



ORDERED in the Southern District of Florida on June 10, 2010.

Paul G. Hyman, Chief Judge
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

In re:

CASE NO.: 07-16145-BKC-PGH

JSL CHEMICAL CORPORATION,
Debtor.

CHAPTER 7

DEBORAH C. MENOTTE, Trustee
Plaintiff,

ADV. NO.: 09-1607-BKC-PGH-A

v.

BRENNTAG SOUTHEAST, INC.,
Defendant.

ORDER: (1) DENYING TRUSTEE'S MOTION TO EXCLUDE EXPERT TESTIMONY;
(2) DENYING TRUSTEE'S CROSS-MOTION FOR SUMMARY JUDGMENT; AND,
(3) GRANTING IN PART AND DENYING IN PART DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

THIS MATTER came before the Court upon Brenntag Southeast, Inc.'s (the "Defendant") *Motion for Summary Judgment*, and Deborah C. Menotte's (the "Trustee") *Response, Cross-Motion For Summary*

Judgment (the "Cross-Motion"), and *Motion to Exclude Expert Testimony* (the "Motion to Exclude"). For the reasons set forth below, the Court herewith denies the Trustee's Motion to Exclude and Cross-Motion, and grants in part and denies in part the Defendant's Motion for Summary Judgment.

BACKGROUND

I. Facts and Procedural History

On August 2, 2007, JSL Chemical Corporation, the Debtor in the above-referenced bankruptcy case (the "Debtor"), filed a petition under Chapter 7 of the United States Bankruptcy Code. On June 9, 2009, the Trustee filed a Complaint against the Defendant, initiating the above-referenced adversary proceeding. The Complaint seeks to recover three alleged preferential transfers the Debtor made to the Defendant during the ninety day period before the Debtor filed bankruptcy. The transfers at issue are: (1) a check that cleared the Debtor's bank account on May 9, 2007, in the amount of \$37,295.10 (the "May 9, 2007 Transfer"); (2) a check that cleared the Debtor's account on May 23, 2007, in the amount of \$25,866.60 (the "May 23, 2007 Transfer"); and, (3) a check that cleared the Debtor's account on June 1, 2007, in the amount of \$23,764.00 (the "June 1, 2007 Transfer"; collectively, the "Transfers").

Pursuant to the Court's *Order Setting Briefing Schedule*, the parties filed a *Joint Stipulation of Facts*, stating that: (1) the

Debtor was insolvent when the Transfers occurred; (2) the Transfers occurred on account of an antecedent debt; (3) the Transfers enabled the Defendant to receive more than it would have had the Transfers not occurred; and, (4) all of the Transfers were in payment of a debt incurred by the Debtor in the ordinary course of business or financial affairs of the Debtor and Defendant. Therefore, it is undisputed that the Transfers satisfy the elements of an avoidable preference under 11 U.S.C. § 547(b), as well as the first element of the ordinary course of business defense under 11 U.S.C § 547(c)(2). The parties also stipulate that on May 22, 2007, the Defendant extended \$25,004.00 in credit to the Debtor, which constituted new value under 11 U.S.C. § 547(c)(4).

The Defendant asserts that all of the Transfers are protected by the ordinary business terms defense under § 547(c)(2)(B).¹ The Defendant relies on the expert testimony of H.A. Schaeffer ("Schaeffer") of D & H Credit Services, Inc., in support of this argument.

II. The Expert Testimony

Schaeffer's testimony is based on information provided by Risk

¹ The Defendant's Motion states that the Transfers were made "in the 'ordinary course' according to ordinary business terms, pursuant to 11 U.S.C. § 547(c)(2)," but does not specify whether the Motion is brought pursuant to § 547(c)(2)(A), § 547(c)(2)(B), or both. However, throughout the Motion the Defendant cites to subsection (B), and makes no argument under subsection (A). Moreover, the Trustee's Response and the Defendant's Reply both contain arguments relating to subsection (B) only. Therefore, the Court construes the Motion as a Motion for Summary Judgment pursuant to § 547(c)(2)(B), and makes no findings relating to the separate ordinary course of business defense under § 547(c)(2)(A).

