

3360

**IN THE PROBATE COURT OF
SHELBY COUNTY, ALABAMA**

LIS PENDENS NOTICE

Comes now, Mitsubishi International Corporation ("Mitsubishi"), the plaintiff in civil action file no. 91-CV-1510-MHS filed in the United States District Court for the Northern District of Georgia, Atlanta Division (the "Action"), and, pursuant to the requirements of Section 35-4-131 of the Code of Alabama (1975), hereby gives notice of the following with respect to the above-referenced litigation:

1. Name of Parties: The plaintiff in this Action is Mitsubishi International Corporation. The defendants in this Action are as follows:

- A. Cardinal Textile Sales, Inc.
- B. General Sales & Leasing Co.
- C. United General Marketing, Inc.
- D. Classic Sales, Inc.
- E. Fibertex Textiles Supplies, Inc.
- F. Purvis-Sikkelee International Ltd.
- G. Skein Dyers of America, Inc.
- H. Raymond B. Lippincott, III
- I. Mary Ellen Lee
- J. Charles W. Jones
- K. Robert E. Lee
- L. William J. Purvis
- M. William L. Sikkelee

2. Description of the Real Estate Involved. The real estate involved in this Action includes "all real properties [owned by any named defendant in the Action which

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were] purchased in whole or in part with such monies," as referenced in the attached Exhibit A and as affirmed in the attached Exhibit B.

3. Statement of the Nature of the Action.

The United States District Court for the Northern District of Georgia, Atlanta Division, has issued a temporary restraining order in the Action temporarily restraining the above-named defendants from

dissipating, transferring, pledging, encumbering, selling, disposing of, or making any other use of any and all monies received, directly or indirectly, from Joseph L. Smith or Sun-Fibres, Inc.; any and all monies received directly or indirectly as a result of yarn or fiber transactions involving Mitsubishi or Mitsubishi funds; and any and all real or personal properties purchased in whole or in part with such monies. (See Exhibit A).

Frank C. Galloway III

Frank C. Galloway, III
One of the attorneys for
Mitsubishi International Corporation

OF COUNSEL:

BRADLEY, ARANT, ROSE & WHITE
1400 Park Place Tower
Birmingham, Alabama 35203
(205) 521-8000

CERTIFICATE OF FILING

STATE OF ALABAMA
COUNTY OF SHELBY

)
)
)

OFFICE OF JUDGE OF PROBATE

Defendant hereby certifies that the within lis pendens was filed in this office
for record on the ____ day of August, 1991 at ____ o'clock and duly recorded in
____ at page ____ and examined.

JUDGE OF PROBATE

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RECEIVED IN CLERK'S OFFICE
U.S.D.C. Atlanta

JUL - 3 1991

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

LUTHER D. THOMAS, Clerk
BY: *[Signature]*
MITSUBISHI INTERNATIONAL
CORPORATION,

Plaintiff,

v.

GENERAL
CARDINAL TEXTILE SALES, INC.,
GENERAL SALES & LEASING CO.,
UNITED MARKETING, INC.,
CLASSIC SALES, INC., FIBERTEX
TEXTILE SUPPLIES, INC.,
PURVIS-SIKKELEE INTERNATIONAL
LTD., SKEIN DYERS OF AMERICA,
INC., RAYMOND B. LIPPINCOTT,
III, MARY ELLEN LEE, CHARLES
W. JONES, ROBERT E. LEE,
WILLIAM J. PURVIS, WILLIAM L.
SIKKELEE

Defendants.

CIVIL ACTION FILE
NO.

91-CV-1510-MHS

ATTEST: A TRUE COPY
CERTIFIED THIS

JUL 6 1991

Luther D. Thomas, Clerk
By: *[Signature]*
Deputy Clerk

ORDER

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The Court has considered Plaintiff Mitsubishi International Corporation's Motion for Temporary Restraining Order, Preliminary Injunction and Other Relief, and the accompanying Brief, Complaint and Affidavits submitted therewith. It appears to the Court that Plaintiff Mitsubishi International Corporation ("Plaintiff" or "Mitsubishi") has a substantial likelihood of prevailing on the merits of one or more of its claims against Defendants; that immediate and irreparable injury, loss or damage will result to Plaintiff unless a restraining order is issued against Defendants; that the threat and injury to Plaintiff

substantially outweigh any threat and harm the injunctive relief may do the Defendants; and granting injunctive relief will serve the public interest.

