

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO

IN RE: \*  
\*  
PITTSBURGH-CANFIELD CORPORATION \* CASE NUMBER 00-43394  
et al., \*  
\*  
Debtor. \*  
\*  
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\*  
WHEELING PITTSBURGH STEEL \*  
CORPORATION, \*  
\*  
Plaintiff, \*  
\*  
vs. \* ADVERSARY NUMBER 02-4320  
\*  
GLUNT INDUSTRIES, INC., \*  
\*  
Defendant. \*  
\*

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M E M O R A N D U M O P I N I O N  
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This matter came before the Court on Plaintiff's Motion for Partial Summary Judgment (the "Motion") filed by Plaintiff Wheeling Pittsburgh Steel Corporation ("Debtor" or "Plaintiff"). Defendant Glunt Industries, Inc. ("Defendant") filed Defendant's Memorandum Contra Plaintiff's Motion for Partial Summary Judgment. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334(b). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(E). The following constitutes the Court's findings of fact and conclusions of law pursuant to FED. R. BANKR. P. 7052.

On November 13, 2002, Plaintiff filed a complaint to avoid preferential transfers under 11 U.S.C. § 547(b), and in the alternative, to avoid transfers without consideration, to recover avoided transfers, and to disallow claims (the "Complaint"). In the Complaint, Plaintiff seeks to recover the One Hundred Thirty-Two Thousand Nine Hundred and 86/100 Dollars (\$132,900.86) of payments made to Defendant in the 90-day period prior to the filing of Plaintiff's voluntary petition under Chapter 11 of the Bankruptcy Code, as detailed in Exhibit A of Plaintiff's Complaint. On June 2, 2003, Defendant filed an answer in which it asserted the affirmative defenses of contemporaneous exchange, ordinary course of business and fraudulent inducement, and the doctrines of waiver, estoppel, laches, and "earmarking." Plaintiff and Defendant submitted a Joint Adversary Status Report on October 28, 2004, in which the parties posited that the primary issue in dispute would be whether any of affirmative defenses were applicable.

In its Motion, Plaintiff seeks summary judgment only with respect to the nature of the transfers to Defendant listed in Exhibit A of Plaintiff's Complaint, and not with respect to whether Debtor can properly avoid such transfers under 11 U.S.C. § 547. Plaintiff asserts that a trial is the appropriate arena to determine whether any of Defendant's affirmative defenses will preclude Plaintiff from avoiding the transfers. In essence, although Plaintiff concedes that the integral issue, whether

Debtor will be able to avoid the relevant transfers, must be determined at trial, it seeks to expend the Court's time and energy on a partial ruling that would not have any substantive impact in determining avoidability. This Court declines to begin the practice of needlessly wasting its resources.

In addition, when viewed globally, there are genuine issues of material fact in dispute. The parties dispute facts that impact whether avoidance of the transfers is appropriate. Accordingly, this Court denies Plaintiff's Motion for Partial Summary Judgment.

An appropriate order shall enter.

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**HONORABLE KAY WOODS**  
**UNITED STATES BANKRUPTCY JUDGE**

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CORPORATION,	*	
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Plaintiff,	*	
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vs.	*	ADVERSARY NUMBER 02-4320
	*	
GLUNT INDUSTRIES, INC.,	*	
	*	
Defendant.	*	
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O R D E R

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For the reasons set forth in this Court's Memorandum Opinion entered this date, Plaintiff's Motion for Partial Summary Judgment is denied.

IT IS SO ORDERED.

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HONORABLE KAY WOODS  
UNITED STATES BANKRUPTCY JUDGE

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Memorandum Opinion and Order were placed in the United States

Mail this \_\_\_\_\_ day of May, 2005, addressed to:

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