

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY 03-35273

Normandale Pro Shop,

Debtor.

John A. Hedback, Trustee,

ADV _____

Plaintiff,

vs.

COMPLAINT

Highlander Logo Products Corp.,

Defendant.

TO: Highlander Logo Products Corp., through their attorney, Robert M. Stefancin,
Schottenstein, Zox, and Dunn, US Bank Center at Playhouse Square, 1350 Euclid Ave.,
Suite 1400, Cleveland, Ohio 44115.

Plaintiff, for his cause of action and prayer for relief states:

I. JURISDICTION

1. On July 31, 2003, a petition for relief was filed under Chapter 7 of the Bankruptcy Code by Normandale Pro Shop (Debtor), thereby commencing the above-referenced bankruptcy case.

2. John Hedback (Trustee) was appointed trustee of the Chapter 7 bankruptcy estate.

3. The Court has jurisdiction over this adversary proceeding pursuant to Sections 157 and 1334 of Title 28 of the United States Code and Bankruptcy Rule 7001.

4. Venue of this adversary proceeding is appropriate in this Court pursuant to Section 1409 of Title 28.

5. This adversary proceeding arises under Sections 547, 548 and 550 of the U.S. Bankruptcy Code. This is a core proceeding pursuant to Section 157 of Title 28. This complaint is filed under Bankruptcy Rule 7001 and Local Rule 901.

II. FACTUAL ALLEGATIONS REGARDING TRANSFER OF PRODUCT

6. As of January 31, 2003, Normandale Pro Shop (Debtor) had an interest in certain goods contained in the invoices attached hereto as Exhibits A and B (Goods).

7. In March and April of 2003, the Debtor either sold or attempted to sell the Goods to Highlander Logo Products Corp., the Debtor's Creditor.

8. The Debtor claims that he sold the Goods to Highlander Logo Products Corp. on March 21, 2003 for the purchase price of \$581.00 and on April 8, 2004 for the purchase price of \$22,500.00.

9. Debtor claims that Highlander Logo Products Corp. has not paid for the products which the Debtor shipped on March 21, 2003 and April 8, 2003.

10. Highlander Logo Products Corp. received both shipments from Normandale Pro Shop.

III. COMPLAINT REGARDING TRANSFER OF GOODS COUNT I - FRAUDULENT TRANSFER OF GOODS

11. Plaintiff realleges and incorporates herein the allegations of paragraphs 1 through 10.

12. The Debtor had an ownership interest in the Goods.

13. The Debtor transferred to either Defendant Highlander Logo Products Corp. property of the estate, namely, Debtor's interest in the Goods.

14. The transfer of the ownership of the Goods to the Defendant constitutes a transfer of an interest of the Debtor in property.

15. The transfer of the Goods to the Defendant occurred within one year before the date of the bankruptcy filing.

16. The Debtor received less than reasonably equivalent value in exchange for such transfer.

17. The Debtor was insolvent on the date the transfer was made.

18. Plaintiff requests an order avoiding the transfer of the Goods pursuant to Section 548 of the Bankruptcy Code.

19. Plaintiff requests an order recovering the Goods for the benefit of the bankruptcy

estate pursuant to Section 550 of the Bankruptcy Code.

**IV. COMPLAINT REGARDING TRANSFER OF GOODS
COUNT II – BREACH OF CONTRACT**

20. Plaintiff realleges and incorporates herein the allegations of paragraphs 1 through 19.

21. In March and April of 2003, the Debtor sold and shipped goods to the Defendant.

22. Debtor also sent Defendant two invoices for said property. Copies of the invoices are attached hereto as Exhibits A and B.

23. In the normal course of business, the Debtor sends invoice to the Defendant and the Defendant pays said invoices.

24. The Defendant has not paid said invoices, even though the Defendant has received said goods.

WHEREFORE, Plaintiff requests an order;

(A) Regarding Count I,

- (1) granting judgment avoiding the transfer of the Goods to the Defendant;
- (2) granting judgment recovering the Goods for the benefit of the estate;
- (3) granting judgment in favor of the Plaintiff and against the Defendant for the balance of the value of the Goods which balance was not received by the Debtor.

(B) Regarding Count II,

- (1) determining that the Debtor sold and shipped goods to the Defendant in March and April of 2003;
- (2) determining that the Debtor sent invoices to the Defendant, based on the normal course of business;
- (3) determining that the Defendant has breached its contract with the Debtor and thus the Debtor's estate, when the Defendant failed to make payment on the invoices;
- (4) granting judgment in favor of the Plaintiff and against the Defendant Highlander Logo Products Corp. for the sum of \$23,081.00.

- (C) Granting judgment in favor of the Plaintiff for his attorneys' fees and costs; and
- (D) Granting any other relief the Court deems just and proper.

Hedback, Arendt & Carlson, PLLC

Dated: August 5, 2004

_____/e/ Jennifer L. Neska_____
John A. Hedback, Atty #142438
Jennifer L. Neska, Atty # 312381
2855 Anthony Lane South, Suite 201
St. Anthony, MN 55418
(612) 789-1331 Extension 228
ATTORNEYS FOR PLAINTIFF

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY 03-35273

Normandale Pro Shop,

Debtor.

John A. Hedback, Trustee,

ADV _____

Plaintiff,

vs.

**UNSWORN DECLARATION
FOR PROOF OF SERVICE**

Highlander Logo Products Corp.,

Defendant.

The undersigned, being an employee of Hedback, Arendt & Carlson, PLLC, attorneys licensed to practice law in this Court, with offices located at 201 Anthony Place, 2855 Anthony Lane South, St. Anthony, MN 55418, declares that on the date indicated below, I served the following:

Summons and Complaint

upon each of the entities named below by mail (unless otherwise indicated below) by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid, and depositing same in the post office at St. Anthony, Minnesota, addressed to each of them as follows:

Robert M. Stefancin
Schottenstein, Zox and Dunn
US Bank Center at Playhouse Square
1350 Euclid Avenue, Suite 1400
Cleveland, OH 44115

(Regular mail and certified mail return receipt
requested)

Office of United States Trustee
1015 US Courthouse
300 South Fourth Street
Minneapolis, MN 55415

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: August 5, 2004

_____/e/ Becky O'Phelan_____