

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

In re:

BKY No.: 04-60106 DDO

Daniel S. Miller,

Debtor.

Daniel S. Miller,

Adv. No.: 04-6043

Plaintiff,

vs.

Daniel Altepeter, et al.,

Defendants.

SEPARATE ANSWER OF TRI-MACK POTATO, INC.

Tri-Mack Potato, Inc., for its Separate Answer denies all allegations in the Plaintiff's Complaint, except those matters which are specifically admitted or qualified herein, and further states and alleges as follows:

1. Paragraph 1 of the Complaint is admitted.
2. Paragraph 2 of the Complaint is admitted.
3. Paragraph 3 of the Complaint is admitted.
4. Paragraph 4 of the Complaint is admitted.
5. Paragraph 5 of the Complaint is admitted.
6. Paragraph 6 of the Complaint is admitted.
7. Tri-Mack has no direct information on the allegations in paragraph 7 of the

Complaint and therefore denies the same.

8. Tri-Mack has no direct information on the allegations in paragraph 8 of the Complaint and therefore denies the same.

9. Tri-Mack has no direct information on the allegations in paragraph 9 of the Complaint and therefore denies the same.

10. Tri-Mack has no direct information on the allegations in paragraph 10 of the Complaint and therefore denies the same.

11. Tri-Mack has no direct information on the allegations in paragraph 11 of the Complaint and therefore denies the same.

12. Tri-Mack has no direct information on the allegations in paragraph 12 of the Complaint and therefore denies the same.

13. Tri-Mack has no direct information on the allegations in paragraph 13 of the Complaint and therefore denies the same.

14. Tri-Mack has no direct information as to the factual accuracy of the allegations contained in paragraphs 14 through 110 of the Complaint and therefore for purposes of this Answer, denies the same.

15. Tri-Mack denies the allegations in paragraph 111 of the Complaint, except that Tri-Mack admits that it filed an Interested Parties Claim as stated therein, and understands that the 14,612.71 bushels of wheat has been liquidated and the proceeds thereof in the approximate amount of \$44,750.00 has been released to the CCC and the proceeds in excess thereof have been deposited in the trust account of the law firm of Gislason & Hunter LLP. Tri-Mack affirmatively states that it had delivered 14,612.71 bushels of wheat to a facility owned by a third party, and that such wheat had not been sold to Daniel S. Miller, and such wheat remained, at all times, property of Tri-Mack.

To the extent necessary, Tri-Mack asserts a counterclaim against Daniel S. Miller and seeks an adjudication that Tri-Mack is, and always has been, the exclusive rightful owner of the 14,612.71 bushels of wheat, and is entitled to the proceeds thereof, together with the separate 2,853.29 bushels of wheat, and is entitled to the proceeds thereof, as well.

16. Tri-Mack has no information as to the accuracy of the allegations contained in paragraphs 112 through 116 of the Complaint, and therefore for purposes of this Answer, denies the same.

17. The allegations contained in paragraph 117 of the Complaint are recitative, and no response is required herein.

18. Tri-Mack denies the allegations contained in paragraphs 118 through 124 of the Complaint.

19. The allegations contained in paragraph 125 of the Complaint are recitative and need no response.

20. Tri-Mack has no information concerning the accuracy of the allegations contained in paragraphs 126 through 138 of the Complaint, and therefore for purposes of this Answer denies the same.

WHEREFORE, Tri-Mack requests that, as to the Plaintiff's claims against Tri-Mack, that all such claims be denied and dismissed, and that Tri-Mack be adjudicated the true and rightful owner of the wheat described in paragraph 15 hereof and paragraph 111 of the Complaint and for such other and further relief as is just and equitable, including judgment against Plaintiff for interest, reasonable attorneys' fees, and costs.

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

/e/ Brian F. Leonard

Dated: July 15, 2004

By _____
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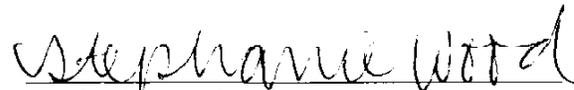
UNSWORN CERTIFICATE OF SERVICE

I, Stephanie Wood, declare under penalty of perjury that on the 15th day of July, 2004, I mailed a copy of the annexed *Separate Answer of Tri-Mack Potato, Inc.* on:

SEE ATTACHED SERVICE LIST

by mailing to all parties copies thereof, enclosed in an envelope, postage prepaid, and by depositing the same in the post office at Minneapolis, Minnesota, directed to said party at the last known addresses of said parties.

Dated: July 15, 2004



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