

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION**

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**IN RE**

**Parks Planting Company,  
  
Debtor.**

**Case No. 00-12467  
  
Chapter 7**

**South Delta Properties, LLC,  
  
Plaintiff,**

**v.**

**Adv. Pro. No. 01-5048**

**First State Bank,  
Parks Planting Company,  
and Stephen Parks,  
  
Defendants.**

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**MEMORANDUM OPINION AND ORDER RE  
(1) PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND  
(2) DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

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The Court conducted a hearing on the parties' motions for summary judgment on July 18, 2001. FED. R. BANKR. P. 9014. Pursuant to 28 U.S.C. § 157(b)(2), this is a core proceeding. After reviewing the testimony from the hearing and the record as a whole, the Court makes the following findings of facts and conclusions of law. FED. R. BANKR. P. 7052.\

**I. FINDINGS OF FACT**

The Debtor In Possession, Parks Planting Company, ("Parks") filed for Chapter 11 bankruptcy relief on July 14, 2000. Said bankruptcy has since been converted by the debtor to a Chapter 7. Parks is engaged in the business of farming and leases approximately five thousand

(5000) acres of real estate in Louisiana from three separate and distinct entities: (1) John Hancock Insurance; (2) Wilford Parks; and (3) South Delta Properties, L.L.C., ("South Delta"). One of the defendants in this adversary proceeding, Stephen Parks is a partner in Parks Planting and is a member of South Delta. Most of the leased land is farmed by Parks and the crops produced consist of corn, rice and soybeans.

South Delta executed a lease agreement with the debtor on December 15, 1997, for the lease of approximately 1,401 acres of land located in Tallulah and Sodheimer, Madison Parish, Louisiana. The term of the lease reads as being from December 15, 1997, "until terminated by the landlord." South Delta filed a standard UCC-1F financing statement on Park's year 2000 Louisiana corn, rice and soybean crops on July 5, 2000. The financing statement reflected Parks' indebtedness to South Delta of \$1,300,000. South Delta has claimed unpaid rent on the land leased by it to Parks for the year 1999 in the amount of \$134,763.00. South Delta has claimed unpaid rent on the land for the year 2000 in the amount of \$173,000. South Delta did not execute a separate security agreement with the debtor on these crops or their proceeds. Instead, South Delta alleged that their July 5, 2000, UCC 1F financing statement can serve as their security agreement.

The Defendant in this adversary proceeding, First State Bank, ("First State") financed Park's Louisiana farming operations in the years 1998, 1999, and 2000.<sup>1</sup> These loans were

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<sup>1</sup> Parks borrowed \$800,000 from First State by promissory note dated February 3, 1998. Parks borrowed \$400,000 from First State by promissory note dated May 3, 1999. On May 31,

secured in part by all crops and farm products on the Louisiana Farms. First State perfected their security interests in Parks' crops by filing UCC-1F Financing Statements on the crops and the proceeds on February 25, 1998, July 30, 1999, and July 6, 2000.

Pursuant to this Court's October 6, 2000, Consolidated Interim Order Regarding Debtor's Use of Cash Collateral, First State Bank issued two checks to South Delta in payment of all unpaid year 2000 rents due from Parks. The checks represented crop proceeds from the Louisiana farms. The two checks issued by First Bank were in the amount of \$99,000 and \$74,000, respectively.

In the present adversary proceeding, South Delta alleges that it is entitled to year 2000 crop proceeds from the Louisiana farms, over and above the \$173,000 South Delta has already received, to pay Parks' unpaid 1999 rent.

## **II. CONCLUSIONS OF LAW**

Summary Judgment under FED. R. CIV. P. 56(c), made applicable to bankruptcy contested matters and adversary proceedings by FED. R. BANKR. P. 7056, is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

*See Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). Any inferences to be drawn from the

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1999, Parks executed a promissory note in the amount of \$1,200,000 which represented a consolidation of the previous loans of \$800,000 and \$400,000. On June 1, 2000, Parks executed a promissory note in the amount of \$1,600,000 which represented the previous outstanding loan of \$1,200,000 and an additional loan of \$400,000.

underlying facts must be viewed in the light most favorable to the party opposing the motion.

*Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986).

At issue in the case at bar is whether or not South Delta had a properly perfected security interest in Parks' crop proceeds for the years 1998, 1999, or 2000. If the Court, after examining the undisputed facts, concludes that South Delta did have a properly perfected security interest in Parks' crop proceeds, the Court must grant summary judgment in their favor. If, on the other hand, the Court finds that the facts do not demonstrate that South Delta had a security interest in the crops, First State is entitled to summary judgment.

