

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SURETY ADMINISTRATORS, INC. ET
AL.,

PLAINTIFFS,

v.

JUAN M. GUZMAN, individually and
trading as LaRAZA BAIL BONDS,

DEFENDANT.

CIVIL ACTION

No. 05-1062

MEMORANDUM/ORDER

April 19, 2007

Plaintiffs Surety Administrators, Inc., *et al.*,¹ bring this action for breach of contract pursuant to 28 U.S.C. § 1332 (diversity jurisdiction). Now before the court is plaintiffs' motion for entry of a consent judgment against defendant Juan M. Guzman, "individually and trading as LaRaza Bail Bonds. Docket # 25.

Under Pennsylvania law, "[a] definite and unequivocal agreement between the parties for the entry of a judgment by consent" vests the court with authority to enter such a judgment.

¹ The plaintiffs in this action are (a) Surety Administrators, Inc., (b) Harco National Insurance Company, and (c) Capital Bonding Corporation. In their complaint, plaintiffs state that: "Harco is a duly licensed casualty insurance company . . . engaged in, *inter alia*, the business of serving as surety on bail and immigration bonds," Docket # 1 at ¶ 10; Capital Bonding Corporation ("CBC") was "authorized by Harco . . . to issue bail bonds in civil and criminal actions and to supervise subagents," *id.* at ¶ 11; and Surety Administrators "is a company that, on behalf of Harco . . . has obtained the rights to collect certain debt [of] CBC . . . which debt is now owed to . . . Harco pursuant to certain security interest agreements between Harco and CBC," *id.* at ¶ 12.

Pennsylvania v. First Nat. Bank & Trust Co. of Easton, 68 Pa. D. & C. 571, 576 (Pa. Com. Pl. 1949). In support of their claim that entry of a judgment by consent is proper, plaintiffs have submitted a “General Release and Settlement Agreement” executed on September 20, 2006 by the President of Surety Administrators, the Senior Vice President of Harco, and Guzman—signing “[i]ndividually, and on behalf of LaRaza Bail Bonds.” Docket # 25, Exh. B, at 6. This agreement contains an explicit declaration that “Plaintiffs and Defendant intend[] to be legally bound” by its provisions. *Id.* at 1. Those provisions include the agreement that Guzman shall make monthly payments totaling \$30,000 to plaintiffs;² and that,

in the event of a default by Defendant, after notice and opportunity to cure any untimely payment . . . Plaintiffs . . . may enter and execute on the Consent Judgment in their favor and pursue appropriate relief to enforce the full collection of the unpaid balance on the Consent Judgment, and any and all interest at the prime rate due on the unpaid balance from the date of default

Id. at 3. Plaintiffs also submit correspondence indicating that Guzman made an initial payment of \$5000, Docket # 25, Exh. E; defaulted on his subsequent obligations, Docket # 25, Exh. G; and failed to cure his default, Docket # 25, Exh. K. Plaintiffs now move the court to award them

² The settlement agreement states that:

It is . . . expressly agreed by and between the parties hereto that Defendant shall be obligated to make monthly payments to Plaintiffs, or their heirs, successors and assigns, postmarked on or before the fifteenth (15th) day of each month, beginning on the date that Plaintiffs execute this Agreement but no later than September 11, 2006, as follows: Ten Thousand Dollars (\$10,000) in the first month, Six Hundred Dollars (\$600.00) per month for the next thirty-three (33) months and Two Hundred Dollars (\$200.00) in the thirty-fourth month, for a total amount to be paid of Thirty Thousand Dollars (\$30,000.00).

Docket # 25, Exh. B, at 3.

This provision was subsequently modified to reduce Guzman’s original payment to \$5000, with an additional \$5000 to follow by October 11, 2006. Docket # 25, Exh. F.

\$25,000, which represents the unpaid balance due to them under the Settlement Agreement.

On the basis of plaintiffs' submissions, I conclude that Guzman (1) agreed to be bound by the provisions of the General Release and Settlement Agreement and (2) violated the terms of this agreement by defaulting on his payment obligations. The only problem is that plaintiffs have been unable to effectuate personal service of the notice of default upon Guzman. Plaintiffs have, however, made extensive efforts to contact Guzman and Guzman's attorney.³ Taking into account plaintiffs' elaborate efforts to effectuate notice, I will grant plaintiffs' motion.

Conclusion

And now, upon consideration of the Motion to Enforce the Settlement Agreement and for Entry of Consent Judgment brought by plaintiffs Surety Administrators, Inc., Harco National Insurance Company, and Capital Bonding Corporation (Docket # 25), it is hereby

³ As noted by plaintiffs' memorandum in support of their motion to enforce the settlement agreement:

After numerous communications with Defendant's attorney, pursuant to the Agreement, Plaintiffs notified Defendant of his default and the cure period. Plaintiffs served the default notice by certified as well as regular mail, although the Agreement only called for certified mail to the address provided by Defendant on the Agreement. Plaintiff's certified letter, however, was returned with a notation of ["unclaimed" after three attempts. Plaintiff's regular mail letter was not returned.

Plaintiffs then attempted to serve Defendant with the default notice by sending it by overnight mail. The overnight carrier, however, was unsuccessful in obtaining a signature and stated that Defendant's premises were empty.

Plaintiffs continued to contact Defendant's attorney who repeatedly indicated that he had neither heard from nor received anything from his client, and had no current information regarding Defendant's whereabouts.

Docket # 25 at 4.

ORDERED that plaintiffs' motion is **GRANTED** and that judgment is entered in favor of plaintiffs and against Juan M. Guzman in the amount of \$25,000.

BY THE COURT:

/s/ Louis H. Pollak

Pollak, J.