

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

BKY No. 03-31304
ADV No. 04-3112

Alan Curtis Gruidl and Jacqueline Gruidl,

Debtors.

Randall L. Seaver, Trustee,

Plaintiff,

vs.

**NOTICE OF HEARING AND
MOTION TO COMPEL DISCOVERY
AND FOR SANCTIONS**

Gregory A. Wade, Richard T. Wade, and
Two Brothers Entertainment, Inc.,

Defendants.

TO: The entities specified in Local Rule 1204(a).

1. Randall L. Seaver, Trustee in the above matter, by and through his undersigned counsel, moves the court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion on September 7, 2004 at 11:00 A.M. in Courtroom No. 228B, 316 North Robert Street, St. Paul, Minnesota 55101 before the Honorable Gregory F. Kishel, U.S. Bankruptcy Judge. Any response to this motion must be filed and delivered not later than September 2, 2004, which is three days before the time set for hearing (excluding Saturdays, Sundays, and holidays), or be filed and served by mail not later than August 26, 2004, which is seven days before the hearing date (excluding Saturdays, Sundays, and holidays).

UNLESS A RESPONSE IS TIMELY FILED, THE COURT MAY GRANT THIS MOTION WITHOUT A HEARING.

3. This case was commenced by the filing of a voluntary chapter 7 petition on February 25, 2003. The case is currently pending in this court.

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334, Bankruptcy Rule 5005 and Local Rule 201. This proceeding is a core proceeding. This motion arises under 11 U.S.C. §7307 and Local Bankruptcy Rule 7037-1. This motion is based on Federal Rules of Civil Procedure 37 as made applicable pursuant to Bankruptcy Rule 7037. This motion is filed under Bankruptcy Rule 9013 and Local Rules 9013-2. Movant requests an Order compelling discovery, and awarding sanctions in the form of attorney's fees, in the amount of \$300 incurred in bringing this motion and an additional \$400 if a hearing on the motion is necessary.

5. This motion is based upon the Affidavit of Andrea M. Hauser and the Local Rule 7037-1 Statement filed in conjunction herewith, and all of the other files, records and proceedings herein.

6. The Trustee commenced this adversary proceeding on April 8, 2004 to collect Defendants' obligations on certain notes and guaranties in favor of the Debtor, Alan Gruidl. Defendants filed their Answer on May 21, 2004, denying all liability.

7. On June 24, 2004, the Trustee served his First Request for Production of Documents, First Set of Interrogatories, and First Request for Admissions on Defendants' counsel, Foley & Mansfield, PLLP.

8. On July 27, 2004, the Trustee received Defendants' Response to Plaintiff's First Request for Admissions which contained a blanket denial to all requests for admissions. Counsel for the Trustee received no additional discovery responses from Defendants.

9. On August 9, 2004, Andrea Hauser set a discovery conference under Bankruptcy

Rule 7037 and Local Rule 7037-1 for August 11, 2004. In the discovery conference on August 11, 2004, Joseph M. Barnett informed Andrea Hauser that Defendants no longer wanted Foley & Mansfield to represent them in this litigation and that Defendants had produced no documents and had not responded to the First Set of Interrogatories.

10. On August 12, 2004, the Trustee obtained copies of personal guaranties of the Leasehold Improvement Note, the Equipment Note and the Non-Compete Note from the Debtor's former attorney, Renee Rubbish. The three guaranties contain the signatures of Richard Wade and Gregory Wade and indicate that Gregory Wade and Richard Wade falsely denied that they had executed guaranties of the three notes in their responses to the Trustee's First Request for Admission, Nos. 8, 9, 20, and 21, Exhibit D to Hauser Affidavit.

WHEREFORE, the Trustee requests an order of the Court as follows:

1. Compelling Defendants to respond to Plaintiff's discovery requests within ten (10) days of the date of the order in this matter;
2. Striking the Defendants' Responses to Trustee's First Request for Admissions and deeming all of the Admissions as admitted;
3. Striking Defendants' fifteen Affirmative Defenses in their Answer;
4. Awarding attorney's fees in the sum of \$300.00 to Plaintiff and an additional \$400.00 if a hearing on this motion is necessary;
5. Extending the deadline for completing discovery to 60 days from the date of the entry of the order in this motion; and
6. For such other relief as the Court deems just.

FULLER, SEAVER & RAMETTE, P.A.

Dated: August 24, 2004

By: /e/ Andrea M. Hauser

Randall L. Seaver 152882
Andrea M. Hauser 207469
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

Attorneys for Randall L. Seaver, Trustee

VERIFICATION

I, Andrea M. Hauser, attorney for Randall L. Seaver, Trustee, declare under penalty of perjury that the foregoing is true and correct to according to the best of my knowledge, information and belief.

Executed on August 24, 2004

/e/ Andrea M. Hauser
Andrea M. Hauser

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

BKY No. 03-31304

ADV No. 04-3112

Alan Curtis Gruidl and Jacqueline Gruidl,

Debtors.

**LOCAL RULE
7037-1 STATEMENT**

Randall L. Seaver, Trustee,

Plaintiff,

vs.

Gregory A. Wade, Richard T. Wade, and
Two Brothers Entertainment, Inc.,

Defendants.

The Trustee, by his counsel, Fuller, Seaver & Ramette, P.A., submits this Statement pursuant to Local Rule 7037-1 setting forth the matters upon which there is a discovery dispute, together with separate memoranda in support of the Trustee's contentions.

The Trustee commenced this adversary proceeding on April 8, 2004 to collect Defendants' obligations on certain notes and guaranties in favor of the Debtor, Alan Gruidl. Defendants filed their Answer on May 21, 2004, denying all liability.

On June 24, 2004, the Trustee served his First Request for Production of Documents, First Set of Interrogatories, and First Request for Admissions on Defendants' counsel, Thomas J. Lallier and Samuel S. Rufer, Foley & Mansfield, PLLP. On July 27, 2004, the Trustee received Defendants' Response to Plaintiff's First Request for Admissions.

On July 28, 2004, the Court issued its Scheduling Order setting a discovery deadline of

September 27, 2004 and a deadline for filing pre-trial motions of October 27, 2004.

In response to the request of Mr. Rufer for additional time to respond to discovery, Andrea M. Hauser, counsel for the Trustee, agreed to extend the time to complete discovery to July 30, 2004. *See* July 29, 2004 letter from Andrea M. Hauser to Samuel S. Rufer and Joseph M. Barnett, attached as Exhibit A.

The Trustee received no additional discovery responses from Defendants. On August 9, 2004, Andrea Hauser set a discovery conference under Bankruptcy Rule 7037 and Local Rule 7037-1 for August 11, 2004. In the discovery conference on August 11, 2004, Joseph M. Barnett informed Andrea Hauser that Defendants no longer wanted Foley & Mansfield to represent them in this litigation and that Defendants had produced no documents and had not responded to the First Set of Interrogatories. *See* August 11, 2004 letter from Andrea M. Hauser to Joseph M. Barnett, attached as Exhibit B.

FULLER, SEAVER & RAMETTE, P.A.

Dated: August 24, 2004

By: /e/ Andrea M. Hauser
Andrea M. Hauser 207469
12400 Portland Avenue South
Suite 132
Burnsville, MN 55337
(952) 890-0888

Attorneys for Randall L. Seaver, Trustee

LAW OFFICES

FULLER, SEAVER & RAMETTE, P.A.

A PROFESSIONAL ASSOCIATION

Timothy D. Fuller
Randall L. Seaver
James E. Ramette
Andrea M. Hauser

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PORTLAND CORPORATE CENTER
12400 PORTLAND AVENUE SOUTH
BURNSVILLE, MN 55337

TELEPHONE (952) 890-0888
FACSIMILE (952) 890-0244

July 29, 2004

VIA FACSIMILE (612) 338-8690 AND FIRST CLASS MAIL

Joseph Barnett, Esq.
Samuel S. Rufer, Esq.
Foley & Mansfield, PLLP
250 Marquette Avenue
Suite 1200
Minneapolis MN 55401

**RE: Randall L. Seaver, Trustee v. Gregory A. Wade, Richard T. Wade and Two Brothers
Entertainment, Inc.
ADV No. 04-3112
Our File No. 03-4656**

Dear Messrs. Rufer and Barnett:

I writing to confirm our telephone conversations of July 27 and 28, 2004

After the scheduling conference with Judge Kishel, Samuel Rufer and I agreed to extend the Defendants' time to respond to the Trustee's discovery requests served on June 24, 2004 to July 30, 2004.

