

EXHIBIT D

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 AEP2, LLC f/k/a 2AM GROUP, LLC,)
)
 Plaintiff,)
)
 v.)
)
 BMW OF NORTH AMERICA, LLC,)
)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 Civil Action No. 2017-CP-10-0644

ORDER OF DEFAULT JUDGMENT

FILED
 2017 NOV -2 PM 2:15
 JUDGE J. ARMSTRONG
 CLERK OF COURT

This matter came before the Court for a damages hearing on October 12, 2017. Present at the hearing were counsel for the parties, John P. Freeman, Esquire, for the plaintiff, and Ashley B. Abel, Esquire, and M. Dawes Cooke, Jr., Esquire, for the defendant. By previous Orders of this Court, the motion of BMW of North America, LLC (“BMW”) to set aside the entry of default was denied (Order of Honorable J. C. Nicholson dated July 21, 2017), and BMW’s motions to reconsider and to alter or amend dated September 8, 2017 were also denied (Order of Honorable J. C. Nicholson dated September 28, 2017).

The only issue to come before this Court at the hearing was the amount of damages owed by BMW to Plaintiff AEP2, LLC (“AEP”) by virtue of BMW’s default in responding to the Complaint.

Plaintiff presented two witnesses on the issue of damages, Denise Haden, Executive Assistant of plaintiff company, and Dr. Oliver G. Wood, Jr., economist. This Court took the testimony of both witnesses and allowed BMW to cross-exam each witness. This Court finds that both witnesses were competent and provided relevant, convincing testimony.



Based on the record of this case, BMW is deemed to have admitted the allegations of the Complaint in which AEP alleges that BMW owes AEP a duty to indemnify it for all amounts that AEP paid in withdrawal liabilities (an amount in excess of \$605,000) as the result of its sale of assets to a third party (Sustained Quality, LLC) in 2014.

This Court finds that AEP made payments to the Western Conference Teamsters Pension Trust for the withdrawal liability which it incurred as follows:

(a)	January 12, 2015	\$24,684.85
(b)	February 17, 2015	\$24,684.85
(c)	March 11, 2015	\$24,684.85
(d)	April 16, 2015	\$24,684.85
(e)	May 11, 2015	\$24,684.85
(f)	June 11, 2015	\$24,684.85
(g)	July 6, 2015	\$24,684.85
(h)	August 10, 2015	\$24,684.85
(i)	September 18, 2015	\$24,684.85
(j)	November 18, 2015	\$24,684.85
(k)	November 18, 2015	\$24,684.85
(l)	December 7, 2015	\$24,684.85
(m)	January 4, 2016	\$309,450.86

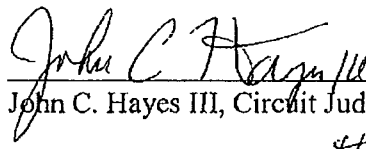
AEP's payments for the withdrawal liabilities that it incurred to the pension trust totaled \$605,669.06. This Court finds and concludes that plaintiff's payments were for amounts that are sums certain (i.e., liquidated amounts) and that AEP is entitled to prejudgment interest under New Jersey law. The Court determines that interest should run on the amount of withdrawal liability to be indemnified, \$605,669.06 from the date of plaintiff's first payment, which was made on January 12, 2015. The amount of prejudgment interest, calculated at an interest rate of 2.5%, is thus determined to be \$41,640.



THEREFORE IT IS ORDERED that Plaintiff AEP2, LLC f/k/a 2AM GROUP, LLC, is entitled to judgment against BMW of North America, LLC for damages asserted as a result of the actions in the Complaint as of October 12, 2017, for damages and prejudgment interest.

IT IS ALSO ORDERED that judgment in favor of Plaintiff AEP2, LLC against BMW of North America, LLC be entered in the total amount of \$647,309.06. The Clerk of Court shall enter judgment against BMW of North America, LLC in this amount.

AND IT IS SO ORDERED.



John C. Hayes III, Circuit Judge
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Charleston, South Carolina
October ~~12~~₁₃, 2017