

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

DeBRUYN PRODUCT COMPANY :
 :
v. : Case No. 3:07cv640 (JBA)
 :
GREENLINE CORP., and :
RICHARD L. LYONS, II :

SUBSTITUTED RULING AND ORDER OF DEFAULT JUDGMENT

Plaintiff DeBruyn Produce Company, a wholesale supplier or seller of perishable agricultural commodities, initiated this action having sold produce to defendant Greeline Corp., which was accepted but payment was not made, asserting violations of PACA (7 U.S.C. § 499a et. seq.) and breach of contract. Defendant Lyons, a principal of Greenline Corp., with authority and control over PACA Trust Assets and thus a statutory trustee, is sued personally for breach of fiduciary duties under the PACA Trust for failing to pay plaintiff's invoices from PACA trust assets as they fell due.

Defendants having failed to timely appear, answer, or other respond to the Complaint, default was entered on June 18, 2007, and plaintiff thereafter filed the instant Motion for Default Judgment [Doc. # 9].

Upon entry of default, the Court accepts as true all of the factual allegations of the Complaint, except those relating to damages. See Au Bon Pain Corp. v. Artect, Inc., 653 F.2d 61, 65 92nd Cir. 1981). Here, the allegations of plaintiff's Complaint

establishes Greenline Corporation's liability on both of the PACA counts (I and II), and the breach of contract count (III), and Lyons' fiduciary breach count (IV).

Accordingly, plaintiff's Motion for Default Judgment [Doc. # 9] is GRANTED and judgment shall enter in plaintiff's favor in the amount of \$75,613.22 plus per diem interest of \$23.17 after June 19, 2007.

In light of the above, Ruling and Order [Doc. # 10] is VACATED as misstating the judgment amount to be entered.

Plaintiff is directed to serve a copy of this Substituted Ruling and Order on Motion for Default Judgment on defendants within 14 days.

The Clerk is directed to enter judgment and close this case.

IT IS SO ORDERED.

/s/
Janet Bond Arterton
United States District Judge

Dated at New Haven, Connecticut this 23rd day of October, 2007.