Yesterday I received the Defendants' Response to Plaintiff's First Request for Admissions. After a discussion regarding settlement, I informed Joseph Barnett that the Trustee would continue to pursue discovery and that the Response to Interrogatories and Response to Request for Production of Documents were due on July 30, 2004.

Very truly yours,

FULLER, SEAVER & RAMETTE, P.A.

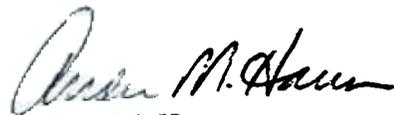

Andrea M. Hauser

EXHIBIT A

LAW OFFICES

FULLER, SEAVER & RAMETTE, P.A.

A PROFESSIONAL ASSOCIATION

Timothy D. Fuller
Randall L. Seaver
James E. Ramette
Andrea M. Hauser

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TELEPHONE (952) 890-0888
FACSIMILE (952) 890-0244

August 11, 2004

VIA FACSIMILE (612) 338-8690 AND FIRST CLASS MAIL

Joseph M. Barnett, Esq.
Foley & Mansfield, PLLP
250 Marquette Avenue
Suite 1200
Minneapolis MN 55401

RE: Randall L. Seaver, Trustee v. Gregory A. Wade, Richard T. Wade and Two Brothers
Entertainment, Inc.
ADV No. 04-3112
Our File No. 03-4656

Dear Mr. Barnett:

I writing to confirm our discussion today in the Bankruptcy Rule 7037(b) discovery conference in which you informed me that Defendants no longer wish to be represented by Foley & Mansfield, PLLP in this litigation, prompting your firm to file its Motion for Leave to Withdraw set for September 7, 2004. Defendants have not produced any documents pursuant to Plaintiff's First Request for Production of Documents nor have they answered Plaintiff's First Set of Interrogatories.

The Trustee will continue to seek a complete discovery response from Defendants and may file a Motion to Compel Production of Documents and Answers to Interrogatories, if appropriate.

Very truly yours,

FULLER, SEAVER & RAMETTE, P.A.


Andrea M. Hauser

EXHIBIT B

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

BKY No. 03-31304

ADV No. 04-3112

Alan Curtis Gruidl and Jacqueline Gruidl,

Debtors.

Randall L. Seaver, Trustee,

Plaintiff,

**MEMORANDUM OF LAW IN
SUPPORT OF MOTION TO COMPEL
DISCOVERY RESPONSES AND FOR
SANCTIONS**

vs.

Gregory A. Wade, Richard T. Wade, and
Two Brothers Entertainment, Inc.,

Defendants.

This memorandum of law is submitted in support of the Plaintiff's Motion to Compel Discovery Responses and for Sanctions. The facts of this case are fully set forth in the Notice and Motion, the Local Rule 7037-1 Statement, and in the Affidavit of Andrea M. Hauser submitted together with this Memorandum.

This Motion is brought as a result of the failure of Gregory A. Wade, Richard T. Wade and Two Brothers Entertainment, Inc. to respond to the Trustee's Request for Production of Documents and First Set of Interrogatories served in this adversary proceeding.

FACTS

In the Complaint, the Trustee seeks to enforce Defendants' obligations on four promissory notes ("Notes"), the Sublease, and the personal guaranties of Defendants Richard T. Wade and Gregory A. Wade. In their Answer to the Complaint, Richard Wade and Gregory Wade denied that

they executed guaranties of the Notes and denied all personal liability for any obligation under the Notes or the Sublease. *See* Complaint, paras. 11, 12, 16, 17, 23, 24, 29, 34 and 35; *see also*, Answer, paras. 11, 12, 16, 17, 23, 24, 29, 34 and 35. Gregory Wade and Richard Wade asserted that only their corporation, Two Brothers Entertainment, Inc., was liable on the Contract Assumption Agreement, the Notes, or the Sublease. The Answer also contained fifteen affirmative defenses including fraud, misrepresentation, contributory negligence, statute of limitations, failure to mitigate damages, lack of personal jurisdiction, failure to conduct a commercially reasonable sale, among others. *See* Answer, paras. 40 through 54.

On June 24, 2004, the Trustee served his First Request for Production of Documents, First Set of Interrogatories, and First Request for Admissions on Defendants' counsel, Foley & Mansfield, PLLP. *See* Exhibits B, C, and D to the Affidavit of Andrea M. Hauser dated August 24, 2004 (hereinafter, "Hauser Affidavit"). On July 27, 2004, the Trustee received Defendants' Response to Plaintiff's First Request for Admissions. *See* Exhibit E to Hauser Affidavit.

Defendants made a blanket denial of each request for admission, including a denial that the executed copy of the Contract Assumption Agreement attached to the Complaint contained their signatures. Defendants did not include any qualification or explanation for the denials. Defendants did not respond to the First Request for Production of Documents or the First Set of Interrogatories.

The Trustee's counsel, Andrea M. Hauser, had a discovery conference pursuant to Bankruptcy Rule 7037(b) and Local Rule 7037-1 with Joseph M. Barnett, Defendants' counsel, on August 11, 2004. Andrea M. Hauser conferred in good faith with Mr. Barnett to secure complete discovery responses. Mr. Barnett stated Defendants Gregory Wade and Richard Wade would not

produce documents or answer interrogatories as they intended to file personal bankruptcy petitions. *See* August 11, 2004 letter from Andrea M. Hauser to Joseph M. Barnett, Exhibit G to Hauser Affidavit. On information and belief, to date, neither Gregory Wade nor Richard Wade has filed a bankruptcy petition.

On August 12, 2004, the Trustee obtained copies of personal guaranties of the Leasehold Improvement Note, the Equipment Note and the Non-Compete Note from the Debtor's former attorney, Renee C. Rubbish. *See* Exhibits H, I and J to Hauser Affidavit. The three guaranties contain the signatures of Richard Wade and Gregory Wade and indicate that Gregory Wade and Richard Wade falsely denied that they had executed guaranties of the Notes in their Responses to the Trustee's First Request for Admissions, Nos. 8, 9, 20, and 21, Exhibit E to Hauser Affidavit.

Defendants have made blanket denials of the Trustee's claims, have denied the authenticity of copies of documents appearing to bear their signatures, and have asserted numerous affirmative defenses for which they have the burden of production. Nevertheless, Defendants refuse to respond to the Trustee's production requests seeking records relating to the claims and defenses and responses to interrogatories relating to Defendants' denials in their Answer and to their affirmative defenses. The discovery responses which the Trustee seeks are necessary to further substantiate the Trustee's claims and to evaluate the asserted affirmative defenses.

II. DEFENDANTS RESPONSES TO THE REQUEST FOR ADMISSIONS SHOULD BE DEEMED ADMITTED

Gregory Wade and Richard Wade falsely denied they executed the Contract Assumption Agreement and the guaranties of the Leasehold Improvement Note, the Equipment Note and the Non-Compete Note. This Court has the power to sanction parties who file false pleadings with the Court and who make false statements in response to discovery requests.

If a party fails to admit the genuineness of any document or the truth of any matter as requested under Rule 36, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the requesting party may apply to the court for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorneys fees.

Fed. R. Civ. P. 37(c)(2) as incorporated by Bankruptcy Rule 7037.

As a sanction for their false and misleading statements in their pleadings, and to deter such actions in the future, this Court should enter an order deeming the Defendants' blanket denials in their Response to the Trustee's First Request for Admissions as admitted.

III. DEFENDANTS AFFIRMATIVE DEFENSES SHOULD BE STRICKEN.

Defendants' affirmative defenses should be stricken as Defendants have failed to produce records supporting those affirmative defenses and have failed to answer interrogatories relating to those affirmative defenses.

