

COPY

DOCKETED
U. S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

JAN - 8 1981

LUBBOCK DIVISION

JOSEPH McELROY JR., CLERK
BY *[Signature]*
Deputy

LANE FARMS, INC., d/b/a
J.W. NICHOLS CO.,

PLAINTIFF

VS.

E. & B. INC., d/b/a
ACO SALES, A Corporation,
BERNARD S. GILMAN AND
ED LA FORTE,

DEFENDANTS

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CIVIL ACTION NO.

CA 5-80-117

AGREED JUDGMENT

On the 8th day of January, 1981, wherein LANE FARMS, INC. d/b/a J.W. NICHOLS CO., a corporation, is PLAINTIFF and E. & B. INC., d/b/a ACO SALES, a corporation, BERNARD S. GILMAN, individually and ED LA FORTE, individually, are DEFENDANTS, came on to be heard said cause by agreement. The parties, by and through their respective attorneys of record announced to the Court that they had agreed to the entry and rendition of an Agreed Judgment. The parties further announced by and through their attorneys of record that they had entered into a comprehensive compromise and settlement agreement, a copy of which is on file herein. The Court finds that such compromise and settlement agreement is fair and equitable and should be approved.

The Court finds that all parties have personally appeared herein and have answered herein and all parties have personally submitted themselves through their personal appearance and the appearance of their attorney to the jurisdiction of this Court and all parties have waived all objections to venue. The Court further finds that all of the DEFENDANTS have agreed that PLAINTIFF is entitled to a Judgment as a matter of fact and law.

The Court further finds that as between PLAINTIFF, LANE FARMS, INC., d/b/a J.W. NICHOLS CO., a corporation, and DEFENDANT, E. & B., INC., d/b/a ACO SALES, the respective parties have agreed the Judgment herein entered and rendered is based upon the sworn account set forth in Plaintiff's Original Complaint on file herein and referred to as Exhibit "A" in the Original Complaint on file herein; and that such debt alleged by PLAINTIFF in

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its Original Complaint and by its sworn account is just, due and owing by DEFENDANT, E. & B., INC., d/b/a ACO SALES to PLAINTIFF, LANE FARMS, INC., d/b/a J.W. NICHOLS.CO., a corporation, for goods sold and delivered by PLAINTIFF to DEFENDANT, E. & B., INC., d/b/a ACO SALES, as ordered by said DEFENDANT.

The Court further finds that as between PLAINTIFF LANE FARMS, INC., d/b/a J.W. NICHOLS CO., a corporation, and DEFENDANTS, BERNARD S. GILMAN, individually, and ED LA FORTE, individually, the parties have agreed that the Agreed Judgment entered herein is based upon a written guaranty of the account sued upon by PLAINTIFF, which written guaranty is referred to as Exhibit "B" in the Original Complaint of PLAINTIFF filed herein; and the parties have further agreed that such debt sued upon and covered by said guaranty of the account sued upon is just, due and owing by virtue of the guaranty, by DEFENDANTS, BERNARD S. GILMAN, individually, and ED LA FORTE, individually, to PLAINTIFF, LANE FARMS, INC., d/b/a J.W. NICHOLS CO., a corporation.

The Court further finds that DEFENDANTS, BERNARD S. GILMAN, individually and ED LA FORTE, individually, have agreed that they are jointly and severally liable for the debt sued upon by virtue of the above-mentioned written guaranty.

The Court further finds that it should enter this Agreed Judgment by virtue of the agreements of the parties and the personal appearance of all DEFENDANTS, and that all of the DEFENDANTS have approved and agreed to the entry and rendition of this JUDGMENT as is evidenced by their signatures which are affixed hereinbelow.

The Court further finds that by agreement of the parties, all motions challenging the jurisdiction of the Court filed herein are overruled by this Court and the Court finds that this Court does in fact have jurisdiction against all DEFENDANTS.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that PLAINTIFF, LANE FARMS, INC., d/b/a J.W. NICHOLS CO., a corporation, have and recover of and from DEFENDANTS, E. & B., INC., a corporation, d/b/a ACO SALES, BERNARD S. GILMAN, individually, and ED LA FORTE, individually, jointly and severally, the sum of thirty-five thousand, eight hundred fifty-three dollars and sixty-three cents (\$35,853.63) which represents the

principal amount of the account sued upon plus interest at the rate of six per cent (6%) per annum from and after June 29, 1980, as agreed to date of this Judgment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that PLAINTIFF have and recover from all DEFENDANTS, jointly and severally, post-judgment interest at the rate of nine (9%) per cent per annum from date of this Judgment until fully paid.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that PLAINTIFF, have and recover from all DEFENDANTS, jointly and severally, agreed reasonable attorney's fees totalling Eight Thousand Five Hundred Fifty-Seven and Sixty-Five/100ths Dollars (\$ 8,557.65) and Judgment interest thereon at the rate of (9%) per cent per annum from date of this Judgment.

All costs of Court are hereby taxed against DEFENDANT, jointly and severally, for which let execution issue.

Signed, entered and rendered this 8th day of January, 1981.

Walter H. Walters
JUDGE PRESIDING

APPROVED AND AGREED:

McCleskey, Harriger,
Brazill & Graf
P.O. Drawer 6170
Lubbock, Texas 79413
(806) 797-3411

Attorneys for Defendants,
E. & B. Inc., d/b/a
Aco Sales, a corporation,
Ed La Forte, individually,
and Bernard S. Gilman,
individually

By *George H. McCleskey*
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Lane Farms, Inc.,
d/b/a J. W. Nichols Co.,
a corporation

By *James A. Walters*
James A. Walters,
of Counsel

REQUESTED BY
James A. Walters
IN OFFICIAL RECORDS OF
DOUGLAS CO. NEVADA
\$ 6.00 pt.
1982 MAY 24 AM 10: 58

SUZANNE BEAUDREAU
RECORDER

Cass J. Lehart
Dep.

APPROVED, AGREED TO AND
CONFESSED WHERE APPLICABLE:

E. & B. Inc., d/b/a/ Aco Sales,
a corporation

By *Ray Gil*
President

By *Ed La Forte*
Secretary

Bernard S. Gilman, individually

By *Ray Gil*
Bernard S. Gilman

Ed La Forte, individually

By *Ed La Forte*
Ed La Forte

Certified a true copy of an instrument
on file in my office on 5-12-82
JOSEPH McELROY, JR., Clerk, U.S. District
Court, Northern District of Texas
By *Joseph McElroy* Deputy

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