

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In re:)	
)	
ACR MANAGEMENT, L.L.C., ET AL., ¹)	Case No. 04-27848-MBM
Debtors.)	Chapter 11
)	(Jointly Administered)
)	
ACR MANAGEMENT, L.L.C., ET AL.,)	Docket No.: _____
Movants,)	
)	Related Docket No.: 1008
v.)	
)	Objection Deadline:
INTRASTATE CONSTRUCTION CORP.,)	Hearing Date:
Respondent.)	
)	

**MOTION OF THE DEBTORS PURSUANT TO 11 U. S. C. § 105 AND FED. R. BANKR.
P. 9019(a) FOR APPROVAL OF STIPULATION AND AGREED ORDER
RESOLVING MOTION [CM/ECF#1008] FILED BY INTRASTATE CONSTRUCTION
CORP. TO CONSIDER PROOF OF CLAIM AS TIMELY-FILED**

The above-captioned debtors and debtors-in-possession (collectively, the “Debtors” or the “Movants”) hereby move (the “Motion”) this Court pursuant to section 105 of title 11 of the United States Code, §§101, *et seq.* (the “Bankruptcy Code”) and Rule 9019(a) of the Federal Rules of Bankruptcy Procedure (the “Rules”) for approval of the resolution of a certain motion (CM/ECF#1008) filed by Intrastate Construction Corp. (“Intrastate,” together with the Debtors, the “Parties”) for consideration of its proof of claim as timely-filed. In support of this Motion, the Movants respectfully state as follows:

¹ The Debtors are the following entities: ACR Management, L.L.C., Anthony Crane Rental Holdings, L.P., ACR/Dunn Acquisition, Inc., Anthony Crane Capital Corporation, Anthony Crane Holdings Capital Corporation, Anthony Crane International, L.P., Anthony Crane Sales & Leasing, L.P., Anthony International Equipment Services Corporation, Anthony Sales & Leasing Corporation, Carlisle Equipment Group, L.P., Carlisle GP, L.L.C., Husky Crane, Inc., Anthony Crane Rental, L.P., d/b/a Maxim Crane Works, Maxim Crane Works, LLC, Sacramento Valley Crane Service, Inc., The Crane & Rigging Company, LLC, Thompson & Rich Crane Service, Inc.

JURISDICTION

1. This Court has jurisdiction over this Motion under 28 U. S. C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U. S. C. § 157(b)(2)(A)(B)(O).

2. Venue of these cases and this Motion is proper in this District pursuant to 28 U. S. C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are Fed. R. Bankr. P. 9019 and 11 U. S. C. § 105(a).

BACKGROUND

3. On June 14, 2004 (the “Petition Date”), each of the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code (these “Chapter 11 Cases”). The Debtors continue in possession of their properties and are operating and managing their businesses as debtors and debtors-in-possession pursuant to Bankruptcy Code §§1107(a) and 1108.

4. On December 30, 2004, this Court entered an Order confirming the Debtors’ proposed plan of reorganization (the “Plan²”) and such Plan became effective pursuant to its terms on January 28, 2005.

5. On the Debtors’ Schedules filed in these Chapter 11 Cases, the Debtors listed Intrastate as an unsecured creditor with a claim in an unknown amount.

6. The Bankruptcy Court set November 17, 2004, as the bar date (the “Bar Date”) for creditors to file a proof of claim in these Chapter 11 Cases.

7. A month after the Bar Date, on December 17, 2004, Michael E. Stearns, Esquire, filed an unsecured, non-priority proof of claim on behalf of Intrastate in the amount of \$133,594.03 for an alleged breach of contract for non-performance, which was assigned Claim No. 936 (the “Claim”).

2 All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Plan.

8. A dispute exists as to whether Intrastate received proper and adequate notice of the Bar Date.

9. On December 17, 2004, Intrastate filed a motion for consideration of its Claim as timely-filed (the “Enlargement Motion,” CM/ECF#1008).

10. On January 18, 2005, the Debtors objected to this Enlargement Motion (the “Objection,” CM/ECF#1158), and a hearing was held on January 25, 2005, on the Enlargement Motion.

11. This Court scheduled an evidentiary hearing to be held on March 10, 2005, at 2:30 p.m. with regard to this matter.

12. By this Motion, the Parties wish to resolve all disputes between them as follows:

The Resolution

- i. Intrastate is granted an Allowed Claim in these Chapter 11 Cases in the amount of \$50,000, which shall be treated as a Class 7 general unsecured claim.
 - ii. Any and all other claims filed in these Chapter 11 Cases by Intrastate shall be disallowed in their entirety.
13. Kimberly A. Coleman, Esquire, counsel for Intrastate, has approved the terms of this resolution.

RELIEF REQUESTED

14. By this Motion, the Movants seek an Order approving this resolution on the terms set forth herein pursuant to Fed. R. Bankr. P. 9019(a).

15. In determining whether a compromise is in the best interests of a debtor’s estate, courts under the purview of the Court of Appeals for the Third Circuit, have considered the following four factors: (i) the probability of success in the litigation; (ii) the difficulties, if any, to be encountered in the matter of collection; (iii) the complexity of the litigation involved and the

expense, inconvenience and delay necessarily attending it; and (iv) the paramount interest of the creditors. In re Neshaminy Office Bldg. Assocs., 62 B.R. 798, 803 (E.D. Pa. 1986). See also In re Pennsylvania Truck Lines, Inc., 150 B.R. 595, 598 (E.D. Pa. 1992), aff'd, 8 F.3d 812 (3d Cir. 1993).

16. The Debtors respectfully submit that, in their business judgment, the proposed resolution, as set forth herein, is in the best interests of the Debtors, their estates and their creditors.

WHEREFORE, the Movants respectfully request that this Court enter the Agreed Order attached hereto or grant such other and further relief as is just and proper.

Pittsburgh, Pennsylvania
Dated: March 2, 2005

CAMPBELL & LEVINE, LLC

/s/ Salene R. Mazur
Douglas A. Campbell (PA I.D. #23143)
David B. Salzman (PA I.D. #39360)
Salene R. Mazur (PA I.D. #86422)
1700 Grant Building
Pittsburgh, PA 15219
Telephone: (412) 261-0310
Facsimile: (412) 261-5066

Co-Counsel for the Debtors and Debtors-in-Possession