(1) A party without substantial justification fails to disclose information required by Rule 26(a) or 26(e)(1), or to amend a prior response to discovery as required by Rule 26(e)(2), is not, unless such failure is harmless, permitted to use as evidence at a trial, at a hearing, or on a motion any witness or information not so disclosed. In addition to or in lieu of this sanction, the court, on motion and after affording an opportunity to be heard, may impose other appropriate sanctions. In addition to requiring payment of reasonable expenses, including attorneys fees, caused by the failure, these sanctions may include any of the actions authorized under Rule 37(b)(2)(A), (B), and (C).

Fed. R. Civ. P. 37(c)(1), as incorporated by Bankruptcy Rule 7037. Here Defendants have refused to respond to discovery requests concerning affirmative defenses for which they have the burden of proof. As Defendants are unwilling to produce records supporting those affirmative defenses and disclose other information supporting those defenses, the Trustee cannot respond to the affirmative defenses and prepare for trial. Therefore, the defenses should be stricken.

III. THE TRUSTEE IS ENTITLED TO RECOVER EXPENSES INCURRED IN BRINGING THIS MOTION

Bankruptcy Rule 7037, which makes Federal Rule of Civil Procedure 37 applicable to this proceeding, gives this Court authority to compel Defendants to respond to Plaintiff's discovery responses. Federal Rule of Civil Procedure 37(a)(2) (B) provides in pertinent part:

[I]f a party fails to answer an interrogatory submitted under Rule 33, or if a party, in response to a request for inspection submitted under Rule 34, fails to respond, that inspection will be permitted as requested, the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request.

Here, Plaintiff Trustee is entitled to recover expenses incurred in compelling the discovery response.

If the motion [to compel] is granted or if the disclosure or requested discovery is provided after the motion was filed, the court shall, after affording an opportunity to be heard, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in making the motion, including attorney's fees, unless the court finds that the motion was filed without the movant's first making a good faith effort to obtain the disclosure or discovery without court action, or that the opposing party's nondisclosure, response, or objection was substantially justified, or that other circumstances make an award of expenses unjust.

Fed. R. Civ. P. 37(a)(4).

Accordingly, Richard Wade and Gregory Wade should be ordered to provide all of the records requested in the Trustee's First request for Production of Documents and First Request for

Interrogatories. Richard Wade and Gregory Wade should be ordered to pay the Trustee's attorneys' fees of \$300 incurred in bringing this motion and an additional \$400 if a hearing on the motion is necessary.

FULLER, SEAVER & RAMETTE, P.A.

Dated: August 24, 2004

By: /e/ Andrea M. Hauser
Andrea M. Hauser 207469
101 West Burnsville Parkway, Suite 201
Burnsville , MN 55337
(952) 890-0888

Attorneys for Randall L. Seaver, Trustee

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

BKY No. 03-31304

ADV No. 04-3112

Alan Curtis Gruidl and Jacqueline Gruidl,

Debtors.

Randall L. Seaver, Trustee,

Plaintiff,

**AFFIDAVIT OF
ANDREA M. HAUSER**

vs.

Gregory A. Wade, Richard T. Wade, and
Two Brothers Entertainment, Inc.,

Defendants.

STATE OF MINNESOTA

COUNTY OF DAKOTA) ss
)

Andrea M. Hauser, being first duly sworn on oath, states as follows:

1. That she is one of the attorneys for the Plaintiff, Randall L. Seaver, Trustee, in the above-captioned case.

2. That attached as Exhibit A is a true and correct copy of the May 24, 2004 letter from Andrea M. Hauser to Thomas J. Lallier and Samuel S. Rufer.

3. That attached as Exhibit B is a true and correct copy of Plaintiff's First Request for Production of Documents dated June 24, 2004.

4. That attached as Exhibit C is a true and correct copy of Plaintiff's First Set of Interrogatories dated June 24, 2004.

5. That attached as Exhibit D is a true and correct copy of Plaintiff's First Request for Admissions dated June 24, 2004.

6. That attached as Exhibit E is a true and correct copy of Defendants Gregory A. Wade, Richard T. Wade and Two Brothers Entertainment, Inc.'s Response to Plaintiff's First Set of Admissions dated July 27, 2004.

7. That attached as Exhibit F is a true and correct copy of the August 9, 2004 letter from Andrea M. Hauser to Joseph M. Barnett and Samuel S. Rufer.

8. That attached as Exhibit G is a true and correct copy of the August 11, 2004 letter from Andrea M. Hauser to Joseph M. Barnett.

9. That attached as Exhibit H is a true and correct copy of the Guaranty of the Leasehold Improvement Note dated December 1, 2000.

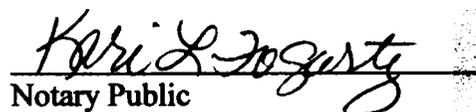
10. That attached as Exhibit H is a true and correct copy of the Guaranty of the Equipment Note dated December 1, 2000.

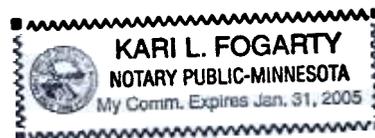
1. That attached as Exhibit J is a true and correct copy of the Guaranty of the Non-Compete Note dated December 1, 2000.

FURTHER SAYETH AFFIANT NOT.


Andrea M. Hauser

Subscribed and sworn to before me
this 24 day of August 2004.


Notary Public



LAW OFFICES

FULLER, SEAVER & RAMETTE, P.A.

A PROFESSIONAL ASSOCIATION

Timothy D. Fuller
Randall L. Seaver
James E. Ramette
Andrea M. Hauser

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May 24, 2004

Thomas J. Lallier, Esq.
Samuel S. Rufer, Esq.
Foley & Mansfield, PLLP
250 Marquette Avenue
Suite 1200
Minneapolis MN 55401

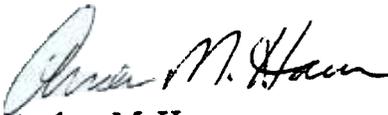
RE: Randall L. Seaver, Trustee v. Gregory A. Wade, Richard T. Wade and Two Brothers
Entertainment, Inc.
ADV No. 04-3112
Our File No. 03-4656

Dear Messrs. Lallier and Rufer

Please find enclosed a legible copy of the executed Contract Assumption Agreement dated December 1, 2000 which is attached as Exhibit I to the Adversary Complaint. Included in the Contract Assumption Agreement is the Leasehold Improvement Note as Exhibit C, the Equipment Note as Exhibit D, and the Non-Compete Note as Exhibit E.

Very truly yours,

FULLER, SEAVER & RAMETTE, P.A.



Andrea M. Hauser

enclosure

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY No. 03-31304

Alan Curtis Gruidl and Jacqueline Ann Gruidl,

ADV No. 04-3112

Debtors.

Randall L. Seaver, Trustee,

Plaintiff,

vs.

**PLAINTIFF'S FIRST REQUEST
FOR PRODUCTION OF
DOCUMENTS**

Gregory A. Wade, Richard T. Wade and
Two Brothers Entertainment, Inc.,

Defendants.

To: Defendants, Gregory A. Wade, Richard T. Wade and Two Brothers Entertainment, Inc. and their counsel, Thomas J. Lallier, Samuel S. Rufer, Foley & Mansfield, P.L.L.P., 250 Marquette Avenue, Suite 1200, Minneapolis MN 55401.

PLEASE TAKE NOTICE that you are requested to respond within thirty (30) days to the following request for production of documents pursuant to Bankruptcy Rule 7034 incorporating F. R. Civ. P. 34.

DEFINITIONS

Except as otherwise expressly provided below, the definitions in Plaintiff's First Set of Interrogatories to Defendants of even date herewith and served herewith shall apply to the Requests for Production and are incorporated by reference.

REQUESTS FOR PRODUCTION

That Defendant produce to Plaintiff each of the following documents:

1. All records relating to Defendants' denial in their Answer that the Defendants Gregory

Wade and Richard Wade acquired assets and obligations relating to businesses known as "The

EXHIBIT B

Albatross” and “The Grind Coffeehouse” and assumed obligations on four promissory notes originally between the Michels Group and the Debtor Alan Gruidl.

