

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
<i>Caption in Compliance with D.N.J. LBR 9004-1(b)</i> OBERMAYER REBMAN MAXWELL & HIPPEL LLP Edmond M. George, Esquire Michael D. Vagnoni, Esquire (pro hac vice) Turner N. Falk, Esquire 1120 Route 73, Suite 420 Mount Laurel, NJ 08054-5108 Telephone: (856) 795-3300 Facsimile: (856) 482-0504 E-mail: edmond.george@obermayer.com michael.vagnoni@obermayer.com turner.falk@obermayer.com	
Counsel to the Debtor and Debtor in Possession	
In re: ALUMINUM SHAPES, L.L.C., Debtor.	Chapter 11 Case No. 21-16520-JNP
ALUMINUM SHAPES, L.L.C., Plaintiff, v. TALEN ENERGY MARKETING, LLC, Defendant.	ADVERSARY NO. COMPLAINT

Aluminum Shapes, L.L.C. (the “Debtor” or the “Plaintiff”), by and through its counsel, Obermayer Rebmann Maxwell & Hippel LLP, brings this adversary proceeding complaint against the Defendant and Creditor, Talen Energy Marketing, LLC (“Talen” or the “Defendant” or the “Creditor”), and states as follows:

PRELIMINARY STATEMENT

1. This adversary proceeding is commenced by the Debtor, pursuant to §§ 502, 506, 544, and 547 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (as amended, the “Bankruptcy Code”), and Rules 7001(2) and (8) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

2. This adversary proceeding arises from Talen’s failure to properly levy upon a judgment it obtained in the United States District Court for the Eastern District of Pennsylvania (the “EDPA”); which was then transferred to, and domesticated in the United States District Court for the District of New Jersey (the “DNJ”).

3. Talen’s failure to properly levy renders the Lien created by that judgment avoidable pursuant to sections 502, 506, 544, and 547 of the Bankruptcy Code.

4. Accordingly, the Debtor requests avoidance of the Lien, a determination that Talen’s claim is unsecured, and related relief.

I. PARTIES

5. The Debtor, Aluminum Shapes, L.L.C., is a limited liability company doing business in New Jersey, with an address at 9000 River Road, Delair, New Jersey 08110.

6. Upon information and belief, Talen is a Pennsylvania limited liability company with an address at 600 Hamilton Street, Suite 600, Allentown Pennsylvania 18101.

II. JURISDICTION AND VENUE

7. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157(b)(1) and 1334(b) and (e). This adversary proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(F), (H), (O), and (K).

8. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334,

and Sections 502, 506, 544 and 547 of the Bankruptcy Code.

9. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

10. This adversary proceeding is initiated under Bankruptcy Rule 7001(2) and (8) for avoidance and recovery, determination of secured status, bifurcation, and related relief pursuant to sections 502, 506, 544 and 547 of the Bankruptcy Code.

11. The Debtor consents to the entry of a final order by this Court in the event that, absent such consent, this Court does not possess the authority to enter a final order pursuant to Article III of the Constitution.

III. BACKGROUND

The Debtor's Business and Bankruptcy

12. The Debtor is an industry leader in the fabrication, processing, and extruding of aluminum metals for use in, *inter alia*, the swimming pool, trucking, trailer, and outdoor storage industries (the "Business"). See First Day Declaration of Jordan Meyers in Support of First Day Motions. (Bkr. DI #17).

13. The Debtor owns and operates a single location at 9000 River Road, Delair, New Jersey, consisting of approximately 500,000 square feet of industrial space, including a cast house, foundry, and processing area (the "Real Property"). Id.

14. The Debtor also owns machinery, fixtures, and equipment, including a valuable cast house and foundry furnace, several presses, and processing equipment. Id.

15. On June 18, 2021, the Debtor engaged Cowen and Company, LLC ("Cowen") as investment banker to explore a sale of the Debtor's Business or Assets.

16. Based on market feedback, the Debtor, in consultation with its advisors, determined that continued operation of Debtor's business was not viable or achievable under the current

financial circumstances, and the Debtor decided to sell the Debtor's business or assets (the "Assets").

17. On August 15, 2021 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the District of New Jersey, Camden Vicinage (the "Bankruptcy Court").

18. The Debtor continues to operate its business as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtor is the Plaintiff in the instant adversary proceeding.

19. No request has been made for the appointment of a trustee or examiner.

20. An Official Committee of Unsecured Creditors has been appointed in this case.

21. The Debtor has employed professionals to market and sell the Assets pursuant to a motion to sell, which sale will establish the fair market value of the Assets and the allocation of that value between specific Assets.

22. The Claim must be bifurcated into a secured claim in the amount of the value of that Debtor's Assets subject to the Lien and an unsecured claim for the remainder.

23. The Debtor's Assets will be sold pursuant to the outcome of an auction conducted on or about November 10, 2021.

24. As of the Petition Date, the Debtor had outstanding secured debt obligations in the aggregate principal amount of no less than \$9,270,525.89 (the "Prepetition Secured Debt") to its pre-petition secured lender, Tiger Finance, LLC ("Tiger"), pursuant to that Certain Credit Agreement between Tiger and the Debtor dated June 5, 2019 (as subsequently amended¹), and term notes issued thereunder. The Prepetition Secured Debt was secured by a first priority lien on

¹ The Credit Agreement was most recently amended by a Seventh Forbearance Agreement and Seventh Amendment to Credit Agreement, dated July 27, 2021.

all of the Debtor's Assets.

25. On September 29, 2021, the Court entered a Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 503, and 507 and Fed. R. Bankr. P. 2002, 4001, 6003, 6004 and 9014 (I) Authorizing Debtor to Obtain Post-Petition Financing, (II) Granting Liens and Superpriority Claims, (III) Authorizing Use of Cash Collateral, and (IV) Modifying the Automatic Stay (the "Final DIP Order"). (Bkr. DI #116). Pursuant to the Final DIP Order, the Debtor was authorized to borrow up to \$15,500,000 in debtor-in-possession financing (the "DIP Facility") from Tiger, including a roll-up of the Prepetition Secured Debt, pursuant to the term of a Senior Secured Super-Priority Debtor-in-Possession Credit Agreement between Tiger and the Debtor, dated August 15, 2021. As security for the DIP Facility, the Final DIP Order provided Tiger with superpriority claims secured by priming, first priority liens on all of the Debtor's Assets that are "senior and superior in priority to all other secured and unsecured creditors of the Debtor's estate." Final DIP Order at ¶ 6.

