

United States District Court
For the Northern District of California

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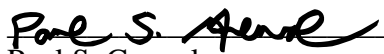
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PRESTIGE CAPITAL CORPORATION,)
)
Plaintiff,)
)
v.)
)
SHOREBIRD HOMEOWNERS)
ASSOCIATION, *et al.*,)
)
Defendants.)
_____)

Case No. 5:12-cv-06072-PSG
[PROPOSED] VERDICT FORM

IT IS SO ORDERED.

Date: April 30, 2014


Paul S. Grewal
United States Magistrate Judge

SECTION 1: PROMISSORY ESTOPPEL
AGAINST SHOREBIRD HOMEOWNERS ASSOCIATION

We, the jury, unanimously answer the Questions submitted to us as follows:

1-A. Did Shorebird clearly and unambiguously make a promise?

Yes _____ No _____

*If your answer to Question 1-A is "Yes," then answer Question 1-B.
If your answer to Question 1-A is "No," go to Section 2.*

1-B. Did Prestige reasonably and foreseeably rely on Shorebird's promise?

Yes _____ No _____

*If your answer to Question 1-B is "Yes," then answer Question 1-C.
If your answer to Question 1-B is "No," go to Section 2.*

1-C. Was Prestige harmed as a result of its reliance on Shorebird's promise?

Yes _____ No _____

GO TO SECTION 2.

SECTION 2: GOODS AND SERVICES RENDERED
AGAINST SHOREBIRD HOMEOWNERS ASSOCIATION

We, the jury, unanimously answer the Questions submitted to us as follows:

2-A. Had Shorebird become indebted for services it had received from Draeger Construction, Inc. at Shorebird's request?
Yes _____ No _____

*If your answer to Question 2-A is "Yes," then answer Question 2-B.
If your answer to Question 2-A is "No," go to Section 3.*

2-B. Had Shorebird agreed to pay for Draeger Construction Inc.'s services at the time of sale and delivery of the services?
Yes _____ No _____

*If your answer to Question 2-B is "Yes," then answer Question 2-C.
If your answer to Question 2-B is "No," go to Section 3.*

2-C. Has Shorebird refused to pay for the services rendered by Draeger Construction, Inc.?
Yes _____ No _____

GO TO SECTION 3.

SECTION 3: IMPLIED WARRANTY OF AUTHORITY
AGAINST ADRIANA DASILVA

We, the jury, unanimously answer the Questions submitted to us as follows:

3-A. We, the jury, have answered “Yes” to Question 1-C or Question 2-C.

Yes _____ No _____

If your answer to Question 3-A is “Yes,” then answer Question 3-B.

If your answer to Question 3-A is “No,” go to Section 4.

3-B. Was DaSilva authorized, expressly or impliedly, to sign the letters on behalf of Shorebird?

Yes _____ No _____

If your answer to Question 3-B is “No,” then answer Question 3-C.

If your answer to Question 3-B is “Yes,” go to Section 4.

3-C. Did DaSilva’s signatures on the letters create new contractual obligations for Shorebird apart from the pre-existing obligations arising from the underlying construction agreement?

Yes _____ No _____

If your answer to Question 3-C is “Yes,” then answer Question 3-D.

If your answer to Question 3-C is “No,” go to Section 4.

3-D. Did DaSilva’s breach of the warranty of authority cause Prestige to suffer financial damage?

Yes _____ No _____

GO TO SECTION 4.

SECTION 4: BREACH OF CONTRACT
AGAINST DRAEGER CONSTRUCTION

We, the jury, unanimously answer the Questions submitted to us as follows:

4-A. Was there was a valid contract between Prestige and Draeger Construction?

Yes _____ No _____

*If your answer to Question 4-A is "Yes," then answer Question 4-B.
If your answer to Question 4-A is "No," go to Section 5.*

4-B. Did Prestige either perform pursuant to the contract or was its nonperformance excused?

Yes _____ No _____

*If your answer to Question 4-B is "Yes," then answer Question 4-C.
If your answer to Question 4-B is "No," go to Section 5.*

4-C. Did Draeger Construction unjustifiably fail to perform pursuant to the contract?

Yes _____ No _____

*If your answer to Question 4-C is "Yes," then answer Question 4-D.
If your answer to Question 4-C is "No," go to Section 5.*

4-D. Was Prestige harmed by Draeger Construction's failure to perform pursuant to the contract?

