

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

WOODBIDGE GROUP OF
COMPANIES, LLC, *et al.*,

Remaining Debtors.

Chapter 11

Case No. 17-12560 (BLS)

(Jointly Administered)

Adversary Proceeding

Case No. 19-51051 (BLS)

MICHAEL GOLDBERG, in his capacity
as Liquidating Trustee of the
WOODBIDGE LIQUIDATION TRUST,

Plaintiff,

vs.

BARBARA A. WEISER; JAY R. WEISER,

Defendants.

**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT JAY R. WEISER TO
COMPLAINT FOR AVOIDANCE OF PREFERENTIAL AND FRAUDULENT
TRANSFERS PURSUANT TO 11 U.S.C. §§ 544, 547, 548 & 550**

Jay R. Weiser hereby answers Plaintiff's Complaint and asserts affirmative defenses. All allegations not expressly admitted herein are denied.

NATURE OF THE ACTION

1. Defendant has insufficient knowledge or information to respond to the allegations in this paragraph and therefore denies them.

2. Defendant has insufficient knowledge or information to respond to the allegations in this paragraph and therefore denies them.

3. Defendant has insufficient knowledge or information to respond to the allegations in this paragraph and therefore denies them.

4. Defendant has insufficient knowledge or information to respond to the allegations in this paragraph and therefore denies them.

5. Defendant has insufficient knowledge or information to respond to the allegations in this paragraph and therefore denies them.

JURISDICTION AND VENUE

6. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 6 are denied.

THE PARTIES

7. Defendant has insufficient knowledge or information to respond to the allegations in this paragraph and therefore denies them.

8. Admitted.

9. The Plan speaks for itself and Defendant denies any allegations inconsistent with its terms.

10. Defendant has insufficient knowledge or information to respond to the allegations in this paragraph and therefore denies them.

11. Defendant has insufficient knowledge or information to respond to the allegations in this paragraph and therefore denies them.

12. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 12 are denied.

13. Defendant has insufficient knowledge or information to respond to the allegations in this paragraph and therefore denies them.

14. Admitted.

15. Denied.

16. Denied.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

17. The order confirming the Plan speaks for itself and Defendant denies any allegations inconsistent with its terms.

18. Defendant has insufficient knowledge or information to respond to the allegations in this paragraph and therefore denies them.

19. Defendant has insufficient knowledge or information to respond to the allegations in this paragraph and therefore denies them.

20. Defendant has insufficient knowledge or information to respond to the allegations in this paragraph and therefore denies them.

21. Defendant has insufficient knowledge or information to respond to the allegations in this paragraph and therefore denies them.

22. Denied as written. Barbara A. Weiser, who is deceased, held the Notes.

23. Denied as written. Barbara A. Weiser, who is deceased, was not Defendant's wife.

24. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 24 are denied.

25. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 25 are denied.

FIRST CLAIM FOR RELIEF

Avoidance and Recovery of Preferential Transfers

26. Defendant incorporates his responses to the allegations of Paragraphs 1-25 as if fully set forth herein.

27. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 27 are denied.

28. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 28 are denied.

29. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 29 are denied.

30. Denied.

SECOND CLAIM FOR RELIEF

Avoidance and Recovery of Actual Intent Fraudulent Transfers—Bankruptcy Code

31. Defendant incorporates his responses to the allegations of Paragraphs 1-30 as if fully set forth herein.

32. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 32 are denied.

33. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 33 are denied.

34. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 34 are denied.

35. Denied.

THIRD CLAIM FOR RELIEF

Avoidance and Recovery of Constructive Fraudulent Transfers—Bankruptcy Code

36. Defendant incorporates his responses to the allegations of Paragraphs 1-35 as if fully set forth herein.

37. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 37 are denied.

38. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 38 are denied.

39. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 39 are denied.

40. Denied.

FOURTH CLAIM FOR RELIEF

Avoidance and Recovery of Actual Intent Fraudulent Transfers—State Law

41. Defendant incorporates his responses to the allegations of Paragraphs 1-40 as if fully set forth herein.

42. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 42 are denied.

43. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 43 are denied.

44. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 44 are denied.

45. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 45 are denied.

46. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 47 are denied.

47. Denied.

FIFTH CLAIM FOR RELIEF

Avoidance and Recovery of Constructive Fraudulent Transfers—State Law

48. Defendant incorporates his responses to the allegations of Paragraphs 1-47 as if fully set forth herein.

49. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 49 are denied.

50. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 50 are denied.

51. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 51 are denied.

52. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 52 are denied.

53. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 53 are denied.

54. Denied.

SIXTH CLAIM FOR RELIEF

Objection to Claims (Bankruptcy Code Section 502(d))

55. Defendant incorporates his responses to the allegations of Paragraphs 1-54 as if fully set forth herein.

56. Denied.

57. Denied.

SEVENTH CLAIM FOR RELIEF

Equitable Subordination of Claims

58. Defendant incorporates his responses to the allegations of Paragraphs 1-57 as if fully set forth herein.

59. Denied.

60. Denied.

61. Denied.

62. Denied.

63. Denied.

EIGHTH CLAIM FOR RELIEF

Sale of Unregistered Securities (Securities Act Sections 5(a), 5(c) and 12(a))

64. Defendant incorporates his responses to the allegations of Paragraphs 1-63 as if fully set forth herein.

65. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 65 are denied.

66. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 66 are denied.

67. Denied.

68. Denied.

69. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 69 are denied.

70. Denied.

NINTH CLAIM FOR RELIEF

Fraud

71. Defendant incorporates his responses to the allegations of Paragraphs 1-70 as if fully set forth herein.

72. Denied.

73. Denied.

74. Denied.

75. Denied.

76. Denied.

TENTH CLAIM FOR RELIEF

Aiding and Abetting Fraud

77. Defendant incorporates his responses to the allegations of Paragraphs 1-76 as if fully set forth herein.

78. This paragraph states legal conclusions to which no response is required. To the extent an answer is required, the allegations in Paragraph 78 are denied.

79. Denied.

80. Denied.

81. Denied.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The Complaint fails to state a claim against Defendant upon which relief may be granted.

Second Affirmative Defense

The claims set forth in the Complaint are barred by the applicable statute of limitations.

Third Affirmative Defense

The claims set forth in the Complaint are barred under the doctrine of waiver, laches, unclean hands, in pari delicto, and/or estoppel.

Fourth Affirmative Defense

The obligations incurred by the Debtors were incurred in the ordinary course of business.

Fifth Affirmative Defense

Plaintiff may not recover the alleged preferential payments because the parties intended the transfers to be part of a contemporaneous exchange for new value given to the Debtors and the transfers were, in fact, substantially contemporaneous under 11 U.S.C. § 547(c)(2).

Sixth Affirmative Defense

Some or all payments made by Debtors to Defendant were made in the ordinary course of business pursuant to 11 U.S.C. § 547(c)(2).

Seventh Affirmative Defense

To the extent the transfers were otherwise avoidable under 11 U.S.C. § 547(b), after such transfers, Defendant or a creditor to or for whose benefit such transfers were made, gave new value to or for the benefit of the Debtors (A) not secured by an

otherwise unavoidable security interest; and (B) on account of which new value the Debtors did not make an otherwise unavoidable transfer to or for the benefit of Defendant or such creditor(s).

Eighth Affirmative Defense

Any transfer made by the Debtors was made in exchange for reasonably equivalent consideration and/or supported by valuable consideration.

Ninth Affirmative Defense

At all relevant times, Defendant was not an insider of the Debtors.

Tenth Affirmative Defense

At all relevant times, Debtors were solvent.

Eleventh Affirmative Defense

The Debtors were not made insolvent as a result of any transaction described herein.

Twelfth Affirmative Defense

Any transfer described in the Complaint was made to Defendant in payment of a debt in good faith, and without knowledge of the avoidability of the alleged transfer pursuant to 11 U.S.C. § 550(b).

Thirteenth Affirmative Defense

The Defendant reserves the right to assert other defenses as this action proceeds and reserves the right to file an Amended Answer asserting additional affirmative defenses.

Fourteenth Affirmative Defense

To the extent the transfers are otherwise avoidable, they are protected from judgment and/or collection by virtue of their status as funds held in an individual retirement account.

JURY TRIAL DEMANDED

Defendant demands a trial by jury in this action.

WHEREFORE, Defendant Jay R. Weiser respectfully request that this Court enter an order (i) dismissing the Complaint in its entirety with prejudice; and (ii) granting such other and further relief as the Court deems fair and just.

Dated: October 19, 2020

/s/ Michael Joyce
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Counsel to Defendant Jay R. Weiser

CERTIFICATE OF SERVICE

I hereby certify that on October 19, 2020, a true and correct copy of the foregoing Answer to Complaint was served upon the following via this Court's ECF filing system and electronic mail:

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/s/ Michael Joyce _____

Michael J. Joyce