

STATE OF MAINE
ANDROSCOGGIN, SS.

DISTRICT COURT
CIVIL ACTION
Location: Lewiston
DOCKET NO. CV-08-1045
COB- AND- 7/21/2010

RECEIVED & FILED

JUL 21 2010

KNOWLES LUMBER, INC.,

ANDROSCOGGIN
SUPERIOR COURT

Plaintiff

v.

ORDER

T & M MORTGAGE SOLUTIONS, INC., et al.,

Defendants

The plaintiff brings this action against T & M Mortgage Solutions, Inc., a mortgage broker, for lumber and supplies delivered to Albert Langlois at its request for construction of a home at 26 Depot Road in Leeds. In January 2005, Langlois gave a note and mortgage to T & M on the Leeds property for a line of credit for up to \$62,000. In September 2005, the \$62,000 had been exhausted. In November 2005, the line of credit was increased to \$75,000. At that time, plaintiff had furnished another \$10,000 worth of lumber and supplies to Langlois at the request of Carrie Bannister, a representative of T & M. The credit balance of Langlois had been depleted with the plaintiff by December 29, 2005. At that time, the plaintiff spoke for the first time with Shawn Holt, another employee of T & M. In the first conversation between the plaintiff and Carrie Bannister and in the second conversation between the plaintiff and Shawn Holt, the plaintiff granted Langlois credit based upon their promises that Langlois would pay for the lumber and supplies. The plaintiff received a letter from Holt memorializing their conversation, stating

I am a representative of T & M Mortgages Solutions, the company that has a construction loan on the property located at 26 Depot Rd. in Leeds Maine for Albert Langlois. We have ordered a draw in the amount of _____

\$9,900.00 written to Knowles Lumber. Please feel free to call me, Shawn Holt, with any questions, my number is 344-6699.

Credit was extended to Langlois in both instances based upon T & M's promise to pay from Langlois's line of credit. On December 21, 2006, Langlois's line of credit was refinanced to a total of \$89,500.

The testimony of plaintiff's representative at trial, Ernest Sylvester, is persuasive that he assumed he was talking with a lending institution that had the authority to make payment on Langlois's behalf from the proceeds of a construction loan. However, it cannot be determined that the representations by Carrie Bannister and Shawn Holt constituted clear and convincing evidence that they intentionally were holding out T & M Mortgage Solution as a lending institution.

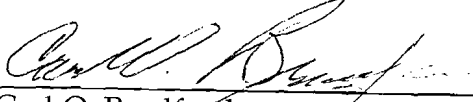
The plaintiff's complaint alleges six (6) causes of action. Count I alleges breach of contract. Count II alleges quantum meruit. Count III alleges fraud. Count IV alleges promissory estoppel. Count V alleges enforcement of a guarantee. Count VI alleges violation of the Unfair and Deceptive Trade Practices Act. 10 M.R.S.A. § 1212 *et seq.*

The court is satisfied by a preponderance of the evidence that the action of Bannister and Holt constituted an agreement to pay the plaintiff for materials and supplies furnished to Langlois on credit. The court is not persuaded that there is clear and convincing evidence that their conduct was fraudulent. Nor is the court satisfied that the conduct of Bannister and Holt was a violation of the Unfair and Deceptive Trade Practices Act. Further, the court is not satisfied that the plaintiff is entitled to recover on the basis of quantum meruit, promissory estoppel, or enforcement of a guarantee.

For the foregoing reasons, the entry shall be:

Judgment for plaintiff against defendant T & M Mortgage Solutions, Inc. for \$10,000, plus costs.

DATED: 7/20/10


Carl O. Bradford
Justice, Superior Court

KNOWLES LUMBER INC - PLAINTIFF

DISTRICT COURT

LEWISTON

Docket No LEWDC-CV-2008-01045

Attorney for: KNOWLES LUMBER INC
BRIAN D CONDON JR - RETAINED 09/30/2008
LAW OFFICE OF BRIAN D CONDON
126 MAIN STREET
PO BOX 169
WINTHROP ME 04364

DOCKET RECORD

vs

T & M MORTGAGE SOLUTIONS - DEFENDANT
259 MINOT AVE
AUBURN ME 04210
Attorney for: T & M MORTGAGE SOLUTIONS
JAMES AUDIFFRED - RETAINED 11/03/2008
LAW OFFICE OF JAMES L AUDIFFRED
374 MAIN STREET
PO BOX 1005
SACO ME 04072

Filing Document: COMPLAINT

Minor Case Type: CONTRACT

Filing Date: 09/30/2008

Docket Events:

10/01/2008 FILING DOCUMENT - COMPLAINT FILED ON 09/30/2008

10/01/2008 Party(s): KNOWLES LUMBER INC
ATTORNEY - RETAINED ENTERED ON 09/30/2008
Plaintiff's Attorney: BRIAN D CONDON JR

