UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

In re: Daniel S. Miller, Debtor.	)	Bky No. 04-60106 DDO
Daniel S. Miller, Plaintiff, vs. Daniel Altepeter, Darral Altepeter, John Altepeter, Peter Anderson, Roger Anderson, Doug Barth, Chuck Bina, Bremer Bank National Association, Monte Casavan, Gregory Driscoll, Dubuque Farming Association, Emmert Farms, Farmers Coop Grain & Seed, Kyle Haake, Roger Hagen, Russ Halverson, Gary Hoper, J & J Gust Farms, J.O. Thorson Farms, Inc., JETN Farms, LLP, Gorman Johnson, Loren Johnson, Walter Johnson, Dan Juneau, Joe Juneau, Charles Kaml, Key West Farms, KO-R Farms, Inc., K-Team, Gary Larson, Lonesome Land, Matco, Inc., David McCollum, McWalter Farms, Inc., James A. Narum, Bradley Nelson, Doyle Nelson, Jeremy J. Nelson, Patrick Noll, Erik Nymann, Nymann Farms, Ose Farms a/k/a Joseph T. Ose, Burl Peckman, Gary Peckman, Pederson Brothers, Peterson Farms, PM Farming, Inc., Hans Reinhardt, Darrold Rodahl, Larry Roisland, Gary Salentiny, Dennis Salentiny, Richard Salentiny, Andrew Spaeth, John Spina, Howard Steinmetz, Matt Thorson, Ronald Thorson, Tri-Mack Potato, Inc., United Grain & Livestock, Erwin Vanek, Dan Wichterman, Steven D. Wollin and Gregory Wollin, Defendants.	)	Adv. No. 04-6043 **SEPARATE ANSWER OF GARY HOPER TO PLAINTIFF'S AMENDED COMPLAINT**

Gary Hoper, as and for his Answer to Plaintiff's Amended Complaint, states as follows:

I.

Unless specifically admitted, this answering Defendant denies each and every allegation in Plaintiff's Amended Complaint.

II.

Admits the allegations in paragraph 1 of Plaintiff's Amended Complaint.

III.

Admits the allegations in paragraph 2 of Plaintiff's Complaint insofar as it is alleged that this answering Defendant is an individual who claims ownership with respect to grain or grain proceeds in Plaintiff's possession as of the date of the commencement of Plaintiff's bankruptcy case.

IV.

Admits the allegations in paragraphs 3, 4, 5, 6, 7, 8 and 9 of Plaintiff's Amended Complaint.

V.

Lacks sufficient information to form a belief as to the true or falsity of the allegations in paragraphs 10, 11, 12 and 13 of Plaintiff's Amended Complaint, and thus denies the same, placing Plaintiff on his strict proof in connection therewith.

VI.

Admits the allegations in paragraphs 14 and 15 of Plaintiff's Amended Complaint.

VII.

Denies the allegations in paragraph 16 of Plaintiff's Amended Complaint.

VIII.

Admits the allegations in paragraph 17 of Plaintiff's Amended Complaint.

IX.

Admits the allegations in paragraph 18 of Plaintiff's Amended Complaint insofar as it is asserted that this answering Defendant may at various times have entered into contracts with Plaintiff for the sale of grain. However, this answering Defendant never contracted to sell to the Plaintiff the crops referenced in the Interested Party's Claim filed by this answering Defendant.

X.

Specifically denies the allegations in paragraph 19 of Plaintiff's Amended Complaint insofar as it refers to the crops referenced on the Interested Party's Claim filed by this answering Defendant.

XI.

Specifically denies the allegations of paragraphs 20, 21, 22, 23 and 24 of Plaintiff's Amended Complaint insofar as they relate to the crops referenced in the Interested Party's Claim filed by this answering Defendant.

XII.

Admits the allegations in paragraph 25 of Plaintiff's Amended Complaint other than as to the crops referenced in the Interested Party's Claim filed by this answering Defendant.

XIII.

Specifically denies the allegations in paragraphs 26 and 27 of Plaintiff's Amended Complaint insofar as the same concern the crops referenced in the Interested Party's Claim filed by this answering Defendant.

XIV.

Admits the allegations in paragraph 29 of Plaintiff's Amended Complaint to the extent it is alleged therein that this answering Defendant did not make storage payments to the Plaintiff with respect to the crops referenced in the Interested Party's Claim filed by this answering Defendant.

XV.

Lacks sufficient information to form a belief as to the truth or falsity of the allegations in paragraphs 30 through 55 of Plaintiff's Amended Complaint, and thus, to the extent said allegations concern this answering Defendant, he denies the same, placing Plaintiff on his strict proof in connection therewith.

