

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

SAMUEL, SON & CO. (USA) INC.
d/b/a ROLL FORM GROUP

Plaintiff,

AFFIDAVIT

v.

SIMPSON & BROWN, INC.

Index No.: 801838/2020

Defendant.

CANADA) ss.:

I, Anthony Labile, being duly sworn, hereby deposes and says:

1. I am the Director of Credit for Plaintiff Samuel, Son & Co. (USA) Inc. d/b/a Roll Form Group ("Plaintiff" or "Samuel") in the above-captioned matter, and am fully familiar with the facts set forth herein.

2. I submit this affirmation in opposition to Defendant Simpson & Brown, Inc.'s ("Simpson" or "Defendant") Order to Show Cause seeking vacatur of the default order entered on April 8, 2021 and default judgment signed and filed on April 9, 2021 (the "Default Order and Judgment").

3. This Court should deny Defendant's application in its entirety because Defendant has failed to put forth a meritorious defense to the allegations set forth in the Summons and Complaint.

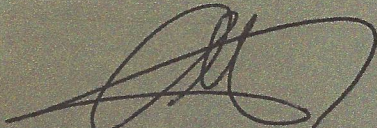
4. Defendant owes Plaintiff service charges at the rate of 1.5% per month on overdue amounts plus costs of collection, including attorneys' fees, as set forth in Plaintiff's Conditions of Sale and Terms of Payment.

5. Despite Defendant's conclusory assertion that the project in Elizabeth, New Jersey was tax exempt, Defendant failed to provide a tax exempt certificate to Plaintiff for said project. Accordingly, Plaintiff charged Defendant tax on the five invoices issued in regard to that project. Notably, Defendant failed to provide proof of the Elizabeth, New Jersey project's tax exempt status in its motion papers as well.

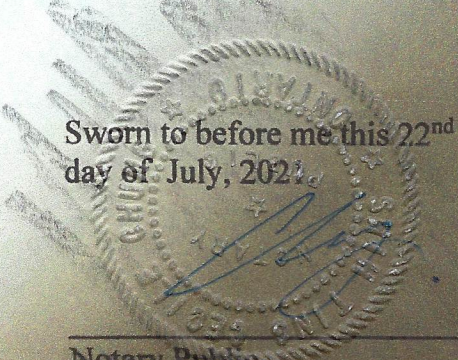
6. Defendant also claims that Plaintiff allegedly failed to deliver material worth approximately \$315,000 but fails to identify the specific invoices it claims contained undelivered material or submit any other support for its self-serving claim.

7. In fact, Plaintiff did deliver all material invoiced to Defendant as evidenced by the bills of lading for the invoiced material. Annexed hereto as Exhibit A are true and correct copies of the invoices and corresponding bills of lading for each invoice sued on in the complaint.

8. Based on the above, Defendant has failed to establish a meritorious defense sufficient to warrant vacatur of the Default Order and Judgment.



Anthony Labile

Sworn to before me this 22nd
day of July, 2021.


Notary Public
S. CECELE CHUNG
BARRISTER & SOLICITOR.

SWORN REMOTELY BEFORE S. CECELE CHUNG.
ON THE 22ND DAY OF JULY, 2021
IN THE CITY OF TORONTO,
ONTARIO, IN ACCORDANCE WITH
O. REG. 431/20 ADMINISTERING
OATH OR DECLARATION
REMOVED.