

SunTrust sues SouthEast Waffles CEO

Bank accuses Shaub of using company funds to support lavish lifestyle; his lawyer denies any impropriety

By E. Thomas Wood 06-10-2009

The fat is in the fire once more over who's to blame for the bankruptcy of Nashville-based SouthEast Waffles LLC. SunTrust Bank filed suit yesterday against Jim Shaub, majority owner and former CEO of SouthEast Waffles. The bank claims Shaub depleted the company's assets for his own use and took part in a \$3.7 million check-kiting scheme before SouthEast Waffles filed for Chapter 11 protection last August.

The lawsuit, available at this link, also names Becky Sullivan, longtime chief financial officer of the company. She allegedly floated worthless company checks back and forth between SunTrust and Nashville's FirstBank from late June to August of 2008, working in concert with Shaub.

Shaub, who has faced harsh criticism from creditors in the company's bankruptcy case, has asserted throughout the bankruptcy that Sullivan alone is responsible for the banking fraud. "Her fingerprints are all over it," said his attorney, David Raybin of Hollins Wagster Weatherly & Raybin, in an interview this afternoon.

The filing says that under Shaub's direction, "the bank accounts of SouthEast Waffles became, in effect, Mr. Shaub's personal bank accounts, and his family's lavish personal expenses took complete priority over the liabilities of SouthEast Waffles." Company funds covered the cost of refurbishing and maintaining the Belle Meade Boulevard home of Jim and Anna Shaub, as well as private school tuition, charity contributions and car payments, according to the lawsuit.

"Jim Shaub has absolutely not committed any fraudulent transfers from SouthEast Waffles, and he was not involved in any check kiting scheme," Raybin said.

The bank claims that Sullivan regularly furnished Shaub with reports on the kiting activity, and that at one point he advised her "to keep the kite check amounts lower to avoid detection."

Raybin said Shaub would have had no reason to examine inter-company transfers in the financial reports, as he focused only on external payments. He added that throughout the bankruptcy process, those claiming Shaub misused company funds "haven't produced a single check that SouthEast Waffles wrote to him or his wife for personal reasons."

The bank seeks \$3.7 million in damages for the check scheme, \$10 million in punitive damages and an unspecified amount to cover fraudulent transfers made by Shaub. Bob Goodrich of Stites & Harbison filed the complaint for SunTrust.

Raybin said Goodrich "got absolutely nowhere" when questioning Shaub at length about alleged improprieties during depositions in the bankruptcy case. "And I would suggest he's going to get absolutely nowhere with this parallel lawsuit," he added.