UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	)	CHAPTER 7 BANKRUPTCY
PIKE NURSERY HOLDING, LLC	)	CASE NO. 07-79129-MGD
	)	
MARCUS A. WATSON, SR., Chapter 7 Trustee for Pike Nursery Holding, LLC,	)	
Plaintiff,	)	ADVERSARY PROCEEDING
v.	)	NO. _____
PLANT HEALTH CARE, INC.,	)	
Defendant.	)	

COMPLAINT TO AVOID AND RECOVER PREFERENTIAL TRANSFERS

COMES NOW Marcus A. Watson, Sr., duly qualified Chapter 7 Trustee in the above-referenced matter, and files his Complaint, showing the Court as follows:

1.

This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 in that this action arises in a case under Title 11, United States Code, as amended (the "Bankruptcy Code").

2.

Venue is proper in this Court under 28 U.S.C. § 1409.

3.

This action is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A) and (F).

4.

This adversary proceeding is brought pursuant to Rule 7001 of the Federal Rules of Bankruptcy Procedure. The Trustee seeks to avoid and recover preferential transfers pursuant to Section 547 of the Bankruptcy Code.

5.

Defendant is subject to the jurisdiction and venue of this Court.

6.

On November 14, 2007 ("Petition Date"), Pike Nursery Holding, LLC (the "Debtor") filed a voluntary Chapter 11 petition under Title 11 of the United States Code.

7.

The Debtor operated a lawn and garden nursery business.

8.

On March 17, 2008, this Court entered an Order Directing the United States Trustee to Appoint Chapter 11 Trustee in this bankruptcy case. On March 19, 2008, the Court approved the United States Trustee's appointment of Marcus A. Watson, Sr. as the Chapter 11 Trustee for the Debtor.

9.

On March 24, 2008, the Court converted the case to Chapter 7 and Marcus A. Watson, Sr. was appointed as the interim Chapter 7 Trustee and became the permanent Chapter 7 Trustee after the first meeting of creditors on April 28, 2008.

10.

Within ninety (90) days before the filing of the Petition Date (the "Preference Period"), the Debtor transferred to Defendant, an unsecured creditor, the sum of $7,559.75 ("Preference Amount").

11.

The Debtor issued one check to Defendant, attached hereto as "Exhibit A," dated October 4, 2007 in the amount of $7,559.75 (the "Transfer").

12.

Defendant was a creditor of the Debtor at the time of the transfer within the meaning of 11 U.S.C. § 101(10)(A).

13.

At the time of the transfer, Defendant had a right to payment on account of an obligation owed to Defendant by the Debtor.

14.

The Transfer was to or for the benefit of a creditor within the meaning of 11 U.S.C. § 547(b)(1) because the Transfer either reduced or fully satisfied a debt then owed by the Debtor to Defendant.

15.

The Transfer was made on account of an antecedent debt because the Transfer was on account of a debt owed by the Debtor before the Transfer was made.

16.

The Debtor was insolvent throughout the Preference Period (as that term is defined and used in 11 U.S.C. §§ 101(32) and 547 of the Bankruptcy Code).

17.

The Transfer enabled Defendant to receive more on account of its debt than through Debtor's Chapter 7 Bankruptcy Case. Had the Transfer not been made and Defendant received payment of its debt to the extent provided by the provisions of the Bankruptcy Code, Defendant would not have received full

payment with respect to such debt, nor even as much remuneration as the amount of the Transfer.

18.

In accordance with the foregoing, the Transfer is avoidable pursuant to 11 U.S.C. § 547(b).

19.

The Transfer, to the extent that it is avoided pursuant to 11 U.S.C. § 547, may be recovered by the Trustee pursuant to 11 U.S.C. § 550(a).

20.

Pursuant to a letter dated October 2, 2009, Debtor made demand upon Plant Health Care, Inc. to return the transfer, whereby Plant Health Care, Inc. refused.

WHEREFORE, Plaintiff requests that the Court enter judgment granting the Debtor's estate the following relief against Defendant:

(a) avoiding the Transfer as preferential under Section 547(b) of the Bankruptcy Code;

(b) granting judgment in favor of Plaintiff and against the Defendant in an amount equal to the Transfer and ordering the Defendant to immediately pay to Plaintiff an amount equal to the Transfer pursuant to Section 550(a) of the Bankruptcy Code;

(c) awarding prejudgment interest as allowed by law; and

(d) granting Plaintiff such other and further relief as is necessary or appropriate.

/s/ John A. Christy
JOHN A. CHRISTY
Georgia Bar No. 125518
J. CAROLE THOMPSON HORD
Georgia Bar No. 291473

Attorneys for Plaintiff Marcus A. Watson, Sr., Chapter 7 Trustee for the Estate of Pike Nursery Holding, LLC

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1100 Peachtree Street,
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Atlanta, Georgia 30309
(404)681-3450

EXHIBIT A

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This is a LEGAL COPY of your check. You can use it the same as you would use the original check.

Document Seq #
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KNDMCANB
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ORIGINAL DOCUMENT PRINTED ON CHEMICAL REACTIVE PAPER WITH MICROPRINTED BORDER

PIKE NURSERY HOLDING LLC
4020 STEVE REYNOLDS BLVD
NORCROSS, GEORGIA 30093
PHONE: (770) 921-1022

WACHOVIA BANK, N.A
ATLANTA, GEORGIA
64-975/612

342375

DATE	AMOUNT
Oct 4, 2007	$7,559.75

Pay Seven Thousand Five Hundred Fifty Nine Dollars And 75 Cents

to the Order of:
PLANT HEALTH CARE INC.
PO BOX 908
BLOOMFIELD, MI 48303-0908

Scott A Schlatt

THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE • RED IMAGE DISAPPEARS WITH HEAT

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