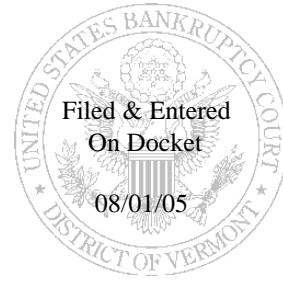


UNITED STATES BANKRUPTCY COURT  
DISTRICT OF VERMONT



---

In re:

**Clifton G. Cottrell,  
Debtor.**

**Chapter 7 Case  
# 04-11669**

---

**Raymond J. Obuchowski,  
Trustee of the Bankruptcy Estate of  
Clifton G. Cottrell,  
Plaintiff/ Counter Defendant,**

**Adversary Proceeding  
# 05-1019**

v.

**Union Bank,  
Defendant/ Third Party Plaintiff,**

v.

**Clifton G. Cottrell,  
Debtor/ Third Party Defendant.**

---

*Appearances:*            *Jennifer Emens-Butler, Esq.  
Obuchowski & Emens-Butler  
Bethel, VT  
Attorney for Plaintiff/ Counter Defendant.*

*Harold B. Stevens, Esq.  
Stevens Law Office  
Stowe, VT  
Attorney for Defendant/ Third  
Party Plaintiff.*

**ORDER**  
**Denying Union Bank's Motion for Summary Judgment**  
**and Granting Trustee's Motion for Summary Judgment**

For the reasons set forth in the Memorandum of Decision of even date THE COURT FINDS that

- A. under the provisions of the relevant New Hampshire statute, Union Bank had failed to perfect its interest in the subject Truck as of the order for relief herein;
- B. Union Bank's lien was unperfected as of the Debtor's bankruptcy filing date;
- C. Union Bank has failed to demonstrate facts that warrant application of the substantial compliance doctrine or any other equitable principles;
- D. the Trustee has the power under §§544(a) and 549 to avoid the post-petition perfection of Union Bank's lien as a transfer of property of the estate; and
- E. the funds the Debtor paid to Union Bank during the 90 days prior to the filing are on account of an unsecured claim (\$681.15), constitute a preferential transfer under § 547.

Therefore, IT IS HEREBY ORDERED that

1. Union Bank pay over \$681.15 to the Trustee within 15 days of this Order;
2. the Debtor deliver the Truck (or a check in an amount equal to the non-exempt equity therein) to the Trustee within 15 days of this Order;
3. Union Bank submit a release of its lien to the New Hampshire Department of Motor Vehicles within 15 days of this Order; and
4. the Debtor submit, an application for a new title with no lien on it to the New Hampshire Department of Motor Vehicles, within 15 days of this Order.

The Trustee's request for costs, attorneys fees and interest are denied.

**SO ORDERED.**

August 1, 2005  
Rutland, Vermont



---

Colleen A. Brown  
United States Bankruptcy Judge