26. The instant proceeding is intended to *inter alia* recover transfers to Talen, determine secured status of Talen's claims, bifurcate claims, and determine the allowance of Talen's claims, if any.²

The Creditor's Claims

27. Upon information and belief, Talen is an electrical provider.

28. Prior to the Petition Date, Talen provided electrical service to the Debtor pursuant to a Retail Electricity Agreement.

29. On September 18, 2019, Talen initiated a collections action in the EDPA, Docket Number 5:19-cv-04303-HSP, for all sums alleged to be due owing on the underlying debt (the

² The Debtor has filed other adversary proceeding complaints contemporaneously herewith seeking to avoid certain other liens on similar grounds as set forth herein.

“Pre-Petition Action”).

30. On August 28, 2020, a judgment was entered in the Pre-Petition Action in favor of Talen and against the Debtor in the amount of \$1,066,719.02, together with interest pursuant to the Retail Electricity Agreement, collection costs, and attorneys’ fees. A true and correct copy of the docket for the Pre-Petition Action is attached as **Exhibit “A”** hereto.

31. On February 12, 2021, the judgment was amended to include attorneys’ fees in the amount of \$31,799.50, expenses in the amount of \$1,740.40, pre-judgment interest in the amount of \$457,488.59 and post-judgment interest at rate of 0.06% on \$1,524,207.61, to be computed daily and compounded annually (the “PA Judgment”).

32. On April 9, 2021, Talen registered and domesticated the Judgment in the DNJ (the “Judgment”).

33. Pursuant to New Jersey law, the Judgment automatically became a lien against all real property in the State of New Jersey currently owned or thereafter acquired by the Debtor (the “Lien” and together with the Judgment, the “Claim”).

34. On April 28, 2021, Talen requested the issuance of, and the DNJ issued a writ of execution based upon the Judgment; which, was recorded in Book C21, Page 9 of Executions (the “Writ”). A true and correct copy of the docket domesticating the PA Judgment in the DNJ is attached as **Exhibit “B”** hereto.

35. Talen failed to levy or otherwise execute on the Debtor’s Assets.

36. In order to pay down the Judgment, on May 14, 2021, the Debtor made a payment to Talen in the amount of \$100,000.00 (the “Post-Judgment Payment”).

37. The Post-Judgment Payment did not clear the Debtor’s account until May 17, 2021.

38. On September 7, 2021, Talen filed a proof of claim against the Debtor's Bankruptcy estate alleging a \$1,458,190.90 secured claim and a \$1,049.00 unsecured claim (the "POC"). (POC #20).

39. The POC alleges that the Claim is secured by way of the Judgment and levy upon the Lien, however, the POC includes no proof of the aforementioned levy.

FIRST COUNT

AVOIDANCE OF THE LIEN UNDER 11 U.S.C. §544

40. The Debtor incorporates by reference the foregoing paragraphs as if set forth fully herein and at length.

41. Pursuant to 11 U.S.C. §544(a) the Debtor, as debtor in possession, stands in the shoes of a hypothetical ideal creditor who obtains an execution against the Debtor that is returned unsatisfied on the Petition Date.

42. Under New Jersey law, a creditor holding an unexecuted levy occupies a lower priority on real property than a creditor who has already executed upon its lien, even if such execution remains unsatisfied.

43. Although real property is subject to execution and levy, neither execution nor levy are automatic upon the entry of a judgment, and require additional affirmative acts for any lien to become perfected. N.J.S.A. § 2A:17-17.

44. A writ of execution is not binding until it is delivered to the sheriff of the appropriate county. See N.J.S.A. § 2A:17-10.

45. In execution of the Judgment, Talen has domesticated the Judgment in the DNJ and had the Writ issued. See Exhibits "A" & "B" attached hereto.

46. Despite these efforts to execute on the Judgment, Talen has failed to has failed to both execute upon the Judgment and the Lien, and levy upon the Debtor's Assets.

47. As a result of Talen's failure to both execute upon the Judgment and the Lien, and levy upon the Debtor's Assets, the Lien is lesser in priority to creditors with superior priority interest in the Debtor's Assets, including creditors that have executed against the Real Property as of the Petition Date, even if unsatisfied.

48. Pursuant to sections 544(a)(1), (2), and (3) of the Bankruptcy Code, the Debtor is vested with the power of an unsatisfied judgment holder that has executed upon the Judgment and the Lien and levied upon the Assets, including the Real Property; and therefore, may avoid the Lien.

49. The Lien against the Debtor's Assets is an unperfected secured claim, and therefore, is avoidable.

WHEREFORE, the Debtor respectfully requests this Court enter judgment in its favor and against Talen avoiding the Lien pursuant to section 544(a) of the Bankruptcy Code and providing such other, and further relief as the Court deems just and equitable.

SECOND COUNT

AVOIDANCE OF THE POST-JUDGMENT PAYMENT UNDER 11 U.S.C. §547

50. The Debtor incorporates by reference the foregoing paragraphs as if set forth fully herein and at length.

51. The Post-Judgment Payment occurred within ninety (90) days of the Petition Date, as the transfer of funds out of the Debtor's account occurred on May 17, 2021, ninety (90) days prior to the Petition Date.

52. The Post-Judgment Payment was made on account of an antecedent debt.

53. The Debtor was insolvent at the time of this transfer, as it was not paying its debts as they came due and is presumed to have been insolvent on and during the ninety (90) days immediately preceding the Petition Date pursuant to section 547(f) of the Bankruptcy Code.

54. The Post-Judgment Payment enabled Talen to obtain more than it would have: (i) in a hypothetical chapter 7 liquidation on the Petition Date; (ii) had the Levy not been made; and (iii) if it received payment as otherwise provided under the Bankruptcy Code.

