

IN THE CHANCERY COURT OF COUNTY, MISSISSIPPI

VS.

CASE NO.

, , , **AND**

COMPLAINT

by and through its counsel of record, files this its Complaint and for cause of action would show unto the Court the following, to-wit:

PARTIES

1. The parties to this action are:

A. (" "), a state chartered banking institution having its principal banking office at _____ in _____, Mississippi and having a primary operations center in _____ County, Mississippi.

B. (" "), a corporation organized under and existing by virtue of the laws of a state other than the State of Mississippi, subject to the jurisdiction of this Court by personal service on an agent authorized by appointment or by law to receive service of process pursuant to Rule 4 M.R.C.P.

C. (" "), a limited liability company organized under and existing by virtue of the laws of the State of Mississippi subject to the jurisdiction of this Court by personal service on its agent for service of process within the State of Mississippi, , who may be served with process in accord with Rule 4 M.R.C.P. at his/her business address which is , , Mississippi or his/her residence which is , , Mississippi.

D. ("_____"), a foreign corporation having a principal office at _____, _____, _____, subject to the jurisdiction of this Court by personal service on its agent, _____, at said office.

E. _____, an adult resident citizen of _____ County, Mississippi, subject to the jurisdiction of this Court by personal service of process on him/her at his/her residence which is _____, _____, Mississippi.

F. _____, an adult resident citizen of _____ County, Mississippi, subject to the jurisdiction of this Court by personal service of process on his/her at his/her residence which is _____, _____, Mississippi.

G. _____, an adult resident citizen of _____ County, Mississippi subject to the jurisdiction of this Court by personal service on him/her at his/her residence which is _____, _____, Mississippi.

H. , an adult resident citizen of County, Mississippi, subject to the jurisdiction of this Court by personal service on his/her at his/her residence which is , Mississippi.

JURISDICTION AND VENUE

2. The Chancery Court of County, Mississippi has subject matter jurisdiction of this action pursuant to Article 6, Section 159 of the Mississippi Constitution. The Complaint seeks relief, which is traditionally within subject matter jurisdiction of the Chancery Court including, inter-alia, an accounting, a declaration of rights and injunctive relief. The venue of this action is properly within County, Mississippi as the Defendants, and are adult resident citizens of County, Mississippi.

CAUSE OF ACTION

3. On or about , 20 acting through opened Account number at . The Account Agreement as executed by on behalf of is Exhibit "A" hereto incorporated by reference.

4. On or about , 20 an additional Account Agreement was executed by , and . The , 20 Account Agreement is Exhibit "B" incorporated by reference.

5. The terms and conditions of the , 20 and , 20 Account Agreements are identical. The Account Agreements provide in part as follows:

Each of you agrees, for yourself (and the person or entity you represent if you sign as a representative of another) to the terms of this account and the schedule of charges that may be imposed. You authorize us to deduct these charges as accrued directly from the account balance. You also agree to pay additional reasonable charges we may impose for services you request which are not contemplated by this Agreement. Each of you also agrees to be jointly and severally liable for any account deficit resulting from charges or overdrafts whether caused by you or another authorized to withdraw from this account, and the cost we incur to collect the deficit including, to the extent permitted by law, our reasonable attorney's fees.

, , , , and are each, jointly and severally bound by the terms and conditions of the Account Agreements, Exhibits "A" and "B".

6. On , 20 , a division of of , returned check number to as a forged check. Said check was drawn on the account of payable to and in the amount of \$ and is Exhibit "C" incorporated by reference. The check appeared to be endorsed by and . In connection with the return of the check, 's submitted an Affidavit of Forgery or Alteration executed by and of , Mississippi. The forgery Affidavit is Exhibit "D" incorporated by reference.

7. Check number as drawn on the account of was originally deposited in the account of at , Account number . At the time the check was returned by 's as forged, this account was in the overdraft in the amount of \$. With the return of check number the total overdraft in 's Account number is \$.

8. Account number was originally opened by for on , 20 with an initial deposit of \$. On or about , 20 , changed the account to add the signature authority of , and . operates under Federal Tax I.D. # .