2. All records relating to Defendants’ denial in its Answer that pursuant to the Contract Assumption Agreement, that Gregory Wade and Richard Wade assumed a Promissory Note dated June 5, 1998, in the principal amount of \$115,000 (“Leasehold Improvement Note”), and agreed to pay Alan Gruidl \$107,014.53

3. All records relating to Defendants’ denial that Gregory Wade and Richard Wade personally guaranteed the Leasehold Improvement Note.

4. All records relating to Defendants’ denial that “Defendants failed to make the monthly payments on the Leasehold Improvement Note after March 1, 2001 and are in default on the Leasehold Improvement Note.”

5. All records relating to Defendants’ denial that “Alan Gruidl gave notice of default to Defendants as required by the Leasehold Improvement Note by letter dated June 1, 2001.”

6. All records relating to Defendants’ denial that Gregory Wade and Richard Wade personally guaranteed the Equipment Note dated June 5, 1998.

7. All records relating to Defendants’ denial that “Defendants failed to make the monthly payments on the Equipment Note after March 1, 2001 and are in default on the Equipment Note.”

8. All records relating to Defendants’ denial that “Alan Gruidl gave notice of default to Defendants as required by the Equipment Note by letter dated June 1, 2001.”

9. All records relating to Defendants’ denial in its Answer that Gregory Wade and Richard Wade personally guaranteed the Non-Compete Note in the principal amount of \$317,166.

10. All records relating to Defendants’ denial that “Defendants failed to make the monthly

payments on the Non-Compete Note after March 1, 2001 and are in default on the Non-Compete Note.”

11. All records relating to Defendants’ denial that “Alan Gruidl gave notice of default to Defendants as required by the Non-Compete Note by letter dated June 1, 2001.”

12. All records relating to Defendants’ denial that “Defendants failed to make the monthly payments on the Wells Fargo Note in the principle amount of \$100,000.”

13. All records relating to Defendants’ denial that Defendants are in default on the Wells Fargo Note.

14. All records relating to Defendants’ denial that “Alan Gruidl gave written notice of default on the Wells Fargo Note to Defendants by letter dated June 1, 2001.”

15. All records relating to Defendants’ denial that “Gregory A. Wade and Richard T. Wade executed a Sublease Agreement dated December 1, 2000 with #1 Sun, Inc. and Brandie-Alexander, Inc., corporations owned and controlled by Alan Gruidl.”

16. All records relating to Defendants’ denial that “under the Sublease Agreement, Defendants assumed the Lease for the premises located at 1608 Warren Street, Mankato, Minnesota and assumed all obligations thereunder, including but not limited the payment of monthly rent.”

17. All records relating to Defendants’ denial that “Defendants breached the terms of the Sublease Agreement by failing to pay rent for four months or more.”

18. All records relating to Defendants’ denial that “on June 1, 2001, Alan Gruidl gave Defendants notice of the default under the Sublease Agreement.”

19. All records relating to Defendants’ first affirmative defense that “Plaintiff’s Complaint fails to state a claim upon [which] relief can be granted.”

20. All records relating to Defendants' second affirmative defense that "if Plaintiff sustained any injuries or damages as alleged in its complaint, or otherwise, the injuries or damages were caused by the contributory negligence, comparative fault and /or assumption of risk of the Plaintiff or others over whom Defendants had no control."

21. All records relating to Defendants' third affirmative defense that "Plaintiff's claims are time barred by the Statute of Limitations and or Statutes of Repose."

22. All records relating to Defendants' fourth affirmative defense that "Plaintiff's claims are barred for failure to join indispensable parties."

23. All records relating to Defendants' fifth affirmative defense that "Plaintiff may have failed to mitigate any alleged injuries and/or damages."

24. All records relating to Defendants' sixth affirmative defense that "Plaintiff mitigated any loss by re-leasing the subject premises, and Defendants are not liable for any damage thereafter."

25. All records relating to Defendants' seventh affirmative defense that "Plaintiff's claims may be barred by the doctrines of waiver, estoppel, and /or laches."

26. All records relating to Defendants' eighth affirmative defense that "Plaintiff's claims may be barred due to insufficiency of service of process and/or insufficiency of process."

27. All records relating to Defendants' ninth affirmative defense that "Gregory A. Wade and Richard T. Wade are shielded from any personal liability by the corporate veil."

28. All records relating to Defendants' tenth affirmative defense that "this Court lacks personal jurisdiction over Gregory A. Wade, as he does not have sufficient minimum contacts with the State of Minnesota."

29. All records relating to Defendants' eleventh affirmative defense that "Defendant's

signatures on any guarantee in an individual capacity were obtained through fraud, misrepresentation or non-disclosure and are therefore non-binding.

30. All records relating to Defendants' twelfth affirmative defense that "Plaintiff's claims may be barred by failure to liquidate collateral in a commercially reasonable manner, in accordance with the Uniform Commercial Code."

31 All records relating to Defendants' thirteenth affirmative defense that "Plaintiff's claims may be barred for failure to notify Defendants in a timely manner of the disposition of the collateral in accordance with the Uniform Commercial Code."

32. All records relating to Defendants' fourteenth affirmative defense that "Plaintiff's claims may be barred for the failure to apply proceeds of disposition to the satisfaction of obligations secured by the security interest, in accordance with the Uniform Commercial Code."

33. All records relating to Defendants' fifteenth affirmative defense that "Plaintiff accepted collateral in full satisfaction of Defendants' obligations, in accordance with the Uniform Commercial Code."

34. All documents referenced or supporting the Defendants' denials, if any, made in Defendant's Response to the Plaintiff's First Request for Admissions served herewith.

FULLER, SEAVER & RAMETTE, P. A.

June 24, 2004

By: 
Randall L. Seaver 152886
Andrea M. Hauser 207469
12400 Portland Avenue South
Suite 132
Burnsville, MN 55337
(952) 890-0888
Attorneys for Randall L. Seaver, Trustee

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

BKY No. 03-31304
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In re:

Alan Curtis Gruidl and Jacqueline Ann Gruidl,

Debtors.

Randall L. Seaver, Trustee,

Plaintiff,

vs.

Gregory A. Wade, Richard T. Wade and
Two Brothers Entertainment, Inc.,

Defendants.

**PLAINTIFF'S FIRST SET OF
INTERROGATORIES TO
DEFENDANTS**

To: Defendants, Gregory A. Wade, Richard T. Wade and Two Brothers Entertainment, Inc. and their counsel, Thomas J. Lallier, Samuel S. Rufer, Foley & Mansfield, P.L.L.P., 250 Marquette Avenue, Suite 1200, Minneapolis MN 55401.

The Plaintiff and Trustee, Randall L. Seaver, requests that the Defendants, Gregory A. Wade, Richard T. Wade and Two Brothers Entertainment, Inc., furnish answers to the following Interrogatories within thirty (30) days from the date of service of these Interrogatories pursuant to Bankruptcy Rule 7026 incorporating Fed. R. Civ. P. 26. These Interrogatories are continuing, and require supplemental answers as provided by the Bankruptcy Rule 7026 and F. R. Civ. P. 26.

INTRODUCTION AND DEFINITIONS

A. Each interrogatory seeks information available to Gregory A. Wade, Richard T. Wade and Two Brothers Entertainment, Inc. ("Defendants"), its attorneys or agents, and all persons acting on its behalf. Accordingly, the terms "Defendants", "you," and "your" refer without limitation to the Defendants, its attorneys or agents, and all persons acting on his behalf.

B. "Person" means an individual, firm, partnership, corporation, proprietorship, association, governmental body, or any other organization or entity. When the terms "identify" or "state the identity" are used in conjunction with the term "person," or if the answer to any interrogatory herein refers to a person (as defined herein), you are to state each such person's: (1) full legal name; (2) present or last known address and

EXHIBIT C

telephone number (business and residential); and (3) occupation, job title, business affiliation and/or nature of business.

