

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

In Re:

LLS AMERICA, LLC,

Debtor,

BRUCE P. KRIEGMAN, solely in his
capacity as court-appointed Chapter 11
Trustee for LLS America, LLC,

Plaintiff,

v.

ELM CONSTRUCTON, LTD.,

Defendant.

NO: 2:12-CV-424-RMP

Bankr. Case No. 09-06194-PCW11
(Consolidated Case)

Adv. Proc. No. 11-80099-PCW11

DEFAULT JUDGMENT

JUDGMENT SUMMARY

Judgment Creditor: Bruce P. Kriegman, Liquidating Trustee for LLS
America, LLC, as consolidated

Attorneys for
Judgment Creditor: Witherspoon Kelley

1 Judgment Debtor: Elm Construction, Ltd.

2 Attorney for Debtor: Pro Se

3 Principal Amount of
4 Judgment: \$1,186,666.85 CAD
\$ 250.00 US

5 Interest on Judgment: .11% (28 U.S.C. §1961)

6 The Court, having previously entered an Order of Default against Defendant
7 Elm Construction, ECF No. 12, and having reviewed the previously filed
8 Memorandum of Authorities, ECF No. 5, and the Affidavits of Curtis Fry and
9 Shelley Ripley in Support of Plaintiff's Motion for Default Judgment, ECF Nos. 27
10 and 28, and being full advised in the premises,

11 **IT IS HEREBY ORDERED** that Plaintiff, Bruce P. Kriegman, solely in his
12 capacity as court-appointed Chapter 11 Trustee for LLS America, LLC, shall have
13 a judgment against Defendant Elm Construction, as follows:

14 1. Monetary Judgment in the amount of CAD \$1,186,666.85, pursuant to 11
15 U.S.C. § 550 and RCW 19.40.071;

16 2. Transfers in the amount of CAD \$739,742.21 made to Defendant within
17 four years prior to the Petition Filing Date are hereby avoided, and Plaintiff may
18 take all necessary action to preserve the same, pursuant to 11 U.S.C. §§ 544, 550,
19 551, and 548(a) and (b), and RCW 19.40.041(1) and (2), and RCW 19.40.071;

1 3. Transfers in the amount of CAD \$446,924.64 made to Defendant more
2 than four years prior to the Petition Filing Date should be avoided, and Plaintiff
3 should be authorized to take all necessary action to preserve the same, pursuant to
4 11 U.S.C. §§ 544, 550, and 551, and RCW 19.40.041(1) and RCW 19.40.071;

5 4. All said transfers to Defendant Elm Construction are hereby set aside,
6 and Plaintiff shall be entitled to recover the same, or the value thereof, from
7 Defendant Elm Construction for the benefit of the estate of LLS America, pursuant
8 to 11 U.S.C. §§ 544, 550, and 551;

9 5. All proofs of claim of Defendant which have been filed or brought or
10 which may hereafter be filed or brought by, on behalf of, or for the benefit of
11 Defendant Elm Construction, Ltd., or its affiliated entities, against the Debtor's
12 estate, in this bankruptcy or related bankruptcy proceedings, are hereby disallowed
13 and subordinated to the monetary judgment granted herein, and Defendant Elm
14 Construction, Ltd. shall not be entitled to collect on its proof of claim (Claim No.
15 418-1) until the monetary judgment is satisfied by Defendant Elm Construction,
16 Ltd. in full, pursuant to 11 U.S.C. §§ 502(d), 510(c)(1) and 105(a);

17 6. A constructive trust is hereby established over the proceeds of all
18 transfers in favor of the Trustee for the benefit of the estate of LLS America; and

19 7. Plaintiff is hereby awarded costs (i.e. filing fee) in the amount of \$250.00
20 USD, for a total judgment of CAD \$1,186,666.85, plus \$250.00 USD, which shall

1 bear interest equal to the weekly average of one-year constant maturity (nominal)
2 treasury yield as published by the Federal Reserve System.

3 **IT IS SO ORDERED.**

4 The District Court Clerk is directed to enter this Judgment and provide
5 copies to counsel, Pro Se Defendant, and to Judge Frederick P. Corbit.

6 **DATED** this 7th day of February 2014.

7
8 *s/ Rosanna Malouf Peterson*

9 ROSANNA MALOUF PETERSON
10 Chief United States District Court Judge
11
12
13
14
15
16
17
18
19
20