

IN THE SUPREME COURT OF THE STATE OF NEVADA

SUNRISE SECURITIES CORP., A NEW
YORK CORPORATION,

Appellant,


vs.

ALFRED J. ANZALONE, AN
INDIVIDUAL, AND THE ALFRED J.
ANZALONE FAMILY LIMITED
PARTNERSHIP, A NEVADA LIMITED
PARTNERSHIP,
Respondents.

No. 49052

FILED

FEB 05 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER REVERSING IN PART AND AFFIRMING IN PART

This is an appeal from a district court order awarding appellant postjudgment interest, attorney fees and costs. Eighth Judicial District Court, Clark County; Allan R. Earl, Judge.

The initial dispute between the parties arose over respondent Alfred Anzalone's refusal to return some shares of stock mistakenly deposited by appellant into Anzalone's account. In 2001, the United States District Court for the Southern District of New York confirmed a National Association of Securities Dealers, Inc., arbitration award in appellant's favor. Anzalone failed to pay the judgment.

In 2002, appellant filed the underlying lawsuit in Nevada, seeking to enforce the New York judgment. During postjudgment discovery, appellant located the Alfred J. Anzalone Family Limited Partnership (FLP), an entity which appellant alleged was used by Anzalone to divest himself of assets to avoid payment on the judgment. The district court agreed that the FLP was Anzalone's alter ego and added

the FLP as a judgment debtor to the original judgment. The district court then awarded appellant postjudgment interest, attorney fees, and costs against respondents. This appeal followed.

Appellant contends that the district court incorrectly (1) assigned different dates with regard to when interest began to accrue on the judgment against Anzalone and the FLP; (2) awarded simple rather than compound interest; and (3) awarded reduced attorney fees and costs.

We review the district court's legal conclusions, such as its determination of the interest type and its accumulation date, *de novo*. Buzz Stew, LLC v. City of N. Las Vegas, 124 Nev. ___, ___, 181 P.3d 670, 672 (2008). We review the district court's award of attorney fees and costs for an abuse of discretion. Albios v. Horizon Communities, Inc., 122 Nev. 409, 417, 132 P.3d 1022, 1027-28 (2006) (attorney fees); Bobby Berosini, Ltd. v. PETA, 114 Nev. 1348, 1352, 971 P.2d 383, 385 (1998) (costs).

Interest accumulation date

In Nevada, a judgment debtor and his alter ego are treated as identical entities for the purposes of judgment execution. McCleary Cattle Co. v. Sewell, 73 Nev. 279, 317 P.2d 957 (1957), overruled on other grounds by Callie v. Bowling, 123 Nev. ___, 160 P.3d 878 (2007). Therefore, the district court erred in assigning a different date for when interest began to accumulate against Anzalone's alter ego FLP than that for Anzalone himself. Accordingly, we reverse the portion of the district court's order addressing the date of interest accumulation as to the FLP. Interest against both co-debtors should accrue from the same date, September 28, 2001.

Nature of interest awarded

The award of interest in this case is governed by NRS 17.130(2), stating that the postjudgment interest computation in a

proceeding to enforce a foreign judgment is subject to either the parties' contract, the judgment against the party, or as otherwise provided by law. Accordingly, the interest computation in this case is governed by the New York judgment against respondents. Because the original judgment was entered in New York and the interest rate was set at 9 percent per annum according to N.Y.C.P.L.R. § 5004 (2007), the Nevada court correctly set the interest rate at 9 percent. Further, because the district court was enforcing the New York judgment according to its terms, which did not provide for compound interest, the district court correctly ordered simple interest. Accordingly, we affirm the portion of the district court's order awarding appellant simple interest at 9 percent.

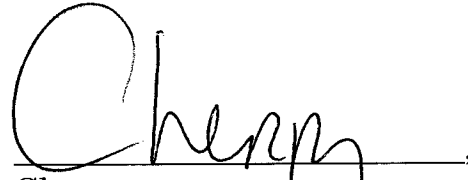
Attorney fees and costs


After appellant requested \$110,558.10 in attorney fees and \$5,556.10 in costs for postjudgment discovery and litigation, the district court awarded appellant \$50,000 in attorney fees and \$2,500 in costs under NRS 18.010(2)(b). Appellant argues that the district court abused its discretion when it reduced attorney fees and applied incorrect standards when evaluating appellants fees and costs request. Because appellant's appendix is incomplete, containing only excerpts from its motion for attorney fees and the hearing transcript, we are unable to evaluate appellant's arguments. When the record on appeal does not contain evidence supporting the appellant's arguments, we assume that missing portions of the record support the district court's decision. M & R Investment Co. v. Mandarino, 103 Nev. 711, 718, 748 P.2d 488, 493 (1987). Accordingly, we affirm the portion of the district court's order awarding attorney fees and costs to appellant.

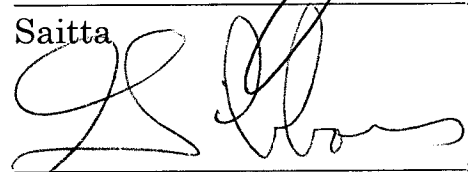
Based on the discussion above, we reverse the portion of the district court's order addressing the date of the interest accumulation and

conclude that interest against both co-debtors accrues from the same date, September 28, 2001. We affirm the remaining portions of the district court's order.

It is so ORDERED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Allan R. Earl, District Judge
Israel Kunin, Settlement Judge
Law Office of Gregory F. Buhyoff
Alfred J. Anzalone
Eighth District Court Clerk