

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

BKY Case No. 03-48513

RUSSELL L. LIVINGOOD
CAROLYN LIVINGOOD,

Debtors.

Brian F. Leonard, Trustee,

Adv. Proc. No.: _____

Plaintiff,

vs.

ADVERSARY COMPLAINT

Miloma Agri Services, Inc.
35319-880th Street
Heron Lake, MN 56137

Defendant.

The above Plaintiff, for his Complaint, states and alleges as follows:

1. The Plaintiff is the duly acting and qualified Trustee of the above-captioned bankruptcy estate.

2. The Defendant is, on information and belief, a corporation doing business at the address stated in the above caption.

3. The Debtors filed their petition under Chapter 7 of the United States Bankruptcy Code on the 9th day of December, 2003 (the "**Petition Date**").

4. This Court has jurisdiction over this matter under 28 U.S.C. § § 157 and 1334. This is a core proceeding.

5. Sometime prior to September 15, 2003, the Debtors were indebted to the Defendant in the amount of \$20,500.00 (the "**Antecedent Debt**").

6. Sometime prior to September 15, 2003, the Debtors attempted to make a payment of the Antecedent Debt, but the first check delivered to Defendant for that purpose was returned by the Debtors' bank for insufficient funds. Subsequently, the Debtor paid the Antecedent Debt on September 15, 2003 (the "**Payment**").

7. The Debtors were insolvent on the date the Payment was made. The Payment was made to the Defendant as a creditor of the Debtors, on account of an Antecedent Debt owed by the Debtors to the Defendant before the Payment was made, and the Payment was made within ninety days before the Petition Date.

8. The Payment enabled the Defendant to receive more than it would have received in this case if the payment had not been made and the Defendant simply received a distribution and payment related to the Antecedent Debt to the extent provided by the Bankruptcy Code.

9. The Plaintiff is entitled to avoid the Payment under 11 U.S.C. § 547.

10. The Plaintiff is entitled to recover from the Defendant the amount of the Payment under 11 U.S.C. § 550.

WHEREFORE, the Plaintiff requests that judgment be entered in favor of the Plaintiff and against the Defendant in the amount of \$20,500.00, plus attorneys' fees, interest, and costs, and for such other and further relief as is just and equitable.

**LEONARD, O'BRIEN
SPENCER, GALE & SAYRE, LTD.**

/e/ Brian F. Leonard

Dated: May 6, 2004

By _____
Brian F. Leonard, #62236
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