

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

T-PEG, INC and)	
TIMBERPEG EAST, INC.,)	
Plaintiffs,)	
)	
vs.)	No. 03-CV-462-M
)	
VERMONT TIMBER WORKS, INC.,)	
Defendant.)	

DEFENDANT’S NOTIFICATION OF
MODIFICATION OF MOTION FOR PROTECTIVE ORDER

Defendant, Vermont Timber Works, Inc. (“VTW”), hereby notifies the Court that it is withdrawing a portion of its Motion For Protective Order (Document 46) based on plaintiffs’ acquisition of redacted information by means unknown to VTW.

As set forth in its Motion For Protective Order, the Job Cost Master is a sensitive document as to which VTW sought protection, including preventing plaintiffs themselves (VTW’s direct competitors) from seeing the non-redacted portions.

VTW produced the document, in redacted form. Plaintiffs have claimed for some months that they could read the redacted portions. VTW has been skeptical of this claim, as nearly all of the redacted information on their copy is not legible (with a few figures partially readable through the redaction). At a deposition on November 4, after VTW filed its Motion For Protective Order, plaintiffs produced a version which indeed contains legible figures. They subsequently filed a copy in their Response to the Motion for Protective Order. VTW does not know how plaintiffs obtained the readable version, but suspects they used a picture lightening or modification program, such as Print Shop. In any event, the document has now been read by plaintiffs, and they even filed it with the Court in their objection to the Motion To Compel.

VTW now requests the following, modified relief concerning the Job Cost Master document:

- (1) that it immediately be withdrawn from the Court file,
- (2) that plaintiffs not disseminate the document or information to any third party,
- (3) that plaintiffs not disseminate the document or information internally to any person other than those who need to use it in connection with this case, and
- (4) that plaintiffs be required to advise VTW of all persons inside and outside of plaintiffs (including affiliates) who have already received the document or information and advise us two days in advance of providing the document or information to any further persons.
- (5) that plaintiffs be permitted to file it in the case or introduce it in evidence upon VTW's written agreement or court order.

In all other respects, VTW continues to seek the protective order.

The undersigned certifies that he sought plaintiffs' assent to the above relief early on this date, and by the end of the day plaintiffs had not responded.

Date: December 1, 2004

VERMONT TIMBER WORKS, INC.
Defendant,

By: W. E. Whittington
Its Attorney

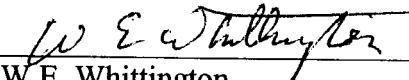
W. E. Whittington (Bar No. 6916)
Whittington Law Associates, PLLC
35 South Main Street
Hanover, NH 03755
(603) 643-2755

CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2004, I served the foregoing pleading on the following counsel of record, by first class mail:

Daniel E. Will, Esq.
Devine, Millimet & Branch, P.A.
111 Amherst Street
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Also in Woodstock, VT

December 1, 2004

James R. Starr, Clerk
Warren B. Rudman U.S. Courthouse
55 Pleasant Street, Room 110
Concord, NH 03301-3941

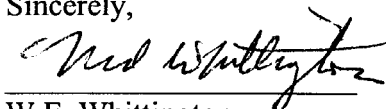
Re: T-Peg, Inc. v. Isbitski, et al., No. 03-CV-462-M

Dear Jim:

Please find enclosed for filing Defendant's Notification of Modification of Motion for Protective Order.

Thank you for your assistance.

Sincerely,



W.E. Whittington

WEW/ffw

Enclosure

cc: Daniel E. Will, Esq.
Stephen S. Woods, Esq.
Doug Friant