



By Order of the Court, Judge PERRY B. INOS

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FOR PUBLICATION

IN THE SUPERIOR COURT  
OF THE  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

PASAPIKO, INC.,	)	CIVIL CASE NO. 11-0329
	)	
Plaintiff,	)	
	)	
v.	)	ORDER DENYING PLAINTIFF'S
	)	MOTION FOR SUMMARY JUDGMENT
WHITE HOUSE ENTERPRISES,	)	
	)	
Defendant.	)	
	)	

**I. INTRODUCTION**

**THIS MATTER** came before the Court on May 16, 2012 on Plaintiff Pasipiko, Inc.'s Motion for Summary Judgment. Upon thorough review of the pleadings, motions and associated affidavits, oral argument, and relevant law, the Court now renders this written decision.

**II. FACTUAL AND PROCEDURAL BACKGROUND**

On December 8, 2011 Plaintiff Pasipiko, Inc., doing business as Korean Business Center ("Plaintiff"), sued White House Enterprises ("Defendant") seeking \$7,939.65 in principal, pre-judgment interest, and court costs for an alleged unpaid balance on tax and accounting services provided to Defendant.

On April 6, 2012, Plaintiff filed a Motion for Summary Judgment and Memorandum in support thereof ("Motion"), seeking summary judgment pursuant to Rule 56(c). Plaintiff argues

1 that there are no issues of material fact and that it is entitled to judgment as a matter of law. The  
2 Motion is supported by an affidavit including a statement of account. On May 3, 2012, Defendant  
3 filed an Opposition to Motion for Summary Judgment, (“Opposition”), supported by an affidavit  
4 including a statement of payments, a hand-written ledger, and two cancelled checks.

### 5 **III. DISCUSSION**

6 The Court must determine whether Plaintiff is entitled to summary judgment. The movant is  
7 entitled to summary judgment where “the pleadings, depositions, answers to interrogatories, and  
8 admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any  
9 material fact...” NMI R. Civ. P. 56(c). The moving party bears both the initial and the ultimate  
10 burden of establishing its entitlement to summary judgment. *Furuoka v. Dai-Ichi Hotel (Saipan),*  
11 *Inc.*, 2002 MP 5 ¶ 24. If a moving party is the plaintiff, he or she must prove that the undisputed  
12 facts establish every element of the presented claim. *Id.* Should the moving party satisfy its initial  
13 burden, the nonmoving party must then respond by establishing that a genuine issue of material fact  
14 exists in order to withstand the motion. *Id.* Where no genuine issue as to any material fact exists,  
15 the movant is entitled to judgment as a matter of law. NMI R. Civ. P. 56(c). A disputed fact is  
16 considered material “if its determination may affect the outcome of the case.” *Triple J Saipan, Inc.*  
17 *v. Agulto*, 2002 MP 11 ¶ 8 (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-49 (1986)).  
18 In considering the motion, the Court views facts and inferences in the light most favorable to the  
19 non-moving party. *Aplus Co. v. Niizeki Int'l Saipan Co.*, 2006 MP 13 ¶ 10.

20 Here, Plaintiff cannot meet its initial burden to prove that the undisputed facts establish  
21 every element of the presented claim. It is undisputed that Plaintiff provided tax and accounting  
22 services for Defendant, but that is where the agreement ends. Plaintiff alleges that Defendant owes  
23 it money based on non-payment for these services. The Complaint alleges the amount of the debt,  
24 the basis for prejudgment interest and alleges that no payment has been received. Defendant replied

1 disputing that any debt for accounting services or prejudgment interest was owed and disputing  
2 whether any debt had been paid.

3 The affidavits submitted in support of judgment reveal issues of material fact. Plaintiff's  
4 Motion is supported by the declaration of Hyoungh Keun Oh containing a statement of account (Pl.'s  
5 Ex. A) reflecting a balance of \$7,939.65 as alleged in the complaint. Defendant's Opposition is  
6 accompanied by a declaration of Joon Park, the son of the owners of White House Enterprises, Inc.,  
7 which alleges that Plaintiff's summary does not accurately reflect payments. Defendant submitted  
8 its own statement of payment, a hand-written ledger reflecting payments, and two cancelled checks,  
9 (collectively, "Defendant's Exhibit 1"), which demonstrate that by Defendant's account, Plaintiff's  
10 statement does not accurately reflect payments. For example, Defendant's written ledger reflects  
11 ten payments made to Plaintiff totaling \$3,938.00 from January 22, 2005 through October 5, 2005  
12 (Def.'s Ex. 1 at 5), whereas Plaintiff's statement does not reflect any payments for the same time  
13 period (Pl.'s Ex. A at 1).<sup>1</sup> Moreover, the Opposition suggests that Defendant is unable to determine  
14 if any amount is due because Plaintiff is in possession of its corporate and tax business records and  
15 refuses to turn them over. (Opp'n at 2); (Def.'s Decl. at 2). Thus, this case would benefit from  
16 discovery. The liability and amount owed are both disputed. These are the primary issues in the  
17 case, and the facts related to them are clearly material. *Triple J*, 2002 MP 11 ¶ 8. Viewed in the  
18 light most favorable to Defendant, there are genuine issues of material fact suitable for trial  
19 precluding summary judgment.

20 **IV. CONCLUSION**

21 For the aforementioned reasons the Motion is **DENIED**.

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24 <sup>1</sup> Review of the two affidavits and supporting documentation reveals numerous such discrepancies.