55. Based on the Debtor's reasonable due diligence, taking into account Talen's known or reasonably knowable affirmative defenses under section 547(c) of the Bankruptcy Code, the Post-Judgment Payment is avoidable as a preference under Section 547(b) of the Bankruptcy Code.

WHEREFORE, the Debtor respectfully requests this Court enter judgment in its favor and against Talen, avoiding the Post-Judgment Payment pursuant to section 547(b) of the Bankruptcy Code and providing such other and further relief as the court deems just and equitable.

THIRD COUNT

DISALLOWANCE OF PROOF OF CLAIM UNDER 11 U.S.C. §502(d)

56. The Debtor incorporates by reference the foregoing paragraphs as if set forth fully herein and at length.

57. The Court "shall disallow any claim of any entity... that is a transferee of a transfer avoidable under [section 544 of Bankruptcy Code]..." 11 U.S.C §502(d).

58. As Talen filed the POC in the Debtor's chapter 11 case based upon the Claim.

59. Talen is the recipient of an avoidable transfer, the Judgment and the Lien are avoidable pursuant to sections 544(a) and/or section 547(b) of the Bankruptcy Code.

60. The POC must be disallowed under section 502(d), as Talen has not returned the avoidable transfer.

WHEREFORE, the Debtor respectfully requests that the Court enter a judgment in its favor and against Talen, disallowing the POC pursuant to section 502(d) of the Bankruptcy Code and providing such further relief as is just and equitable.

FOURTH COUNT

DISALLOWANCE OF PROOF OF CLAIM UNDER 11 U.S.C. §502(b)(1)

61. The Debtor incorporates by reference the foregoing paragraphs as if set forth fully herein and at length.

62. Talen filed the POC in the Debtor's chapter 11 case based upon the Claim.

63. The POC alleges the Claim is secured.

64. The POC alleges the claim is secured by way of perfection of the Judgment and levy upon the Lien, however, the POC includes no proof of the aforementioned levy.

65. The POC is not self-supporting and must be disallowed.

WHEREFORE, the Debtor respectfully requests that the Court enter a judgment in its favor and against Talen, disallowing the POC pursuant to section 502(b)(1) of the Bankruptcy Code and providing such further relief as is just and equitable.

FIFTH COUNT

DETERMINATION OF SECURED CLAIM AND BIFURCATION OF CLAIM UNDER 11 U.S.C. §506(a)(1)

66. The Debtor incorporates by reference the foregoing paragraphs as if set forth fully herein and at length.

67. Pursuant to section 506(a) of the Bankruptcy Code, "[a]n allowed claim of a creditor secured by a lien on property in which the estate has an interest, or that is subject to setoff

under section 553 of this title, is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property, or to the extent of the amount subject to setoff, as the case may be, and is an unsecured claim to the extent that the value of such creditor's interest or the amount so subject to setoff is less than the amount of such allowed claim. Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest." 11 U.S.C §506(a)(1).

68. The Claim and Lien are subordinate to the superpriority claims and first priority liens in the Debtor's Assets held by Tiger.

69. Talen has provided no proof of the levy that would place a lien upon personal property; no lien exists as to that personal property.

70. The Claim must be bifurcated into a secured claim in the amount of the value of that Debtor's Assets subject to the Lien after accounting for the value of Tiger's first priority liens and any other superior liens in the Debtor's Assets, and an unsecured claim for the remainder.

WHEREFORE, the Debtor respectfully requests that the Court enter a judgment bifurcating the Claim into secured and unsecured portions pursuant to section 506(a) of the Bankruptcy Code, and providing such further relief as is just and equitable.

SIXTH COUNT

LIEN STRIP OF UNSECURED CLAIM UNDER 11 U.S.C. §506(d)

71. The Debtor incorporates by reference the foregoing paragraphs as if set forth fully herein and at length.

72. Pursuant to section 506(d)(1) of the Bankruptcy Code, “to the extent that a lien secures a claim against the debtor that is not an allowed secured claim, such lien is void.” 11 U.S.C § 506(d)(1).

73. To the extent the Claim is determined to be unsecured, this Court must enter a judgment voiding the Lien.

WHEREFORE, the Debtor respectfully requests that the Court enter a judgment voiding the Lien to the extent the Lien exceeds the value of the allowed secured claim and providing such other relief as is just and equitable.

Dated: November 9, 2021

By: /s/ Edmond M. George
Edmond M. George, Esquire
Michael D. Vagnoni, Esquire (*pro hac vice*)
Turner N. Falk, Esquire
OBERMAYER REBMANN MAXWELL & HIPPEL, LLP
1120 Route 73, Suite 420
Mount Laurel, NJ 08054-5108
Telephone: (856) 795-3300
Facsimile: (856) 482-0504
E-mail: edmond.george@obermayer.com
michael.vagnoni@obermayer.com
turner.falk@obermayer.com
*Counsel to Chapter 11 Debtor
Aluminum Shapes, L.L.C.*

Exhibit A

United States District Court
Eastern District of Pennsylvania (Allentown)
CIVIL DOCKET FOR CASE #: 5:19-cv-04303-HSP

TALEN ENERGY MARKETING, LLC v. ALUMINUM SHAPES, LLC
Assigned to: MAGISTRATE JUDGE HENRY S PERKIN
Cause: 28:1332 Diversity-Negotiable Instrument

Date Filed: 09/18/2019
Date Terminated: 02/12/2021
Jury Demand: None
Nature of Suit: 140 Contract: Negotiable Instrument
Jurisdiction: Federal Question

Plaintiff

TALEN ENERGY MARKETING, LLC

represented by **JOSEPH S. D'AMICO, JR.**
FITZPATRICK LENTZ & BUBBA, PC
4001 SCHOOLHOUSE LANE
PO BOX 219
CENTER VALLEY, PA 18034-0219
610-797-9000
Fax: 610-797-6663
Email: jsdamico@flblaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

JUAN P. CAMACHO
FITZPATRICK LENTZ & BUBBA
4001 SCHOOLHOUSE LANE
P.O. BOX 219
CENTER VALLEY, PA 18034
610-797-9000
Email: jcamacho@flblaw.com
ATTORNEY TO BE NOTICED

V.

