1 CC Attys: Hopkins Mutzabaugh

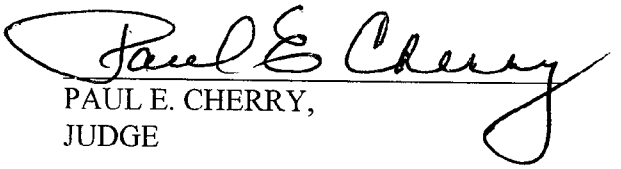
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company,	:	
V.	:	NO. 04-1146-CD
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
AND	:	
BACKUS USA, INC., a Pennsylvania Corporation and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania Limited Liability Company	:	
V.	:	
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC.	:	
AND	:	
PRECISION FABRICATION AND CONTROLS, INC.	:	
V.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC	:	

ORDER

AND NOW, this 22nd day of October, 2004, the Court being advised that this matter has settled, it is the ORDER of this Court that trial be and is hereby cancelled and the jury

empaneled are hereby dismissed. The parties shall file appropriate Stipulation and/or Discontinuance no later than Wednesday, November 23, 2005.

BY THE COURT,

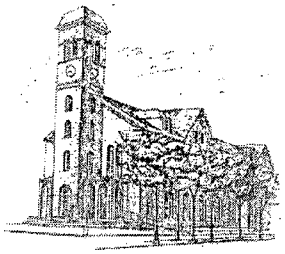


PAUL E. CHERRY,
JUDGE

FILED

NOV 2 1 2005

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

_____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

__X__Plaintiff(s)/Attorney(s)

__X__Defendant(s)/Attorney(s)

_____Other

_____Special Instructions:

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, A Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

FILED
0/9:25 cm
NOV 23 2005
William A. Shaw
Prothonotary
2cc Atty Hopkins

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

BACKUS USA, INC, a Pennsylvania Corporation, and FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, a Pennsylvania limited liability company, Plaintiff,	:	
v.	:	No. 2004-1146 C.D.
PRECISION FABRICATION AND CONTROLS, INC. and ADVANCED INDUSTRIAL CONTROLS, INC. Defendants.	:	

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

PRECISION FABRICATION AND CONTROLS, INC., Plaintiff	:	No. 2004-1146 Case transferred from McKean County by Order of Court. McKean County No. 2004 - 10915
v.	:	
	:	Type of Pleading: Stipulation
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Defendant	:	Filed on behalf of: FreshTec Food Processing Equipment International, LLC
	:	Counsel of Record for this party: HOPKINS HELTZEL LLP DAVID J. HOPKINS, ESQUIRE Supreme Court No. 42519 900 Beaver Drive DuBois, PA 15801

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between **FreshTec Food Processing Equipment International, LLC,** (hereinafter "FreshTec"), its successors and assigns, by and through its counsel David J. Hopkins, Esquire, of Hopkins Heltzel LLP, and **Precision Fabrication and Controls, Inc.** (hereinafter "Precision"), its successors and assigns, by and through its counsel, Richard W. Mutzabaugh, of Mutzabaugh and Saunders, as follows:

1. In the case of Precision v. FreshTec, a judgment shall be entered in favor of Precision and against FreshTec in the amount of seventy thousand dollars ($70,000.00), and that the case shall be discontinued.

2. In the case of FreshTec v. Precision, the cases shall be discontinued, with prejudice.

3. Precision and FreshTec shall exchange mutual general releases of any and all claims, past and present, but specifically excluding the $70,000.00 judgment set forth in Paragraph 1.

4. Precision, Rycole Welding Innovations, Inc. and Lawrence J. Salone shall exchange mutual general releases releasing all claims, known and unknown, against the other, to the date of this release.

5. There shall be a release from Lloyd Swain and Advance Industrial Controls, Inc. to Precision and FreshTec. However, the inability to obtain a release from Lloyd Swain and Advance Industrial Controls, Inc. shall not affect the other obligations or covenants set forth in this stipulation.

6. Precision shall not attempt to publicize, attempt to collect or beginning to execute on the $70,000.00 judgment described herein against FreshTec until June 30, 2006 but may collect or begin to execute thereafter.

7. FreshTec and Precision will execute such other documents necessary to effectuate the terms and conditions of this stipulation in a timely manner.

8. The trial in the above-captioned matters scheduled for November 29, 2005, November 30, 2005, December 1, 2005 and December 2, 2005 in Clearfield County shall be cancelled pending the final resolution of this matter in accordance with this stipulation.

