

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
THIRD DIVISION

In re: ) Bky No. 04-60106 DDO  
)  
Daniel S. Miller, )  
) Debtor. )  
)  

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Daniel S. Miller, ) Adv. No. 04-6043  
)  
) Plaintiff, )  
)  
) vs. )  
)  
) Daniel Altepeter, Darral Altepeter, John )  
) Altepeter, Peter Anderson, Roger Anderson, )  
) Doug Barth, Chuck Bina, Bremer Bank ) **SEPARATE ANSWER OF**  
) National Association, Monte Casavan, ) **DARRAL ALTEPETER,**  
) Gregory Driscoll, Dubuque Farming ) **JOHN ALTEPETER, AND**  
) Association, Emmert Farms, Farmers Coop ) **DANIEL ALTEPETER TO**  
) Grain & Seed, Kyle Haake, Roger Hagen, ) **PLAINTIFF'S AMENDED**  
) Russ Halverson, Gary Hoper, J & J Gust ) **COMPLAINT**  
) 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. )

Darral Altepeter, Daniel Altepeter and John Altepeter, as and for their Answer to Plaintiff's Amended Complaint, state as follows:

I.

Unless specifically admitted, these answering Defendants deny each and every allegation in Plaintiff's Amended Complaint.

II.

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

III.

Admit the allegations in paragraph 2 of Plaintiff's Amended Complaint insofar as it is alleged that these answering Defendants are individuals who claim 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.

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

V.

Lack 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 deny the same, placing Plaintiff on his strict proof in connection therewith.

VI.

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

VII.

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

VIII.

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

IX.

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

X.

Specifically deny the allegations in paragraph 19 of Plaintiff's Amended Complaint insofar as it refers to the crops referenced on the Interested Party's Claims filed by these answering Defendants.

XI.

Specifically deny 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 Claims filed by these answering Defendants.

XII.

Admit the allegations in paragraph 25 of Plaintiff's Amended Complaint other than as to the crops referenced in the Interested Party's Claims filed by these answering Defendants.

XIII.

Specifically deny 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 Claims filed by these answering Defendants.

XIV.

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

XV.

Lack sufficient information to form a belief as to the truth or falsity of the allegations in paragraphs 30 through 32 of Plaintiff's Amended Complaint, and thus, to the extent said allegations concern these answering Defendants, they deny the same, placing Plaintiff on his strict proof in connection therewith.

XVI.

Admit the allegations in paragraphs 33, 34 and 35 of Plaintiff's Amended Complaint to the extent it is alleged therein that these answering Defendants filed Interested Party's

Claims with respect to 19,152.37 bushels of soybeans and 8,727.72 bushels of wheat owned by the Defendant Darral Altepeter; 731.03 bushels of soybeans owned by the Defendant John Altepeter; and 3,093.07 bushels of soybeans owned by the Defendant Daniel Altepeter, which these answering Defendants stored with the Plaintiff.

XVII.

Lack sufficient information to form a belief as to the truth or falsity of the allegations in paragraphs 36 through 116 of Plaintiff's Amended Complaint, and thus, to the extent said allegations concern these answering Defendants, they deny the same placing Plaintiff on his strict proof in connection therewith.

XVIII.

Specifically deny the allegations in paragraphs 117 through 124 of Plaintiff's Amended Complaint with respect to the crops referenced in the Interested Party's Claims filed by these answering Defendants.

XIX.

Lack 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 these answering Defendants, they deny the same placing Plaintiff on his strict proof in connection therewith.

XX.

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

XXI.

If, with respect to the crops referenced in the Interested Party's Claims filed by these answering Defendants, 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 Defendants. 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.

XXII.

Pending further discovery, these answering Defendants reserve all affirmative defenses available to them.

XXIII.

Plaintiff's conduct with respect to the grain claimed by these answering Defendants was wrongful and of such a nature as to impose a constructive trust or equitable lien upon all crops and monies in the possession of the Plaintiff at the time of the commencement of this bankruptcy case.

XXIV.

A bailment relationship existed with respect to all of the crops claimed by these answering Defendants.

XXV.

