

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

In re:	Chapter 11
Welded Construction, L.P., <i>et al.</i> ,	Case No.: 18-12378 (CSS)
Debtors.	(Jointly Administered)
Welded Construction, L.P.,	
Plaintiff,	
v.	Adv. Pro. No. 20-50949 (CSS)
Sterling Site Access Solutions, LLC fdba Sterling Lumber Company, LLC	
Defendant.	

**ANSWER AND AFFIRMATIVE DEFENSES TO COMPLAINT TO AVOID AND  
RECOVER TRANSFERS PURSUANT TO 11 U.S.C. §§ 547, 548, AND 550 AND  
TO DISALLOW CLAIMS PURSUANT TO 11 U.S.C. § 502**

Sterling Site Access Solutions, LLC, formerly doing business as Sterling Lumber Company, LLC (the “Defendant” or “Sterling”), the Defendant in the above-captioned adversary proceeding, by and through its undersigned counsel, responds to the allegations in the complaint to avoid and recover transfers pursuant to 11 U.S.C. §§ 547, 548, and 550 and to disallow claims pursuant to 11 U.S.C. § 502 (the “Complaint”) as follows:

**NATURE OF THE CASE**

1. Paragraph 1 of the Complaint does not contain allegations that require an answer.
2. Paragraph 2 of the Complaint does not contain allegations that require an answer.



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**JURISDICTION AND VENUE**

3. Sterling does not contest the Court's jurisdiction in this case.
4. Paragraph 4 of the Complaint does not contain allegations that require an answer.
5. Sterling admits that this adversary proceeding is a core proceeding.
6. Sterling does not contest venue in this case.
7. Sterling consents to the entry of final orders or judgments by the Court in this case.

**PROCEDURAL BACKGROUND**

8. Admitted.
9. Admitted
10. Admitted
11. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 11 of the Complaint.
12. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 12 of the Complaint.
13. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 13 of the Complaint.

**THE PARTIES**

14. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 14 of the Complaint.

15. Sterling admits that it provides innovative site access solutions to or for its customers, including the Debtors. Sterling admits that its principal place of business is located at 501 E. 151<sup>st</sup> Street, Phoenix, Illinois 60426 and is subject to the laws of the State of Illinois.

**FACTUAL BACKGROUND**

16. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 16 of the Complaint.

17. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 17 of the Complaint.

18. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 18 of the Complaint.

19. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 19 of the Complaint.

20. Sterling admits to receiving payments from Debtors, but lacks information or belief to admit or deny the remaining the allegations in Paragraph 20 of the Complaint.

21. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 21 of the Complaint.

22. Sterling admits during the course of their relationship, Sterling and Debtors entered into agreements related to goods and/or services provided by Sterling and that Sterling invoiced the Debtors for such products and/or services, which Sterling

received. Sterling admits that it received payments from the Debtors as identified on Exhibit A.

23. Sterling admits conducting business with the Debtors.

24. Sterling admits that one or more Debtors purchased goods and/or services from Sterling.

25. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 25 of the Complaint.

27. Sterling admits that it received a Demand Letter from Plaintiff's counsel, but lacks information or belief to admit or deny the truth of the remaining allegations in Paragraph 27 of the Complaint.

28. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 28 of the Complaint.

29. Paragraph 29 of the Complaint does not contain allegations that require an answer, but to the extent an answer is required, Sterling denies same.

30. Paragraph 30 of the Complaint does not contain allegations that require an answer, but to the extent an answer is required, Sterling denies same.

### **CLAIMS FOR RELIEF**

**COUNT I**

**(Avoidance of Preference Period Transfers – 11 U.S.C. § 547)**

31. Sterling reincorporates all previous answers as though fully set forth herein.

32. Sterling admits that the payments listed on Exhibit A were received from Debtors.

33. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 33 of the Complaint. To the extent Paragraph 33 contains allegations requiring an answer they are denied.

34. Admitted.

35. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 35 of the Complaint. To the extent Paragraph 35 contains allegations requiring an answer they are denied.

36. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 36 of the Complaint. To the extent Paragraph 36 contains allegations requiring an answer they are denied.

37. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 37 of the Complaint. To the extent Paragraph 37 contains allegations requiring an answer they are denied.

38. Admitted.

39. Denied.

40. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 40 of the Complaint. To the extent Paragraph 40 contains allegations requiring an answer they are denied.