10/01/2008 Party(s): T & M MORTGAGE SOLUTIONS
SUMMONS/SERVICE - CIVIL SUMMONS SERVED ON 09/24/2008

10/10/2008 Party(s): T & M MORTGAGE SOLUTIONS
RESPONSIVE PLEADING - ANSWER FILED ON 10/09/2008

10/10/2008 ORDER - SCHEDULING ORDER ENTERED ON 10/10/2008
JOHN B BELIVEAU , JUDGE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL

10/10/2008 DISCOVERY FILING - DISCOVERY DEADLINE ENTERED ON 03/16/2009
EXTENDED SAY JUDGE STANFILL

10/29/2008 Party(s): KNOWLES LUMBER INC
DISCOVERY FILING - NOTIFICATION DISCOVERY SERVICE FILED ON 10/27/2008

11/14/2008 Party(s): T & M MORTGAGE SOLUTIONS
RESPONSIVE PLEADING - ANSWER FILED ON 11/03/2008

01/06/2009 Party(s): KNOWLES LUMBER INC
DISCOVERY FILING - NOTICE OF DEPOSITION FILED ON 12/16/2008
Plaintiff's Attorney: BRIAN D CONDON JR
NOTICE TO TAKE ORAL DEPOSITION OF SHAWN HOLT

02/02/2009 Party(s): KNOWLES LUMBER INC,T & M MORTGAGE SOLUTIONS
MOTION - MOTION FOR ENLARGEMENT OF TIME FILED ON 01/14/2009
MOTION FOR EXTENSION OF DISCOVERY DEADLINE

02/02/2009 Party(s): KNOWLES LUMBER INC
DISCOVERY FILING - NOTIFICATION DISCOVERY SERVICE FILED ON 01/20/2009

02/17/2009 Party(s): KNOWLES LUMBER INC,T & M MORTGAGE SOLUTIONS
MOTION - MOTION FOR ENLARGEMENT OF TIME GRANTED ON 02/10/2009
VALERIE STANFILL , JUDGE
COPIES TO PARTIES/COUNSEL

02/19/2009 Party(s): KNOWLES LUMBER INC
MOTION - MOTION TO AMEND PLEADING FILED WITH AFFIDAVIT ON 02/11/2009

02/19/2009 Party(s): T & M MORTGAGE SOLUTIONS
RESPONSIVE PLEADING - ANSWER TO AMENDED PLEADING FILED ON 02/11/2009

02/25/2009 Party(s): KNOWLES LUMBER INC
RESPONSIVE PLEADING - RESPONSE FILED ON 02/19/2009
OPPOSTION TO DEFT ANSWER

02/25/2009 HEARING - OTHER MOTION SCHEDULED FOR 04/06/2009 @ 8:30
NON-TESTIMONIAL

02/25/2009 HEARING - OTHER MOTION NOTICE SENT ON 02/25/2009
NON-TESTIMONIAL

03/03/2009 Party(s): T & M MORTGAGE SOLUTIONS
OTHER FILING - REPLY MEMORANDUM FILED ON 02/24/2009
Defendant's Attorney: JAMES AUDIFFRED
IN SUPPORT OF MOTION TO AEMND ANSWER TO COMPLAINT

04/16/2009 Party(s): KNOWLES LUMBER INC
NOTE - OTHER CASE NOTE ENTERED ON 04/06/2009
JOHN B BELIVEAU , JUDGE
PLT ATTY TO ARRANGE FOR TELEPHONIC BY 4/17/2009

06/12/2009 HEARING - MOTION TO AMEND PLEADING SCHEDULED FOR 07/13/2009 @ 9:00

06/12/2009 HEARING - MOTION TO AMEND PLEADING NOTICE SENT ON 06/12/2009

07/14/2009 Party(s): KNOWLES LUMBER INC
MOTION - MOTION TO AMEND PLEADING DENIED ON 07/13/2009
JOHN B BELIVEAU , JUDGE
COPIES TO PARTIES/COUNSEL
MOTION TO AMEND ANSWER DENIED

07/14/2009 HEARING - OTHER MOTION NOT HELD ON 07/13/2009
JOHN B BELIVEAU , JUDGE
NON-TESTIMONIAL

DEFENDANT'S

07/14/2009 HEARING - MOTION TO AMEND PLEADING NOT HELD ON 07/13/2009
JOHN B BELIVEAU , JUDGE

07/14/2009 Party(s): KNOWLES LUMBER INC
MOTION - MOTION TO AMEND PLEADING FILED WITH AFFIDAVIT ON 02/11/2009

07/14/2009 Party(s): KNOWLES LUMBER INC
MOTION - MOTION TO AMEND PLEADING GRANTED ON 07/13/2009
JOHN B BELIVEAU , JUDGE
COPIES TO PARTIES/COUNSEL

07/14/2009 ORDER - COURT ORDER ENTERED ON 07/13/2009
JOHN B BELIVEAU , JUDGE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL ORDER PLT MOTION TO AMEND
COMPLAINT