Management Associates ("RMA"), a non-profit association of banks and financial institutions. RMA collects data from RMA members, who in turn collect their information from companies in connection with potential loans. Submissions from RMA members are anonymous, such that a reader would not know whether an RMA report based on 100 submissions reflected data derived from 100 submissions by 100 members, or 100 submissions from a single member. RMA categorizes submitted information according to the product or service of the potential borrower, and processes the information into statistical summaries called Annual Statement Studies (a "Study" or "Studies").

To acquire a Study relevant to the instant matter, Schaeffer provided RMA with the Defendant's self-identified NAICS² code of 424690: "other chemical and allied product merchant wholesaler." RMA returned a Study consisting of statistics derived from information about companies having the same NAICS code as the Defendant. RMA members gathered that information during the fiscal year in which the Transfers occurred. According to Schaeffer, RMA is capable of creating a more specific Study, for example by restricting the Study to include only companies operating within a given geographic region. The expert requesting the Study, in this case Schaeffer, determines the specificity of the Study. Schaeffer's Report is based on a Study that includes information

² The North American Industrial Classification System, or NAICS, identifies an industry according to product or services. Companies are required to select and list the NAICS code that most accurately describes their business on government forms, such as SEC and tax filings.

from companies that identify with the Defendant's NAICS code, regardless of geography, assets, or revenue.

The RMA Study Schaeffer used in this case provided, among other statistics, the average number of days for companies within the Study to collect receivables. The receivables statistic is divided into an upper or faster group, a median group, and lower or slower group. The Study identified an average of thirty-three days for receivable collection in the upper group, and an average of fifty-two days for receivable collection in the lower group. According to Schaeffer, this means that companies having the same NAICS code as the Defendant, on average, collect receivables within a range of thirty-three to fifty-two days, with a collection occurring outside of this range being unusual in the industry.

Next, Schaeffer asserted that standard payment terms for the Defendant's industry are net thirty days. Because the May 23, 2007 and June 1, 2007 Transfers were on account of invoices on net forty-five day terms, Schaeffer adjusted those Transfers by subtracting fifteen from the number of days that passed between invoice and the date of the Transfer. Schaeffer then compared the thirty-three to fifty-two day payment range that RMA identified against the adjusted Transfers. Based on the fact that, after adjustment, all of the Transfers occurred within the ordinary payment range, Schaeffer concluded that all of the Transfers were made according to ordinary business terms.

III. Arguments

The Trustee argues that Schaeffer's testimony is inadmissible. First, the Trustee asserts that Schaeffer is not qualified to provide expert testimony regarding the parties' industry because Schaeffer is unfamiliar with the industry. Second, the Trustee asserts that Schaeffer's testimony is based on unreliable facts and methods. Specifically, the Trustee asserts that the conclusions in the RMA Study cannot be tested or replicated because RMA's methodology is unknown, and because the Study is based on anonymous submissions. Additionally, the Trustee asserts that the Defendant's self-identified NAICS code is insufficient evidence to establish the parties' industry, and that Schaeffer should have more accurately identified the parties' industry by restricting the RMA Study to include companies having a revenue similar to the Debtor, and operating in the same geographic area as the parties. Based on the premise that Schaeffer's testimony should be excluded, the Trustee asserts she is entitled to summary judgment as to the Defendant's ordinary business terms defense.

The Defendant, on the other hand, argues that Schaeffer is qualified, that the RMA Study on which Schaeffer's testimony is based is reliable, and that Schaeffer accurately identified the relevant industry. The Defendant further asserts that based on Schaeffer's testimony, the Defendant is entitled to summary judgment as to the ordinary business terms defense. The Defendant

also asserts that it is entitled to summary judgment as to its new value defense, which the Trustee does not dispute. Because the basis for both parties' requested relief is Schaeffer's proposed expert testimony, the Court will first address the Motion to Exclude, and will then address the Cross-Motion and Motion for Summary Judgment.

CONCLUSIONS OF LAW

I. Jurisdiction

The Court has jurisdiction over this matter under 28 U.S.C. § 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2)(F).