- C. "Document" is intended in its broadest sense, including any writing, notes, record or other tangible thing as well as any electronic record in tape or other form in your custody, possession or control or known to you. When the terms "identify" or "state the identity" are used herein in conjunction with the term "document," or if the answer to any interrogatory refers to a document (as defined herein), you are to state, with respect to each such document: (1) the date of the document; (2) the identity of the person who has custody or control over the document; (3) the nature and substance of the document, all with sufficient particularity to enable it to be identified in a request to produce; and (4) the author(s) and recipient(s) thereof. In lieu thereof, you may with your answers produce the document, provided that each document is appropriately marked to identify the interrogatory to which the document responds.
- D. Except as otherwise provided below, the definitions in the Plaintiff's First Set of Interrogatories to Defendants shall apply to the Requests for Production of Documents served herewith and are incorporated by reference.
- E. "Oral communication" means all conversations, statements and remarks, whether taped, transcribed, recorded or otherwise. When the terms "identify" or "state the identity" are used with the term, "oral communication," or if the answer to any interrogatory refers to an oral communication, you must state for each oral communication: (1) the date of the communication; (2) the place where it occurred; (3) the identity of the person(s) making, receiving and witnessing the communication, respectively; and (4) the substance of the communication.
- F. If any document or identification of any document or oral communication is withheld under a claim of privilege, in order that the court and the parties may determine the identity of the document or oral communication, identify the person or persons who sent or received copies of the document or who heard or participated in some or all of the oral communication for which a privilege is claimed, and state the basis for any claimed of privilege.
- G. "Date" shall mean the exact day, month, and year, or if the date is not ascertainable, the best approximation (including its relationship to other events).
- H. If you object to part of an interrogatory and refuse to answer that part, state your objection and answer the remaining portion of that interrogatory. If you object to the scope or time period, state your objection and answer the interrogatory for the scope or time period you believe is appropriate.
- I. If any of the following interrogatories cannot be answered in full after exercising due diligence to secure the information, please so state and answer to the extent possible,

specifying your inability to answer the remainder, describing all steps taken in an effort to secure the requested information, and stating information you have concerning the unanswered portions. If your answer is qualified in any particular, please set forth the detail of such qualification.

INTERROGATORIES

1 Identify the person who answers these Interrogatories, and if more than one person supplies information or answers to these Interrogatories, please state which person answered which portion of each Interrogatory.

2. State the names and addresses of all persons who have or claim to have any information concerning the facts relevant to this litigation, and state in complete detail the substance and nature of any such information.

3. State whether or not Defendants or anyone on Defendants' behalf obtained a statement relevant to this matter from any person, the name of the person from whom the statement was taken, the name of the person taking the statement, the date of the statement, and type of statement.

4. Identify all persons you have consulted or you expect to call as a witness at the trial in this action.

5. Identify all exhibits you intend to introduce at the trial of this matter.

6 Identify each person whom Defendants expect to call as an expert at trial, state the subject matter on which they are expected to testify, the substance of facts upon which they are expected to base their opinions, the substance of the opinions to which they are expected to testify, and a summary of the grounds for each such opinion.

7. For Defendants' denial that Gregory Wade and Richard Wade personally acquired assets and obligations relating to businesses known as "The Albatross" and "The Grind Coffeehouse" and personally assumed obligations on four promissory notes originally between the

Michels Group and the Debtor Alan Gruidl,

- a. state the factual basis supporting the denial;
- b. identify each person who possesses knowledge concerning this statement; and
- c. identify all documents which support this statement.

8. For Defendants' denial that Gregory Wade and Richard Wade personally guaranteed the Leasehold Improvement Note, the Equipment Note, the Non-Compete Note, and the Wells Fargo Note,

- a. state the factual basis supporting the denial;
- b. identify each person who possesses knowledge concerning this statement; and
- c. identify all documents which support this statement.

9. For Defendants' denial that Richard Wade and Gregory Wade "failed to make the monthly payments on the Leasehold Improvement Note after March 1, 2001 and are in default on the Leasehold Improvement Note,

- a. state the factual basis supporting the denial;
- b. identify each person who possesses knowledge concerning this statement; and
- c. identify all documents which support this statement.

10. For Defendants' denial that Alan Gruidl gave Defendants notice of default for the Leasehold Improvement Note, the Equipment Note, the Non-Compete Note, the Wells Fargo Note, and the Sublease Agreement by letter dated June 1, 2001,

- a. state the factual basis supporting the denial;
- b. identify each person who possesses knowledge concerning this statement; and
- c. identify all documents which support this statement.

1. For Defendants' denial that Gregory Wade and Richard Wade "failed to make the monthly payments on the Equipment Note after March 1, 2001 and are in default on the Equipment Note,

- a. state the factual basis supporting the denial;
- b. identify each person who possesses knowledge concerning this statement; and
- c. identify all documents which support this statement.

12. For Defendants' denial that "Defendants failed to make the monthly payments on the Non-Compete Note after March 1, 2001 and are in default on the Non-Compete Note,

- a. state the factual basis supporting the denial;
- b. identify each person who possesses knowledge concerning this statement; and
- c. identify all documents which support this statement.

13. For Defendants' denial that Defendants failed to make the monthly payments on the Wells Fargo Note in the principle amount of \$100,000,

- a. state the factual basis supporting the denial;
- b. identify each person who possesses knowledge concerning this statement; and

c. identify all documents which support this statement.

14. For Defendants' denial in its Answer that Gregory A. Wade and Richard T. Wade executed a Sublease Agreement dated December 1, 2006 with #1 Sun, Inc. and Brandie-Alexander, Inc., for the premises at 1608 Warren Street, Mankato, Minnesota,

a. state the factual basis supporting the denial;

b. identify each person who possesses knowledge concerning this statement; and

c. identify all documents which support this statement.

15 For Defendants' denial that "under the Sublease Agreement, Defendants assumed the Lease for the premises located at 1608 Warren Street, Mankato, Minnesota and assumed all obligations thereunder, including but not limited the payment of monthly rent",

a. state the factual basis supporting the denial;

b. identify each person who possesses knowledge concerning this statement; and

c. identify all documents which support this statement.

16. For Defendants' denial in its Answer that "Defendants breached the terms of the Sublease Agreement by failing to pay rent for four months or more",

a. state the factual basis supporting the denial;

b. identify each person who possesses knowledge concerning this statement; and

c. identify all documents which support this statement.

17. For Defendants' denial in its Answer that "Plaintiff is entitled to recover past due

rents in the amount of \$29,249 or more”,

- a. state the factual basis supporting the denial;
- b. identify each person who possesses knowledge concerning this statement; and
- c. identify all documents which support this statement.

18. For Defendants’ first affirmative defense that “Plaintiff’s Complaint fails to state a claim upon [which] relief can be granted”,

- a. state the factual basis supporting the defense;
- b. identify each person who possesses knowledge concerning this defense; and
- c. identify all documents which support this defense.

19. For Defendants’ second affirmative defense that “if Plaintiff sustained any injuries or damages as alleged in its complaint, or otherwise, the injuries or damages were caused by the contributory negligence, comparative fault and /or assumption of risk of the Plaintiff or others over whom Defendants had no control,”

- a. state the factual basis supporting the defense;
- b. identify each person who possesses knowledge concerning this defense; and
- c. identify all documents which support this defense.

20. For Defendants’ third affirmative defense that “Plaintiff’s claims are time barred by the Statute of Limitations and or Statutes fo Repose,”

- a. state the factual basis supporting the defense;

- b. identify each person who possesses knowledge concerning this defense; and
- c. identify all documents which support this defense.

21. For Defendants' fourth affirmative defense that "Plaintiff's claims are barred for failure to join indispensable parties,"

- a. state the factual basis supporting the defense, including the names and addresses of all indispensable parties;
- b. identify each person who possesses knowledge concerning this defense; and
- c. identify all documents which support this defense.

22. For Defendants' fifth affirmative defense that "Plaintiff may have failed to mitigate any alleged injuries and/or damages,"

- a. state the factual basis supporting the defense;
- b. identify each person who possesses knowledge concerning this defense; and
- c. identify all documents which support this defense.

23. For Defendants' sixth affirmative defense that "Plaintiff mitigated any loss by re-leasing the subject premises, and Defendants are not liable for any damage thereafter,"

- a. state the factual basis supporting the defense;
- b. identify each person who possesses knowledge concerning this defense; and
- c. identify all documents which support this defense.

