

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
RADNOR HOLDINGS CORPORATION,)	Case No. 06-10894 (PJW)
et al.,)	
)	(Jointly Administered)
Debtors.)	
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)	
RADNOR HOLDINGS CORPORATION,)	
et al., Debtors in Possession,)	
)	
Plaintiffs,)	
)	
v.)	Adv. Proc. No. 08-51184 (PJW)
)	
PPT CONSULTING, LLC,)	
)	
Defendant.)	

MEMORANDUM OPINION

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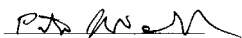
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Dated: January 9, 2009

WALSH, J.



This opinion is with respect to the motion (Doc. # 16) of Defendant PPT Consulting, LLC ("PPT") to dismiss the Complaint filed by Plaintiffs Radnor Holdings Corporation, et al. ("Radnor"). For the reasons stated below, I will deny the motion.

BACKGROUND

Radnor filed its complaint on August 12, 2008. (Doc. # 1.) On September 3, 2008, Radnor sent copies of the Complaint and summons by United States first class mail to PPT at the following address: Isabelle Bottke, Principal, PPT Consulting, LLC, 15 Paper Mill Road, Newtown Square, PA 19073. (Doc. # 19, ex. A.) On September 23, 2008, PPT filed a motion to dismiss the adversary proceeding, arguing that Radnor's attempted service upon PPT was ineffective because Radnor improperly served the wrong individual. (Doc. # 16.) In its motion, PPT notes that the proper individual for purposes of serving process on PPT is a matter of public record on file with the Pennsylvania Department of State and that the public record identifies Kathleen Bellwoar, the President of PPT, as the proper individual. (Id. at ¶ 6.)

On November 20, 2008, Radnor sent copies of the Complaint and summons by United States first class mail to PPT to the following address on file with the Pennsylvania Department of State and acknowledged as the correct service address by PPT: Kathleen Bellwoar, President, PPT Consulting, LLC, 15 Paper Mill Road,

Newtown Square, PA 19073. (Doc. # 19, ex. B.) Radnor argues that this subsequent service moots PPT's motion because Radnor has served the correct individual in the time allowed under Federal Rule of Civil Procedure 4(m). (Id. at pp. 2-3.)

DISCUSSION

In order for a federal court to exercise jurisdiction over a defendant, process of service must be effectuated. See Omni Capital Int'l Ltd. v. Rudolf Wolff & Co., 484 U.S. 97, 104 (1987). Pursuant to Federal Rule of Civil Procedure 4(m), made applicable to these proceedings by Federal Rule of Bankruptcy Procedure 7004(a)(1), a plaintiff has 120 days from the date of a complaint is filed to properly serve a defendant: "If a defendant is not served within 120 days after the complaint is filed, the court . . . must dismiss the action without prejudice against that defendant or order that service be made within a specified time." Pursuant to Federal Rule of Bankruptcy Procedure 7004(b)(3), an unincorporated association, such as PPT, may be served "by mailing [via first class mail postage prepaid] a copy of the summons and complaint to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process" See also McCullough v. I.P., L.L.C., 295 B.R. 573 (Bankr. S.C. 2003) (applying Rule 7004(b)(3) where the defendants to be served included two limited liability companies).

On November 20, 2008, less than 120 days after the Complaint was filed, Radnor sent via first class United States mail with postage prepaid a copy of the Complaint and summons to the attention of PPT's President, an officer of PPT. The service was properly made as acknowledged by an affidavit of service. (Doc. # 19, ex. C.) See also Mountain Nat'l Bank v. Brackett, 243 B.R. 910, 914 (Bankr. N.D. Ga. 2000) (noting that an "affidavit of service constitutes prima facie evidence of proper service"). Regardless of whether Radnor's first attempt at service was ineffective, Radnor properly served PPT pursuant to Fed. R. Bankr. P. 7004(b)(3) within the time allotted by Fed. R. Civ. P. 4(m). Accordingly, valid service was made and the deficiencies claimed in PPT's motion have been mooted.

CONCLUSION

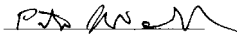
For the reasons stated above, I will deny PPT's motion to dismiss the Complaint and will allow the adversary proceeding to continue.

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PPT CONSULTING, LLC,)	
)	
Defendant.)	

ORDER

For the reasons set forth in the Court's memorandum opinion of this date, the motion (Doc. # 16) of Defendant PPT Consulting, LLC to dismiss the complaint is denied.



Peter J. Walsh
United States Bankruptcy Judge

Dated: January 9, 2009