II. Motion to Exclude Expert Testimony

The admissibility of expert testimony is governed by Federal Rule of Evidence 702, which provides that:

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.

Fed. R. Evid. 702. "[F]or expert testimony to be admissible under Rule 702 of the Federal Rules of Evidence, the proponent of the testimony must show that: (1) the expert is qualified to testify competently regarding the matters he intends to address; (2) the methodology by which the expert reaches his conclusions is

sufficiently reliable; and (3) the testimony assists the trier of fact, through the application of scientific, technical, or specialized expertise, to understand the evidence or to determine a fact in issue." *Maiz v. Virani*, 253 F.3d 641, 665 (11th Cir. 2001) (citing *City of Tuscaloosa v. Harcross Chems., Inc.*, 158 F.3d 548, 563 (11th Cir. 1998)). The proponent must satisfy this burden by a preponderance of the evidence. *In re Paoli R.R. Yard PCB Litig.*, 35 F.3d 717, 744 (3d Cir. 1994).

A. *Schaeffer is Qualified to Testify as an Expert*

Under Rule 702, a witness may qualify as an expert by possessing appropriate knowledge, skill, experience, training, or education. *Kopf v. Skyrms*, 993 F.2d 374, 377 (4th Cir. 1993). Furthermore, "[o]ne knowledgeable about a particular subject need not be precisely informed about all details of the issues raised in order to offer an opinion." *Id.* (quoting *Thomas J. Kline, Inc. v. Lorillard, Inc.*, 878 F.2d 791, 799 (4th Cir. 1989), cert. denied, 493 U.S. 1073 (1990)). In other words, the standard to qualify as an expert is liberal, and the test to exclude an expert for lack of qualification is strict. *Id.*

Based on Schaeffer's knowledge, experience, training, and education, the Court finds that Schaeffer qualifies as an expert. Schaeffer has specialized knowledge of the credit industry, as evidenced by his status as a Certified Credit Executive and Certified Expert Witness, his membership in the National

Association of Credit Management, as well as the litany of professional experiences indicated in Schaeffer's curriculum vitae, which is attached to Schaeffer's testimony. Defendant's Expert Report at 14, *Menotte v. Brenntag Southeast, Inc.*, No. 09-1607-PGH-A (June 9, 2009) (D.E. # 26). Contrary to the assertions of the Trustee, Schaeffer need not have particular knowledge of the parties or their industry to form an expert opinion based on the information in the RMA Study. See, e.g., *Maiz*, 253 F.3d at 665 (rejecting the argument that an expert was unqualified due to lack of familiarity with the parties, when the subject matter of the expert's testimony was "sufficiently within his expertise.").

B. The Facts and Methods Underlying Schaeffer's Testimony are Sufficiently Reliable

The Supreme Court has identified a non-exclusive list of factors relevant to determining whether expert testimony is reliable, including whether the theory underlying the testimony has been tested and subjected to peer review and publication, whether the theory has gained acceptance within a relevant scientific community, and whether there are any known error rates. *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579, 593-95 (1993). However, the Supreme Court identified these factors in the context of scientific expert testimony, and has subsequently recognized that, in other contexts, they "may or may not be pertinent in assessing reliability[.]" *Kumho Tire Co., Ltd., v. Carmichael*, 526 U.S. 137, 150 (1999). Therefore, "the trial judge must have considerable

leeway in deciding in a particular case how to go about determining whether particular expert testimony is reliable[.]” *In re Trasylol Prods. Liab. Litig.*, 2010 WL 1489734, *1 (S.D. Fla. March 8, 2010) (quoting *Kumho*, 526 U.S. at 152). This discretion is particularly broad, and the criteria for admitting expert testimony less strict, when the court itself is the fact finder, because a judge “is presumably competent to disregard what he thinks he should not have heard, or to discount it for practical and sensible reasons.” *Bristol-Meyers Squibb Co. v. Andrx Pharm., Inc.*, 343 F. Supp. 2d 1124, 1131 (S.D. Fla. 2004) (quoting *Multi-Media Convalescent & Nursing Ctr.*, 550 F.2d 974, 977 (4th Cir. 1997)); see also *Gibbs v. Gibbs*, 210 F.3d 491, 500 (5th Cir. 2000) (“Most of the safeguards provided for in *Daubert* are not as essential in a case . . . where a district judge sits as the trier of fact in place of a jury.”)