24. For Defendants' seventh affirmative defense that "Plaintiff's claims may be barred by the doctrines of waiver, estoppel, and /or latches,"

- a. state the factual basis supporting the defense;
- b. identify each person who possesses knowledge concerning this defense; and
- c. identify all documents which support this defense.

25. For Defendants' eighth affirmative defense that "Plaintiff's claims may be barred due to insufficiency of service of process and/or insufficiency of process,"

- a. state the factual basis supporting the defense;
- b. identify each person who possesses knowledge concerning this defense; and
- c. identify all documents which support this defense.

26. For Defendants' ninth affirmative defense that "Gregory A. Wade and Richard T. Wade are shielded from any personal liability by the corporate veil,"

- a. state the factual basis supporting the defense;
- b. identify each person who possesses knowledge concerning this defense; and
- c. identify all documents which support this defense.

27. For Defendants' tenth affirmative defense that "this Court lacks personal jurisdiction over Gregory A. Wade, as he does not have sufficient minimum contacts with the State of Minnesota",

- a. state the factual basis supporting the defense;

- b. identify each person who possesses knowledge concerning this defense; and
- c. identify all documents which support this defense.

For Defendants' eleventh affirmative defense that "Defendant's signatures on any guarantee in an individual capacity were obtained through fraud, misrepresentation or non-disclosure and are therefore non-binding";

- a. state the factual basis supporting the defense;
- b. identify each person who possesses knowledge concerning this defense; and
- c. identify all documents which support this defense.

For Defendants' twelfth affirmative defense that "Plaintiff's claims may be barred by failure to liquidate collateral in a commercially reasonable manner, in accordance with the Uniform Commercial Code,"

- a. state the factual basis supporting the defense;
- b. identify each person who possesses knowledge concerning this defense; and
- c. identify all documents which support this defense.

For Defendants' thirteenth affirmative defense that "Plaintiff's claims may be barred for failure to notify Defendants in a timely manner of disposition of collateral, in accordance with the Uniform Commercial Code,"

- a. state the factual basis supporting the defense;
- b. identify each person who possesses knowledge concerning this

defense; and

- c. identify all documents which support this defense.

31. For Defendants' fourteenth affirmative defense that "Plaintiff's claims may be barred for the failure to apply proceeds of disposition to the satisfaction of obligations secured by the security interest, in accordance with the Uniform Commercial Code,"

- a. state the factual basis supporting the defense;
- b. identify each person who possesses knowledge concerning this defense; and
- c. identify all documents which support this defense.

32. For Defendants' fifteenth affirmative defense that "Plaintiff accepted collateral in full satisfaction of Defendants' obligations, in accordance with the Uniform Commercial Code,"

- a. state the factual basis supporting the defense;
- b. identify each person who possesses knowledge concerning this defense; and
- c. identify all documents which support this defense.

33. This request is continuing and requires supplemental responses to the extent required by Bankruptcy Rule 7026 and F. R. Civ. P. 26(e).

Dated: June 24, 2004

FULLER, SEAVER & RAMETTE, P.A.

By: 

Randall L. Seaver 152886

Andrea M. Hauser 207469

12400 Portland Avenue South

Suite 132

Burnsville, MN 55337

(952) 890-0888

Attorneys for Randall L. Seaver, Trustee

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

BKY No. 03-31304

In re:

ADV No. 04-3112

Alan Curtis Gruidl and Jacqueline Ann Gruidl,

Debtors.

Randall L. Seaver, Trustee,

Plaintiff,

vs.

**PLAINTIFF'S FIRST REQUEST
FOR ADMISSIONS FROM
DEFENDANTS**

Gregory A. Wade, Richard T. Wade and
Two Brothers Entertainment, Inc.,

Defendants.

To: Defendants, Gregory A. Wade, Richard T. Wade and Two Brothers Entertainment, Inc. and their counsel, Thomas J. Lallier, Samuel S. Rufer, Foley & Mansfield, P.L.L.P., 250 Marquette Avenue, Suite 1200, Minneapolis MN 55401.

The Plaintiff, Randall L. Seaver, Bankruptcy Trustee, requests pursuant to Bankruptcy Rule 7036 incorporating Fed. R. Civ. P. 36, that the Defendants, Gregory A. Wade, Richard T. Wade and Two Brothers Entertainment, Inc., make the following admissions within thirty (30) days from the date of service of this Request for Admissions.

1. Attached as Exhibit 1 is a true and correct copy of the Contract Assumption Agreement dated December 1, 2000 ("Agreement"), executed by Defendants Two Brothers Entertainment, Inc., Richard T. Wade and Gregory A. Wade, by which Defendants assumed obligations then held by the Albatross, Inc., Scott Michels, individually, Ann Michels, individually, and Steven Hruby, individually.

EXHIBIT D

Richard Wade executed the Agreement in his individual capacity at page
Exhibit

Gregory A. Wade executed the Agreement in his individual capacity at page
Exhibit

Gregory A. Wade executed the Agreement in his capacity as president of T
Brent Entertainment, Inc. at page Exhibit

Exhibit F to Exhibit true and correct copy of the Leasehold Improvement Note
referenced in the Agreement, Exhibit page para. a)

6. Exhibit D to Exhibit true and correct copy of the Equipment Note referenced
in the Agreement, Exhibit page (b).

Exhibit to Exhibit correct copy of the Note - Complete Note
referenced in the Agreement, Exhibit page para.

Exhibit is true and correct copy of the Personal Guaranty of Richard Wade and
Gregory Wade of the obligations of T Brent Entertainment, Inc. d/b/a Albatross to Alan
Grundl, guaranteeing the payment of the Note - Complete Note dated January 1998 which had
outstanding balance of \$22,000 as of December 31, 2000 referenced in para. 5 of the
Agreement

9. Gregory Wade and Richard Wade signed the Guaranty for the Note - Complete Note,
an unsigned copy of which is attached as Exhibit C

Exhibit to Exhibit true and correct copy of the Promissory Note reflecting
Alan Grundl's \$1,000,000 obligation to Novest Bank f/k/a Wells Fargo Bank referenced in the
Agreement, Exhibit page

Defendants assumed Alan Gruidl's obligation to Wells Fargo Bank for a note in the principle amount of \$100,000.

12. Gregory A. Wade and Richard T. Wade executed a Sublease Agreement dated December 1, 2000 with #1 Sun, Inc. and Brandie-Alexander, Inc., corporations owned and controlled by Alan Gruidl, an unsigned copy of which is attached as Exhibit 4.

13. Under the Sublease Agreement, Defendants assumed the Lease for the premises located at 1608 Warren Street, Mankato, Minnesota and assumed all obligations thereunder, including the payment of monthly rent, which rent was \$7,312 per month in the year 2001.

4. Defendants failed to make the monthly payments on the Leasehold Improvement Note after March 1, 2001 and are in default on the Leasehold Improvement Note.

15. Defendants failed to make the monthly payments on the Equipment Note after March , 2001 and are in default on the Equipment Note.

16. Defendants failed to pay the monthly payments on the Non-Compete Note after March 1, 2001 and are in default on the Non-Compete Note.

17. Defendants failed to the make monthly payments due on the Wells Fargo Note and are in default on the Wells Fargo Note.

18. Defendants breached the terms of the Sublease Agreement by failing to pay rent for four months or more.

19. Exhibit 2 is a true and correct copy of a letter mailed by Stacey Edwards Jones, attorney for Alan Gruidl, to Richard Wade and Gregory Wade, providing written notice of default of the Leasehold Improvement Note, the Equipment Note, the Non-Compete Note, the Wells Fargo Note, and the Sublease Agreement in June 2001.

20. Gregory Wade and Richard Wade executed a personal guaranty of the Leasehold Improvement Note with a balance of \$107,014.53.

21. Gregory Wade and Richard Wade executed a personal guaranty of the Equipment Note with a balance of \$139,584.27.

FULLER, SEAVER & RAMETTE, P.A.