It further appears to the Court that Plaintiff is entitled to an immediate equitable accounting and expedited discovery to insure that all misappropriated funds and any properties purchased therewith are accounted for; *it further appears that Plaintiff's counsel has notified Defendants or Defendants' counsel of this hearing.*

IT IS HEREBY ORDERED that pending a hearing on Plaintiff's Motion for Preliminary Injunction, ~~or the expiration of ten days from the date hereof,~~ or further Order of the Court, the Defendants, their officers, agents, servants, employees and attorneys, and all persons acting in concert with them, be and hereby are temporarily restrained from dissipating, transferring, pledging, encumbering, selling, disposing of, or making any other use of any and all monies received, directly or indirectly, from Joseph L. Smith or Sun-Fibres, Inc.; any and all monies received, directly or indirectly, as a result of yarn or fiber transactions involving Mitsubishi or Mitsubishi funds; and any and all real or personal properties purchased in whole or in part with such monies. This Order extends to all such monies wherever they may be traced and whether kept separate or commingled with other monies.

IT IS FURTHER ORDERED that Defendants, and each of them, provide to the Court and to Plaintiff's counsel on or

before July 12, 1991, a full and complete accounting with respect to all monies received, directly or indirectly, from Joseph L. Smith or Sun-Fibres, Inc., and all monies received, directly or indirectly, as a result of any and all yarn and fiber transactions involving Mitsubishi or Mitsubishi funds. Such accountings shall fully account for all such monies from the time of receipt through any use or disposition of such monies, and wherever such monies may be traced. Any and all real or personal property purchased with such funds shall be described with sufficient particularity to permit the Court to place a lien on or otherwise take direct judicial action with respect to such properties.

IT IS FURTHER ORDERED that Defendants serve by hand delivery responses to Plaintiff's First Interrogatories and Requests for Production (a representative sample of which is attached hereto) and produce all responsive documents not protected by the attorney client privilege, on or before July 12, 1991. Further, Plaintiff shall be permitted to commence third party depositions immediately.*

SO ORDERED, this 3rd day of July 1991.

[Signature]
United State District
Court Judge

* Defendants are ~~ordered~~ ^{ordered} to show cause before this Court on July 18, 1991, at 1:30 p.m., why a preliminary injunction and the other relief sought in -3- Plaintiff's Motion should not be granted.

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FILED IN CLERK'S OFFICE
U.S.D.C. ATLANTA
JUL 15 1991

LUTHER D. THOMAS, Clerk
By: *[Signature]*
Deputy Clerk

MITSUBISHI INTERNATIONAL
CORPORATION,

Plaintiff,

v.

CARDINAL TEXTILE SALES, INC.,
GENERAL SALES & LEASING CO.,
UNITED GENERAL MARKETING,
INC., CLASSIC SALES, INC.,
FIBERTEX TEXTILE SUPPLIES,
INC., PURVIS-SIKKELEE
INTERNATIONAL LTD., SKEIN
DYERS OF AMERICA, INC.,
RAYMOND B. LIPPINCOTT, III,
MARY ELLEN LEE, CHARLES W.
JONES, ROBERT E. LEE, WILLIAM
J. PURVIS, WILLIAM L. SIKKELEE

Defendants.

CIVIL ACTION FILE
NO. 91:CV-1510-MHS

ATTEST: A TRUE COPY
CERTIFIED THIS

AUG 06 1991

Luther D. Thomas, Clerk
By: *[Signature]*
Deputy Clerk

ORDER MODIFYING RESTRAINING ORDER

The undersigned counsel having agreed and stipulated to the terms set forth below, the Court's Order entered July 3, 1991 ("July 3 Order") in this matter is hereby modified as follows:

1. The date set forth in the Court's July 3 Order for an accounting is extended from July 12, 1991 through 12:00 Noon, August 1, 1991.
2. The date of the July 18, 1991 show cause hearing is extended to August 5, 1991 at 9:30 a.m.
3. The time for Defendants to respond to Plaintiff's First Interrogatories and Requests for Production of

Documents (a representative sample of which is attached to the July 3 Order) as set forth in the July 3 Order is extended as follows: First, as to each Interrogatory and Request for Production for the time period January 1, 1991 through the time of responses, the time for service by hand-delivery is extended to 5:30 p.m. on July 22, 1991. Second, as to each Request for Production and Interrogatory for the time period January 1, 1989 through December 31, 1990, the time for service by hand-delivery is extended to 5:30 p.m. on July 26, 1991.

