

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)	Chapter 11
)	
EASTERN LIVESTOCK CO., LLC,)	Case No. 10-93904-BHL-11
)	
Debtor.)	Hon. Basil H. Lorch III
)	
<u>JAMES A. KNAUER, CHAPTER 11 TRUSTEE</u>)	
<u>OF EASTERN LIVESTOCK CO., LLC,</u>)	
)	
Plaintiff,)	
)	Adversary Proceeding No. ____
v.)	
)	
COREY KAY AND SCHROEDER FEEDERS)	
STARTER YARD, L.L.C.,)	
)	
Defendants.)	

ADVERSARY COMPLAINT

For his complaint against Corey Kay and Schroeder Feeders Starter Yard L.L.C., James A. Knauer, as Chapter 11 Trustee for Eastern Livestock Co., LLC, states as follows:

Jurisdiction & Parties

1. The above-captioned adversary proceeding (the "Adversary Proceeding") arises in and is related to the above-captioned bankruptcy case (the "Chapter 11 Case"), which is currently pending under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of Indiana, New Albany Division (the "Court").

2. This Adversary Proceeding is brought pursuant to Rule 7001 of the Federal Rules of Bankruptcy Procedure.

3. This Court has jurisdiction over the subject matter of this Adversary Proceeding pursuant to 28 U.S.C. §§ 157 and 1334.

4. This Adversary Proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b).

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1409(a).

6. Eastern Livestock Co., LLC ("ELC") was one of the largest cattle dealers in the United States, with operations and assets located in at least eleven states. ELC was headquartered in New Albany, Indiana, with branch locations across several states.

7. Certain petitioning creditors commenced the Chapter 11 Case on December 6, 2010, by filing an involuntary petition for relief under the Bankruptcy Code. The Court entered the Order For Relief in An Involuntary Case and Order to Complete Filing on December 28, 2010.

8. James A. Knauer ("Trustee") was appointed as the Chapter 11 Trustee for ELC.

9. Defendant, Corey Kay ("Kay"), is an individual with an address of HC 64 Box 52, Coldwater, KS 67029.

10. Defendant, Schroeder Feeders Starter Yard, L.L.C. ("Schroeder") is an Oklahoma limited liability company. Schroeder's registered agent is Dennis Schroeder, with an address of HC 60 Box 94, Freedom, OK 73842.

Factual Circumstances

11. In or around October of 2010, Kay, either for himself or on behalf of Schroeder, entered into multiple business transactions with ELC, whereby Kay, either for himself or on behalf of Schroeder, purchased cattle from ELC and agreed to pay for such cattle.

12. Pursuant to Kay's instructions, ELC delivered the purchased cattle to Schroeder. In previous transactions involving cattle that ELC delivered to Schroeder at Kay's instruction,

Schroeder paid ELC directly for such delivered cattle, although invoices were sent to Kay. Pursuant to past practice, ELC sent Kay invoices reflecting amounts owed for the purchases of the cattle that ELC delivered to Schroeder (the "Invoices"). True and accurate copies of the Invoices are attached hereto as Exhibit A.

13. Neither Kay nor Schroeder have paid ELC or the Trustee the amounts due and owing for the cattle delivered to Schroeder, as reflected in the Invoices.

Count I – Breach of Contract (against Kay)

14. The Trustee incorporates by reference the allegations contained in paragraphs 1 through 13, inclusive, as if fully set forth herein.

15. Kay is in breach of the contract for failing to pay amounts when due. The amount due and owing is equal to \$133,574.64 plus interest.

16. ELC's estate has been damaged as a direct result of Kay's breach of contract.

17. All conditions precedent to the Trustee's claims have been performed, have occurred, or have been excused.

WHEREFORE, the Trustee requests that this Court enter judgment in the Trustee's favor and against Kay, and award the Trustee appropriate damages in the amount of \$133,574.64, plus interest, and all other just and proper relief.

Count II – Breach of Contract (against Schroeder)

18. The Trustee incorporates by reference the allegations contained in paragraphs 1 through 17, inclusive, as if fully set forth herein.

19. Past practices between the parties indicate that Kay was acting as Schroeder's agent in purchasing cattle from ELC for delivery to Schroeder.

20. Schroeder had a contractual obligation to pay ELC for the cattle that ELC had delivered to Schroeder and has breached the contract by failing to pay ELC or the Trustee for the amount due and owing.

21. All conditions precedent to the Trustee's claims have been performed, have occurred, or have been excused.

WHEREFORE, the Trustee requests that this Court enter judgment in the Trustee's favor and against Schroeder, and award the Trustee appropriate damages in the amount of \$133,574.64, plus interest, and all other just and proper relief.

Count II – Quantum Meruit (against Schroeder)

22. The Trustee incorporates by reference the allegations contained in paragraphs 1 through 21, inclusive, as if fully set forth herein.

23. Schroeder impliedly or expressly requested ELC to deliver the cattle reflected in the Invoices.

24. Schroeder's retention of the cattle without reimbursing ELC or the Trustee would constitute unjust enrichment.

25. The reasonable value of the cattle that ELC delivered to Schroeder is equal to \$133,574.64.

WHEREFORE, the Trustee requests that this Court enter judgment in the Trustee's favor and against Schroeder, and award the Trustee appropriate damages in the amount of \$133,574.64, plus interest, and all other just and proper relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Shawna Meyer Eikenberry

Counsel for James A. Knauer, Chapter 11 Trustee

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