

THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA

Bankruptcy No.: 04-60106

In Re:

Daniel S. Miller,

Debtor.

In Proceeding Under
Chapter 11

**RESPONSE TO OBJECTION OF THE UNITED STATES TRUSTEE TO THE
DEBTOR'S MODIFIED CHAPTER 11 PLAN OF REORGANIZATION**

1. The Debtor intends to file a Modified Plan of Reorganization dated September 29, 2004.
2. The Trustee's Office objects to the Debtor's Plan because Quarterly Fees have not been paid in the total amount of \$1,000. The Debtor has funds available to pay this fee in the Gislason & Hunter Trust Account. The Debtor has placed all of the proceeds from the sale of real estate and equipment in this account. In addition, there are additional funds in the account as a result of other services. The practice has been that all funds will continue to be held in the account until further Court Order. The Debtor also has Grain Proceeds (which are in dispute) which is not included in the total amount held. The Debtor's Disclosure Statement shows that \$380,000 is held in the account, which is available to pay the Trustee's fees. This fee will be paid upon Confirmation.
3. The Debtor's Plan complies with 11 U.S.C. 1129(a)(11). The Debtor's Plan is feasible in that money is available to pay the claim of the IRS and other secured creditors. The Debtor has

resolved the objection to the Plan by the Internal Revenue Service by agreeing to have all tax returns filed and paid by the Effective Date. The Debtor's Plan provides for payment of all Priority and Secured Creditors from the proceeds of the liquidation of non-exempt property. The Debtor believes that he has a total of approximately \$590,000 in Grain Proceeds, \$417,737.98 is exempt (subject to liens of approximately \$60,000), as well as the equity from the sale of the Tilden Bin Site. Obviously, there is sufficient money available to pay Trustees fees. After the Accounts Receivable and the Preference Payments are recovered, there will be substantially more available. The Debtor also has approximately \$380,000.00 available from Life Insurance Cash Value. The Debtor's Plan is feasible. The Debtor's Plan calls for complete liquidation of all non-exempt assets and payment of the net proceeds (after deduction of sales expenses and secured creditors) to the Priority Creditors and then to the Unsecured Creditors. Liquidating Plans are specifically exempted from an 1129(a)(11) objection by Statute.

Dated this 29th day of September, 2004.

FLUEGEL, HELSETH, MCLAUGHLIN,
ANDERSON & BRUTLAG, CHARTERED



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