To the extent the crops of any of these answering Defendants were encumbered by liens or security interests with respect to which the creditors holding the same perfected and

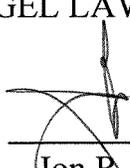
made central notice filings, absent payment for said crops being made to the secured creditor or lien holder, said crops could not have been disposed of by Plaintiff free of the subject security interests or liens. Under applicable tracing rules, such encumbered crops would be deemed the last crops liquidated by Plaintiff.

WHEREFORE, these answering Defendants pray 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 these answering Defendants are the owner of the crops referenced in the "Interested Party's Claims" filed by these answering Defendants, with the Plaintiff to be ordered to immediately make payment to these answering Defendants for the value of said crops.
3. For their costs and disbursements incurred herein.
4. For such other and further relief as this Court deems just and equitable.

Dated this 29<sup>th</sup> day of July, 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 DEFENDANTS,

DARRAL ALTEPETER,

DANIEL ALTEPETER AND

JOHN ALTEPETER



Darral Altepeter  
17062 400th SW  
East Grand Forks, MN 56721

John Altepeter  
17062 400th SW  
East Grand Forks, MN 56721

Daniel Altepeter  
17062 400th SW  
East Grand Forks, MN 56721

Andrew Spaeth  
657 Adams Avenue NW  
Bemidji, MN 56601

Roger Anderson  
21237 180th Avenue NW  
Viking, MN 56760

Doug Barth  
16614 180th Street NE  
Thief River Falls, MN 56701

Chuck Bina  
5851 - 115th Avenue NE  
Lankin, ND 58250-9431

Bremer Bank National Association  
3100 South Columbian Road  
Grand Forks, ND 58203-8922

Monte Casavan  
16448 - 140th Avenue SW  
Red Lake Falls, MN 56750

Emmert Farms  
1881 - 140th Avenue  
Baldwin, WI 54002

Dubuque Farming Association  
1843 - 18th Street NE  
Grand Forks, ND 58203-8922

Dan Juneau  
17399 - 240th Street SE  
Red Lake Falls, MN 56750

Roger Hagen  
13929 State Hwy 220 SW  
East Grand Forks, MN 56721-9015

Farmers Co-op Grain & Seed  
East 8 & Davis Avenue North  
Thief River Falls, MN 56701

Kyle Haake  
36171 210th Street SW  
Fisher, MN 56723-9460

J & J Gust Farms  
34380 County Road 8  
Strathcona, MN 56759

Gary Hoper  
43802 - 340th Avenue NW  
Stephen, MN 56757-9617

Russ Halvorson  
2 Forest Court NW  
East Grand Forks, MN 56721-1052

Loren Johnson  
1432 - 5th Avenue NW  
East Grand Forks, MN 56721

JETN Farms, LLP  
c/o Earl Pederson  
3077 County Hwy. 178  
Bejou, MN 56516

J.O. Thorson Farm, Inc.  
42424 - 240th Street SW  
East Grand Forks, MN 56721

K-Team  
c/o David Kirsch  
1935 - 300th Street  
Waubun, MN 56589-9123

Gorman Johnson  
1932 - 5th Avenue NW  
East Grand Forks, MN 56721

KO-R Farms, Inc.  
12389 - 410th Avenue NW  
East Grand Forks, MN 56721

Charles Kaml  
25342 - 180th Street  
Greenbush, MN 56726

Key West Farms  
38543 - County Road 15  
Pine River, MN 56474

Joe Juneau  
Dan Juneau, P.O.A.  
17399 - 240th Street SE  
Red Lake Falls, MN 56750

David McCollum  
1882 - 180th Street  
Mahnomen, MN 56557-9083

Gary Larson  
P.O. Box 2053  
Bejou, MN 56516

Matco, Inc.  
35389 - 340th Street SE  
Fosston, MN 56542

Erik Nymann  
15496 - 250th Avenue SE  
Plummer, MN 56748

McWalter Farms, Inc.  
506 - 12th Street NE  
East Grand Forks, MN 56721

Bradley Nelson  
27 Garden Court NW  
East Grand Forks, MN 56721

Doyle Nelson  
20589 - 220th Avenue NE  
Goodridge, MN 56725

James Narum  
2953 - 420th Street  
Gary, MN 56545

Jeremy Nelson  
20879 - 200th Avenue NE  
Thief River Falls, MN 56701

Patrick Noll  
1284 State Hwy 200  
Mahnomen, MN 56557

Ose Farms a/k/a Joseph T. Ose  
13748 - 230th Street NE  
Thief River Falls, MN 56701-8614

