

COURT OF COMMON PLEAS
FULTON COUNTY, OHIO

The Farmers & Merchants State Bank,) Case No. 11CV000128
)
Plaintiff,) Judge Barber
)
-vs-) **PLAINTIFF'S ANSWER TO**
) **COUNTERCLAIM OF OHIO**
Archbold Elevator Inc., et al.,) **DEPARTMENT OF AGRICULTURE**
)
Defendants.) David J. Coyle (0038966)
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* * *

For its Answer to the Counterclaim of Defendant Ohio Department of Agriculture (“ODA”), Plaintiff The Farmers & Merchants State Bank (“Farmers”) states as follows:

1. Farmers admits the averments contained in paragraph 1 of the Counterclaim.

2. Farmers without information or knowledge sufficient to form a belief as to the truth of the averments contained in paragraph 2 of the Counterclaim, and therefore denies them.

3. Farmers states that it has a first and best lien on all of Defendant Archbold Elevator, Inc.'s assets, denies that ODA holds a superior lien on such assets, and is without information or knowledge sufficient to form a belief as to the truth of the remaining averments contained in paragraph 3 of the Counterclaim, and therefore denies them.

4. Farmers states that it has a first and best lien on all of Defendant Archbold Elevator, Inc.'s assets, denies that ODA holds a superior lien on such assets, and is without information or knowledge sufficient to form a belief as to the truth of the remaining averments contained in paragraph 4 of the Counterclaim, and therefore denies them.

5. Farmers states that it has a first and best lien on all of Defendant Archbold Elevator, Inc.'s assets, denies that ODA holds a superior lien on such assets, and is without information or knowledge sufficient to form a belief as to the truth of the remaining averments contained in paragraph 5 of the Counterclaim, and therefore denies them.

6. Farmers denies all averments contained in the Counterclaim not affirmatively admitted herein.

AFFIRMATIVE DEFENSES

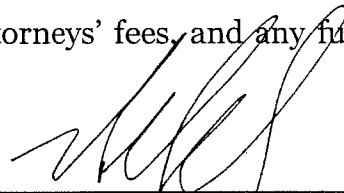
7. ODA fails to state a claim against Farmers upon which relief can be granted.

8. Farmers holds the first and best lien on all assets of defendants Archbold Elevator, Inc., Kainos Operations, Ltd., O-MI-O, Inc., Henry Pig, Inc., William L. Fricke and Lynette K. Fricke, including any proceeds therefrom.

9. ODA's claims are barred, in whole or in part, by accord and satisfaction, payment, waiver, assumption of the risk, estoppel, the statute of frauds, and the statute of limitations.

10. Farmers reserves the right to assert additional affirmative defenses as they become known through discovery.

WHEREFORE, Plaintiff The Farmers & Merchants State Bank demands that Defendant Ohio Department of Agriculture's Counterclaim be dismissed with prejudice, and that Farmers recover its costs, expenses, attorneys' fees, and any further relief to which it is entitled.



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **Plaintiff's Answer to Counterclaim of Ohio Department of Agriculture** was sent on June 9, 2011, by first class United States mail, postage prepaid, upon the following:

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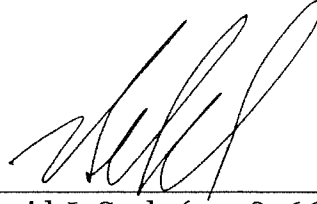
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