With this standard in mind, the Court finds that the RMA Study is sufficiently reliable to form the basis for Schaeffer’s expert testimony. According to Schaeffer, RMA is a well-respected organization whose Studies are widely used in the lending industry. The Trustee’s chief objection to Schaeffer’s use of the RMA Study is RMA’s purportedly unknown method of identifying the average time for collecting receivables. However, RMA’s methodology is set forth in the Study, attached to Schaeffer’s testimony. Defendant’s Expert Report, Exhibit A-3, *Brenntag Southeast*, No. 09-1607-PGH-A (D.E. # 26). Although the Trustee may not have the information

needed to test or replicate the results of the Study, that is not necessarily an indication that the Study is unreliable. See *City of Tuscaloosa*, 158 F.3d at 566 n.25 (noting that "not every scientific or technical methodology applied by expert witnesses is susceptible" to being tested and retested, and that when considering such a method, "the proper inquiry is whether the techniques utilized by the experts are reliable in light of the factors (other than testability) identified in *Daubert*[.]"). Instead, the proper forum for the Trustee to question the reliability of the RMA Study is by cross-examining Schaeffer at trial. See *Allison v. McGhan*, 184 F.3d 1300, 1311 (11th Cir. 1999) ("Vigorous cross-examination, presentation of contrary evidence, and careful instruction on the burden of proof are the traditional and appropriate means of attacking [debatable] but admissible evidence." (quoting *Daubert*, 509 U.S. at 596)).

Similarly, the Trustee's assertion that the Defendant's NAICS code is an unreliable indicator of the parties' industry relates to the weight of Schaeffer's testimony, not its admissibility. The same is true of the Trustee's assertion that Schaeffer failed to adequately limit the category of companies included in the RMA Study. See *Ohio ex rel. Montgomery v. Louis Trauth Dairy, Inc.*, 925 F. Supp. 1247, 1253 (S.D. Ohio 1996) (citing *Berry v. City of Detroit*, 25 F.3d 1342, 1352-53 n.11 (6th Cir. 1994), cert. denied, 513 U.S. 1111 (1995)) (when expert testimony is based on

statistics, a problem with the selection of the sample underlying the statistic bears on the weight of the expert testimony, not its admissibility). The Trustee can address all of these issues by cross-examining Schaeffer at trial. This comports with the approach adopted by other courts considering expert testimony based on RMA data. See, e.g., *Lightfoot v. Amelia Maritime Services, Inc. (In re Sea Bridge Marine, Inc.)*, 412 B.R. 868 (Bankr. E.D. La. 2008) (allowing expert testimony at trial based in part on information produced by RMA); *Alexander v. Bonifay Mfg., Inc. (In re Terry Mfg. Co.)*, 2005 Bankr. Lexis 2177 (Bankr. M.D. Ala. 2005) (allowing testimony by Trustee based on data provided by RMA and another research organization); *Barber v. Murphy (In re Patriot Seeds, Inc.)*, 2010 WL 381620 (Bankr. C.D. Ill. 2010) (allowing expert testimony based on RMA data at trial, subject to cross-examination). Based on the foregoing, the Court will deny the Motion to Exclude.

III. The Summary Judgment Standard

Federal Rule of Civil Procedure 56(c), made applicable to bankruptcy proceedings by Federal Rule of Bankruptcy Procedure 7056, provides that summary judgment is appropriate if the Court determines that the "pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c); see also

Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986). "An issue of fact is 'material' if it is a legal element of the claim under the applicable substantive law which might affect the outcome of the case." *Allen v. Tyson Foods, Inc.*, 121 F.3d 642, 646 (11th Cir. 1997). "In determining whether a genuine question of material fact exists, the Court must consider all evidence in the light most favorable to the non-movant." *Pilkington v. United Airlines, Inc.*, 921 F. Supp 740, 744 (M.D. Fla. 1996). In considering a motion for summary judgment, "the court's responsibility is not to resolve disputed issues of fact but to assess whether there are any factual issues to be tried, while resolving ambiguities and drawing reasonable inferences against the moving party." *Knight v. U.S. Fire Ins. Co.*, 804 F.2d 9, 11 (2d Cir. 1986), *cert. denied*, 480 U.S. 932 (1987) (*citing Anderson*, 477 U.S. at 248). "Summary judgment may be inappropriate even where the parties agree on the basic facts, but disagree about the inferences that should be drawn from these facts . . . If reasonable minds might differ on the inferences arising from undisputed facts, then the court should deny summary judgment." *Herzog v. Castle Rock Entm't*, 193 F.3d 1241, 1246 (11th Cir. 1999).

IV. The Ordinary Business Terms Defense

Section 547(c) (2) of the Bankruptcy Code provides that:

The trustee may not avoid under this section a

transfer-

(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was-

(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

(B) made according to ordinary business terms;

11 U.S.C. § 547(c) (2).

A creditor asserting an affirmative defense under § 547(c) (2) (B) bears the burden of proving by a preponderance of the evidence that the transfer at issue was made according to ordinary business terms. *Miller v. Fla. Mining & Materials (In re A.W. & Assocs.)*, 136 F.3d 1439, 1441 (11th Cir. 1998); *Luper v. Columbia Gas of Ohio, Inc. (In re Carled, Inc.)*, 91 F.3d 811, 813 (6th Cir. 1996). To meet this burden, the creditor must first establish an industry standard to compare against the transfer at issue. *A.W. & Assocs.*, 136 F.3d at 1441. The relevant industry should reflect the credit arrangements between "other similarly situated debtors" and creditors "in a similar market, preferably both geographic and product." *In re Gulf City Seafoods, Inc.*, 296 F.3d 363, 368-69 (5th Cir. 2002); see also *A.W. & Assocs.*, 136 F.3d at 1442-43. Next, a "creditor must characterize the payment practices of its industry with specificity, and present specific data to support its characterization." *Carrier Corp. v. Buckley (In re Global Mfg. Corp.)*, 567 F.3d 1291, 1299 (11th Cir. 2009) (citing *Advo-Sys.*,

Inc. v. Maxway Corp., 37 F.3d 1044, 1550-51 (4th Cir. 1994)). The creditor must then prove that the payment in question was not an "idiosyncratic" departure from the usual terms in the relevant industry. *A.W. & Assocs.*, 136 F.3d at 1443 (quoting *In re Tolona Pizza Prods. Corp.*, 3 F.3d 1029, 1033 (7th Cir. 1993)). This analysis does not take into account the prepetition relationship between the parties.³

A. The Defendant's Motion for Summary Judgment

Based on the standards set forth above, the Court finds that the Defendant is not entitled to summary judgment. The Defendant bears the burden of proving each element of its defense. The Defendant relies exclusively on Schaeffer's expert testimony to meet this burden. At this time, the Court is not satisfied that Schaeffer's expert testimony carries sufficient weight to support the Defendant's Motion. The Trustee has called into question key aspects of Schaeffer's testimony, for example, whether the industry Schaeffer identified is sufficiently similar to the parties' industry, and if so, whether Schaeffer identified the payment

³ Prior to 2005, the ordinary course of business defense required a showing that the transfer at issue was made in the ordinary course of business between the parties, and that the transfer was made according to ordinary business terms. *Global Mfg. Corp.*, 567 F.3d at 1298 n.4. As a result, some courts analyzed these elements together, subjecting relationships of a more recent origin to "a rigorous comparison to credit terms used generally in a relevant industry." *Global Mfg. Corp.*, 567 F.3d at 1299 (citing *Molded Acoustical Prods.*, 18 F.3d at 225-26). After the 2005 amendments to the Bankruptcy Code, the ordinary course prong and ordinary terms prong became alternative defenses. *Global Mfg. Corp.*, 567 F.3d at 1298 n.4. Thus, the historical relationship of the parties is not relevant when considering ordinary business terms as a stand-alone defense after the 2005 amendments. See 5 Collier on Bankruptcy ¶ 547.04[2][a], p. 547-65 (15th ed. rev. 2009).

