

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA**

IN RE:)	CHAPTER 7
)	BANKRUPTCY NO. 08-2751
AGRIPROCESSORS, INC.)	
)	
Debtor.)	
)	
JOSEPH E. SARACHEK, in his capacity as)	
CHAPTER 7 TRUSTEE,)	ADVERSARY NO. _____
)	
Plaintiff,)	
)	
vs.)	
)	
CHABAD LUBAVITCH OF GREATER)	
MERCER COUNTY, a/k/a CHABAD OF)	
PRINCETON,)	
)	
Defendant.)	

COMPLAINT TO AVOID FRAUDULENT CONVEYANCES AND PREFERENTIAL TRANSFERS

Plaintiff Trustee Joseph E. Sarachek (the "Trustee"), in his capacity as Trustee, by and through his undersigned counsel, and in support of this Complaint respectfully states:

JURISDICTION AND VENUE

1. Plaintiff is the duly appointed Chapter 7 Trustee in the Agriprocessors, Inc. ("Agriprocessors") bankruptcy, as above captioned.
2. The Defendant, Chabad Lubavitch of Greater Mercer County a/k/a Chabad of Princeton ("Chabad of Princeton"), within the two-year period prior to filing, received at least 159 payments from Agriprocessors totaling at least \$1,504,400.00.

3. This Court has jurisdiction over this Complaint pursuant to 28 U.S.C. §§ 1334 and 157. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(F). Venue is proper in this adversary proceeding pursuant to 28 U.S.C. § 1409.

FACTUAL ALLEGATIONS

4. On November 4, 2008, (the "Petition Date") the Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code") with the United States Bankruptcy Court for the Eastern District of New York (the "New York Court").
5. By Order dated November 20, 2008, the New York Court approved the appointment of Joseph E. Sarachek as the Trustee in this case (Iowa Docket No. 56).
6. After hearings that concluded on December 12, 2008, the New York Court entered an Order granting a Motion to Change Venue from the Eastern District of New York to the Northern District of Iowa (Iowa Docket No. 1).
7. On or about October 15, 2009, the Court entered its orders converting this case to a case under Chapter 7 of the Bankruptcy Code and appointing Joseph E. Sarachek as Chapter 7 Trustee.
8. The parties previously agreed to toll the statute of limitations on claims of the Trustee arising against Chabad of Princeton under the Bankruptcy Code while they attempted to resolve the dispute, but the parties have been unable to do so.

COUNT 1: FRAUDULENT CONVEYANCES

9. Within the two years before the Petition Date, Defendant received at least 159 payments, detailed on Exhibit "A," attached hereto, from the Debtor totaling at least \$1,504,400.00.
10. The Trustee is not aware of any value provided to the Debtor from the Defendant in exchange for the payments, and therefore, the Trustee reasonably concludes that the transfers were in exchange for less than a reasonably equivalent value.
11. Debtor was insolvent at all times during the two-year period before the Petition Date.
12. The payments as described above constitute recoverable fraudulent conveyances pursuant to 11 U.S.C. § 548.
13. Pursuant to the provisions of 11 U.S.C. § 548, the Trustee is entitled to recover the value of the fraudulent conveyances.

COUNT 2: PREFERENTIAL TRANSFERS

14. To the extent that Defendant provided consideration for the payments, the payments constituted transfers of an interest of the Debtor in property for or on account of an antecedent debt owed by the Debtor before such transfers were made.
15. Debtor made such transfer to or for the benefit of an insider, based upon its close relationship with Chabad of Princeton and the leadership of the Chabad.
16. These payments constituted transfers of an interest of the Debtor in property made while the Debtor was insolvent.

17. The payments constituted transfers of an interest of the Debtor in property that enabled Chabad of Princeton, a creditor, to receive more than such creditor would have received if the transfers had not been made and the creditor had received payment of his debt to the extent provided by the provisions of Title 11 because the Debtor's liabilities far exceeded its assets both at the time of the transfers and at the time of the Petition Date.
18. Pursuant to the provisions of 11 U.S.C. § 550, the Trustee is entitled to recover the value of the preferential transfers.

CONCLUSIONS

19. The payments as described above constitute recoverable fraudulent conveyances pursuant to 11 U.S.C. § 548, or alternatively, recoverable preferences pursuant to 11 U.S.C. § 547(b).
20. Pursuant to the provisions of 11 U.S.C. §§ 550 and 551, the Trustee is entitled to recover the value of the fraudulent conveyances or preferential transfers. Therefore, the Trustee is entitled to entry of a judgment in his favor and against Defendant in the amount of at least \$1,504,400.00.

