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BANK FRAUD

ACH Fraud Loss Falls on Originator Without Beneficiary Bank's Actual Knowledge [4TH CIR]

The buyer received an email from the supplier stating that it was going to switch banks and that payments should be redirected effective immediately. The buyer made four separate transfers via the Automated Clearing House (ACH) banking system before it realized that the email was a scam, and the supplier had not switched banks. The account to which these funds were transferred did not match the name of the beneficiary intended to be the recipient, although the account numbers matched. Although the beneficiary bank had an internal warning system, hundreds of thousands of these warnings were triggered daily. The buyer brought claims against the beneficiary bank for violations of § 4A-207 of the Uniform Commercial Code (UCC) (which is codified in Virginia as Va. Code Ann§ 8.4A-207), as well as a breach of bailment, and sought compensatory and punitive damages. The court found in favor of the buyer for compensatory damages. The beneficiary's bank appealed the decision, and the buyer appealed the lack of an award of punitive damages.

In **Studco Bldg. Sys. US, LLC v. 1st Advantage Fed. Credit Union**, 133 F.4th 264 (4th Cir. 2025), the Fourth Circuit reversed the lower court's decision regarding the UCC claim and the bailment claim, affirmed the denial of punitive damages, and remanded the case to the district court with instructions to enter judgment in favor of the beneficiary's bank. The main issues the court faced were whether the beneficiary's bank was liable under § 4A-207 when the ACH instructions contained mismatched names and account numbers, as well as whether the originators' deposit at the bank constituted a bailment. The court found that under Virginia Code, § 8.4A-207(b)(1), the beneficiary's bank was not liable for these funds because the bank did not have actual knowledge of the misdescription of these funds. The district court had found that the beneficiary's bank was liable because it should have had knowledge through "due diligence,"

but the Fourth Circuit explained that was only constructive knowledge, not actual knowledge, which is necessary to hold the bank liable. The court explained that finding the bank liable for only constructive knowledge would impede upon the rapid nature of electronic fund transfers. Its ruling, the court reasoned, upholds the UCC by not requiring banks to examine and address every discrepancy, therefore facilitating efficient commerce. The court also found that the buyer's deposit of electronically transferred funds did not constitute a bailment at all, as there was no physical exchange, just a change in bank account balances. A bailment claim also requires a duty to return the bailed property, which was not present here. For these reasons, the court reversed the district court's ruling regarding the violation of Va. Code Ann. § 8.4A-207, as well as its ruling regarding the buyer's bailment claim. Because the court reversed these claims, it affirmed the district court's denial of punitive damages against the beneficiary bank.

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Fraudulent Concerns for Elderly Customer Do Not Require Banks to Halt Wire Transfers [4TH CIR]

The administrator of the estate filed suit against the banks, claiming negligence and breach of the implied covenant of good faith and fair dealing. The account holder, normally frugal with his assets, suffered from a stroke affecting his cognitive abilities. Consequently, he fell victim to a scam, leading him to send multiple wires to a fraudulent third party. One of the banks alerted a state protective services agency to potential elderly financial exploitation. The agency opened an investigation, and the account holder refused to cooperate, which resulted in the investigation being closed and referred to a federal investigative agency to investigate further. One of the banks, which was aware of the potential fraud and federal agencies inspecting the transfers, continued

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to allow the account holder to wire money until his death. The district court dismissed the administrator of the estate's complaint under Rule 12(b)(6) for failure to state a claim. The administrator of the estate appealed.