9. has committed a fraud to the detriment of . improperly converted assets in and 's investment accounts to his/her own use by forging and 's endorsements on the check number . After forging the endorsements on said check, deposited the check in account at , account number .

10. managed investment accounts for and through . The maintained stock in two companies namely, of . Prior to of 20 , submitted an unauthorized change of address on the account from their current address in to his/her personal post office box in . After the change of address had been completed, directed to liquidate the account and forward the funds to the address of record, 's post office box. remitted the funds derived from the liquidation of the account by the check, Exhibit "C". Thereafter, forged the endorsements and deposited the check into his/her 's Account number at the offices located at in , Mississippi.

11. To perpetuate his/her fraud, committed a series of actions designed to avoid 's inquiries including but not limited to sending the 's a purported dividend, Exhibit "E" incorporated by reference.

12. The Securities and Exchange Commission and the National Association of Securities Dealers have initiated investigations into this matter. As a result, raised \$ in cash to cover the losses to the account at . transmitted those funds to where they now remain. holds the \$ as a stakeholder for . has suffered no loss. has suffered no loss. and have suffered no loss.

13. has paid \$ to make it whole for the payment of the forged endorsement. has made whole. has made whole. is entitled to the \$ held by to the exclusion of all others.

14. has incurred collection and other expenses and attorney's fees and is entitled to recover the same.

DECLARATORY JUDGMENT

15. requests this Court to declare the rights, status and other legal relations of the Defendants, including, but not limited to, the rights, status and legal relations under the Account Agreement, the Uniform Commercial Code; and, the obligations of American to pay the proceeds of its account to upon notification of payment on the forged

instrument; and, to resolve, determine and declare the liability of _____, _____ and _____ pursuant to the terms and conditions of the Account Agreement for the account overdraft of at least \$ _____ plus costs and attorney's fees.

16. _____ has a substantial interest in that it has acted in reliance on the Affidavit and performed under the terms and conditions of the Uniform Commercial Code, changed its position to its detriment and is in need of this Court to construe and interpret the rights and responsibilities of the parties.

17. Relief granted by way of declaratory judgment will terminate the controversies between the Defendants and _____ that presently exist. The parties are not in agreement and a declaration of the rights of the parties would be dispositive of one or more substantial issues that exist between them and greatly reduce this litigation and prevent the necessity of other claims.

18. _____ requests a speedy hearing on this action for declaratory judgment and requests that it be advanced on the trial calendar pursuant to Rule 57(a), M.R.C.P.

INJUNCTIVE RELIEF

19. Pursuant to Rule 65, M.R.C.P., _____ should be enjoined from releasing the proceeds in its account to _____, _____, _____ and _____ or any other person, firm or entity until further order of this Court. The injunction should last until the completion of a trial on the merits. Any hearing on any application for preliminary injunction should be consolidated with the trial on the merits and become a part of the record on the trial.

20. Fundamental fairness mandates the issuance of such an injunction to prevent irreparable harm to _____. Judicial intervention is necessary to prevent unjust enrichment to the Defendants. The likelihood of harm to Defendants if the injunction is granted is slight while the likelihood of harm to _____ if the preliminary injunction is not granted is clear and present.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, _____ prays that upon a hearing of this Complaint the Court will grant _____ the following relief:

a. Process of this Court issue and be served upon all parties as provided by law requiring them to answer within 30 days following such service.

b. A judgment declaring the rights of the parties and adjudicating that _____, _____, _____, _____ and _____ are jointly and severally indebted to _____ in a sum no less than \$ _____ with prejudgment interest and legal interest on the judgment paid together with all costs, expenses and attorney's fees.

c. A final judgment declaring _____ entitlement to the proceeds in the amount of \$ _____ held by _____ and a final judgment ordering American to pay said proceeds to _____ forthwith.

d. Such other general or specific relief to which _____ is or would otherwise be

entitled.

Respectfully submitted, this the day of , 20 .

Attorney for

Of counsel:

Telephone:
MSB #
Attorney for