Under Louisiana law, a secured creditor must attach and perfect a security interest in order to have maximum security rights in collateral. *Agricredit Acceptance Co. v. Singleton*, 767 So.2d 137, 139 (La. Ct. App. 2000). Pursuant to LA. REV. STAT. ANN. § 10:9-203(1), a security interest attaches when:

- (a) . . . the debtor has signed a security agreement which contains a description of the collateral and, in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned;
- (b) value has been given; and
- (c) the debtor has rights in the collateral.

Once attached, a security interest is perfected when the creditor files a financing statement, such as the U.C.C.-1F. LA. REV. STAT. ANN. § 10:9-302. The financing statement must:

- (1) contain the names of the debtor and the secured party;
- (2) be signed by the debtor;
- (3) give an address of the named secured party from which information concerning the security interest may be obtained;

- (4) set forth the social security or employer identification number of the named secured party;
- (5) give the mailing address of the debtor;
- (6) set forth the social security or employer identification number of the debtor;
- (7) contain a description of the collateral.

LA. REV. STAT. ANN. § 10:9-402.

The majority of courts has held that "a standard form financing statement by itself cannot be considered a security agreement." *In re Numeric Corp.*, 485 F.2d 1328, 1332 (1<sup>st</sup> Cir. 1973); *In re Bollinger Corp.*, 614 F.2d 924, 926 (3<sup>rd</sup> Cir. 1980); *A-1 Paving & Contracting, Inc.*, 116 F.3d 242, 245 (7<sup>th</sup> Cir. 1997); *Gibson Co. Farm Bureau Coop. Ass'n. v. Greer*, 643 N.E.2d 313, 320 (Ind. 1994); *American Card Co. v. H.M.H. Co.*, 196 A.2d 160 (R.I. 1963); *Silver Creek Supply v. Powell*, 521 N.E.2d 828, 833 (Ohio Ct. App. 1987). If, however, the financing statement contains some language "which 'leads to the logical conclusions that it was the intention of the parties that a security interest be created,'" then a financing statement can serve as the security agreement. *Evans v. Everett*, 193 S.E.2d 109, 113 (N.C. 1971) (quoting *In re Nottingham*, 1969 WL 11098 (U.S.D.C. Tenn. 1969); *Bollinger*, 614 F.2d at 928; *Numeric Corp.*, 485 F.2d at 1331; *In re Frazier*, 16 B.R. 674, 679 (Bankr. M.D.Tenn. 1981) (the court found the financing statement could serve as the security agreement where the parties had added language to the front side of the form financing statement which read "[t]his financing statement and security agreement . . . "). Additionally, "a security agreement need not be evidenced by a single document, but may be established through consideration of two or more written documents." *Agricredit Acceptance Corp.*, 767 So.2d at 141; *Numeric Corp.*, 485 F.2d at 1332;

*In re Maddox*, 92 B.R. 707, 711 (Bankr. W.D.Tex. 1988) (holding that "all relevant loan documents may be examined to determine whether a security agreement exists . . ."); *Bollinger*, 614 F.2d at 928; *In re North Reddington Beach Assoc.*, 97 B.R. 90 (Bankr. M.D. Fla. 1989); *In re Owensboro Canning Co.*, 82 B.R. 450 (Bankr. W.D. Ky. 1988).

In the case at bar, the only evidence South Delta presented of its alleged security interest in the debtor's crops was the form UCC 1F financing statement. The form did not contain any additional language indicating (1) that the parties intended for the UCC 1F to serve as their security agreement or (2) that there even was a security agreement. The only other document presented to the Court from which evidence of a security agreement may be gleaned was the land lease executed on December 15, 1997. There is no language or indication in this document that the parties intended to create a security interest in the debtor's crops in favor of South Delta.

Because the Court finds that no valid security agreement existed in favor of South Delta, the Court holds that South Delta is only entitled to a landlord's privilege for the rent already paid to them by First Bank. The Court further finds that First Bank is entitled to the next position of priority as a secured creditor in the all of the debtor's crops. As a result of these findings, the Court will grant the Defendant's Motion for Summary Judgment and deny the Plaintiff's Motion for Summary Judgment.

### **III. ORDER**

It is therefore **ORDERED** that:

(1) Plaintiff's Motion for Summary Judgment is **DENIED**; and

(2) Defendants' Motion for Summary Judgment is **GRANTED**.

**IT IS SO ORDERED.**

**By the Court,**

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**G. Harvey Boswell**  
**United States Bankruptcy Judge**

**Date: September 26, 2001**