XVI.

Admits the allegations in paragraph 56 of Plaintiff's Amended Complaint to the extent it is alleged therein that this answering Defendant filed an Interested Party's Claim

with respect to 4,616.31 bushels of wheat owned by this answering Defendant which this answering Defendant stored with the Plaintiff. The allegations in paragraph 56 of Plaintiff's Amended Complaint are further admitted with respect to the fact that this answering Defendant filed a claim against Plaintiff's grain buyers bond. However, to the extent said claim included amounts related to the crops referenced in the Interested Party's Claim filed by this answering Defendant, the claim on the bond was intended only to preserve the rights and remedies of this answering Defendant in the event of an adverse determination on this answering Defendant's Interested Party's Claim and/or in the event Plaintiff had unlawfully sold the crop owned by this answering Defendant prior to Plaintiff's bankruptcy filing, with the proceeds being converted by the Plaintiff.

XVIII.

Lacks sufficient information to form a belief as to the truth or falsity of the allegations in paragraphs 57 through 116 of Plaintiff's Amended Complaint, and thus, to the extent said allegations concern this answering Defendant, he denies the same placing Plaintiff on his strict proof in connection therewith.

XIX.

Specifically denies the allegations in paragraphs 117 through 124 of Plaintiff's Amended Complaint with respect to the crops referenced in the Interested Party's Claim filed by this answering Defendant.

XX.

Lacks sufficient information to form a belief as to the truth or falsity of the allegations in paragraphs 125 through 138 of Plaintiff's Amended Complaint, and thus, to the extent said allegations concern this answering Defendant, he denies the same placing Plaintiff on his strict proof in connection therewith.

XXI.

Plaintiff's Amended Complaint fails to state a cause of action upon which relief can be granted.

XXII.

If, with respect to the crops referenced in the Interested Party's Claim filed by this answering Defendant, there were discussions respecting sale of said crops to the Plaintiff, the same were premised on express or implied representations by the Plaintiff that Plaintiff was solvent and had the ability to immediately pay for any crops purchased from the Defendant. At all times, such express and implied representations were false and fraudulent, thus, voiding any sale agreement negotiated and preventing title to the subject crops from passing to the Plaintiff.

XXIII.

Pending further discovery, this answering Defendant reserves all affirmative defenses available to him.

WHEREFORE, this answering Defendant prays for judgment on Plaintiff's Amended

Complaint as follows:

1. For the dismissal of Plaintiff's Amended Complaint with prejudice and the denial of any relief thereunder.

2. For a determination that the Defendant is the owner of the crops referenced in the "Interested Party's Claim" filed by this answering Defendant, with the Plaintiff to be ordered to immediately make payment to this answering Defendant for the value of said crops.

3. For his costs and disbursements incurred herein.

4. For such other and further relief as this Court deems just and equitable.

Dated this 28th day of June, 2004.

VOGEL LAW FIRM

By: _____

Jon R. Brakke MN ID #10765
218 NP Avenue
P. O. Box 1389
Fargo, ND 58107-1389
(701) 237-6983)
ATTORNEYS FOR DEFENDANT,
GARY HOPER

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

Daniel S. Miller, Debtor - Bky No. 04-60106 DDO
Daniel S. Miller v. Daniel Alpeter, et. al. - Adv. No. 04-6043

STATE OF NORTH DAKOTA)
) ss
COUNTY OF CASS)

AFFIDAVIT OF SERVICE
BY U.S. MAIL

Lori Thrall, being first duly sworn on oath, does depose and state that she is a resident of the City of West Fargo, North Dakota, of legal age, and not a party to the above-entitled matter.

On the 28 day of June, 2004, Affiant deposited in the United States Post Office at Fargo, North Dakota, true and correct copies of the following document:

1. **SEPARATE ANSWER OF GARY HOPER TO PLAINTIFF'S AMENDED COMPLAINT**

Copies of the foregoing were securely enclosed in an envelope with postage duly prepaid and addressed as follows:

Michael S. Dove
Ryan R. Dreyer
GISLASON & HUNTER LLP
2700 South Broadway
P. O. Box 458
New Ulm, MN 56073-0458

To the best of Affiant's knowledge, the address above given was the actual post office address of the party intended to be so served. The above documents were duly mailed in accordance with the provisions of the Rules of Civil Procedure.

Lori Thrall

Subscribed and sworn to before me this 28 day of June, 2004.

Notary Public

LYNNE D LARSON
Notary Public
State of North Dakota
My Commission Expires Feb. 4, 2008