Yes _____ No _____

GO TO SECTION 5.

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SECTION 5: BREACH OF WARRANTY
AGAINST DRAEGER CONSTRUCTION, JOHN DRAEGER, AND JEFFREY DRAEGER

We, the jury, unanimously answer the Questions submitted to us as follows:

5-A. Did Draeger warrant that it had submitted accurate and undisputed statements of indebtedness from account debtors including Shorebird?

Yes _____ No _____

*If your answer to Question 5-A is "Yes," then answer Question 5-B.
If your answer to Question 5-A is "No," go to Section 6.*

5-B. Did Draeger breach its warranty by failing to submit accurate and undisputed statements of indebtedness from account debtors including Shorebird?

Yes _____ No _____

*If your answer to Question 5-B is "Yes," then answer Question 5-C.
If your answer to Question 5-B is "No," go to Section 6.*

5-C. Was Prestige harmed by Draeger's breach of warranty?

Yes _____ No _____

GO TO SECTION 6.

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SECTION 6: DAMAGES
AGAINST SHOREBIRD HOMEOWNERS ASSOCIATION

We, the jury, unanimously answer the Questions submitted to us as follows:

6-A. We, the jury, have answered “Yes” to Question 1-C or Question 2-C.

Yes _____ No _____

If your answer to Question 6-A is “Yes,” then answer Question 6-B.

If your answer to Question 6-A is “No,” go to Section 7.

6-B. What amount, if any, do you award to Prestige for damages it suffered due to Shorebird’s conduct? Do not award duplicate damages for the same harm suffered from multiple claims.

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SECTION 7: DAMAGES
AGAINST ADRIANA DASILVA

We, the jury, unanimously answer the Questions submitted to us as follows:

7-A. We, the jury, have answered “Yes” to Question 3-D:

Yes _____ No _____

*If your answer to Question 7-A is “Yes,” then answer Question 7-B.
If your answer to Question 7-A is “No,” go to Section 8.*

7-B. What amount, if any, do you award to Prestige for damages it suffered due to DaSilva’s conduct? Do not award duplicate damages for the same harm suffered from multiple claims.

\$ _____

SECTION 8: DAMAGES
AGAINST SHOREBIRD HOMEOWNERS ASSOCIATION

We, the jury, unanimously answer the Questions submitted to us as follows:

8-A. We, the jury, have answered “Yes” to Question 4-D or Question 5-C:

Yes _____ No _____

If your answer to Question 8-A is “Yes,” then answer Question 8-B.

If your answer to Question 8-A is “No,” stop here, answer no further questions, and have the foreperson sign and date this form.

8-B. What amount, if any, do you award to Prestige for damages it suffered due to Draeger Construction’s conduct? Do not award duplicate damages for the same harm suffered from multiple claims.

\$ _____

Answer Question 8-C.

8-C. Did John Draeger enter into a written guaranty contract to be liable for Draeger Construction’s breach of warranty?

Yes _____ No _____

If your answer to Question 8-C is “Yes,” then answer Question 8-D.

If your answer to Question 8-C is “No,” then skip to Question 8-E.

8-D. For what amount, if any, is John Draeger liable under the written guaranty due to Draeger Construction’s breach of warranty?

\$ _____

Answer Question 8-E.

8-E. Did Jeff Draeger enter into a written guaranty contract to be liable for Draeger Construction’s breach of warranty?

Yes _____ No _____

If your answer to Question 8-E is “Yes,” then answer Question 8-F.

If your answer to Question 8-E is “No,” go to Section 9.

8-F. For what amount, if any, is Jeff Draeger liable under the written guaranty due to Draeger Construction’s breach of warranty?

\$ _____

SECTION 9: TOTAL DAMAGES

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We, the jury, unanimously answer the Questions submitted to us as follows:

Fill in the table below with the answers from Questions 6-B, 7-B, and 8-B.

Amount owed by Shorebird Homeowners Association: \$ _____ (6-B)

Amount owed by Adriana DaSilva: \$ _____ (7-B)

Amount owed by Draeger Construction: \$ _____ (8-B)

Add up the lines above to find the total damages.

Total damages owed to Prestige Capital: \$ _____

Have the foreperson sign and date this form.

Signed: _____ Dated: _____