Defendant

ALUMINUM SHAPES, LLC

represented by **CHRISTIE CALLAHAN COMERFORD**
DILWORTH PAXSON, LLP
1500 MARKET STREET, Suite 3500E
PHILADELPHIA, PA 19103
215-575-7187
Fax: 215-575-7200
Email: ccomerford@dilworthlaw.com
TERMINATED: 08/22/2021
LEAD ATTORNEY

THOMAS S. BIEMER
DILWORTH PAXSON
1500 MARKET STREET
SUITE 3500
PHILADELPHIA, PA 19102
215-575-7025
Fax: 215-575-7200
Email: tbiemer@dilworthlaw.com
TERMINATED: 08/22/2021
LEAD ATTORNEY

KATHARINE VIRGINIA HARTMAN
Dilworth Paxson LLP
1500 Market Street, Suite 3500E
PHILADELPHIA, PA 19102
215-575-7133
Fax: 215-575-7200
Email: khartman@dilworthlaw.com
TERMINATED: 04/15/2021

MATHIEU J. SHAPIRO
OBERMAYER, REBMANN, MAXWELL & HIPPEL, LLP
CENTRE SQUARE WEST
1500 MARKET STREET, SUITE 3400
PHILADELPHIA, PA 19102
215-665-3014
Fax: 215-665-3165

