

September 20, 2005

Whittaker firm target of complaints

By Scott Finn

Staff writer

More than 1,500 complaints have been filed in a sewer project being completed by record Powerball winner Jack Whittaker's company.

Diversified Enterprise and its subcontractor, Zion Inc., have sliced water, sewer, gas and power lines, cut down trees and knocked down fences, according to complaints filed with the Union Williams Public Service District in Waverly, Wood County.

Also, an organized labor group is calling for an investigation into Whittaker's connections to an Ohio construction company that owes more than \$1 million to the state workers' comp system.

Whittaker received up to 30 percent of the profits on West Virginia work done by Holley Brothers Construction Company Inc., according to a lawsuit filed in Gallia County, Ohio.

In 2002, Holley Brothers walked away from at least 17 unfinished water and sewer projects in West Virginia, according to Steve White, executive director of the Affiliated Construction Trades Foundation.

Holley Brothers owes more than \$1.3 million to the state Workers' Compensation Fund, said T.J. Obrakta, general counsel for the Workers' Compensation Commission.

White said Whittaker should be held responsible for at least part of that debt.

"I think he should pay 30 percent of it. They didn't pay \$1 million to Workers' Comp, so their profits were \$1 million more," White said.

White's group is attacking Whittaker and Diversified, a nonunion company, for allegedly shoddy work on the Union Williams project and another water project in Wayne County.

Whittaker did not return a phone call seeking comment Monday afternoon.

The Wood County sewer project started in March 2004 and was supposed to be completed by last March, said Jerry Dotson, general manager of the Union Williams PSD.

Instead, work continues on the project, although it is “pretty much” complete, Dotson said.

The sewer line is supposed to serve about 1,500 customers — almost identical to the number of complaints filed. That doesn’t mean every customer sent in a complaint, Dotson said. Some customers complained several times.

“We haven’t been real happy with how some of the complaints have turned out,” Dotson said.

In August, a subcontractor for the project, Zion Inc., was listed as being in default to the state’s workers’ compensation system. The company is no longer in default.

The ACT Foundation also has discovered a 2001 Gallia County civil lawsuit between Whittaker, a company called Whittaker Equipment Inc., and Holley Brothers Construction Co. of Gallipolis, Ohio.

The relationship between Whittaker and the company is not clear. On correspondence, he is usually listed as general manager.

But his profit-sharing arrangement implies he was more than an employee, White said.

In the lawsuit, Whittaker said his contract with Holley Brothers entitled him to 30 percent of net profits or 10 percent of the gross contracts in West Virginia, whichever is less.

Also, the lawyer for Holley Brothers planned to ask Whittaker if he ever called himself the company’s “vice president,” according to interrogatories filed with the lawsuit.

In the lawsuit, Holley Brothers accuses Whittaker of “providing false invoices, false job cost reports and interfering with internal operations” of the company, at a cost of \$318,734.

Whittaker countersued, saying Holley Brothers withheld money, stole his tools, vehicles and equipment and owes him \$2.7 million.

They settled the lawsuit in December 2002 for an undisclosed amount, only days before Whittaker won a record \$315 million Powerball prize.

For unknown reasons, Holley Brothers exited the state in 2002, leaving behind several uncompleted water and sewer projects, White said.

Diversified picked up one of those projects, a water treatment plant in Naugatuck. Now, Diversified is a defendant in another lawsuit alleging poor performance in that Mingo County project.

To contact staff writer Scott Finn, use e-mail or call 357-4323.