Gary Peckman  
20239 West 351<sup>st</sup> Street  
Paola, KS 66071

Peterson Farms  
31760 County Road 11  
PO Box 97  
Wendell MN 56590

Burl Peckman  
17524 West 351<sup>st</sup> Street  
Paola, KS 66071-6253

Peter Anderson  
38356 - 280<sup>th</sup> Street SW  
Fisher, MN 56723-9342

Darrold Rodahl  
18646 - 270<sup>th</sup> Street NE  
Thief River Falls MN 56701-8648

Dennis Salentiny  
22933 - 140<sup>th</sup> Street SW  
Crookston, MN 56716

Gary Salentiny  
22933 - 140<sup>th</sup> Street SW  
Crookston MN 56716

Larry Roisland  
26708 Center Street East  
Thief River Falls MN 56701

Hans Reinhardt  
10453 - 89<sup>th</sup> Street NE  
Langdon ND 58249

Richard Salentiny  
12330 - 260<sup>th</sup> Avenue SE  
Plummer, MN 56748-9650

Tri-Mack Potato Inc.  
c/o Donald Mack Jr.  
420 - 17<sup>th</sup> Street NW  
East Grand Forks, MN 56721

John Spina  
20318 - 420<sup>th</sup> Avenue  
Roseau, MN 56751

Erwin Vanek  
37138 - 180<sup>th</sup> Street SW  
East Grand Forks, MN 56721

Steven D. Wollin  
PO Box 100  
Greenbush, MN 56726

Howard Steinmetz  
1440 - 190<sup>th</sup> Avenue  
Mahnomen, MN 56557

Ronald Thorson  
819 - 12<sup>th</sup> Street SE  
East Grand Forks, MN 56721

United Grain & Livestock  
18646 - 270<sup>th</sup> Street NE  
Thief River Falls, MN 56701

Matt Thorson  
819 - 12<sup>th</sup> Street SE  
East Grand Forks, ND 56721

Walter Johnson  
37060 - 275<sup>th</sup> Avenue SW  
Crookston, MN 56716

Pederson Brothers  
3077 County Highway 178  
Bejou, MN 56516

Gregory Driscoll  
40580 - 170<sup>th</sup> Street SW  
East Grand Forks, MN 56721

Dan Wichterman  
18497 - 170<sup>th</sup> Street SE  
Plummer, MN 56748

Gregory Wollin  
164 South Main Street  
PO Box 100  
Greenbush, MN 56726

PM Farming, Inc.  
PO Box 555  
East Grand Forks, MN 56721

Kevin T. Duffy  
Duffy Law Office  
1008 West 2<sup>nd</sup> Street  
PO Box 715  
Thief River Falls, MN 56701

David T. DeMars  
Attorney at Law  
15 Broadway, Suite 510  
PO Box 110  
Fargo, ND 58107-0110

Allen J. Flaten  
Attorney at Law  
Bremer Financial Center, Suite 200  
3100 South Columbia Road  
PO Box 13417  
Grand Forks, ND 58208-3417

Carl E. Malmstrom  
Attorney at Law  
1105 Highway 10 East  
PO Box 1599  
Detroit Lakes MN 56502

Robert A. Woodke  
Brouse, Woodke & Meyer  
312 America Avenue NW  
PO Box 1273  
Bemidji, MN 56619-1273

Raymond German  
208 - 3<sup>rd</sup> Avenue NW  
PO Box 528  
East Grand Forks, MN 56721

Brian F. Leonard  
100 South Fifth Street  
Suite 2500  
Minneapolis, MN 55402-1216

David L. Johnson  
Dakota Center Bldg. Suite 600  
51 Broadway  
PO Box 2189  
Fargo, ND 58108

Phillip L. Kunkel  
Gray, Plant, Mooty  
1010 West St. Germain, Ste. 600  
St. Cloud, MN 56301

United States Trustee  
1015 US Courthouse  
300 South 4<sup>th</sup> Street  
Minneapolis, MN 55415

Mr. Brian F. Leonard  
Trustee  
100 South 5<sup>th</sup> Street  
Suite 1200  
Minneapolis, MN 55402

Kip Kaler  
Kaler Doeling Law Office  
PO Box 423  
Fargo, ND 58107-0423