Dated: June 24, 2004

By:



Randall L. Seaver 152886
Andrea M. Hauser 207469
12400 Portland Avenue South
Suite 132
Burnsville, MN 55337
(952) 890-0888

Attorneys for Randall L. Seaver, Trustee

CONTRACT ASSUMPTION AGREEMENT

THIS CONTRACT ASSUMPTION AGREEMENT (this "Agreement"), dated as of the day 1st of December, 2000, by and between The Albatross, Inc., a Minnesota Corporation, Scott Michels, individually, Ann Michels, individually, and Steven Hruby, individually ("Transferors") and Two Brothers Entertainment, Inc., a Minnesota Corporation, Gregory A. Wade, individually, and Richard T. Wade, individually ("Transferees"), and Alan C. Gruidl ("Third Party Beneficiary")

WITNESSETH

WHEREAS, Scott Michels, Ann Michels and Steven Hruby entered into a contract to purchase and operate The Albatross, Inc., located at 1608 Warren Street, Mankato, Minnesota from Alan C. Gruidl, under that certain Asset Purchase Agreement dated the 5th day of June, 1998 ("The Contract"), a copy of the Asset Purchase Agreement is attached hereto as Exhibit A; and

WHEREAS, Scott Michels, Ann Michels and Steven Hruby transferred the acquired assets to The Albatross, Inc., a copy of the Bill of Sale transferring the assets is attached hereto as Exhibit B.

WHEREAS, Scott Michels, Ann Michels, and Steven Hruby have certain Promissory Notes due and owing to Alan C. Gruidl, a copy of the promissory notes are attached hereto as Exhibits C, D, E, and F; and

WHEREAS, Transferors have an obligation to Alan C. Gruidl for payment of 5% of the annual gross revenue in excess of \$875,000, with the benchmark of \$875,000 increasing each year in the amount of \$26,250 per year for ten years; and

WHEREAS, Transferors are desirous to transfer and assign to Transferees all of the assets, properties and business of The Albatross, Inc. located in Mankato, Minnesota, pursuant to and in accordance with the terms and conditions of this Agreement and no longer wish to operate The Albatross; and

WHEREAS, Transferees wish to acquire the assets, properties and business of The Albatross, Inc., and to assume certain liabilities of Transferors relating to The

EXHIBIT 1

Albatross, Inc. pursuant to and in accordance with the terms and conditions of this Agreement;

WHEREAS, Transferors wish to enter an assignment and assumption agreement of The Contract with Transferees, and

WHEREAS, Alan C. Gruidl is desirous to consent to the assignment of said obligations pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, the parties hereto hereby agree as follows:

TRANSFER OF ASSETS

1 Transfer of Assets

1.1 Transferred Assets Subject to the terms and conditions set forth in this Agreement, Transferors transfer and convey to Transferees, and Transferees acquire and accept from Transferors, all of the assets, properties, rights and business of The Albatross, Inc. of every type and description, real, personal and mixed, tangible and intangible, wherever located and whether or not reflected on the books and records of the Transferors, including cash (collectively "Transferred Assets" as identified on the Bill of Sale attached hereto as Exhibit G).

1.2 Excluded Assets. The assets transferred, conveyed, set over, assigned and delivered to Transferees shall exclude the following assets:

- (a) all casualty, liability, and life insurance policies owned or obtained by the Transferors on behalf of The Albatross, Inc.
- (b) the corporate minute books and stock registers of the Transferors; and
- (c) the income tax records covering transactions of the Transferors occurring prior to Closing.

1.3 Transferees hereby agree to assume all rights, obligations, and debts as specified in The Contract by and between Brandie-Alexander, Inc, a Minnesota Corporation and Scott Michels, Ann Michels, and Steven Hruby dated

Jun 5, 1998. Transferee hereby represents and warrants that Transferees have the authority to execute and deliver this Agreement. Transferees hereby assent and acquiesce to paragraphs 1 and 1.2. of The Contract attached hereto as Exhibit A.

Transferors hereby assign and transfer all assets as identified on the Bill of Sale attached hereto as Exhibit G

CONSIDERATION

Transferees shall assume and pay the promissory notes owed to Alan C. Gruidl by Scott Michels, Ann Michels, and Teve Hruby enumerated as follows

a. Transferees shall assume the promissory note dated June 5, 1998, with the original principal amount of \$ 5,000. The parties agree that the note has current balance of \$107,045.53 and is payable to Alan C. Gruidl in equal monthly installments per the terms of the note. Attached as Exhibit C is a copy of the original promissory note owed to Alan C. Gruidl.

b. Transferees shall assume the promissory note dated June 5, 1998, with the original principal amount of \$ 50,000. The parties agree that the note has current balance of \$139,584.27 and is payable to Alan C. Gruidl, in equal monthly payments per the terms of the note. Attached as Exhibit D is a copy of the promissory note owed to Alan C. Gruidl.

c. Transferees shall assume the promissory note dated June 5, 1998 with the original principal amount of \$37,166. The parties agree that the current balance is \$224,659.25 and is payable in equal monthly payments to Alan C. Gruidl. Transferors shall execute all necessary documents to assign the promissory notes to Transferees. Attached as Exhibit E is a copy of the promissory note owed to Alan C. Gruidl.

Transferees shall pay to Alan C. Gruidl 1% of the annual gross revenue in excess of \$927,500. The benchmark of \$927,500 shall be increased by the amount of \$26,250 per year so that the benchmark in the eighth (8th) year would be \$,11 ,250. The amounts shall be paid to Alan C. Gruidl for a period of eight (8) years on a prorated monthly basis

beginning January 2000 and Alan C. Gruidl shall be entitled to audit the financial figures at reasonable times to confirm the accuracy of the payment figures.

Transferees agree that they will personally guarantee all promissory notes and obligations pursuant to the terms herein contemplated. All promissory notes provide for acceleration in the event of default on said notes and shall further provide that default on one note shall be considered default on all obligations, including obligations under the subject contemplated herein. Attached as H, I, and J are the personal guarantees for the promissory notes which Transferees agree to sign at Closing.

Transferors agree that they shall remain as personal guarantors on all promissory notes and obligations pursuant to the terms of The Contract dated June 1998 by and between Alan C. Gruidl and Scott Michels, Ann Michels, and Steve Hruby. In the event of default by Transferees, Transferors shall be personally liable and agree to assume the payments of the promissory notes and obligations contemplated herein.

Consent to Assignment

Upon the terms and subject to the conditions contained in this Agreement, Transferees shall pay to Alan C. Gruidl the sum of \$100,000 in addition to the assumption of the Assumed Liabilities in full consideration for his consent to the assumption and assignment of The Contract entered into by and between Alan C. Gruidl and Scott Michels, Ann Michels, and Steve Hruby. In addition, Transferees shall further pay to Alan C. Gruidl the sum of \$25,000 within 60 days of execution of this Agreement.

3.2 Transferees agree to pay to Alan C. Gruidl a monthly amount not to exceed \$5,000 for his personal health care insurance coverage for him and his family until the note at Wells Fargo Bank, Mankato, Minnesota is paid in full.

Transferees agree to assume responsibility for the litigation of Alan C. Gruidl to Wells Fargo Bank, Mankato, Minnesota for the current note which the parties agree that the balance of which at the date of this Agreement shall be \$100,000. Transferees shall pay to Wells Fargo Bank, Mankato, Minnesota monthly payments according to the terms of the note. The payments shall begin in January 2000 and shall be payable on the 10th day of each month thereafter until paid in full.

3.4 Transferors shall pay to Alan C. Gruidl any and all amounts past due and owing, which would bring The Contract current as of December 1, 2000. Transferors shall have the balance paid in full no later than December 31, 2001.

REPRESENTATIONS AND WARRANTIES OF TRANSFERORS

4.1 Transferors make all representations and warranties to Transferees as expressly made in The Contract dated June 5, 1998, by and between Brandie-Alexander, Inc, a Minnesota Corporation and Scott Michels, Ann Michels, and Steve Hruby, attached hereto as Exhibit A.

4.2 Transferors have the power and authority to transfer the assets specified in this Agreement free and clear of all liens and encumbrances, other than the liens in favor of Alan C. Gruidl.

Transferors represent that as of the date of closing there will be no judgments, assessments, liens, actions or proceedings pending against Transferor anywhere which are not covered by insurance, and Transferor specifically assumes liability for any judgments, assessments, liens, actions or proceedings, and will hold harmless Transferees from any and all such conditions.

