

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SAUK VALLEY BANK,)	
)	
Plaintiff,)	
)	
v.)	No. 09 C 2144
)	
ROBERT BORCHARDT, et al.,)	
)	
Defendants.)	

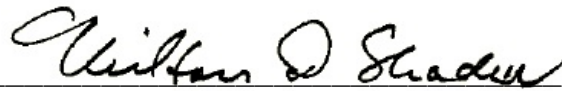
MEMORANDUM ORDER

Michael Deutsch ("Deutsch"), one of two defendants in this action brought by Sauk Valley Bank ("Sauk Valley"), has filed his Answer and Affirmative Defenses ("ADs") to Sauk Valley's Complaint. That responsive pleading couples admissions and denials of various allegations by Sauk Valley with a large number of disclaimers in the form prescribed by Fed. R. Civ. P. ("Rule") 8(b)(5) as the predicate for a pleader's getting the benefit of a deemed denial.¹

Unfortunately, this Court's review of those disclaimers suggests that a number of them cannot fairly be advanced in the objective (and perhaps subjective) good faith required by Rule 11(b). Although this list is not necessarily exhaustive, Answer ¶¶11, 25-28 and 31-32 are highly troublesome in that respect. This Court expresses no ultimate views on that subject, because the matters at issue are by definition within or without

¹ This Court has spotted just one (an obviously inadvertent) exception to the accurate tracking of the language of that disclaimer by Deutsch's counsel--see Answer ¶2.

Deutsch's knowledge or belief or both. But what is ordered here is that Deutsch and his counsel must take a further hard look at the responsive pleading to see whether the requirements of Rule 11(b) have been satisfied.



Milton I. Shadur
Senior United States District Judge

Date: May 22, 2009