WHEREFORE, the Trustee respectfully requests entry of judgment in his favor and against Defendant in the amount of at least \$1,504,400.00 and the Trustee requests such other and further relief as the Court deems just and equitable under the circumstances.

Respectfully submitted,

/s/ Desirée A. Withers

Dan Childers LI0007535

Paula L. Roby LI1442523

Desirée A. Withers AT0010265

ELDERKIN & PIRNIE, P.L.C.

115 First Avenue SE; P.O. Box 1968

Cedar Rapids, IA 52406-1968

PHONE: (319) 362-2137; FAX: (319) 362-1640

dchilders@elderkinpirnie.com

plroby@elderkinpirnie.com

dwithers@elderkinpirnie.com

ATTORNEYS FOR CHAPTER 7 TRUSTEE

Exhibit A

Detail of Payments to Chabad of Princeton

Amount	Check Number	Check Date	Date Cleared
\$ 5,000.00	123737	11/6/2006	11/8/2006
\$ 1,800.00	122885	11/20/2006	11/13/2006
\$ 5,000.00	123738	11/13/2006	11/13/2006
\$ 5,000.00	123739	11/20/2006	11/16/2006
\$ 5,000.00	123740	11/27/2006	11/29/2006
\$ 2,600.00	123939	12/8/2006	12/11/2006
\$ 5,000.00	124274	12/4/2006	12/11/2006
\$ 5,000.00	124275	12/11/2006	12/11/2006
\$ 5,000.00	124276	12/18/2006	12/18/2006
\$ 1,800.00	122886	12/20/2006	12/26/2006
\$ 5,000.00	124277	12/25/2006	12/26/2006
\$ 5,000.00	124278	12/29/2006	1/2/2007
\$ 5,000.00	124884	1/5/2007	1/4/2007
\$ 2,600.00	123940	1/8/2007	1/11/2007
\$ 5,000.00	124885	1/12/2007	1/11/2007
\$ 1,800.00	122887	1/20/2007	1/22/2007
\$ 5,000.00	124886	1/19/2007	1/22/2007
\$ 5,000.00	124887	1/26/2007	1/26/2007
\$ 5,000.00	124888	1/31/2007	2/2/2007
\$ 2,600.00	123941	2/8/2007	2/7/2007
\$ 5,000.00	127616	2/6/2007	2/8/2007
\$ 5,000.00	127617	2/13/2007	2/15/2007
\$ 5,000.00	127608	2/20/2007	2/22/2007
\$ 1,800.00	122888	2/20/2007	2/23/2007
\$ 5,000.00	127619	2/26/2007	3/2/2007
\$ 5,000.00	127620	2/28/2007	3/2/2007
\$ 2,600.00	123942	3/8/2007	3/7/2007
\$ 5,000.00	128426	3/9/2007	3/14/2007
\$ 1,800.00	122889	3/20/2007	3/19/2007
\$ 5,000.00	128427	3/16/2007	3/19/2007
\$ 5,000.00	128428	3/23/2007	3/26/2007
\$ 5,000.00	128429	3/28/2007	3/30/2007
\$ 5,000.00	128430	3/30/2007	3/30/2007
\$ 2,600.00	123943	4/8/2007	4/4/2007
\$ 225,000.00	130354	4/5/2007	4/5/2007