In **Satterfield v. Wells Fargo Bank, N.A. (In re Estate of Cook)**, No. 23-1945, 2025 WL 2237439, 2025 U.S. App. LEXIS 19802 (4th Cir. Aug. 6, 2025) (opinion not yet released for publication), the Fourth Circuit affirmed the dismissal of the administrator of the estate's claims, finding the banks had no contractual obligation to prevent the account holder's wire transfers. The court explained that Article 4A of the Virginia UCC generally governs wire transfer agreements, and a bank does not have an obligation to reject a transfer or investigate one even if it appears to be fraudulent. The fact that a state protective services agency, as well as a federal agency, suspected fraudulent transfers did not establish "a duty of care between the banks and elderly customers." The court also rejected the administrator of the estate's arguments under the Bank Secrecy Act, which imposes duties only the government can enforce. Similarly, it rejected the implied covenant of good faith and fair dealing claims, which do not create duties beyond the established contractual obligations. Lastly, the court held that the bank's report to a state agency did not initiate a voluntary duty to protect the account owner. Ultimately, the court held that the banks were not liable for halting the transfers and affirmed the district court's dismissal.

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Red Flags Are Not Enough [SD FL]

The company wired over \$7.4 million for what it believed was a legitimate business deal to another business's accounts at the bank. The company was not a customer of the bank. The owners of the receiving business (the "scammers") were using multiple accounts the business had with the bank to fraudulently obtain money from the company and others. The company alleged that the bank had knowledge of the scammers' fraudulent scheme. Specifically, the company argued that there were mismatches between the name on the accounts and the designee on the wire transfers, large cash transactions, large transfers sent in round dollar amounts, repetitive transfers, and several accounts with insufficient funds or bounced checks, all of which the bank was aware of when it continued to process the wire transfers. It also alleged that the scammers' personal client banker had intimate knowledge of its accounts and business dealings, such that she would have been aware that the

activity in the accounts did not match the stated purpose of the accounts and that the indicated fraudulent activity. The company brought two claims against the bank - (1) aiding and abetting fraud; and (2) aiding and abetting conversion-for its role in facilitating the scammers' fraudulent scheme. The bank moved to dismiss both of the company's claims against it, arguing the company had failed to sufficiently plead claims for aiding and abetting.

In **FW Distrib., LLC v. J.P. Morgan Chase Bank, N.A.**, No. 24-cv-21385, 2025 WL 1330210, 2025 U.S. Dist. LEXIS 87073 (S.D. Fla. May 7, 2025) (opinion not yet released for publication), the court dismissed the creditor's claims against the bank for aiding and abetting with prejudice. The court first explained that under Florida law to assert an aiding and abetting claim, a plaintiff must allege "(1) an underlying violation on the part of the primary wrongdoer; (2) knowledge of the underlying violation by the alleged aider and abet[or]; and (3) the rendering of substantial assistance in committing the wrongdoing by the alleged aider and abettor." *Lawrence v. Bank of Am., NA.*, 455 F. App'x 904 (11th Cir. 2012). Applying Florida law, the court asserted that generally banks do not have a duty of care to non-customers, and, therefore, there is a high standard for finding a bank liable to a non-customer for aiding and abetting. The court agreed with the bank's argument that there is a specific requirement that a defendant have actual knowledge of the fraud to demonstrate liability. The court found that alleging ignored red flags (such as alerts or unusual activities), knowledge of fraud due to freezing of accounts, or negligence, or making conclusory statements of actual knowledge was not enough; rather, the complaint must have alleged "specific facts that [gave] rise to a strong inference of actual knowledge" of the fraud. The court explained that all the alerts and unusual activity that the company alleged in its complaint did not indicate the bank had knowledge of the fraud, but rather that the bank "merely... [had] information indicating suspicious activity." The court went further and found that even if the company had alleged actual knowledge of the fraud, the company failed to adequately allege substantial assistance. "A defendant does not provide substantial assistance unless his action, or inaction, was a 'substantial factor in causing the [underlying violation].'" *Pearson v. Deutsche Bank AG*, No. 21-cv-22437, 2023 WL 2610271, 2023 U.S. Dist. LEXIS 49783 (S.D. Fla. Mar. 23, 2023). The court noted that passive conduct, such as failing to close suspicious accounts, was insufficient and that inaction "constitutes substantial assistance only if the defendant owes a fiduciary duty directly to the plaintiff." The court cited to the Eleventh Circuit, which previously found that allegations that a bank allowed a customer to do regular bank activities (create accounts, transfer funds, withdraw funds, or take out a line of credit) were not sufficient to establish that a bank substantially assisted in the

customer's fraud, as such activities were "passive routine banking service[s]." Ultimately, the court dismissed the company's complaint with prejudice for failure to cure deficiencies in its complaint.