07/14/2009 ORDER - COURT ORDER ENTERED ON 07/13/2009
JOHN B BELIVEAU , JUDGE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL ORDER ON DEFT MOTION TO
AMEND DENIED

11/13/2009 HEARING - TRIAL MANAGEMENT CONFERENCE SCHEDULED FOR 12/07/2009 @ 8:30
NOTICE TO PARTIES/COUNSEL

11/13/2009 HEARING - TRIAL MANAGEMENT CONFERENCE NOTICE SENT ON 11/13/2009

12/07/2009 HEARING - TRIAL MANAGEMENT CONFERENCE HELD ON 12/07/2009
JOHN B BELIVEAU , JUDGE

12/18/2009 HEARING - OTHER MOTION SCHEDULED FOR 02/16/2010 @ 9:00
PRE TRIAL CONFERENCE

12/18/2009 HEARING - OTHER MOTION NOTICE SENT ON 01/28/2010
PRE TRIAL CONFERENCE

12/21/2009 Party(s): T & M MORTGAGE SOLUTIONS
ATTORNEY - RETAINED ENTERED ON 11/03/2008
Defendant's Attorney: JAMES AUDIFFRED

12/31/2009 Party(s): T & M MORTGAGE SOLUTIONS
MOTION - MOTION FOR RELIEF FILED WITH AFFIDAVIT ON 12/23/2009
DEFT MOTION FOR RELIEF FROM PRE TRIAL ORDER

01/08/2010 Party(s): KNOWLES LUMBER INC
OTHER FILING - OPPOSING MEMORANDUM FILED ON 01/06/2010
PLT OPPOSITION TO DEFT MOTION FOR RELIEF

01/13/2010 Party(s): KNOWLES LUMBER INC
RESPONSIVE PLEADING - RESPONSE FILED ON 01/12/2010

01/28/2010 Party(s): T & M MORTGAGE SOLUTIONS

MOTION - MOTION FOR RELIEF GRANTED ON 01/28/2010
JOHN B BELIVEAU , JUDGE
COPIES TO PARTIES/COUNSEL

02/25/2010 HEARING - OTHER MOTION HELD ON 02/16/2010
ROBERT W CLIFFORD , ASSOCIATE JUSTICE
PRE TRIAL CONFERENCE

02/25/2010 ORDER - PRETRIAL/STATUS ENTERED ON 02/16/2010
ROBERT W CLIFFORD , ASSOCIATE JUSTICE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL

02/25/2010 ORDER - ORDER OF ASSIGNMENT ENTERED ON 02/22/2010
RICK E LAWRENCE , JUDGE
TO AUBURN SUPERIOR COURT

02/25/2010 ORDER - ORDER OF ASSIGNMENT SENT ON 02/25/2010
AUBSC

02/25/2010 TRANSFER - TEMPORARY TRANSFER GRANTED ON 02/25/2010
AUBSC

06/10/2010 TRIAL - BENCH NOTICE SENT ON 06/10/2010

06/10/2010 TRIAL - BENCH SCHEDULE OTHER COURT ON 06/14/2010 @ 9:30
AUBSC

06/14/2010 TRIAL - BENCH HELD ON 06/14/2010
CARL O BRADFORD , JUSTICE
Defendant's Attorney: JAMES AUDIFFRED
Plaintiff's Attorney: BRIAN D CONDON JR
TAPE 357 INDEX 5483-END TAPE 359 INDEX 50-3755 TESTIMONY HELD. COURT TAKES MATTER UNDER
ADVISEMENT. COUNSEL TO FILE BRIEFS BY JUNE 25, 2010

06/15/2010 Party(s): T & M MORTGAGE SOLUTIONS
OTHER FILING - WITNESS & EXHIBIT LIST FILED ON 06/14/2010
DEF'S

06/24/2010 Party(s): KNOWLES LUMBER INC
OTHER FILING - TRIAL BRIEF FILED ON 06/24/2010
PLT'S WITH INDEX OF EXHIBITS

06/30/2010 Party(s): T & M MORTGAGE SOLUTIONS
OTHER FILING - TRIAL BRIEF FILED ON 06/28/2010
DEF'S

07/21/2010 FINDING - JUDGMENT DETERMINATION ENTERED ON 07/21/2010
CARL O BRADFORD , JUSTICE
ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL

ORDER - COURT JUDGMENT ENTERED ON 07/21/2010

CARL O BRADFORD , JUSTICE

ORDERED INCORPORATED BY REFERENCE AT THE SPECIFIC DIRECTION OF THE COURT. COPIES TO
PARTIES/COUNSEL

Judgment entered for KNOWLES LUMBER INC and against T & M MORTGAGE SOLUTIONS in the amount of
\$10000.00.

07/21/2010 FINDING - FINAL JUDGMENT CASE CLOSED ON 07/21/2010

A TRUE COPY

ATTEST: _____
Clerk