

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

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|-------------------------------------------------------|---|------------------------------|
| IN RE: |) | |
| |) | |
| GARY WILLIAM KLENKE, SHEILA MARIE KLENKE, |) | Case No. 01-13051 |
| Debtor. |) | Chapter 12 |
| |) | |
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| |) | |
| FIRST NATIONAL BANK OF SPEARVILLE, KANSAS, |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Adversary No. 02-5016 |
| |) | |
| GARY WILLIAM KLENKE, SHEILA MARIE KLENKE, |) | |
| Defendants. |) | |
| |) | |
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JUDGMENT ON DECISION

First National Bank of Spearville, Kansas (“Bank”) seeks turnover of a post-petition Market Loss Assistance Program (“MLAP”) payment of \$25,074 received by defendants/debtors Klenke (“Klenke”) pursuant to the 2001 MLAP enacted after their Chapter 12 bankruptcy case was filed.

The Court holds that the 2001 MLAP payment is property of the Chapter 12 estate, but is after-acquired property in which the Bank’s security interest is cut off by operation of 11 U.S.C. § 552(a). Because the 2001 MLAP payment was not received on account of any sale, transfer or disposition of a prepetition asset or entitlement, it is not proceeds of any prepetition collateral in which the Bank had a security interest and is therefore not saved by the proceeds exception of 11 U.S.C. § 552(b)(1). Klenke is entitled to retain the 2001 MLAP payment.

The Bank's complaint for turnover of the 2001 MLAP payment in the amount of \$25,074 is DENIED.

Dated this 3rd day of February, 2004.

ROBERT E. NUGENT
CHIEF BANKRUPTCY JUDGE
UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the **Judgment on Decision** was deposited in the United States mail, postage prepaid on this 3rd day of February, 2004, to the following:

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