Date Filed	#	Docket Text
09/18/2019	1	COMPLAINT against ALUMINUM SHAPES, LLC (Filing fee \$ 400 receipt number APE005297.), filed by TALEN ENERGY MARKETING, LLC.(DT) (Entered: 09/19/2019)
09/18/2019	2	Disclosure Statement Form pursuant to FRCP 7.1 Identifying Corporate Parent TALEN ENERGY CORPORATION for TALEN ENERGY MARKETING, LLC. by TALEN ENERGY MARKETING, LLC.(DT) (Entered: 09/19/2019)
09/18/2019		1 Original Summons Issued as to ALUMINUM SHAPES, LLC. Forwarded To: Counsel on 09/18/2019. (DT) (Entered: 09/19/2019)
10/02/2019	3	AFFIDAVIT of Service by Joseph Russo re: served Summons and Complaint upon Aluminum Shapes, LLC by Person in Charge, Jeanette Rivera on 09/24/2019, answer due 10/15/19. (D'AMICO, JOSEPH) Modified on 10/3/2019 (tjd). (Entered: 10/02/2019)
10/02/2019	4	NOTICE of Appearance by KATHARINE VIRGINIA HARTMAN on behalf of ALUMINUM SHAPES, LLC with Certificate of Service(HARTMAN, KATHARINE) (Entered: 10/02/2019)
10/02/2019	5	NOTICE of Appearance by THOMAS S. BIEMER on behalf of ALUMINUM SHAPES, LLC with Certificate of Service(BIEMER, THOMAS) (Entered: 10/02/2019)
10/03/2019	6	ORDER THAT THIS CASE IS REASSIGNED FROM HONORABLE JOSHUA D. WOLSON TO HONORABLE JOSEPH F. LEESON, JR FOR ALL FURTHER PROCEEDINGS. SIGNED BY CLERK OF COURT KATE BARKMAN, CLERK OF COURT ON 10/03/2019. 10/03/2019 ENTERED AND COPIES E-MAILED.(nd,) (Entered: 10/03/2019)
10/04/2019	7	ORDER THAT COUNSEL FOR PLAINTIFF[S] MUST SERVE THIS ORDER ON EVERY PARTY TO THIS CASE IMMEDIATELY AFTER THE PARTYS FIRST APPEARANCE, UNLESS THIS CASE WAS REMOVED FROM STATE COURT, IN WHICH CASE THIS RESPONSIBILITY FALLS ON COUNSEL FOR THE PARTY WHO REMOVED THE CASE; ETC. AS HEREIN. SIGNED BY HONORABLE JOSEPH F. LEESON, JR ON 10/4/19. 10/4/19 ENTERED AND COPIES E-MAILED.(mas,) (Entered: 10/04/2019)
10/04/2019	8	ORDER THAT THE REQUEST IS APPROVED AND GRANTED IN PART AND DISAPPROVED AND DENIED IN PART; AND DEFENDANT'S DEADLINE TO FILE AN ANSWER TO PLAINTIFFS COMPLAINT, ONLY, AND FOR NO OTHER PURPOSE, IS EXTENDED THROUGH AND INCLUDING NOVEMBER 14, 2019. SIGNED BY HONORABLE JOSEPH F. LEESON, JR ON 10/4/19. 10/7/19 ENTERED AND COPIES E-MAILED.(mas,) (Entered: 10/07/2019)
11/14/2019	9	ANSWER to 1 Complaint together with Affirmative Defenses by ALUMINUM SHAPES, LLC.(HARTMAN, KATHARINE) (Entered: 11/14/2019)
11/14/2019	10	Disclosure Statement Form pursuant to FRCP 7.1 with Certificate of Service by ALUMINUM SHAPES, LLC.(HARTMAN, KATHARINE) (Entered: 11/14/2019)
11/21/2019	11	NOTICE OF SCHEDULING OF INITIAL FED.R.CIV.P. 16 PRETRIAL CONFERENCE: AN INITIAL FEDERAL RULE OF CIVIL PROCEDURE 16 PRETRIAL CONFERENCE HAS BEEN SCHEDULED FOR MONDAY, DECEMBER 16, 2019, AT 3:30 P.M. BEFORE THE HONORABLE JOSEPH F. LEESON, JR. AT THE EDWARD N. CAHN U.S. COURTHOUSE AND FEDERAL BUILDING, COURTROOM C, THIRD FLOOR, 504 WEST HAMILTON STREET, ALLENTOWN, PENNSYLVANIA.(dja,) (Entered: 11/21/2019)
12/13/2019	12	NOTICE OF CANCELLATION OF INITIAL FED.R.CIV.P. 16 PRETRIAL CONFERENCE: The initial Federal Rule of Civil Procedure 16 pretrial conference scheduled for Monday, December 16, 2019, at 3:30 p.m. has been CANCELLED. (er,) (Entered: 12/13/2019)
12/13/2019	13	CONSENT AND ORDER TO JURISDICTION BY US MAGISTRATE JUDGE HENRY S. PERKIN. SIGNED BY HONORABLE JOSEPH F. LEESON, JR ON 12/13/19. 12/13/19 ENTERED AND COPIES E-MAILED.(er,) (Entered: 12/13/2019)
12/16/2019	14	ORDER THAT A TELEPHONIC RULE 16 SCHEDULING CONFERENCE SET FOR 1/14/2020 02:30 PM BEFORE MAGISTRATE JUDGE HENRY S. PERKIN; ETC. AS HEREIN. SIGNED BY MAGISTRATE JUDGE HENRY S. PERKIN ON 12/16/19. 12/17/19 ENTERED AND COPIES E-MAILED.(mas,) (Entered: 12/17/2019)
12/18/2019	15	AMENDED RULE 16 CONFERENCE SCHEDULING ORDER OF 12/18/2019 THAT A TELEPHONIC RULE 16 SCHEDULING CONFERENCE IN THE ABOVE-CAPTIONED CASE WILL BE HELD ON THURSDAY, JANUARY 16, 2020 (INSTEAD OF TUESDAY, JANUARY 14, 2020) AT 2:30PM BEFORE THE UNDERSIGNED. ETC. SIGNED BY MAGISTRATE JUDGE: HENRY S. PERKIN ON 12/18/2019. 12/19/2019 ENTERED AND COPIES E-MAILED. (DT) (Entered: 12/19/2019)
01/16/2020	16	Minute Entry for proceedings held before MAGISTRATE JUDGE HENRY S. PERKIN. Rule 16 Scheduling Conference held on 1/16/20. A telephonic Rule 16 Scheduling conference was conducted in this case. (mas,) (Entered: 01/17/2020)
01/17/2020	17	SCHEDULING ORDER ON OR BEFORE THURSDAY, FEBRUARY 13TH, 2020, COUNSEL FOR PARTIES SHALL CONTACT CHAMBERS AS TO WHETHER THEY HAVE RESOLVED THE MATTER AND, IF NOT, WHETHER THEY PLAN TO USE A PRIVATE MEDIATOR. ALL DISCOVERY IN THIS CASE IS TO BE COMPLETED BY WEDNESDAY, APRIL 15, 2020. ANY DISPOSITIVE MOTIONS, INCLUDING MOTIONS FOR SUMMARY JUDGMENT PURSUANT TO RULE 56 OF THE FEDERAL RULES OF CIVIL PROCEDURE, SHALL BE FILED AND SERVED ON OR BEFORE FRIDAY, MAY 29, 2020. ANY PRETRIAL MOTIONS SHALL BE FILED AND SERVED ON OR BEFORE FRIDAY, JUNE 5, 2020. ON OR BEFORE TUESDAY, JUNE 23, 2020, TRIAL COUNSEL FOR THE PARTIES SHALL FILE WITH THE CLERK AND SERVE A COPY ON THIS OFFICE AND OPPOSING COUNSEL: (A) PRETRIAL MEMORANDA ON ALL LEGAL AND EVIDENTIARY ISSUES EXPECTED TO ARISE AT TRIAL, ETC. A FINAL PRETRIAL CONFERENCE WILL BE HELD ON WEDNESDAY, JULY 1, 2020, AT 9:30 A.M. BEFORE THE UNDERSIGNED IN COURTROOM A, EDWARD N. CAHN UNITED STATES COURTHOUSE, 504 WEST HAMILTON STREET, ALLENTOWN, PENNSYLVANIA. TRIAL OF THE WITHIN CASE SHALL COMMENCE ON TUESDAY, JULY 21, 2020, AT 9:30 A.M. IN COURTROOM A, EDWARD N. CAHN UNITED STATES COURTHOUSE, 504 WEST HAMILTON STREET, ALLENTOWN, PENNSYLVANIA. THIS ORDER SHALL SERVE AS A FORMAL ATTACHMENT FOR TRIAL. ON FRIDAY, AUGUST 21, 2020, AT 9:30 A.M., THE COURT SHALL HOLD CLOSING/FINAL ORAL ARGUMENT ON THE SUBMITTED PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ANY ADDITIONAL LEGAL MEMORANDA. SIGNED BY MAGISTRATE JUDGE HENRY S. PERKIN ON 1/17/20. 1/17/20 ENTERED AND COPIES E-MAILED.(er,) (Entered: 01/17/2020)
02/07/2020	18	NOTICE of Appearance by JUAN P. CAMACHO on behalf of TALEN ENERGY MARKETING, LLC with Certificate of

