

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re:)	
)	
SRC Holding Corp.)	Chapter 7 Case
f/k/a Miller & Schroeder, Inc.)	BKY Case Nos. 02-40284 to 02-40286
and its subsidiaries,)	Jointly Administered
)	
Debtor.)	
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Brian F. Leonard, Trustee,)	Civil No. 06-04514 (JRT)
)	
Plaintiff,)	ADV Case No. 03-4284
)	
vs.)	CORE AND NON-CORE
)	PROCEEDING
Executive Risk Indemnity Inc.,)	
)	
Defendant.)	
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)	
The Marshall Group, Inc., Jerome A.)	
Tabolich, James E. Iverson, Edward J.)	
Hentges, Kenneth R. Larsen, Steven W.)	
Erickson, Paul R. Eckholm, and Mary Jo)	JUDGMENT
Brenden,)	
)	
and)	
)	
John M. Clarey, Kenneth E. Dawkins)	
and Joseph K. Halloran,)	
)	
Intervenors.)	
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WHEREAS, on September 13, 2005, the Court (Donovan W. Frank, *J.*) entered an Order affirming the United States Bankruptcy Court’s (Nancy C. Dreher, U.S.B.J.) recommendation as to *non-core issues* that Defendant Executive Risk Indemnity Inc.’s (“Executive Risk”) Motion for Summary Judgment be denied and that Intervenors’ Motion for Partial Summary Judgment be granted (the “September 13, 2005 Order”),

WHEREAS, the Court's September 13, 2005 Order concurrently affirmed the United States Bankruptcy Court's Order as to *core issues* denying Executive Risk's Motion for Summary Judgment and granting the Trustee's Motion for Partial Summary Judgment on precisely the same grounds raised by the Intervenors' Motion for Partial Summary Judgment,

WHEREAS, the Court considered all filings by the parties in connection with the issues addressed in the September 13, 2005 Order, including the United States Bankruptcy Court's October 5, 2006 Judgment and Recommendation and Judgment,

WHEREAS, the Court considered the parties' Stipulation and Joint Motion for Entry of Final Judgment,

WHEREAS, on November 16, 2006, pursuant to the parties' Stipulation and Joint Motion for Entry of Final Judgment, the Court entered judgment in favor of the Trustee and Intervenors against Executive Risk as to the *non-core issues* in Civil No. 06-04153 (DWF) (the "November 16, 2006 Judgment") and stayed enforcement of the judgment pending Executive Risk's appeal to the Eighth Circuit Court of Appeals;

WHEREAS, on December 13, 2006, pursuant to the parties' Stipulation and Joint Motion for Entry of Final Judgment and in order to facilitate appeal of the core and non-core issues to the United States Court of Appeals for the Eighth Circuit in a single proceeding, this Court (John R. Tunheim, *J.*) entered a judgment substantially similar to the November 16, 2006 judgment as to the *core issues* (the "December 13, 2006 Judgment") and stayed enforcement of the judgment pending Executive Risk's appeal to the Eighth Circuit Court of Appeals,

WHEREAS, Executive Risk timely appealed the November 16, 2006 Judgment and December 13, 2006 Judgment to the United States Court of Appeals for the Eighth Circuit, which on February 14, 2007 consolidated the appeals pursuant to Executive Risk's motion;

WHEREAS, following briefing and oral argument, on October 27, 2008, the Eighth Circuit Court of Appeals issued its opinion in the consolidated appeals in which it “reverse[d] the judgments of the district court and remand[ed] for the entry of summary judgment in favor of ERII,” and entered judgment on October 27, 2008 similarly directing that “the judgment of the district court in this cause is reversed and the cause is remanded to the district court for proceedings consistent with the opinion of this court,” and

WHEREAS, on November 18, 2008, the Eighth Circuit issued its formal mandate to this Court in accordance with the opinion and judgment of October 27, 2008,

IT IS ORDERED AND ADJUDGED

that the December 13, 2006 Judgment of this Court and the October 5, 2006 Judgment and Recommendation and Judgment by the Bankruptcy Court entering judgment in this matter are reversed;

IT IS FURTHER ORDERED AND ADJUDGED

that in accordance with the Eighth Circuit’s November 18, 2008 mandate and opinion and judgment of October 27, 2008, judgment is entered in favor of Defendant Executive Risk Indemnity Inc. and that Executive Risk has no obligation to pay any amounts under the insurance policy at issue with respect to the underlying Heritage Bond Litigation, and

IT IS FURTHER ORDERED AND ADJUDGED

that this case is remanded to the United States Bankruptcy Court for entry of judgment in favor of Executive Risk in accordance with the judgment of the Eighth Circuit.

DATED: April 21, 2009
at Minneapolis, Minnesota

s/John R. Tunheim
JOHN R. TUNHEIM
United States District Judge