STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

JGM WORLDWIDE CHROME, LLC,

Plaintiff,

v

Case No. 16-151600-CB
Hon. Wendy Potts

UNIVERSAL AUTOMATION SYSTEMS, INC.
and AMERICAN METAL, INC.

Defendants.

_____/

OPINION AND ORDER RE: DEFENDANT AMERICAN METAL COATING, INC.'s MOTION FOR SUMMARY DISPOSITION

At a session of Court
Held in Pontiac, Michigan
On SEP 21 2016

Defendant American Metal, Inc. ("AMC"), an Ohio corporation, hired Defendant Universal Automation Systems, Inc. ("UAS"), a Michigan corporation, for a project that included building an automatic split rail machine and the building of a barrel line. UAS was unable to build the split rail machine and subcontracted with JGM, a Michigan limited liability company, to design and build the split rail machine and transport the machine from Michigan to AMC's shop in Ohio. JGM filed the instant matter alleging in part claims for breach of contract.

AMC now moves for summary disposition pursuant to MCR 2.116(C)(1) claiming that the Court lacks personal jurisdiction over it. On August 30, 2016, the parties submitted a stipulation to have the pending motion decided without oral argument and on the briefs only. Thus, the Court dispenses with oral argument pursuant to MCR 2.119(E)(3).

Plaintiff has the burden of establishing a prima facie showing of jurisdiction. *Jeffrey v Rapid American Corp*, 448 Mich 178, 184; 529 NW2d 644 (1995). A Court reviewing a (C)(1) motion examines the pleadings, affidavits, and other documentation submitted by the parties in the light most favorable to the nonmoving party, and all factual disputes are resolved in the nonmovant's favor. MCR 2.116(G)(5); *Jeffrey*, *supra*. Allegations in the complaint are taken as true to the extent they are uncontroverted by the evidence. *Williams v Bowman Livestock Equipment Co*, 927 F2d 1128, 1130-1131 (CA 10, 1991). Further, whether a court has personal jurisdiction over a party is a question of law. *Oberlies v Searchmont Resort, Inc*, 246 Mich App 424, 426; 633 NW2d 408 (2001).

Jurisdiction can be established by way of general personal jurisdiction or specific (limited) personal jurisdiction. *Id.* at 247. The parties do not argue that Michigan can exercise general personal jurisdiction over Defendants. Thus, the Court need only analyze limited personal jurisdiction. To determine whether the Court may exercise limited personal jurisdiction, it "must determine whether the defendant's conduct falls within a provision of a Michigan long-arm statute and whether the exercise of jurisdiction comports with due process." *Id.* at 428.

Defendant alleges that the facts pled in the complaint do not support the exercise of jurisdiction under Michigan's long arm statute. Limited personal jurisdiction exists if (1) Defendant's conduct falls within a provision of Michigan's long-arm statute and (2) the exercise of jurisdiction comports with due process. *Id.* Under MCL 600.715(1), long-arm jurisdiction exists if Defendant transacts any business within the state. Our courts interpret the long-arm statute broadly such that the "slightest transaction" of business is sufficient to bring a party within Michigan's long-arm jurisdiction. *Id.* at 430. To establish that Defendant engaged in "the

slightest transaction," Plaintiff attaches to its Response emails showing that it communicated with Defendant about the project. As a result, the Court finds that AMC's emails constitute action sufficient to meet the "transaction of any business" test.

The next question is whether Defendant has sufficient minimum contacts with Michigan such that exercising jurisdiction comports with due process. *Oberlies*, *supra* at 432-433. To make this determination, the Court applies a three-part test:

(1) Defendant must have purposefully availed itself of the privilege of conducting activities in Michigan.

(2) The cause of action must arise from Defendant's activities in the state.

(3) Defendant's activities must be substantially connected with Michigan.

See *Jeffrey*, 448 Mich at 186.

Purposeful availment exists if Defendant engaged in "a deliberate undertaking to do or cause an act or thing to be done in Michigan." *Id.* at 187-188. Intentional contacts and communication with Michigan residents or a Michigan corporation is sufficient to show purposeful availment. *WH Froh, Inc v Domanski*, 252 Mich App 220, 231 (2002). Our courts have generally been liberal in finding purposeful availment. *See*, *e.g.*, *Oberlies*, 246 Mich App at 434 (advertising in Michigan was sufficient for purposeful availment test).

There is no dispute that AMC communicated with Plaintiff at least one time, thus Defendant purposefully availed itself of the privilege of doing business in Michigan. Further, Plaintiff attaches the affidavit of Konstantino Dotsikas, president and sole shareholder of AMC, wherein he admits that he had discussions with a representative of JGM concerning the construction and operation of the line. In further support of its response to AMC's motion, JGM attaches the affidavit of Eric Todd, Project Manager for JGM, wherein he states that Dino

(Konstantino Dotsikas) was aware that JGM built the conveyor in Michigan and was transporting it via truck from Michigan to Ohio. Todd additionally stated that he participated in multiple meetings with Dino that that he was fully aware that the machine was designed and built in Michigan by JGM and then transported to Ohio for installation. Plaintiff also presents the affidavit of Carl M. Jennings, president of JGM, wherein he states that he had multiple conversations with Dino regarding UAS's failure or refusal to pay JGM. Jennings further claims that Dino told him that AMC would pay JGM directly for all monies due and owing if UAS did not. When deciding such a motion, the Court is bound to resolve factual disputes in the non-movants' (Plaintiff's) favor. *Jeffrey*, 448 Mich at 184. Accordingly, the Court finds that Plaintiff has presented sufficient evidence that AMC purposefully availed itself of the privilege of doing business in Michigan.

The next element is whether the defendant's activities in the forum state are "in a natural and continuous sequence, have caused the alleged injuries forming the basis of the plaintiff's cause of action." *Oberlies*, 246 Mich App at 437. "Jurisdiction is proper . . . where the contacts proximately result from actions by the defendant *himself* that create a 'substantial connection' with the forum State." *Burger King Corp v Rudzewicz*, 471 US 462, 475 (1985). AMC's actions caused the alleged injuries to Plaintiff and, in part, form the basis of Plaintiff's cause of action. *Oberlies, supra*. The Court finds that AMC's contact with JGM is sufficient to establish this second part of the test.

The final question the Court must address is whether jurisdiction is reasonable. The Court finds that Defendant's connections with Michigan meet the final part of the test – whether its activities are "substantially" connected with Michigan such that jurisdiction is "reasonable." *Jeffrey*, 448 Mich 178. AMC purposefully directed its activities at JGM such that the exercise of

jurisdiction here is reasonable. The Court concludes that Plaintiff has made a prima facie showing of this Court's jurisdiction over Defendant. Accordingly, Defendant's motion for summary disposition under (C)(1) is denied.

IT IS SO ORDERED.

Dated: SEP 21 2016

Hon. Wendy Potts