		Service(CAMACHO, JUAN) (Entered: 02/07/2020)
02/12/2020	19	ORDER THAT DEFENDANTS COUNSEL SHALL SUBMIT A LETTER RESPONSE TO THE MOTION VIA EMAIL TO CHAMBERS AND OPPOSING COUNSEL ON OR BEFORE 12:00 P.M. ON FEBRUARY 14, 2020. SIGNED BY MAGISTRATE JUDGE HENRY S. PERKIN ON 2/12/20. 2/12/20 ENTERED AND COPIES E-MAILED.(mas,) (Entered: 02/12/2020)
02/14/2020	20	MOTION for Leave to File <i>Amended Complaint</i> filed by TALEN ENERGY MARKETING, LLC.Brief, Certificate of Service. (Attachments: # 1 Brief Brief in Support of Motion to Amend Complaint, # 2 Exhibit Exhibits A & B, # 3 Text of Proposed Order Proposed Order)(D'AMICO, JOSEPH) (Entered: 02/14/2020)
02/20/2020	21	Minute Entry for proceedings held before MAGISTRATE JUDGE HENRY S. PERKIN. Status Conference held on 2/20/20. Plaintiff's Motion to Compel Sent to Chambers as Correspondence Dated February 7, 2020. Both sides present argument. Motion taken under advisement. Court Reporter: ESR. (mas,) (Entered: 02/20/2020)
02/20/2020	22	ORDER THAT DEFENDANT SHALL FILE A RESPONSE, IF ANY, TO PLAINTIFF'S MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT ON OR BEFORE 12:00 P.M. ON MONDAY, FEBRUARY 24, 2020. DEFENDANT SHALL PROVIDE A LETTER TO CHAMBERS ON OR BEFORE TUESDAY, FEBRUARY 25, 2020 EXPLAINING THE REASON FOR CLAIMING ATTORNEY-CLIENT PRIVILEGE FOR THE EMAILS DATED AUGUST 27, 2019, OCTOBER 16, 2019, AND OCTOBER 20, 2019 THAT ARE IN DISPUTE. DEFENDANT SHALL FILE AN AFFIDAVIT FROM GENERAL COUNSEL DOUG BATHAUER ON OR BEFORE FEBRUARY 25, 2020 EXPLAINING THE SEARCH METHODS EMPLOYED AND CERTIFYING THAT PRODUCTION IS COMPLETE AND ACCURATE REGARDING PLAINTIFF'S NOVEMBER 22, 2019 REQUEST FOR PRODUCTION OF DOCUMENTS NO. 4. SIGNED BY MAGISTRATE JUDGE HENRY S. PERKIN ON 2/20/20. 2/21/20 ENTERED AND COPIES E-MAILED.(er,) (Entered: 02/21/2020)
02/21/2020	23	<i>Letter from Katharine Hartman, Esquire, to Judge Henry S. Perkin</i> by ALUMINUM SHAPES, LLC. (HARTMAN, KATHARINE) Modified on 2/24/2020 (tjd). (Entered: 02/21/2020)
02/21/2020	24	<i>Letter from Katharine Hartman, Esquire, to Judge Henry S. Perkin</i> by ALUMINUM SHAPES, LLC. (HARTMAN, KATHARINE) Modified on 2/24/2020 (tjd). (Entered: 02/21/2020)
02/25/2020	25	Letter to Judge Perkin re 22 Order,,, Set Motion and R&R Deadlines/Hearings,,, by ALUMINUM SHAPES, LLC. (HARTMAN, KATHARINE) Modified on 2/27/2020 (tjd). (Entered: 02/25/2020)
02/25/2020	26	Declaration re 22 Order,,, Set Motion and R&R Deadlines/Hearings,,, by ALUMINUM SHAPES, LLC. (HARTMAN, KATHARINE) (Entered: 02/25/2020)
03/03/2020	27	ORDER THAT DEFENDANTS 20 MOTION IS GRANTED. IT IS FURTHER ORDRED THAT THE CLERK OF COURT SHALL FILE THE AMENDED COMPLAINT, WHICH IS ATTACHED AS EXHIBIT B TO PLAINTIFFS MOTION. SIGNED BY MAGISTRATE JUDGE HENRY S. PERKIN ON 3/3/20.3/4/20 ENTERED AND COPIES E-MAILED.(mas,) (Entered: 03/04/2020)
03/04/2020	28	AMENDED COMPLAINT against ALUMINUM SHAPES, LLC, filed by TALEN ENERGY MARKETING, LLC.(mas,) (Entered: 03/04/2020)
03/04/2020	29	ORDER THAT DEFENDANT HAS PROVIDED A SUFFICIENT EXPLANATION AS TO THE BASIS FOR CLAIMING PRIVILEGE WITH RESPECT TO THESE EMAILS. SIGNED BY MAGISTRATE JUDGE HENRY S. PERKIN ON 3/4/20. 3/5/20 ENTERED AND COPIES E-MAILED.(mas,) (Entered: 03/05/2020)
03/18/2020	30	ANSWER to 28 Amended Complaint by ALUMINUM SHAPES, LLC.(HARTMAN, KATHARINE) (Entered: 03/18/2020)
03/19/2020	31	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by ALUMINUM SHAPES, LLC.Memorandum, Certificate of Service.**(FILED IN ERROR BY ATTY, ENTERED ON INCORRECT CASE, REFILED ON CORRECT CASE)** (Attachments: # 1 Memorandum, # 2 Text of Proposed Order, # 3 Certificate of Service)(HARTMAN, KATHARINE) Modified on 3/23/2020 (tjd,). (Entered: 03/19/2020)
04/15/2020	32	MOTION for Extension of Time to Complete Discovery (<i>Unopposed</i>) and to <i>Extend Case Management Deadlines by 60 days</i> filed by ALUMINUM SHAPES, LLC.Certificate of Service. (Attachments: # 1 Text of Proposed Order)(HARTMAN, KATHARINE) (Entered: 04/15/2020)
05/07/2020	33	AMENDED ORDER THAT FINAL PRETRIAL CONFERENCE SET FOR 9/8/2020 09:30 AM BEFORE MAGISTRATE JUDGE HENRY S. PERKIN; DISCOVERY DUE BY 6/15/2020; MOTIONS DUE BY 8/5/2020; MOTION FOR SUMMARY JUDGMENT DUE BY 7/29/2020; PLAINTIFF PRETRIAL MEMO DUE BY 8/24/2020; DEFENDANT PRETRIAL MEMO DUE BY 8/24/2020; TRIAL DATE SET FOR 9/21/2020 09:30 AM BEFORE MAGISTRATE JUDGE HENRY S. PERKIN; MOTION HEARING SET FOR 10/22/2020 09:30 AM BEFORE MAGISTRATE JUDGE HENRY S. PERKIN; ETC. AS HEREIN. SIGNED BY MAGISTRATE JUDGE HENRY S. PERKIN ON 5/7/20. 5/8/20 ENTERED AND COPIES E-MAILED.(mas,) (Entered: 05/08/2020)
07/22/2020	34	MOTION for Summary Judgment filed by TALEN ENERGY MARKETING, LLC.Brief, Certificate of Service. (Attachments: # 1 Brief, # 2 Text of Proposed Order, # 3 Certificate of Service, # 4 Appendix, # 5 Exhibit, # 6 Statement of Material Facts in Support of Motion) (D'AMICO, JOSEPH) (Entered: 07/22/2020)
08/17/2020	35	Minute Entry for proceedings held before MAGISTRATE JUDGE HENRY S. PERKIN. Interim Pretrial Conference held on 8/17/20. (mas,) (Entered: 08/17/2020)
08/18/2020	36	SECOND AMENDED RULE 16 ORDER THAT ON OR BEFORE SEPTEMBER 4, 2020, TRIAL COUNSEL FOR THE PARTIES SHALL FILE WITH THE CLERK AND SERVE A COPY ON THIS OFFICE AND OPPOSING COUNSEL: (A) PRETRIAL MEMORANDA ON ALL LEGAL AND EVIDENTIARY ISSUES EXPECTED TO ARISE AT TRIAL, ETC. SIGNED BY MAGISTRATE JUDGE HENRY S. PERKIN ON 8/18/20. 8/18/20 ENTERED AND COPIES E-MAILED.(er,) (Entered: 08/18/2020)
08/28/2020	37	MEMORANDUM. SIGNED BY MAGISTRATE JUDGE HENRY S. PERKIN ON 8/28/20. 8/28/20 ENTERED AND COPIES E-MAILED.(mas,) (Entered: 08/28/2020)
08/28/2020	38	ORDER THAT PLAINTIFFS 34 MOTION FOR SUMMARY JUDGMENT AS TO COUNT I BREACH OF CONTRACT IS GRANTED. THE JUDGMENT SHALL ENCOMPASS THE PRINCIPAL OF \$1,066,719.02 AS WELL AS INTEREST IN ACCORDANCE WITH THE TERMS OF THE SUBJECT CONTRACT, COLLECTION COSTS, AND ATTORNEYS FEES. PLAINTIFF SHALL SUBMIT A POST-JUDGMENT MOTION FOR ASSESSMENT OF INTEREST IN ACCORDANCE WITH THE TERMS OF THE SUBJECT CONTRACT, COLLECTION COSTS, AND ATTORNEYS FEES ON OR BEFORE SEPTEMBER 14, 2020. DEFENDANT SHALL

		FILE ANY RESPONSE TO THE POST-JUDGMENT MOTION WITHIN FOURTEEN (14) DAYS AFTER SERVICE OF THE MOTION. SIGNED BY MAGISTRATE JUDGE HENRY S. PERKIN ON 8/28/20. 8/31/20 ENTERED AND COPIES E-MAILED.(mas,) (Entered: 08/31/2020)
09/09/2020	39	MOTION to <i>Mold Judgment to Include Attorney's Fees, Expenses and Interest</i> filed by TALEN ENERGY MARKETING, LLC. Brief, Certificate of Service. (Attachments: # 1 Text of Proposed Order, # 2 Brief)(D'AMICO, JOSEPH) Modified on 9/11/2020 (tjd). (Entered: 09/09/2020)
09/23/2020	40	RESPONSE to Motion re 39 MOTION to Alter Judgment <i>Mold Judgment to Include Attorney's Fees, Expenses and Interest with Exhibit A and Certificate of Service</i> filed by ALUMINUM SHAPES, LLC. (HARTMAN, KATHARINE) (Entered: 09/23/2020)
02/12/2021	41	MEMORANDUM. SIGNED BY MAGISTRATE JUDGE HENRY S. PERKIN ON 2/12/21. 2/12/21 ENTERED AND COPIES E-MAILED.(er,) (Entered: 02/12/2021)
02/12/2021	42	ORDER THAT THE MOTION TO MOLD JUDGMENT TO INCLUDE ATTORNEYS FEES AND EXPENSES, PRE-JUDGMENT INTEREST, AND POST-JUDGMENT INTEREST (ECF NO. 39), IS GRANTED, IN PART, AND DENIED, IN PART, AS DESCRIBED IN THE ACCOMPANYING MEMORANDUM. IT IS FURTHER ORDERED THAT JUDGMENT IS ENTERED IN FAVOR OF PLAINTIFF TALEN ENERGY MARKETING, LLC AND AGAINST DEFENDANT, ALUMINUM SHAPES, LLC IN ACCORDANCE WITH FEDERAL RULE OF CIVIL PROCEDURE 58(A). SPECIFICALLY, DEFENDANT IS ORDERED TO PAY PLAINTIFF: THE PRINCIPAL AMOUNT OF \$1,066,719.02, ATTORNEY'S FEES IN THE AMOUNT OF \$31,799.50; EXPENSES IN THE AMOUNT OF \$1,740.40; PRE-JUDGMENT INTEREST IN THE AMOUNT OF \$457,488.59; AND POST-JUDGMENT INTEREST AT THE RATE OF 0.06% ON 1,524,207.61, TO BE COMPUTED DAILY AND COMPOUNDED ANNUALLY, UNTIL THE JUDGMENT IS PAID IN FULL PURSUANT TO 28 U.S.C. § 1961. SIGNED BY MAGISTRATE JUDGE HENRY S. PERKIN ON 2/12/21. 2/12/21 ENTERED AND COPIES E-MAILED.(er,) (Main Document 42 replaced on 2/16/2021) (er,). (Entered: 02/12/2021)
03/16/2021	43	Pracipe for Writ of Execution by TALEN ENERGY MARKETING, LLC. (Attachments: # 1 Writ & Notice)(D'AMICO, JOSEPH) (Entered: 03/16/2021)
03/18/2021		WRIT OF EXECUTION ISSUED (jaa,) (Entered: 03/18/2021)
03/29/2021	44	US Marshal Return Re: Service of Writ of Attachment on 3/29/21. (jaa,) (Entered: 03/29/2021)
04/15/2021	45	NOTICE of Appearance by CHRISTIE CALLAHAN COMERFORD on behalf of ALUMINUM SHAPES, LLC with Certificate of Service(COMERFORD, CHRISTIE) (Entered: 04/15/2021)
04/15/2021	46	NOTICE of Withdrawal of Appearance by KATHARINE VIRGINIA HARTMAN on behalf of ALUMINUM SHAPES, LLC(HARTMAN, KATHARINE) (Entered: 04/15/2021)
04/27/2021	47	MOTION to Compel <i>Defendant's Attendance at Deposition in Aid of Execution & Request for Sanctions</i> filed by TALEN ENERGY MARKETING, LLC.Memorandum, Certificate of Service. (Attachments: # 1 Exhibit 1 - 6, # 2 Text of Proposed Order, # 3 Memorandum) (D'AMICO, JOSEPH) (Entered: 04/27/2021)
05/17/2021	48	Pracipe to Dissolve Attachment by TALEN ENERGY MARKETING, LLC. (D'AMICO, JOSEPH) (Entered: 05/17/2021)
05/25/2021	49	ORDER THAT THE MOTION TO COMPEL DEFENDANT'S ATTENDANCE AT A DEPOSITION IN AID OF EXECUTION AND REQUEST FOR SANCTIONS (ECF NO. 47), IS GRANTED AS UNOPPOSED, ETC. SIGNED BY MAGISTRATE JUDGE HENRY S. PERKIN ON 5/25/21.5/26/21 ENTERED AND COPIES E-MAILED.(er,) (Entered: 05/26/2021)
06/03/2021	50	ORDER OF 6/3/21 THAT AFTER REVIEW OF PLAINTIFF'S SUBMISSION OF ITS BILLING RECORDS RELATED TO THE ATTORNEY'S FEES AND EXPENSES INCURRED AS A RESULT OF DEFENDANT'S FAILURE TO ATTEND THE DEPOSITION, IT IS ORDERED AS FOLLOWS: ON OR BEFORE TUESDAY JUNE 8, 2021, DEFENDANT SHALL SUBMIT A RESPONSE TO THE COURT IF IT OPPOSES THE REQUESTED FEES AND EXPENSES AS UNREASONABLE. IF NO RESPONSE IS SUBMITTED, THE COURT WILL GRANT PLAINTIFF'S REQUEST FOR SANCTIONS, IN THE AMOUNT DOCUMENT IN THE INVOICE, AS UNOPPOSED. SIGNED BY MAGISTRATE JUDGE: HENRY S. PERKIN ON 6/3/21. 6/3/21 ENTERED AND COPIES E-MAILED. (DT) (Main Document 50 replaced on 6/3/2021) (dt,). (Entered: 06/03/2021)
08/03/2021	51	ORDER THAT PLAINTIFF'S MOTION FOR SANCTIONS IN THE AMOUNT OF \$1,049.00 IS GRANTED AS UNCONTESTED PURSUANT TO RULE 7.1(C) OF THE RULES OF CIVIL PROCEDURE FOR THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, ETC. SIGNED BY MAGISTRATE JUDGE HENRY S. PERKIN ON 8/3/21. 8/4/21 ENTERED AND COPIES E-MAILED. (er,) Modified on 8/4/2021 (er,). (Entered: 08/04/2021)
08/20/2021	52	SUGGESTION OF BANKRUPTCY by ALUMINUM SHAPES, LLC under Chapter Number 11 of the Bankruptcy Code in the Bankruptcy Court for the District of New Jersey filed under case number 21-16520-JNP . (SHAPIRO, MATHIEU) (Entered: 08/20/2021)
08/20/2021	53	NOTICE of Appearance by MATHIEU J. SHAPIRO on behalf of ALUMINUM SHAPES, LLC (SHAPIRO, MATHIEU) (Entered: 08/20/2021)
08/22/2021	54	NOTICE of Withdrawal of Appearance by CHRISTIE CALLAHAN COMERFORD on behalf of ALUMINUM SHAPES, LLC(COMERFORD, CHRISTIE) (Entered: 08/22/2021)
08/22/2021	55	NOTICE of Withdrawal of Appearance by THOMAS S. BIEMER on behalf of ALUMINUM SHAPES, LLC(BIEMER, THOMAS) (Entered: 08/22/2021)

