

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION**

PNC BANK, NATIONAL ASSOCIATION :	:	May Term 2005
	:	
Plaintiff,	:	No. 1386
v.	:	
	:	Commerce Program
WILLIAM JOHNSON	:	
	:	Control No. 081496
Defendant.	:	

**ORDER**

**AND NOW**, this 19<sup>th</sup> day of October, 2005, upon consideration of the Petition to Open Judgment by Confession of Defendant William Johnson and the response thereto, and in accordance with the attached memorandum, it is hereby **ORDERED** and **DECREED** that Defendant William Johnson's Petition is **DENIED**.

**BY THE COURT,**

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**HOWLAND W. ABRAMSON, J.**

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**MEMORANDUM**

Presently before the court is the Petition to Open Judgment by Confession of Defendant William Johnson (“Johnson”). A confessed judgment in the amount of \$173,556.35, plus interest, was entered in favor of Plaintiff PNC Bank, National Association (“PNC”), which opposes the Petition.

In September 2003, PNC extended a business loan to Odyssey Waste Services, LLC (“Odyssey”). In conjunction with the loan, Johnson entered into a guaranty with PNC (the “Guaranty”), making him the guarantor of Odyssey’s indebtedness to PNC. In particular, the Guaranty covers all of Odyssey’s debts “now existing or hereinafter created” and binds Johnson to all “extensions, renewals, substitutions or modifications” of such indebtedness. One provision in the Guaranty is a warrant of attorney to confess judgment which enables PNC to proceed directly against Johnson for failure to meet his obligations under the Guaranty.

On September 21, 2004, Odyssey and PNC entered into a promissory note to memorialize a modification of Odyssey’s debt. Johnson concurrently reaffirmed his understanding of the Guaranty and its confession of judgment provision. Following

Odyssey's default under the promissory note, PNC made a demand of Johnson under the Guaranty. As Johnson did not meet his obligations, PNC had a confessed judgment entered on May 10, 2005.

To open the confessed judgment, Johnson must act promptly, allege a meritorious defense, and present sufficient evidence of that defense to require submission of the issues to the jury. Iron Worker's Sav. & Loan Ass'n v. IWS, Inc., 424 Pa. Super. 255, 261, 622 A.2d 367, 370 (1993). The evidence needs to be clear, direct, precise and believable. Id., 262, 370.

Johnson alleges that the validity and amount of the debt in the confessed judgment are in dispute. Johnson, however, presents no evidence in support of this assertion. Such an unsupported allegation does not state a prima facie ground for relief. Pittsburgh v. Allegheny County Distribs., Inc., 339 Pa. Super. 109, 112, 488 A.2d 333, 334 (1985).

Johnson also asserts that PNC lacks the authority to confess judgment against him. Although Johnson contends the Guaranty's warrant of attorney was extinguished by the failure to reassert it in connection with the promissory note, he presents no authority to support this assertion. The Guaranty clearly states that Johnson's obligation is a continuing one and covers all of Odyssey's indebtedness to PNC. Such language is valid in Pennsylvania. Citicorp N. Am. v. Thornton, 707 A.2d 536 (Pa. Super. 1998). Furthermore, in connection with the promissory note, Johnson acknowledged his understanding of the Guaranty and its confession of judgment provision. Therefore, neither of Johnson's defenses is sufficient to open the confessed judgment.

**BY THE COURT,**

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**HOWLAND W. ABRAMSON, J.**