

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION**

In re:
Phillip Kopesky

Chapter 7
Bky. No. 03-37630

Debtor.

Phillip Kopesky

Plaintiff,

Adv. No. 04-3288

vs.

**ANSWER AND JURY
DEMAND**

Security State Bank of Mankato,

Defendant.

Defendant Security State Bank of Mankato (the “Bank”), as and for its Answer to Plaintiff’s Complaint, states and alleges as follows:

Except as specifically admitted or qualified herein, the Bank denies each and every allegation, statement, and thing set forth in Plaintiff’s Complaint.

1. The Bank has insufficient information to form a belief as to the accuracy of the allegations contained in Paragraph 1 of Plaintiff’s Complaint, and therefore denies the same.

2. The Bank has insufficient information to form a belief as to the accuracy of the allegations contained in Paragraph 2 of Plaintiff’s Complaint, and therefore denies the same.

3. The Bank has insufficient information to form a belief as to the accuracy of the allegations contained in Paragraph 3 of Plaintiff’s Complaint, and therefore denies the same.

4. The Bank has insufficient information to form a belief as to the accuracy of the allegations contained in Paragraph 4 of Plaintiff’s Complaint, and therefore denies the same.

5. The Bank denies the allegations contained in Paragraph 5 of the Plaintiff's Complaint.

6. The Bank denies the allegations contained in Paragraph 6 of the Plaintiff's Complaint.

7. The Bank has insufficient information to form a belief as to the accuracy of the allegations contained in Paragraph 7 of Plaintiff's Complaint, and therefore denies the same.

8. The Bank has insufficient information to form a belief as to the accuracy of the allegations contained in Paragraph 8 of Plaintiff's Complaint, and therefore denies the same.

9. The Bank has insufficient information to form a belief as to the accuracy of the allegations contained in Paragraph 9 of Plaintiff's Complaint, and therefore denies the same.

10. The Bank denies the allegations contained in Paragraph 10 of Plaintiff's Complaint.

11. The Bank denies the allegations contained in Paragraph 11 of Plaintiff's Complaint.

12. The Bank denies the allegations contained in Paragraph 12 of Plaintiff's Complaint.

AFFIRMATIVE DEFENSES

As and for its affirmative defenses to the Complaint, the Bank states and alleges as follows:

1. The Plaintiff's claims are barred to the extent Bank received any payments in the ordinary course of business.

2. The Plaintiff's claims are barred to the extent that Bank provided subsequent new value to the Debtor.

3. Plaintiff's Complaint is barred by the equitable doctrines of waiver, laches, and unclean hands.

4. The Plaintiff's claims are barred to the extent any transfers to Bank were not transfers of assets in which the estate held an interest.

5. The Plaintiff's claims are barred to the extent any transfers were not made in payment of an antecedent debt.

6. The Plaintiff's claims are barred to the extent any transfers represented a contemporaneous exchange for new value.

7. Plaintiff's Complaint is barred by the doctrine of set-off and recoupment, and the Bank is entitled to set-off or recoup its damages, if any, that were caused by one or more of the Debtors.

JURY DEMAND

THE BANK HEREBY DEMANDS A TRIAL BY JURY OF ALL ISSUES SO TRIABLE. THE BANK DOES NOT CONSENT TO THE BANKRUPTCY JUDGE CONDUCTING THE JURY TRIAL.

WHEREFORE, the Bank respectfully requests this Court to enter judgment in its favor and against the Plaintiff, as follows:

1. Dismissing the Plaintiff's causes of action with prejudice and on the merits;
2. Awarding to Bank its costs, disbursements, and attorneys fees as allowed by applicable law in connection with this case; and
3. For such other and further relief as the Court deems just and equitable.

Dated: July 29, 2004

WINTHROP & WEINSTINE, P.A.

/s/ Christopher A. Camardello
Christopher A. Camardello, MN Bar No. 284798

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Attorneys for Defendant

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AFFIDAVIT OF SERVICE

Security State Bank of Mankato,

Defendant.

STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

Christopher A. Camardello, of the law firm of Winthrop & Weinstine, P.A., County of Hennepin, in the State of Minnesota, swears under penalty of perjury that on the July 30, 2004, he served copies of the

1. Defendant's Answer

upon

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via facsimile.

/s/ Christopher A. Camardello
Christopher A. Camardello

