

Defendant from transferring or interfering with any of its property not exempt from execution.

As the Defendant correctly points out in its brief, the Plaintiff sought a Writ of Garnishment prior to the entry of a Judgment by the Court. However, no timeliness objection was made by either the Defendant or the Garnishee, Wells Fargo Bank, N.A. The Defendant has not been prejudiced and I will order that the \$89,780.84 held by Wells Fargo Bank, N.A., be deposited with the Clerk of the Court and applied in partial satisfaction of the judgment entered against The Advisory Group.

In his reply brief in support of his Motion to Compel Payment of Funds into Court and to Compel the Examination of Judgment Debtor (Filing No. 173), the Plaintiff has requested that the Court allow for the presentation of a brief oral argument on his Motion (Filing No. 167). The Defendant has not filed any opposition to the request for oral argument. The Court will allow brief oral argument by counsel for the parties to address the issue of compelling payment of the \$450,000.00 that Plaintiff alleges is being held in escrow; the issue of requiring David Willensky to appear before this Court for the purposes of a debtor's examination pursuant to Neb. Rev. Stat. § 25-1565; and the related issue of identifying the appropriate individual(s) to be deposed with respect to identifying the location of the Defendant's assets.

Plaintiff filed a Praecipe for Writ of Execution (Filing No. 166) with a draft Writ of Execution attached (Filing No. 166-2) on September 11, 2008. It has come to the Court's attention that the proposed Writ of Execution has not been issued by the Clerk of the Court, because it was prepared for the signature of a judicial officer. The Court will provisionally strike Filing No. 166 and allow the Plaintiff to re-file his Praecipe with a revised Writ of Execution attached.

Accordingly,

IT IS ORDERED:

1. The Plaintiff's Motion to Compel Payment of Funds into Court and to Compel the Examination of Judgment Debtor. (Filing No. 167) is granted, in part, and deferred, in part;
2. Wells Fargo Bank is hereby ordered to turn over the funds held on behalf of The Advisory Group in the amount of \$89,780.84 to the Clerk of the Court, with such funds to be applied to partial satisfaction of the judgment entered against The Advisory Group in this action;
3. The Plaintiff's request for oral argument included in his reply brief (Filing No. 173) is granted;
4. Oral argument is scheduled on the matter of the Plaintiff's Motion to Compel Payment of Funds into Court and to Compel the Examination of Judgment Debtor (Filing No. 167) on the 12th day of November, 2008, at 1:30 p.m., with arguments of the parties not to exceed a total of one hour;
5. The Clerk of the Court shall provisionally strike the Praecipe for Writ of Execution (Filing No. 166); and
6. Plaintiff is granted leave to re-file the Praecipe with a revised Writ of Execution.

Dated this 6th day of November, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge