

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

SYMONS INTERNATIONAL GROUP, INC.,)
BRADFORD T. WHITMORE,)

Plaintiffs,)

vs.)

CONTINENTAL CASUALTY COMPANY,)

Defendant.)

CONTINENTAL CASUALTY COMPANY,)
1911 CORP., and)
SUPERIOR INSURANCE GROUP,)

Counter Claimants,)

vs.)

SYMONS INTERNATIONAL GROUP, INC.,)

Counter Defendant.)

SUPERIOR INSURANCE GROUP,)

Cross Claimant,)

vs.)

BOSE MCKINNEY & EVANS LLP,)
CONTINENTAL CASUALTY COMPANY,)
BRADFORD T. WHITMORE,)

Cross Defendants.)

1:01-cv-00799-RLY-MJD

_____)
CONTINENTAL CASUALTY COMPANY,)
1911 CORP.,)
Third Party Plaintiffs,)
vs.)
ALAN G SYMONS,)
ROBERT SYMONS, as successor in interest)
to G. GORDON SYMONS,)
GRANITE REINSURANCE COMPANY,)
LTD.,)
GORAN CAPITAL, INC.,)
SUPERIOR INSURANCE GROUP,)
BOSE MCKINNEY & EVANS LLP,)
Third Party Defendants.)
_____)
Florida Department of Financial Services,)
Intervenor Plaintiff,)
vs.)
CONTINENTAL CASUALTY COMPANY,)
BRADFORD T. WHITMORE, individually)
and as Special Trustee under a certain)
Amended and Restated Declaration of Trust)
dated August 12, 1997, and SUPERIOR)
INSURANCE GROUP, INC.)
Superior Interpleader)
Defendants.)
_____)

ORDER ON MOTION FOR RELEASE OF FUNDS

Superior Insurance Group, Inc. moves the court to release the sum of \$350,000 to it or to a neutral third-party so that it can run its business and pay its bills, e.g., make its payroll and pay the various taxes owed to the state and federal government. Continental Casualty Company (“CCC”), Bradford T. Whitmore, and the Wilmington Trust Company (WTC”), object.

The only evidence filed in support of this motion is the Affidavit of Douglas Symons, wherein he testified that Superior Insurance Group has been unable to pay its payroll taxes to the Internal Revenue Service, and is now seeking to hold him liable for the same. (Affidavit of Douglas Symons ¶¶ 5-6). In addition, Superior Insurance Group attached a copy of a federal tax lien, dated July 5, 2013, in the amount of \$59,126. It provides no evidence to substantiate its need for an additional \$290,000. Most importantly, Superior Insurance Group fails to provide any legal justification as to why it is entitled to payment of those funds ahead of a judgment creditor like CCC, and competing claimants like Whitmore and WTC. Accordingly, Superior Insurance Group’s Motion for Release of Funds (Docket # 474) is **DENIED**.

SO ORDERED this 30th day of September 2013.



RICHARD L. YOUNG, CHIEF JUDGE
United States District Court
Southern District of Indiana

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