\$ 225,000.00	NA - wire transfer	NA	4/11/2007
\$ 5,000.00	129115	4/9/2007	4/11/2007
\$ 5,000.00	128470	4/14/2007	4/17/2007
\$ 5,000.00	129116	4/16/2007	4/17/2007
\$ 5,000.00	129117	4/23/2007	4/24/2007
\$ 5,000.00	129118	4/28/2007	5/1/2007
\$ 5,000.00	129119	4/30/2007	5/1/2007
\$ 5,000.00	131864	5/3/2007	5/4/2007
\$ 5,000.00	131865	5/10/2007	5/10/2007
\$ 1,800.00	132113	5/14/2007	5/17/2007
\$ 5,000.00	131866	5/17/2007	5/21/2007
\$ 5,000.00	131867	5/22/2007	5/23/2007
\$ 5,000.00	131868	5/29/2007	5/30/2007
\$ 5,000.00	132404	6/1/2007	6/6/2007
\$ 1,800.00	132114	6/14/2007	6/11/2007
\$ 5,000.00	132405	6/8/2007	6/11/2007
\$ 5,000.00	132406	6/15/2007	6/15/2007
\$ 5,000.00	132408	6/29/2007	6/25/2007
\$ 5,000.00	132407	6/22/2007	7/3/2007
\$ 5,000.00	132815	7/2/2007	7/5/2007
\$ 5,000.00	132816	7/9/2007	7/10/2007
\$ 1,800.00	132115	7/14/2007	7/17/2007
\$ 5,000.00	132817	7/16/2007	7/17/2007
\$ 5,000.00	132818	7/23/2007	7/26/2007
\$ 5,000.00	132819	7/30/2007	7/30/2007
\$ 5,000.00	133405	8/1/2007	8/3/2007
\$ 5,000.00	133406	8/8/2007	8/6/2007
\$ 1,800.00	132116	8/14/2007	8/8/2007
\$ 5,000.00	133407	8/15/2007	8/9/2007
\$ 35,000.00	138146	8/8/2007	8/10/2007
\$ 5,000.00	133408	8/23/2007	8/14/2007
\$ 5,000.00	133409	8/30/2007	8/23/2007
\$ 5,000.00	133946	9/1/2007	8/31/2007
\$ 5,000.00	133947	9/8/2007	9/11/2007
\$ 1,800.00	132117	9/14/2007	9/18/2007
\$ 5,000.00	133948	9/15/2007	9/18/2007
\$ 5,000.00	133949	9/22/2007	9/21/2007
\$ 5,000.00	133950	9/29/2007	9/26/2007
\$ 5,000.00	134348	10/8/2007	10/11/2007

\$	5,000.00	134349	10/15/2007	10/15/2007
\$	5,000.00	134350	10/20/2007	10/22/2007
\$	5,000.00	134351	10/25/2007	11/5/2007
\$	5,000.00	134352	10/31/2007	11/5/2007
\$	1,800.00	134490	10/14/2007	11/5/2007
\$	5,000.00	134660	11/5/2007	11/9/2007
\$	1,800.00	134491	11/14/2007	11/19/2007
\$	5,000.00	134661	11/12/2007	11/19/2007
\$	5,000.00	134662	11/17/2007	11/23/2007
\$	5,000.00	134663	11/24/2007	11/29/2007
\$	5,000.00	134664	11/30/2007	12/5/2007
\$	5,000.00	134977	12/6/2007	12/12/2007
\$	1,800.00	134492	12/14/2007	12/18/2007
\$	5,000.00	134978	12/13/2007	12/18/2007
\$	5,000.00	134979	12/20/2007	12/24/2007
\$	5,000.00	134980	12/27/2007	12/31/2007
\$	5,000.00	134981	12/31/2007	1/7/2008
\$	5,000.00	135243	1/4/2008	1/14/2008
\$	5,000.00	135244	1/11/2007	1/14/2008
\$	1,800.00	134493	1/14/2008	1/15/2008
\$	5,000.00	135245	1/18/2008	1/16/2008
\$	75,000.00	144037	1/16/2008	1/18/2008
\$	5,000.00	135246	1/25/2008	1/28/2008
\$	6,000.00	135394	1/23/2008	1/29/2008
\$	5,000.00	135247	1/31/2008	2/5/2008
\$	5,000.00	135528	2/5/2008	2/7/2008
\$	5,000.00	135529	2/8/2008	2/13/2008
\$	5,000.00	135530	2/15/2008	2/20/2008
\$	1,800.00	134494	2/14/2008	2/21/2008
\$	5,000.00	135531	2/22/2008	2/26/2008
\$	6,000.00	135534	2/29/2008	3/3/2008
\$	5,000.00	135532	2/29/2008	3/4/2008
\$	5,000.00	135730	3/3/2008	3/6/2008
\$	1,800.00	134509	3/14/2008	3/11/2008
\$	5,000.00	135731	3/10/2008	3/11/2008
\$	5,000.00	135732	3/17/2008	3/17/2008
\$	5,000.00	135733	3/24/2008	3/27/2008
\$	50,000.00	144994	3/18/2008	3/31/2008
\$	5,000.00	135734	3/31/2008	4/2/2008

