

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

In re:)
)
MISSISSIPPI PHOSPHATES) CHAPTER 11
CORPORATION, *et al.*,) Case No. 14-51667-KMS
)
Debtor.) Jointly Administered

MISSISSIPPI PHOSPHATE CORPORATION)
LIQUIDATING TRUST (MPCLT), EDWIN N.)
ORDWAY, JR., Managing Director, BERKLEY)
RESEARCH GROUP, LLC, in his capacity as)
MPCLT TRUSTEE OF THE MPCLT TRUST,)
)
Plaintiff,)

A.P. No.: _____

v.)
)
DIXIE RUBBER & BELTING COMPANY OF)
PASCAGOULA, INC.,)
)
Defendant.)

**COMPLAINT TO AVOID PREFERENTIAL TRANSFERS AND TO RECOVER
PROPERTY TRANSFERRED PURSUANT TO 11 U.S.C. §§ 547 and 550**

COMES NOW, the Mississippi Phosphate Corporation Liquidating Trust (MPCLT), Edwin N. Ordway, Jr., Managing Director, Berkley Research Group, LLC, in his capacity as MPCLT Trustee of the MPCLT Trust (the “Trust” or the “Plaintiff”), by and through its undersigned counsel, and files this Complaint against Dixie Rubber & Belting Company of Pascagoula, Inc. (the “Defendant”). In support hereof, the Trust alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. On October 27, 2014, Mississippi Phosphates Corporation (“MPC”), Ammonia Tank Subsidiary, Inc. (“ATS”), and Sulfuric Acid Tanks Subsidiary, Inc. (“SATS,” and together with MPC and ATS, the “Debtors”) filed their voluntary petitions for relief (the “Petitions”)

under Chapter 11 of 11 U.S.C. § 101, *et seq.* (the “Bankruptcy Code”) with the Clerk of this Court. On October 29, 2014, the Court granted the Debtors’ motion for joint administration of the Debtors’ cases.

2. By Order dated October 24, 2016, the Court confirmed the Debtors’ *First Amended Joint Chapter 11 Plan of Debtors and the Official Committee of Unsecured Creditors* [Doc. No. 1168] (the “Plan”), appointing Edwin N. Ordway, Jr. (the “Trustee”) as the Trustee of the Trust, which was created by the Liquidation Trust Agreement between the Debtors and the Trustee executed on or about October 25, 2016. The Trustee serves as the current trustee of the Trust.

3. The Defendant was at all times relevant hereto a creditor of the Debtors, within the meaning of 11 U.S.C. § 101(10)(A).

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C. §§ 547 and 550.

5. Venue of the Debtors’ chapter 11 cases and of this matter is proper in this district pursuant to 28 U.S.C. § 1409.

6. This a core proceeding pursuant to 28 U.S.C. § 157(b).

COUNT I
AVOIDANCE AND RECOVERY OF PREFERENTIAL
TRANSFER PURSUANT TO 11 U.S.C. §§ 547 AND 550

7. The Trust adopts and incorporates by reference the allegations in the paragraphs above as if fully set forth herein.

8. In the ninety (90) day period preceding the filing of the Petitions (the “Preference Period”), the Debtors transferred property to the Defendant, including, but not limited to, through the payment of money by check or wire transfer, in the aggregate amount of \$99,708.81 (the “Preferential Transfers”). Attached hereto as Exhibit “A,” and incorporated herein by reference,

is a non-exhaustive list of the Preferential Transfers, including: (i) the date of each transfer, (ii) the check or wire number of each transfer, and (iii) the amount of each transfer.

9. The source of funds for the Preferential Transfers was property of the Debtors or property in which the Debtors had an interest.

10. The Preferential Transfers were to or for the benefit of the Defendant.

11. The Preferential Transfers were made for or on account of an antecedent debt owed by the Debtors to the Defendant before such Preferential Transfers were made.

12. At the time the Preferential Transfers were made, the Debtors were, in accordance with applicable law, insolvent (as that term is defined and used in §§ 101(32) and 547 of the Bankruptcy Code).

13. The Preferential Transfers enabled the Defendant to receive more than it would have received if: (i) the case were under Chapter 7 of the Bankruptcy Code, (ii) the Preferential Transfers had not been made, and (iii) the Defendant received payment of the antecedent debts to the extent provided by the Bankruptcy Code.

14. The Preferential Transfers are avoidable pursuant to § 547 of the Bankruptcy Code, and as a result, the Preferential Transfers are recoverable by the Trust pursuant to § 550 of the Bankruptcy Code.

WHEREFORE, for the foregoing reasons, the Trust respectfully requests that:

1. The Preferential Transfers be avoided pursuant to § 547 of the Bankruptcy Code;
2. Judgment be entered in favor of the Trust, and against the Defendant, in the amount of \$99,708.81, plus interest at the legal rate from the date of the Preferential Transfers, together with any costs of this action;
3. The Defendant be directed to pay to the Trust the sum of \$99,708.81 plus interest at the legal rate from the date of the Preferential Transfers, together with any costs of this action;
4. The Defendant's claims against the Debtors be disallowed; and

5. The Trust be granted such other and further relief as is just and equitable.

Respectfully submitted this the 26th day of October, 2016.

/s/ Kasee Sparks Heisterhagen

Bess M. Parrish Creswell (pro hac vice)
Kasee Sparks Heisterhagen (MB# 103521)
Burr & Forman LLP
RSA Tower
11 North Water Street, Suite 22200
Mobile, Alabama 36602
Telephone: (251) 344-5151
Facsimile: (251) 344-9696
bcreswell@burr.com
ksparks@burr.com

and

Derek F. Meek (pro hac vice)
Marc P. Solomon (pro hac vice)
Burr & Forman LLP
420 North 20th Street, Suite 3400
Birmingham, Alabama 35203
Telephone: (205) 251-3000
Facsimile: (205) 458-5100
dmeek@burr.com
msolomon@burr.com

**Counsel for the Mississippi Phosphate
Corporation Liquidating Trust (MPCLT),
Edwin N. Ordway, Jr., Managing Director,
Berkley Research Group, LLC, in his capacity as
MPCLT Trustee of the MPCLT Trust**

Exhibit "A"

Payment Date	Check or Wire Number	Amount Paid
7/28/2014	57150	\$3,112.20
7/30/2014	57161	\$2,550.60
8/6/2014	57194	\$1,514.80
8/8/2014	57235	\$2,591.10
8/11/2014	57236	\$18,023.18
8/12/2014	57249	\$3,470.94
8/15/2014	57260	\$2,371.28
8/18/2014	57285	\$3,875.50
8/18/2014	57287	\$6,099.57
8/26/2014	57327	\$8,643.35
9/2/2014	57372	\$563.40
9/5/2014	57398	\$2,514.91
9/12/2014	57445	\$453.44
9/12/2014	57453	\$5,190.49
9/18/2014	57498	\$6,055.76
9/22/2014	57539	\$1,475.00
9/22/2014	57547	\$1,736.17
9/23/2014	57558	\$11,114.08
9/26/2014	57581	\$954.56
9/29/2014	57606	\$1,668.80
9/29/2014	57611	\$3,437.86
10/1/2014	57636	\$2,895.84
10/1/2014	57638	\$719.20
10/3/2014	57679	\$4,265.32
10/8/2014	57692	\$530.10
10/13/2014	57702	\$1,470.00
10/15/2014	57708	\$2,411.36
Total		\$99,708.81