Hopkins Heltzel LLP

David J. Hopkins
Attorney for FreshTec

Mutzabaugh & Saunders

Richard W. Mutzabaugh
Attorney for Precision

FILED

NOV 23 2005

William A. Shaw
Prothonotary

HOPKINS HELTZEL LLP

900 Beaver Drive • DuBois, PA 15801

David J. Hopkins
Licensed in PA & NJ
Masters in Taxation

Lea Ann Heltzel
Licensed in PA

• Voice: (814) 375 - 0300
• Fax: (814) 375 - 5035
• Email:hopkinslaw@adelphia.net

November 21, 2005

William A. Shaw, Prothonotary
Clearfield County Courthouse
1 North Second Street
Clearfield, PA 16830

Re: FreshTec Food Processing Equipment International, LLC vs. Precision Fabrication vs. Precision Fabrication and Controls, Inc. and Advanced Industrial Controls, Inc.

Backus USA, Inc. and FreshTec Food Processing Equipment International, LLC vs. Precision Fabrication and Controls, Inc. and Advanced Industrial Controls, Inc.

Precision Fabrication and Controls, Inc. vs. FreshTec Food Processing Equipment International LLC

Dear Mr. Shaw:

Enclosed herewith please find an original and two copies of a Stipulation to be filed of record. Please file the original and forward the certified copies to my office in the enclosed envelope.

Thank you for your assistance in this matter.

Very truly yours,

David J. Hopkins
Attorney at Law

DJH/bjt

Enclosure

cc: Honorable Paul E. Cherry
Richard W. Mutzabaugh, Esquire

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
BACKUS USA, INC., a Pennsylvania Corporation, and **FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC,** a Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	
PRECISION FABRICATION AND CONTROLS, INC. and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	
PRECISION FABRICATION & CONTROLS, INC. Plaintiff	:	
Vs.	:	
FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC Defendant	:	Consolidated Cases

FILED Atty Mutzabaugh pd. 20.00
m13:11a BD
JAN 05 2006 Notice to Atty Hopkins
William A. Shaw
Prothonotary/Clerk of Courts
Statement to Atty Mutzabaugh
GR
1K1 06 Notice mailed to Atty Hopkins upon our receipt of an addressed, posted envelope from Atty Mutzabaugh to Atty Hopkins

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

PRAECIPE

TO THE PROTHONOTARY:

Kindly enter judgment in favor of ***Precision Fabrication & Controls, Inc.*** and against **FreshTec Food Processing Equipment International, LLC** in the amount of Seventy Thousand Dollars ($70,000.00) in accordance with

Stipulation entered into between the parties and filed of record on November 23, 2005.

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Precision

Dated: January 3, 2006

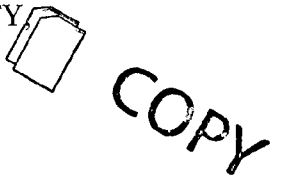
FILED

JAN 05 2006

William A. Shaw
Prothonotary/Clerk of Courts

NOTICE OF JUDGMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA



CIVIL DIVISION

Freshtec Food Processing Equipment International

Vs. No. 2004-01146-CD

Precision Fabrication and Controls, Inc. and
Advanced Industrial Controls, Inc.

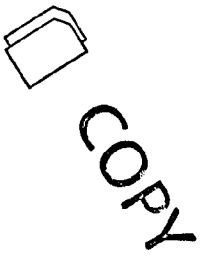
To: FreshTec Food Processing Equipment International, LLC

NOTICE is given that a JUDGMENT in the above captioned matter has been entered against you in the amount of $70,000.00 and in favor of Precision Fabrication & Controls, Inc. on January 5, 2006.

William A. Shaw
Prothonotary

_____
William A. Shaw

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



Freshtec Food Processing Equipment
International
Plaintiff(s)

No.: 2004-01146-CD

Real Debt: $70,000.00

Atty's Comm: $

Vs.

Costs: $

Int. From: $

Precision Fabrication and Controls, Inc.
Advanced Industrial Controls, Inc.
Defendant(s)

Entry: $20.00

Instrument: Judgment upon Stipulation in favor of Precision Fabrication & Controls, Inc. and against Freshtec Food Processing Equipment International, LLC

Date of Entry: January 5, 2006

Expires: January 5, 2011

Certified from the record this 5th day of January, 2006.