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GENERAL BANKING

Discretion to Close Any Bank Account with or Without Cause at Any Time [11TH CIR]

The company opened an account at the bank, which was governed by the Commercial Bank Service Agreement ("CBSA"). The company agreed to sell medical gowns to a broker for the Canadian government. On the day the account was opened, the broker successfully wired \$6.75 million into the account. The following business day, the company attempted to wire \$2.1 million from the account to a supplier in Hong Kong. The bank requested more information regarding the transaction, and the company responded with purchase order details, but the recipient information did not match. Additionally, the company explained that it was wiring the money in connection with the sale of garments spurred by high demand during the pandemic. After an internal investigation, the bank declined to process the outgoing wire. It explained that bank employees had been cautioned to be alert for scams involving customers quickly wiring funds abroad for COVID-19 medical supplies. The company sued the bank for breach of contract, alleging improper handling of wire transfers and the closing of its account. The bank moved for summary judgment, and the district court granted the motion. The company appealed.

In **Gent Row, LLC v. Truist Fin. Corp.**, No. 24-10387, 2025 WL 1721485, 2025 U.S. App. LEXIS 15256 (11th Cir. June 20, 2025) (opinion not yet released for publication), the Eleventh Circuit affirmed the summary judgment verdict for the bank, reasoning that the bank properly exercised its discretion provided by the CBSA; and thus did not breach its contract with the company. The CBSA allowed the bank to use discretion to "close any account with or without cause at any time," and without prior notice if closing the account was "necessary to protect the bank, its employees, or others from risk, harm, or loss." Moreover, the CBSA allowed the bank to "freeze all or any portion of the funds it deemed appropriate until the dispute was resolved." The court recognized that when one party is vested with "a degree of discretion in performance," that there is an implied obligation of good faith". guided by the "reasonable party in the same position"

standard. It explained that the bank acted reasonably by refusing to send the funds because it sought to avoid facilitating fraudulent transactions. It further noted the relevance of the bank's guidance sent to employees regarding scams and that the bank completed an internal investigation; these facts bolstered the bank's argument that it had acted in good faith. The court held that the bank "reasonably exercised the broad discretion the CBSA afforded" when it declined the customer's wire and returned funds to the broker and closed the account.

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SECURED CLAIMS

Replacement Value Determines Secured Claim Amount for Manufactured Home in Chapter 13 [BKR ED NC]

The debtor obtained a \$22,156 loan from the creditor secured by the debtor's 1998 manufactured home. After the debtor filed for Chapter 13 bankruptcy, she valued the home at \$4,980, leaving most of the loan unsecured. The creditor objected to the debtor's valuation of the home, seeking a higher valuation to maximize its secured claim under the Chapter 13 repayment plan. The creditor hired an expert who appraised the home at \$17,749. In response, the debtor submitted photos and testimony revealing extensive damage and argued for the lower valuation but did not provide an expert appraisal. The court considered both parties' valuations to determine the home's proper value for the Chapter 13 plan confirmation and the extent of the creditor's secured claim.

In **In re Dawson**, No. 24-02832 5-JNC, 2025 WL 1245910, 2025 LX 37379 (Bankr. E.D.N.C. Apr. 29, 2025) (opinion not yet released for publication), the court found that the value of the manufactured home was \$11,485. To reach this valuation, the court applied the replacement value standard under 11 U.S.C. § 506(a)(2), which requires valuing a property at the price a retail merchant would charge for it, considering its age and condition as of the petition date. The court found that the proper valuation should exclude several features that were not part of the manufactured home. Moreover, it deducted estimated costs for needed additional repairs. The court then addressed perfection of the security interest, concluding that the creditor's security interest was perfected only on the manufactured home itself and not on unattached personal

property because the creditor had failed to file a UCC-1 financing statement. This distinction excluded certain items from the collateral value. The court required the debtor to submit a new bankruptcy repayment plan based on the \$11,485 valuation, or it would dismiss her case.

