UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

In re:	)	Bky No. 04-60106 DDO
	)	
Daniel S. Miller,	)	
	)	Adv. No. 04-6104
Debtor.	)	
	)	
	)	
Daniel S. Miller,	)	**DEFENDANT'S ANSWER**
	)	**TO PLAINTIFF'S COMPLAINT**
Plaintiff,	)	
	)	
vs.	)	
	)	
Brian Nelson,	)	
	)	
Defendant.	)	

Defendant, for his answer to Plaintiff's Compliant, states as follows:

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

2. Admits the allegations in Paragraphs 1 and 2 of Plaintiff's Complaint.

3. Admits the allegations in Paragraph 3 of Plaintiff's Complaint to the extent it is alleged therein that the Defendant is an individual residing at 10090 451st Avenue NW, East Grand Forks, Minnesota 56721.

4. Admits the allegations in Paragraphs 4 and 5 of Plaintiff's Complaint.

5. Admits the allegations in Paragraph 6 of Plaintiff's Complaint to the extent it is alleged therein that the Defendant received payments totaling $28,820.00 from the Plaintiff within 90 days prior to February 3, 2004.

6. Admits the allegations in Paragraph 7 of Plaintiff's Complaint to the extent it is alleged therein that annexed as Exhibit A to the Complaint are copies of the Debtor's checks 23188 and 23189 totaling $28,820.00 payable to the Defendant.

7. Admits the allegations in Paragraph 8 of Plaintiff's Complaint to the extent it is alleged therein that the payments referenced in Paragraph 6 of Plaintiff's Complaint were made with respect to debts owed by the Plaintiff to the Defendant.

8. Admits the allegations in Paragraph 9 of Plaintiff's Complaint.

9. Denies the allegations in Paragraph 10 of Plaintiff's Complaint.

10. Admits the allegations in Paragraph 11 of the Plaintiff's Complaint to the extent it is alleged therein that the payments referenced in Paragraph 6 of Plaintiff's Complaint was made within 90 days prior to February 3, 2004.

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

12. Paragraph 14 states a legal conclusion rather than a statement of fact and thus, Defendant need neither admit nor deny the same.

13. Admits the allegations in Paragraph 15 of Plaintiff's Complaint to the extent it is alleged therein that the payments referenced in Paragraph 6 of Plaintiff's Complaint was made to the Defendant.

14. Specifically denies the allegations in Paragraphs 16 of Plaintiff's Complaint.

15. Paragraphs 17 though 20 of Plaintiff's Complaint state legal conclusions rather than allegations of fact and thus, Defendant need neither admit nor deny the same.

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

17. Pending the completion of discovery, Plaintiff reserves all available affirmative defenses including those that must be specially plead under Rules 8 and/or 12 of the Federal Rules of Civil Procedure and those provided under 11 U.S.C. § 547(c).

18. Defendant states that the transfers referred in Paragraph 6 of Plaintiff's Complaint were for the payment of a debt incurred in the ordinary course of the business affairs of the Plaintiff and the Defendant. As a consequence, 11 U.S.C. § 547(c)(2) precludes avoidance of the transfer.

WHEREFORE, Defendant prays for entry of judgment on Plaintiff's Complaint as follows:

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

2. For its costs and disbursements incurred herein.

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

Dated this 4th day of October, 2004.

VOGEL LAW FIRM

By:_____
Jon R. Brakke #10765
218 NP Avenue
P.O. Box 1389
Fargo, ND 58107-1389
(701) 237-6983
ATTORNEYS FOR DEFENDANT,
BRIAN NELSON

DEMAND FOR A JURY TRIAL

To the extent any of the issues in this proceeding are triable to a jury, Defendant demands trial by jury of the maximum number of persons permitted by law.

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Daniel S. Miller, Debtor - Bky No. 04-60106 DDO
Daniel S. Miller v. Brian Nelson. - Adv. No. 04-_____

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 5th day of October, 2004, Affiant deposited in the United States Post Office at Fargo, North Dakota, true and correct copies of the following document:

1. **DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT; and**

2. **INTERROGATORIES AND DEMAND FOR PRODUCTION OF DOCUMENTS, SET I, TO PLAINTIFF**

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

Michael S. Dove
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
Lori Thrall

Subscribed and sworn to before me this 5th day of October, 2004.

Michelle Bueide
Notary Public

MICHELLE BUEIDE
Notary Public
State of North Dakota
My Commission Expires Feb. 4, 2006