_____
William A. Shaw, Prothonotary

****

SIGN BELOW FOR SATISFACTION

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

_____
Plaintiff/Attorney

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

FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A Pennsylvania Limited Liability Company, Plaintiff	:	
Vs.	:	No. 2004-1146-CD
PRECISION FABRICATION AND CONTROLS, INC., and **ADVANCED INDUSTRIAL CONTROLS, INC.,** Defendants	:	

PRAECIPE

TO THE PROTHONOTARY:

Please issue Writ of Execution in the above matter,

(1) Directed to the Sheriff of Clearfield County;

(2) Against Freshtec Food Processing Equipment International, LLC, 602-609 West Dubois Avenue, Dubois, PA 15801

(3) Amount Due: $ 70,000.00
Costs to be Added

Prothonotary costs 132.00

MUTZABAUGH & SAUNDERS

By _____
Attorneys for Precision

Dated: September 13, 2006

FILED Pfff pd. 20.00
m/1:23 01
SEP 15 2006 1cc & 1 cert to Shff
William A. Shaw
Prothonotary/Clerk of Courts

Mutzabaugh & Saunders, LLP
13 Main St., P.O. Box 647
Bradford, Pennsylvania 16701
(814) 362-3538

FILED
SEP 15 2006
William A. Shaw
Prothonotary/Clerk of Courts

Prothonotary costs

WRIT OF EXECUTION and/or ATTACHMENT
COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD
CIVIL ACTION – LAW

Freshtec Food Processing Equipment International,
A Pennsylvania Limited Liability Company

Vs. NO.: 2004-01146-CD

Precision Fabrication and Controls, Inc. and
Advanced Industrial Controls, Inc.

TO THE SHERIFF OF CLEARFIELD COUNTY:

To satisfy the debt, interest and costs due PRECISION FABRICATION AND CONTROLS, INC., Defendant, from FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Plaintiff:

(1) You are directed to levy upon the property of the plaintiff(s) and to sell interest(s) therein:
Personal Property

(2) You are also directed to attach the property of the plaintiff(s) not levied upon in the possession of:

Garnishee(s) as follows:
and to notify the garnishee(s) that: (a) an attachment has been issued; (b) the garnishee(s) is/are enjoined from paying any debt to or for the account of the defendant(s) and from delivering any property of the defendant(s) or otherwise disposing thereof;

(3) If property of the plaintiff(s) not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify him/her that he/she has been added as a garnishee and is enjoined as above stated.

(4) If Social Security or Supplemental Income funds are directly deposited into an account of the plaintiff, the levy and attachment shall not include any funds that may be traced to Social Security direct deposits. In addition, the levy and attachment shall not include $300.00 in the account of the defendant.

AMOUNT DUE/PRINCIPAL: $70,000.00
INTEREST: $
ATTY'S COMM: $
DATE: 09/15/2006

PROTHONOTARY'S COSTS PAID: $132.00
SHERIFF: $
OTHER COSTS: $

William A. Shaw
Prothonotary/Clerk Civil Division

Received this writ this _____ day
of _____ A.D. _____
At _____ A.M./P.M.

_____
Sheriff

Requesting Party: Richard Mutzabaugh
13 Main St., PO Box 647
Bradford, PA 16701
(814) 362-3538

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20449
NO: 04-1146-CD

PLAINTIFF: FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC A PENNSYLVANIA LIMITED LIABILITY COMPANY
vs.
DEFENDANT: PERCISION FABRICATION AND CONTROLS, INC. AND ADVANCED INDUSTRIAL CONTROLS, INC.

Execution PERSONAL PROPERTY

SHERIFF RETURN

DATE RECEIVED WRIT: 9/15/2006

LEVY TAKEN @

POSTED @

SALE HELD

SOLD TO

SOLD FOR AMOUNT PLUS COSTS

WRIT RETURNED 11/8/2011

DATE DEED FILED **NOT SOLD**

FILED
019:25 BDH
NOV 08 2011
William A. Shaw
Prothonotary/Clerk of Courts

DETAILS

11/7/2006 @ 11:10 AM SERVED FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL

SERVED FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, DEFENDANT, AT 100 MEADOW LAND, DUBOIS, CLEARFIELD COUNTY PENNSYLVANIA BY HANDING TO ROBINA J. RICHARDS, ADMINISTRATIVE ASSISTANT FOR ATTORNEY DAVID HOPKINS

A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION AND BY MAKING KNOWN TO HER THE CONTENTS THEREOF.

@ SERVED

DEPUTIES WERE UNABLE TO LEVY ACCORDING TO ATTORNEY DAVID HOPKINS FRESHTEC HAS NO TANGIBLE PROPERTY TO LEVY.

@ SERVED

NOW, NOVEMBER 8, 2011 RETURN WRIT AS TIME EXPIRED.

WRIT OF EXECUTION and/or ATTACHMENT
COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD
CIVIL ACTION – LAW

Freshtec Food Processing Equipment International,
A Pennsylvania Limited Liability Company

Vs. NO.: 2004-01146-CD

Precision Fabrication and Controls, Inc. and
Advanced Industrial Controls, Inc.

