

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:) CASE NO. BK02-81632
)
M & S GRADING, INC.,) CH. 7
)
Debtor(s).)

ORDER

On March 26, 2007, the Contractors, Laborers, Teamsters and Engineers Health and Welfare Plan, and Contractors, Laborers, Teamsters and Engineers Pension Plan ("Plans") filed an amended motion to compel production of documents, Filing No. 768. That motion is directed at James Killips, the Chapter 7 trustee. No hearing was held on the motion and ruling on the motion was deferred pending ruling on the motion for Rule 2004 examination.

Contemporaneously herewith, an order is being filed which denies the Plans' motion to take a Rule 2004 examination of the trustee and others. The discovery requests which are included in the amended motion to compel production are directly related to the issues raised in the motion for the Rule 2004 exam. There is no reason to grant the amended motion to compel production of documents because each of the requests contained in the motion relate directly to the question "Where did all the money go?". That question has been answered numerous times. The money went to First National Bank of Omaha and was applied on notes secured by all of the assets of the debtor. There is not now, and there will not be, money which can be distributed to the Plans because the First National Bank of Omaha and the Internal Revenue Service, both with priority over the interest of the Plans, are short millions of dollars and there are insufficient estate assets to make either of them whole.

THEREFORE, IT IS ORDERED that the Amended Motion to Compel Production of Documents, Filing No. 768, is denied.

DATED: May 24, 2007

BY THE COURT:

/s/ Timothy J. Mahoney
Chief Judge

Notice given by the Court to:
T. Randall Wright
*Malcolm Young
*David Selby
Robert Lepp
Albert Kerkhove
U.S. Trustee

Movant (*) is responsible for giving notice to other parties if required by rule or statute.