

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 09-cv-1963 LTB-CBS

D & R'S ASPEN RETIREMENT PLAN, LLC

Plaintiff and Counter-Defendant,

v.

SCOTT DEGRAFF

Defendant, Counterclaim-Plaintiff, and Third-Party Plaintiff,

v.

DAVID BLUMENFELD,
EDWARD BLUMENFELD,
BRAD BLUMENFELD, and
RICHARD J. MACK

Third-Party Defendant.

ORDER TO ENTER JUDGMENT

THIS MATTER is before me on my Order of October 12, 2010 granting in its entirety the Motion for Summary Judgment of Plaintiff and Counterclaim Defendant D & R's Aspen Retirement Plan, LLC and Third-Party Defendants David Blumenfeld, Edward Blumenfeld, Brad Blumenfeld, and Richard J. Mack's Motion for Summary Judgment. In that Order, I ordered that Judgment shall enter in favor of Plaintiff D & R's Aspen Retirement Plan, LLC and Third-Party Defendants David Blumenfeld, Edward Blumenfeld, Brad Blumenfeld, and Richard J. Mack and against Defendant Scott DeGraff. I further ordered Plaintiff to file a Statement of Damages with a calculation of the amount owed on the Promissory Note of March 18, 2008 that has been at the

heart of this litigation ("Promissory Note"). I am now in receipt of that Statement of Damages. Based upon that Statement of Damages, I find that that \$3,941,917.81 is due under the Promissory Note, of which \$941,917.81 is interest and \$3,000,000 is principal. I further find that interest on the principal amount of the Promissory Note will continue to accrue at \$1,068.50 per day until the judgment is satisfied, and that post judgment interest at the statutory rate of 8% on the interest component of \$941,917.81 will accrue at the rate of \$205 per day until the judgment is satisfied. Accordingly, based upon my Order of October 12, 2010 and the Statement of Damages, I hereby direct the Clerk of the Court to enter judgment as follows:

A. Judgment in favor of D & R's Aspen Retirement Plan and against Scott D. DeGraff in the amount of \$3,941,917.81.

B. Judgment in favor of D & R's Aspen Retirement Plan and against Scott D. DeGraff in the amount of \$1,273.50 per day from **October 25, 2010** until the judgment is satisfied in full.

C. Judgment in favor of D & R's Aspen Retirement Plan and against Scott D. DeGraff dismissing, with prejudice, all claims of Scott D. McGraff asserted in his Counterclaims.

D. Judgment in favor of David Blumenfeld, Edward Blumenfeld, Brad Blumenfeld, and Richard J. Mack dismissing, with prejudice, all third party claims of Scott D. McGraff asserted against them.

E. Judgment in favor of D & R's Aspen Retirement Plan, David Blumenfeld, Edward Blumenfeld, Brad Blumenfeld, and Richard J. Mack for all their costs of prosecuting and defending this action, as provided by statute.

DATED this 25th day of October, 2010

BY THE COURT:

s/Lewis T. Babcock
United States District Court Judge