**COUNT II**

**(Avoidance of Fraudulent Conveyances – 11 U.S.C. § 548(a)(1)(B))**

41. Sterling reincorporates all previous answers as though fully set forth herein.

42. Denied.

43. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 43 of the Complaint. To the extent Paragraph 43 contains allegations requiring an answer they are denied.

**COUNT III**

**(Recovery of Avoided Transfers – 11 U.S.C. § 550)**

44. Sterling incorporates all previous answers as though fully set forth herein.

45. Sterling lacks information or belief to admit or deny the truth of the allegations in Paragraph 45 of the Complaint. To the extent Paragraph 45 contains allegations requiring an answer they are denied.

46. Paragraph 46 states a legal proposition that does not require an answer. To the extent Paragraph 46 contains allegations requiring an answer they are denied.

47. Paragraph 47 states a legal proposition that does not require an answer. To the extent Paragraph 47 contains allegations requiring an answer they are denied.

**COUNT IV**  
**(Disallowance of Claims – 11 U.S.C. § 502(d) and (j))**

48. Sterling reincorporates all previous answers as though fully set forth herein.

49. Paragraph 49 states a legal proposition that does not require an answer. To the extent Paragraph 49 contains allegations requiring an answer they are denied.

50. Sterling admits that it has not paid over to the Debtors the amount demanded by the Debtors in the Complaint. Sterling denies the remaining allegations in Paragraph 50 of the Complaint.

51. Paragraph 51 states a legal proposition that does not require an answer. To the extent Paragraph 51 contains allegations requiring an answer they are denied.

52. Paragraph 52 states a legal proposition that does not require an answer. To the extent Paragraph 52 contains allegations requiring an answer they are denied.

**AFFIRMATIVE DEFENSES**

53. Pursuant to 11 U.S.C. §547(c)(1)(b), the Plaintiff may not avoid the transfers alleged herein because the transfers were made for contemporaneous exchanges for new value given to the Debtors, and, in fact, were substantially contemporaneous exchanges for new value.

54. Pursuant to 11 U.S.C. §547(c)(2)(A), the Plaintiff may not avoid the transfers alleged herein because the transfers were made in payment of a debt incurred by the Debtors in the ordinary course of business or financial affairs of the Debtors and Defendant.

55. Pursuant to 11 U.S.C. §547(c)(2)(B), the Plaintiff may not avoid the transfers alleged herein because the transfers were made in the ordinary course of business or financial affairs of the Debtors and the Defendant.

56. Pursuant to 11 U.S.C. §547(c)(2)(C), the Plaintiff may not avoid the transfers alleged herein because the transfers were made according to ordinary business terms.

57. Pursuant to 11 U.S.C. §547(c)(4), the Plaintiff may not avoid the transfers alleged herein because the transfers were made to or for the benefit of the Defendant resulting in new value to or for the benefit of the Debtors, which were not secured by an otherwise avoidable security interest and on account of which new value, the Debtors did not make an otherwise unavoidable transfer to or for the benefit of the Defendant.

58. The Debtors' receipt of service from the Defendant and the payments therefore were necessary for the preservation of the estate pursuant to 11 U.S.C. §503(B)(1)(A)

59. The Defendant asserts the affirmative defense of waiver.

60. The Defendant asserts the affirmative defense of estoppel.

61. The Defendant asserts the affirmative defense of laches.



62. The Defendant reserves the right to raise additional affirmative defenses and/or withdraw any of the foregoing affirmative defenses as may become necessary during the investigation and discovery of this action.

**WHEREFORE**, Defendant prays that this Court grant judgment in its favor and against Plaintiff, and grant Defendant such other and further relief as may be appropriate.

**BIELLI & KLAUDER, LLC**

Date: January 11, 2021

/s/ David M. Klauder

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Site Access Solutions, LLC*

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Defendant.

Chapter 11

Case No.: 18-12378 (CSS)

(Jointly Administered)

Adv. Pro. No. 20-50949 (CSS)

**CERTIFICATE OF SERVICE**

I, David M. Klauder, Esquire, certify that on January 11, 2021, I served the *Answer and Affirmative Defenses to Complaint to Avoid and Recover Transfers Pursuant to 11 U.S.C. §§ 547, 548, and 550 and to Disallow Claims Pursuant to U.S.C. § 502* by way of electronic mail (email) upon the following individuals:

**BLANK ROME LLP**

Josef W. Mintz, Esq., (No. 5644)  
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Dated: January 11, 2021

/s/ David M. Klauder

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