PACER Service Center			
Transaction Receipt			
10/15/2021 11:54:29			
PACER Login:	melissablanc	Client Code:	
Description:	Docket Report	Search Criteria:	5:19-cv-04303-HSP
Billable Pages:	6	Cost:	0.60

Exhibit B

U.S. District Court
District of New Jersey [LIVE] (Camden)
CIVIL DOCKET FOR CASE #: 1:21-mc-00003-RBK

TALEN ENERGY MARKETING, LLC v. ALUMINUM SHAPES, LLC

Date Filed: 04/09/2021

Assigned to: Judge Robert B. Kugler

Case in other court: USDC- EASTERN DISTRICT OF PENNSYLVANIA, 5:19-cv-04303-HSP

Plaintiff**TALEN ENERGY MARKETING, LLC**

V.

Defendant**ALUMINUM SHAPES, LLC**

Date Filed	#	Docket Text
04/09/2021	1	REGISTRATION of Foreign Judgment entered on 02/12/2021 in the District of EASTERN DISTRICT OF PENNSYLVANIA in favor of TALEN ENERGY MARKETING, LLC against ALUMINUM SHAPES, LLC in the amount of \$1,557,747.51, filed by TALEN ENERGY MARKETING, LLC. (Filing Fee: \$47.00 receipt #CAM012583) (Attachments: # 1 COVER LETTER, # 2 ORDER, # 3 RECEIPT, # 4 ENVELOPE)(pr,) Modified on 4/16/2021 (dd). (Entered: 04/15/2021)
04/28/2021	2	Letter request to issue Writ of Execution from Heather M. Rivera. (rss,) (Entered: 04/28/2021)
04/28/2021		Writ of Execution Issued recorded in Book C21 Page 9 of Executions (Sent to USM). (rss,) (Entered: 04/28/2021)

PACER Service Center			
Transaction Receipt			
10/15/2021 11:49:40			
PACER Login:	melissablanca	Client Code:	
Description:	Docket Report	Search Criteria:	1:21-mc-00003-RBK Start date: 1/1/1980 End date: 10/15/2021
Billable Pages:	1	Cost:	0.10