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To Be or Not to Be: Dilemma of a Majority/Minority Ruling [BKR MD FL]

The debtor filed for Chapter 13 bankruptcy, with one of his assets being a recently purchased motor vehicle. The creditor had a purchase-money security interest securing the debtor's debt, with the vehicle as collateral. The parties' retail installment contract showed that the vehicle was purchased 141 days before the bankruptcy filing. The debtor filed a motion to reduce the value of the vehicle and to pay the creditor at an interest rate of ten percent. The creditor opposed this motion on the basis that the cramdown was prohibited by 11 U.S.C. § 1325(a)'s "hanging paragraph." The parties agreed that the result of their motions would depend on the court's determination of whether the hanging paragraph prohibits a cramdown of a vehicle for business use or more specifically, if the phrase "any other thing of value" from the hanging paragraph includes motor vehicles acquired for purposes other than personal use of the debtor.

In **In Re Grass**, No. 8:24-bk-02036-RCT 2025 WL 300798, 2025 Bankr. LEXIS 146 (Bankr. M.D. Fla. Jan. 21, 2025) (opinion not yet released for publication), the bankruptcy court ruled that "any other thing of value" did include motor vehicles acquired for purposes other than personal use of the debtor. The confusion of what "other" meant came from the language of the hanging paragraph itself, which states: "section 506 shall not apply to a claim described in [paragraph (5) of section 1325(a)] if... the collateral for that debt consists of a motor vehicle acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value." 11 U.S.C. § 1325(a). The majority of courts have interpreted the language to mean that because the first part of the hanging paragraph discusses motor vehicles, "any other thing of value" would exclude motor vehicles using the "plain meaning" and/or "the specific governs the general" doctrines. The minority rule is formed on the basis that the first half refers to "motor vehicles acquired for personal use" and the second half refers to anything except personal motor vehicles, including motor vehicles for business use. Here, the bankruptcy court agreed

with the minority decisions based on the case law and the limited amount of legislative history. The court recognized the potential negative effects of this interpretation, such as debtors, who purchased their vehicle for business purposes, might seek to delay the protection of bankruptcy. However, the court believed that this interpretation was the will of Congress. Therefore, the bankruptcy court denied and dismissed the debtor's motion to cramdown the vehicle based on the hanging paragraph of 11 U.S.C. § 1325(a).

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SECURITY INTERESTS

A Perfected Security Interest Has a Claim to Cash Proceeds in Joint Accounts [BKR D ME]

The debtor provided medical services in different cities in Maine. The debtor reached out to the creditor to buy medical equipment on a line of credit. When the debtor originally bought the equipment, it granted the creditor a security interest in all its personal property, including its accounts and proceeds. The parties entered into another contract a few years later, and the debtor offered the creditor another security interest in all its property. After agreeing to the new contract, the debtor bought more medical equipment from the creditor but failed to pay the debt. The creditor sued the debtor, and the debtor filed for Chapter 11 bankruptcy while the suit was pending. While doing business with the creditor, the debtor maintained a joint bank account with a related entity. The entity would deposit funds for services performed by the debtor into the joint account; therefore, the funds of the debtor and the entity became commingled. The debtor filed a two-count complaint, but the second count was dismissed with prejudice. The debtor then filed an adversary complaint seeking a declaration that the creditor did not hold a valid or perfected security interest in the funds in the joint account. The creditor moved to dismiss for failure to state a claim.