\$ 6,000.00	135765	3/31/2008	4/2/2008
\$ 5,000.00	135935	4/1/2008	4/4/2008
\$ 5,000.00	135936	4/8/2008	4/7/2008
\$ 5,000.00	135915	4/15/2008	4/16/2008
\$ 5,000.00	135937	4/22/2008	4/18/2008
\$ 100,000.00	145563	4/9/2008	4/18/2008
\$ 5,000.00	135939	4/30/2008	4/29/2008
\$ 6,000.00	135940	4/30/2008	4/29/2008
\$ 5,000.00	140182	5/3/2008	5/6/2008
\$ 5,000.00	140183	5/10/2008	5/14/2008
\$ 5,000.00	140184	5/17/2008	5/20/2008
\$ 5,000.00	140185	5/24/2008	5/27/2008
\$ 5,000.00	140186	5/31/2008	6/2/2008
\$ 6,000.00	140188	5/31/2008	6/2/2008
\$ 5,000.00	42791	6/6/2008	6/9/2008
\$ 5,000.00	42792	6/13/2008	6/18/2008
\$ 5,000.00	42793	6/20/2008	6/24/2008
\$ 5,000.00	42794	6/27/2008	7/1/2008
\$ 5,000.00	42795	6/30/2008	7/2/2008
\$ 6,000.00	43006	6/30/2008	7/2/2008
\$ 50,000.00	43554	7/1/2008	7/7/2008
\$ 5,000.00	43704	7/2/2008	7/9/2008
\$ 5,000.00	43705	7/9/2008	7/14/2008
\$ 5,000.00	43706	7/16/2008	7/22/2008
\$ 5,000.00	43707	7/23/2008	7/23/2008
\$ 5,000.00	43708	7/29/2008	7/31/2008
\$ 6,000.00	43709	7/31/2008	8/1/2008
\$ 50,000.00	43555	7/1/2008	8/4/2008
\$ 5,000.00	45101	8/4/2008	8/6/2008
\$ 1,800.00	44544	8/18/2008	8/14/2008
\$ 5,000.00	45102	8/11/2008	8/14/2008
\$ 5,000.00	45103	8/18/2008	8/25/2008
\$ 5,000.00	45104	8/25/2008	8/28/2008
\$ 5,000.00	45105	8/30/2008	9/3/2008
\$ 6,000.00	45106	8/31/2008	9/3/2008
\$ 5,000.00	46413	9/5/2008	9/17/2008
\$ 1,800.00	44545	9/18/2008	9/22/2008
\$ 5,000.00	46414	9/12/2008	9/22/2008
\$ 5,000.00	46415	9/19/2008	9/26/2008

\$	5,000.00	46416	9/24/2008	9/29/2008
\$	5,000.00	46702	9/15/2008	9/29/2008
\$	6,000.00	46418	9/30/2008	10/3/2008
\$	5,000.00	46417	9/26/2008	10/7/2008
\$	5,000.00	47582	10/6/2008	10/10/2008
\$	5,000.00	47650	10/10/2008	10/14/2008
\$	5,000.00	47651	10/17/2008	10/20/2008
\$	1,504,400.00	Total Amount Paid by Agriprocessors		

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS Joseph E. Sarachek, Chapter 7 Trustee	DEFENDANTS Chabad Lubavitch of Greater Mercer County, a/k/a Chabad of Princeton	
ATTORNEYS (Firm Name, Address, and Telephone No.) Elderkin & Pirnie, PLC 115 First Avenue SE, P.O. Box 1968 Cedar Rapids, IA 52406-1968	ATTORNEYS (If Known)	
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input checked="" type="checkbox"/> Trustee	PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input checked="" type="checkbox"/> Other <input type="checkbox"/> Trustee	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Preferential Transfer - USC Section 547 Fraudulent Transfer - USC Section 548		
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input checked="" type="checkbox"/> 12-Recovery of money/property - §547 preference <input checked="" type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column)	FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)	
<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23	
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$ 1,504,400.00	
Other Relief Sought N/A		

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Agriprocessors, Inc.		BANKRUPTCY CASE NO. 08-2751
DISTRICT IN WHICH CASE IS PENDING Northern District of Iowa	DIVISION OFFICE Dubuque	NAME OF JUDGE Kilburg
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) /s/ Desiree A. Withers		
DATE June 29, 2011	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Desiree A. Withers	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.