practices in that industry with sufficient specificity. Moreover, it is unclear to the Court what authority Schaeffer cites for the proposition that net thirty day terms are standard in the parties' industry. Furthermore, Schaeffer has not sufficiently explained why it is appropriate to adjust the May 23, 2007 and June 1, 2007 Transfers by fifteen days. At least one court has found that a similar adjustment was speculative and not to be taken into consideration when determining an industry standard. See *Kaye v. SRL (In re Murray)*, 392 B.R. 288, 301-02 (6th Cir. B.A.P. 2008) (finding that a thirty day downward adjustment to the parties' actual payment history, premised on increased shipping time to account for international transport, was speculative and should not have been taken into consideration by the bankruptcy court). Finally, the RMA methodology on which Schaeffer's testimony is based contains several caveats which merit further explanation.

In light of these issues, it is appropriate for Schaeffer to testify at trial. At that time, the Trustee can question Schaeffer regarding the reliability of Schaeffer's methodology, as well as any assumptions underlying Schaeffer's conclusions. See *Mr. Wind Down Co. v. Rock-Tenn Converting Co. (In re Markson Rosenthal & Co.)*, 2009 WL 3763048, *5 (Bankr. D.N.J. Oct. 27, 2009) ("When the underlying methodology is reliable but questions of fact arise about the assumptions made by the experts, then 'the gatekeeper function is not a substitute for testing the assumptions underlying

the expert witness' testimony on cross examination.'" (quoting *Lichtenstein v. Anderson (In re Eastern Continuous Forms, Inc.)*, 2004 U.S. Dist. LEXIS 21696, at *15 (E.D. Pa. October 28, 2004)). After hearing such testimony, the Court will determine what weight, if any, to afford Schaeffer's expert opinion. See *Martin K. Eby Const. Co. v. Jacksonville Transp. Auth.*, 2004 WL 5733284, at *1 n.3 (M.D. Fla. 2004) (noting that at a bench trial, it is appropriate for a court to reserve judgment on admissibility, reliability, and weight of expert testimony until it has heard such testimony). Therefore, the Court will deny the Defendant's Motion for Summary Judgment with respect to the ordinary business terms defense.

B. The Cross-Motion

The Court also finds that the Trustee is not entitled to summary judgment. The Defendant presented evidence in support of each element of the ordinary business terms defense. Considering this evidence, including Schaeffer's testimony, in the light most favorable to the Defendant, the Court will deny the Cross-Motion.

V. The New Value Defense

The Defendant also moved for summary judgment with respect to the \$25,004.00 in new value the Defendant extended to the Debtor on May 22, 2007. The parties stipulated that this credit constitutes new value under 11 U.S.C. § 547(c)(4), and the Trustee indicated in her Response that she does not oppose the Court entering partial

summary judgment in the Defendant's favor on this issue. Therefore, the Court finds that \$25,004.00 in credit the Defendant extended to the Debtor on May 22, 2007 constitutes new value pursuant to § 547(c)(4).

CONCLUSION

For the reasons explained above, the Court finds that Schaeffer's expert testimony is admissible under Rule 702. Based on that testimony, the Court further finds that neither party is entitled to summary judgment with respect to the ordinary business terms defense, but that the Defendant is entitled to summary judgment with respect to its new value defense.

ORDER

The Court, having reviewed the submissions of the parties, the applicable law, and being otherwise fully advised in the premises, hereby **ORDERS and ADJUDGES** that:

1. The Trustee's Motion to Exclude is **DENIED**.
2. The Trustee's Cross-Motion for Summary Judgment is **DENIED**.
3. The Defendant's Motion for Summary Judgment with respect to its ordinary business terms defense is **DENIED**.
4. The Defendant's Motion for Summary Judgment with respect to its new value defense is **GRANTED**. The Defendant has a new value credit in the amount of \$25,004.00.

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Copies to:

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