In **Vision Care of Me. LLC v. ASD Specialty Healthcare, LLC (In re Vision Care of Me. LLC)**, Nos. 24-10166, 24-01009, 2025 WL 816725, 2025 Bankr. LEXIS 614 (Bankr. D. Me. Mar. 13, 2025) (opinion not yet released for publication), the court dismissed count one of the debtor's complaint. The court relied on Article 9-a of the Uniform Commercial Code (UCC) in Maine as well as the plausibility standard of complaints. Article 9-a of the UCC reads "[a] security interest [in original collateral] attaches to any identifiable proceeds of [that] collateral" and

upon attachment to identifiable proceeds, a security interest is perfected if the original collateral was perfected. Me. Rev. Stat. Ann. Tit. 11, § 9-1315(1)(b). After twenty-one days, the security interest became unperfected with some exceptions. The relevant exception to the court's analysis is that perfection remained on the identifiable cash proceeds. The debtor admitted the creditor had a perfected security interest in its accounts receivable. The proceeds from the original collateral were cash proceeds, and those cash proceeds were commingled in the joint account. So, if the creditor could identify any cash proceeds of the original collateral among the funds in the joint account, then the security deposit would be attached to those proceeds, perfected upon those proceeds, and not become unperfected. The debtor's complaint did not state a probable claim because the complaint did not allege that the cash proceeds were unidentifiable or incapable of being traced by the creditor. Thus, the court dismissed the complaint.

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Seriously Misleading: Hawaii Court Clarifies Debtor-Name Rule for UCC-1 Filings [HI APP]

A lender provided a loan to a parent company that had subsidiaries and filed a UCC-1 financing statement identifying only the parent company as the debtor. However, the lender listed the collateral as assets located at the leased space of the subsidiaries. Later that year, the subsidiaries' lessor filed financing statements based on security interests granted to the lessor in various leases. The lessor's new financing statements named the subsidiaries as the debtors. When the debtor parties went into default on both the lender's loan and the lease agreements, the lender filed suit to foreclose its interest in the subsidiaries' tangible assets and property as specified in its financing statement and argued its perfected security interest had priority over the lessor's filings. The lessor counterclaimed, sought attorneys' fees, and argued that its security interest had priority over the lender's insufficient filing. The primary dispute regarded whether the lender's UCC-1 financing statement, which was filed first but only identified the parent company as the debtor, gave the lender priority in the collateral over a lessor's subsequent financing statements that named the parent's subsidiaries as debtors. After cross-motions for summary judgment, the trial court found the lessor's security interest took priority over the lender's but denied legal fees. Both parties appealed.

In **PJ Visionary PTE. Ltd. v. Five Senses LLC**, 570 P.3d 1 (Haw. Ct. App. 2025), the court found that the lessor had priority

because the lender's security interest in the subsidiaries' collateral was not perfected. The court first tackled the lender's contention that its financing statement perfected a security interest in the subsidiaries' collateral. Relying on Hawaii's adoption of UCC Article 9, HRS §§ 490:9-503 and 490:9-506, the court held that full debtor identification was required and that a financing statement that does not provide the registered organization's correct legal name is "seriously misleading." Thus, as the lender's filing listed only the parent as a debtor, the statement perfected a security interest only in collateral owned by that parent company and did not perfect any interest in the omitted subsidiaries' property. The court additionally rejected the argument that knowledge of the parent-subsidiary relationship cured the omission, because it determined that perfection depends on a public record, not private party knowledge of a corporate relationship. Additionally, the court ruled that shared funding structures and officers between the omitted subsidiaries and parent company were irrelevant for purposes of perfection of a security interest in collateral. Second, on the matter of attorneys' fees, the court affirmed the denial, holding that the lessee possessed no privity with the lender and had no other statutory basis to support recovery between the parties. Moreover, legal actions to enforce security interests do not qualify as "in the nature of assumpsit" under Hawaii law. Thus, the court affirmed that the lender's initial filing perfected the lender's security interest in only the parent company's collateral and that the lessor could not obtain attorneys' fees.

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