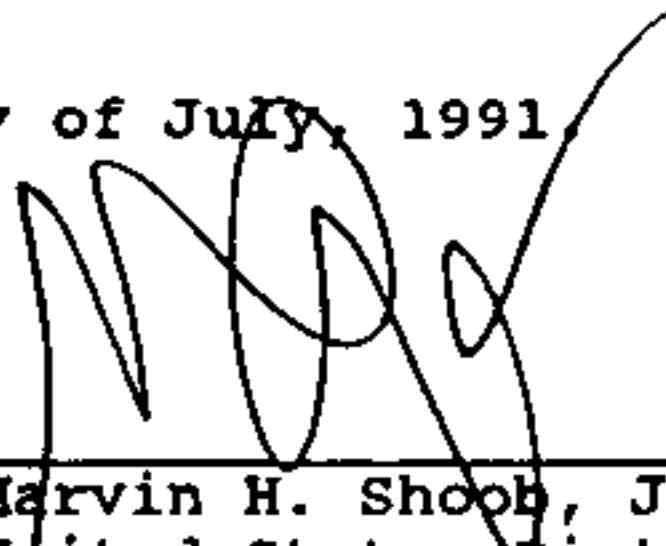
4. The Defendants may utilize monies that might otherwise be deemed to be subject to the temporary restraining provisions of the July 3 Order to retain a certified public accountant qualified as to accounting practices in Georgia to perform the accounting required in the July 3 Order and to pay the reasonable and customary expenses associated with said accounting.

5. In all other respects, the July 3 Order remains in full force and effect, including but not limited to the temporary restraining provisions set forth on page 2 of said Order, provided, however, that a Defendant may enter into transactions or incur expenditures expressly authorized by Plaintiff in writing.

6. Any party may apply to the Court for further modification of the July 3 Order or this Order regarding the subject of the use of monies or other property to conduct

ordinary business operations or to address circumstances not presently known or foreseeable, provided that the parties shall in good faith attempt to reach agreement on any such matters before application is made to the Court. Plaintiff may seek relief for any violation of the July 3 Order or this Order.

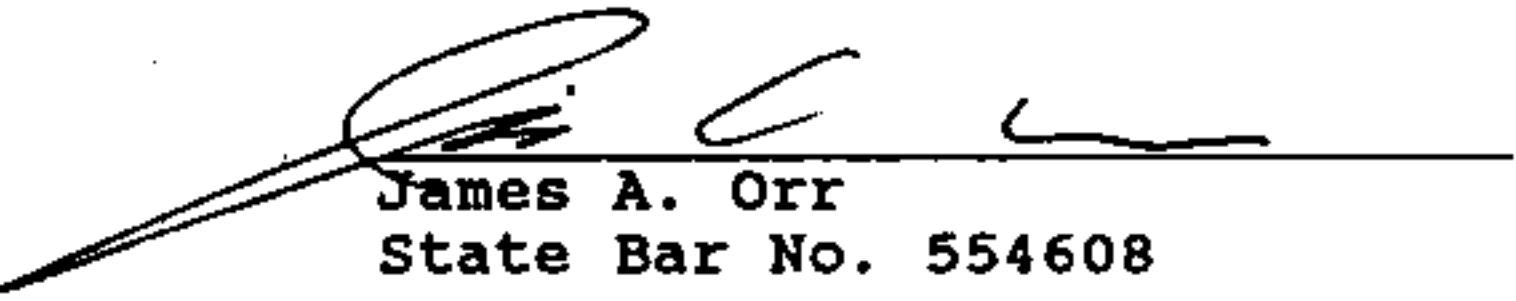
SO ORDERED, this 12th day of July, 1991.


Marvin H. Shoob, Judge
United States District Court

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Stipulated and agreed to:

Dorothy Y. Kirkley (by J. Orr)
Dorothy Y. Kirkley
State Bar No. 423800


James A. Orr
State Bar No. 554608

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[Signatures continued on next page]

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 and William L. Sikkelee

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 4000

STATE OF ALABAMA
 I CERTIFY THIS
 INSTRUMENT WAS FILED

91 AUG 16 PM 1:18

JUDGE OF PROBATE