

**IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
CIVIL DIVISION**

**STATE OF ARKANSAS, *ex rel.*
LESLIE RUTLEDGE, ATTORNEY GENERAL**

PLAINTIFF

v. CASE NO. _____

JP MORGAN CHASE BANK, N.A.

DEFENDANT

COMPLAINT FOR DECLARATORY JUDGMENT

The State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General (“the State”), for its Complaint for Declaratory Judgment against JP Morgan Chase Bank, N.A. (“Chase”), states:

I. INTRODUCTION

1. This is a consumer protection action brought to redress and restrain violations of the Arkansas Deceptive Trade Practices Act (“ADTPA”), Ark. Code Ann. § 4-88-101 *et seq.*

2. Scammers are increasing their efforts to defraud individuals and businesses by compromising their email. The scammer monitors the email communications to discover information about the individual or business, such as

billing practices or details about a transaction. Later, the scammer uses the information by hacking into the email system to send fraudulent payment instructions.

3. This case concerns the ownership of funds that were fraudulently diverted to a Chase bank account by a hacker who emailed “change of banking” information using a spoofed email account to unsuspecting buyer during a business to business sales transaction.

4. Pursuant to Ark. Code Ann. § 16-111-101 and Rule 57 of the Arkansas Rules of Civil Procedure, the State seeks a declaratory judgment that \$55,072.58, which is being held by Chase in a suspense account, is the property of Arkansas business Nitrogen Solutions LLC (“Nitrogen Solutions”).

II. PARTIES

5. Plaintiff is the State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General. Attorney General Rutledge is the chief legal officer of the State. Pursuant to Ark. Code Ann. § 4-88-104 and 4-88-113, the State may seek civil enforcement.

6. Defendant Chase is a national bank and subsidiary of JPMorgan Chase & Co., with its principal place of business located at 1111 Polaris Parkway, Columbus, Ohio 43240.

III. INTERESTED PARTIES

7. Nitrogen Solutions is a limited liability company organized in the State of Arkansas. Its principal place of business is located at 1506 Lamar Place,

Jonesboro, Arkansas. Its registered agent is Joan Khilling, 1506 Lamar Place, Jonesboro, Arkansas 72401.

8. Copper Tip Entergy Services USA LLC (“Copper Tip”) is a limited liability company organized in the State of North Dakota. Its principal place of business is located at 1101 11th Avenue, Nisku, AB T9E 0S1, Canada. Its registered agent is Paracorp Incorporated, 1709 N. 19th Street, Suite 3, Bismarck, North Dakota 58501.

IV. JURISDICTION

9. This Court has jurisdiction over this matter pursuant to Ark. Code Ann. § 4-88-104 and the common law of the State of Arkansas.

10. Venue is proper pursuant to Ark. Code Ann. §§ 4-88-104, 4-88-112, and the common law of the State of Arkansas.

V. FACTUAL ALLEGATIONS

11. On April 8, 2021, Charleston Girley, billing accountant for Nitrogen Solutions, emailed a question about the payment status for a list of invoices to Copper Tip. Mr. Girley’s email address is Charleston.Girley@Nitrogen-Solutions.com. Copper Tip responded to Mr. Girley and asked for copies of two invoices. Mr. Girley responded and attached the invoices in an email.¹

12. Then, Mr. Girly appeared to email Copper Tip a message telling it to “...find attached with our updated JP Morgan Chase wire instructions in the

¹ The email thread with Mr. Girley’s correct email is attached at Exhibit A.

attachment. Update your records accordingly.” The email address, however, was slightly changed to Charleston.Girley@Nitrogen-Solution.com.²

13. Using the updated wiring instructions³ provided in the fraudulent and deceptive email, Copper Tip wired \$55,072.58 to Nitrogen Solutions on or about April 15, 2021. However, the funds were not deposited into an account held by Nitrogen Solutions. The wire instructions named the proper beneficiary but incorrectly identified the account information for the account holder, who was not a party to the transaction.

14. When Nitrogen Solutions discovered it had not yet received the funds, it contacted Copper Tip and discovered the fraud. Neither Nitrogen Solutions nor Copper Tip were Chase customers, so Chase refused to discuss the transaction with them.

15. Nitrogen Solutions filed a complaint with the Office of the Arkansas Attorney General and the State opened an investigation on June 22, 2021.

16. Chase produced records pursuant to an Attorney General Subpoena, and the State determined the funds were deposited into an account opened on November 12, 2020, by California resident Joseph Belvia Sherrill (age 75).⁴

17. Upon information and belief, an unknown scammer manipulated Mr. Sherrill and used him as an unwitting money mule.

² The email thread with the fraudulent email address posing as Mr. Girley is attached as Exhibit B.

³ The “updated JP Morgan Chase wire instructions” are attached as Exhibit C.

⁴ Opening account documents and periodic statements for Chase Account Ending in 8027 are attached collectively as Exhibit D.

18. On April 16, 2021, Chase debited Mr. Sherrill's account for \$55,072.58.⁵

19. On July 19, 2021, Chase notified the State that the \$55,072.58 was being held in a suspense account and could be released by court order.

VI. REQUEST FOR DECLARATORY JUDGMENT

20. Pursuant to Ark. Code Ann. § 16-111-101, the State asks that this Court enter a judgment finding that the sum of \$55,072.58, held by Chase, belongs to Nitrogen Solutions and should immediately be released to it, or, in the alternative, enter a judgment ordering Chase to immediately return the funds to the originating bank for deposit into the account held by Copper Tip.

WHEREFORE, the State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General, respectfully requests that this Court:

- a. Declare the sum of \$55,072.58 is the property of Nitrogen Solutions and order Chase to immediately release the funds to it, or, in the alternative, enter a judgment ordering Chase to immediately return the funds to the originating bank for deposit into the account held by Copper Tip; and
- b. Grant all other relief as may be just and proper.

Respectfully submitted,

LESLIE RUTLEDGE
ATTORNEY GENERAL

By: _____



⁵ *Id.*, Page 11.

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