UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:	)	Bky No. 4-60106
	)	
Daniel S. Miller,	)	
	)	
Debtor.	)	
	)	
	)	
Daniel S. Miller,	)	
	)	Adversary No. 04-6117
Plaintiff,	)	
	)	
vs.	)	**DEFENDANT'S ANSWER TO**
	)	**PLAINTIFF'S COMPLAINT**
Mark Wavra,	)	
	)	
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 922 5th Avenue SE, East Grand Forks, Minnesota.

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 a payment of $34,102.14 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 is a copy of the Debtor's check 22908 in the sum of $34,102.14 payable to the Defendant.

7. Admits the allegations in Paragraph 8 of Plaintiff's Complaint to the extent it is alleged therein that the payment referenced in Paragraph 6 of Plaintiff's Complaint was made with respect to a debt 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 payment 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 payment 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 transfer referred in Paragraph 6 of Plaintiff's Complaint was an exchange for new value, a contemporaneous exchange for value and/or that it was the payment of a debt incurred in the ordinary course of the business affairs of the P laintiff and the Defendant. As a consequence, 11 U.S.C. § 547(c)(1), (2) and/or (4) preclude 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 1st 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
ATTORNEY FOR DEFENDANT,
MARK WAVRA

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.

Dated this 1st day of October, 2004.

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By:_____
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MARK WAVRA

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

In re: **Daniel S. Miller v. Mark Wavra**
Adversary No. 04-6117

STATE OF NORTH DAKOTA	)	AFFIDAVIT OF SERVICE
	) ss	BY MAIL
COUNTY OF CASS	)	

Lori Thrall, being first duly sworn on oath, does depose and say: She is a resident of County of Cass, City of Fargo, State of North Dakota, is of legal age and not a party to or interested in the above entitled matter.

On October 5, 2004, your affiant served the following documents:

DEFENDANT'S ANSWER TO PLAINTIFF'S, COMPLAINT

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

by placing true and correct copies in envelopes addressed as follows:

Michael S. Dove
Gislason & Hunter, LLP
P.O. Box 458
New Ulm, MN 56073-0458

and causing them to be placed in the mail at Fargo, North Dakota with first-class postage prepaid.

Lori Thrall

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

Notary Public

(SEAL)

ANNELI JOHNSON
Notary Public
State of North Dakota
My Commission Expires Sept. 28, 2010