TO THE SHERIFF OF CLEARFIELD COUNTY:

To satisfy the debt, interest and costs due PRECISION FABRICATION AND CONTROLS, INC., Defendant, from FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL, LLC, Plaintiff:

(1) You are directed to levy upon the property of the plaintiff(s) and to sell interest(s) therein:
Personal Property

(2) You are also directed to attach the property of the plaintiff(s) not levied upon in the possession of:

Garnishee(s) as follows:
and to notify the garnishee(s) that: (a) an attachment has been issued; (b) the garnishee(s) is/are enjoined from paying any debt to or for the account of the defendant(s) and from delivering any property of the defendant(s) or otherwise disposing thereof;

(3) If property of the plaintiff(s) not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify him/her that he/she has been added as a garnishee and is enjoined as above stated.

(4) If Social Security or Supplemental Income funds are directly deposited into an account of the plaintiff, the levy and attachment shall not include any funds that may be traced to Social Security direct deposits. In addition, the levy and attachment shall not include $300.00 in the account of the defendant.

AMOUNT DUE/PRINCIPAL: $70,000.00
INTEREST: $
ATTY'S COMM: $
DATE: 09/15/2006

PROTHONOTARY'S COSTS PAID: $132.00
SHERIFF: $
OTHER COSTS: $

William A. Shaw
Prothonotary/Clerk Civil Division

Received this writ this 15th day
of September A.D. 2006
At 3:00 A.M./P.M.

Chester A. Hawkins
Sheriff by Cynthia Butler-Aughenbaugh

Requesting Party: Richard Mutzabaugh
13 Main St., PO Box 647
Bradford, PA 16701
(814) 362-3538

PERSONAL PROPERTY SALE
SCHEDULE OF DISTRIBUTION

NAME FRESHTEC FOOD PROCESSING EQUIPMENT INTERNATIONAL NO. 04-1146-CD

NOW, November 08, 2011, by virtue of the Writ hereunto attached, after having given due and legal notice of time and place of sale by handbills posted on the premises setting forth the date, time and place of sale, I exposed the within described real estate of Percision Fabrication And Controls, Inc. And Advanced Industrial Controls, Inc. to public venue or outcry at which time and place I sold the same to he/she being the highest bidder, for the sum of and made the following appropriations, viz:

SHERIFF COSTS:

RDR	9.00
SERVICE	9.00
MILEAGE	18.00
LEVY	
MILEAGE	18.00
POSTING	
HANDBILLS	
COMMISSION	0.00
POSTAGE	1.56
HANDBILLS	
DISTRIBUTION	
ADVERTISING	
ADD'L SERVICE	
ADD'L POSTING	
ADD'L MILEAGE	18.00
ADD'L LEVY	
BID/ SETTLEMENT AMOUNT	
RETURNS/DEPUTIZE	9.00
COPIES	15.00
BILLING/PHONE/FAX	5.00
CONTINUED SALES	
MISCELLANEOUS	
TOTAL SHERIFF COSTS	**$102.56**

PLAINTIFF COSTS, DEBT AND INTEREST:

DEBT-AMOUNT DUE	70,000.00
INTEREST @ %	0.00
FROM TO	
PROTH SATISFACTION	
LATE CHARGES AND FEES	
COST OF SUIT-TO BE ADDED	
FORECLOSURE FEES	
ATTORNEY COMMISSION	
REFUND OF ADVANCE	
REFUND OF SURCHARGE	20.00
SATISFACTION FEE	
ESCROW DEFICIENCY	
PROPERTY INSPECTIONS	
INTEREST	
MISCELLANEOUS	
TOTAL DEBT AND INTEREST	**$70,254.56**

COSTS:

ADVERTISING	0.00
TAXES - COLLECTOR	
TAXES - TAX CLAIM	
DUE	
LIEN SEARCH	
ACKNOWLEDGEMENT	
SHERIFF COSTS	102.56
LEGAL JOURNAL COSTS	0.00
PROTHONOTARY	132.00
MORTGAGE SEARCH	
MUNICIPAL LIEN	
TOTAL COSTS	**$234.56**
TOTAL COSTS	**$70,254.56**

COMMISSION 2% ON THE FIRST $ 100,000 AND 1/2% ON ALL OVER THAT. DISTRIBUTION WILL BE MADE IN ACCORDANCE WITH THE ABOVE SCHEDULE UNLESS EXCEPTIONS ARE FILED WITH THIS OFFICE **WITHIN TEN (10) DAYS FROM THIS DATE.**

CHESTER A. HAWKINS, Sheriff

FILED
NOV 09 2011
William A. Shaw
Prothonotary/Clerk of Courts