4.4 Alan C. Gruidl shall not be responsible for any representations or warranties made by Transferors or Transferees and makes no representations or warranties.

CLOSING DATE AND CONDITIONS

5.1 Performance of Agreements, Instruments of Transfer. Transferors shall have fully performed in all material respects all obligations, agreements, conditions and commitments required to be fulfilled by Transferors on or prior to Closing Date and shall have tendered the documents, instruments and certificates required herein.

5.2 Consents, etc. All authorizations, consents or approvals of any and all governmental regulatory authorities in connection with the consummation of the Closing shall have been obtained and be in full force and effect. Transferor shall have obtained a consent for the sublease of the current space used by "The Albatross" and such consent to the sublease from the Transferor's Lessor is a condition to the closing of his transaction and the sale of the assets of The Albatross, Inc. Attached as Exhibit K is a copy of the sublease agreement. Transferees shall assume the obligations under the sublease.

5.3 Transferor shall assign the current Liquor License to Transferees and shall obtain any and all necessary consents or approval from governmental regulatory authorities and shall assist as necessary in the assignment of such license. Transferors shall allow Transferees to operate The Albatross, under the current liquor license until Transferees have obtained title and transfer of said liquor license.

CLOSING DOCUMENTS

6.1 Transferors' Obligations. On the Closing Date, Transferor shall deliver to Transferees physical possession of all tangible Purchased Assets and, shall execute and/or deliver to Transferees the following:

6.1.1 Resolution. Copies of resolutions of Transferors certified by the Secretary or an Assistant Secretary of Transferor authorizing the execution, delivery and performance of this Agreement and the transactions contemplated hereby.

6.1.2 Bill of Sale. A warranty bill of sale, duly executed by Transferors, in form and substance reasonably satisfactory to counsel for Transferees, sufficient to convey, transfer, and assign to Transferees all right, title, and interest of Transferors in and to the Purchased Assets free and clear of liens, claims, encumbrances and security interests in accordance with this Agreement. Attached as Exhibit G is the Bill of Sale for the assets of The Albatross, Inc.

SECURITY

7.1 Security Interest. Transferees agree to execute all documents necessary to perfect a security interest in all of the assets acquired from The Albatross, Inc., including but not limited to inventory, equipment and accounts receivable, whether presently owned or acquired in the future, in favor of Alan C. Gruidl, his successors and assigns, until such time as all contracts between Transferors, Transferees, and Alan C. Gruidl are fulfilled. Attached as Exhibit L is a copy of the Security Agreement.

DEFAULT

8.1 Default by Transferees. In the event that the Transferees become in default on any of the promissory notes referenced in this Agreement, Transferors shall have the first right to reacquire the assets being acquired herein, at no additional cost to transferors.

Alan C. Gruidl shall cause the business of The Albatross, Inc. to revert to Transferors if
Transferees default on this Agreement.

The Albatross, Inc.
By: [Signature]
Its: PRESIDENT

[Signature]
Scott Michels

[Signature]
Ann Michels

[Signature]
Steven Hruby

Two Brothers Entertainment, Inc.
By: _____
Its: _____

Gregory A. Wade

[Signature]
Richard T. Wade

[Signature]
Alan C. Gruidl

DEC-01-00 FRI 18:00

P. 02/02

Gruidl shall cause the business of The Albatross, Inc. to revert to Transferees if Transferees default on this Agreement.

The Albatross, Inc.

By: _____

Its: _____

Scott Michels

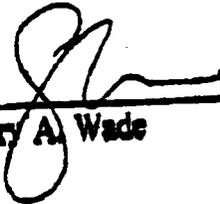
Ann Michels

Steven Hruby

Two Brothers Entertainment, Inc.

By: GREGORY A. WADE

Its: PRESIDENT



Gregory A. Wade

Richard T. Wade

Alan C. Gruidl

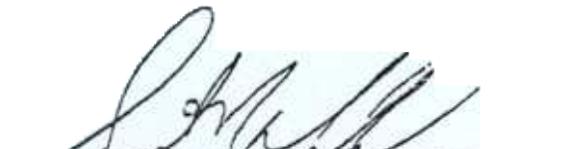
BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that Scott R. Michels, M. Michels, and Steven C. Hruby, of the County of Nicollet and State of Minnesota, hereinafter referred to as "Sellers," in consideration of the sum of One Dollar and other good and valuable consideration, to them in hand paid by The Albatross, Inc., a Minnesota Corporation, of the County of Blue Earth, State of Minnesota, hereinafter referred to as "Buyer," the receipt of which is hereby acknowledged, do hereby grant, bargain, sell, and convey unto the Buyer and its successors and assigns, forever, the following described goods, chattels, and personal property, to-wit

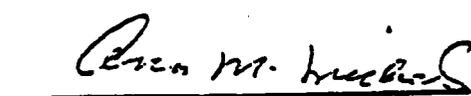
SEE ATTACHED LIST

TO HAVE AND TO HOLD THE SAME, unto the Buyer, its successors and assigns, forever. And the Sellers for themselves, their heirs, executors, and administrators, covenants and agree to and with the Buyer, its successors and assigns, to warrant and defend the sale of said goods, chattels, and personal property hereby made, unto the Buyer, its successors and assigns, against all and every person and persons whomsoever, lawfully claiming or to claim the same.

IN TESTIMONY WHEREOF, the Sellers have hereunto set their hands this 5th day of June, 1998.



Scott R. Michels



Ann M. Michels



Steven C. Hruby

EXHIBIT

Inventory: On Hand-Bar

- 50 Welded Steel Tables
- 100 Bar Stools
- 40 Padded Wall Benches
- 8 TV's & mounts
- 1 Big Screen Projection TV (1 TV, 2 Screens)
- 1 Main Bar (cabinet)
- 1 Shooter Bar
- 1 Outdoor Bar
- 1 Baja Bar
- 1 Tap System
- 3 Glasswashers
- 4 Smoke Eaters
- 1 Dance Light Systems
- 1 Sound System & DJ booth,
- 2 CD's,
- 2 Turntables,
- 2 AMPS,
- 15 Speakers
- 2 Bass Sub's,
- 1 Mixer
- 5 Micros Tills & Computer (Subject to lease which Buyers hereby specifically assume and agree to pay)
- 1 Computer
- 1 Office Computer
- 1 Office Safe
- 4 Desks

Bar Inventory

- 1 Bag in a Box Soda System
 - 1 Money Counter
 - 1 Surveillance System (2 Monitors, 2 Recorders, 10 Cameras)
 - 1 Display Cooler
 - 1 Bar Back Cooler
 - 1 Bar Back Cooler
 - 1 Bar Back Cooler
 - 1 Bar Back/Keg Cooler
 - 1 Stainless Bar Back/Sink (50')
 - 1 Scotsman Ice Cuber
 - 1 Scotsman Ice Bin
 - 1 Minolta Copier
 - 1 Washing Machine
-

Kitchen Inventory

- 1 Meat Slicer
- 2 Frialator
- 1 Commercial Range
- 1 Broiler
- 1 Hood
- 1 Fire Suppression
- 1 Cart/Casters
- 1 Stainless Prep. Counter, Warmer, Triple Sink, etc.(20')
- 2 Stainless Can Rack

- 2 Stainless Wash Rack
 - 1 Stainless Prep Cart/Casters
 - 4 Stainless Shelves
 - Stainless, Misc. Pots/Pans (numerous)
 - 1 ISE Disposal
 - 1 Arrowhot Warmer
 - 1 Bunnomatic
 - 2 Walk in Cooler
 - 1 Walk in Cooler
 - 2 Freezers
 - 1 Refrigerator
-

Coffee Shop Inventory

- 20 Wood Ladderback Chairs
- 10 Steel Chairs
- 3 Booths
- Bar Stools
- 1 12' Bar Section
- China Settings
- 3 Jet Spray Juicers

PROMISSORY NOTE

DATED: June 5, 1998

\$115,000

For value received, Scott R. Michels, Ann M. Michels Steven C. Hrubby, (Debtors), hereby promise to pay to the order of Alan C. Gruidl, the principal sum of one hundred fifteen thousand dollars (\$115,000), together with interest from the date hereof on the unpaid principal balance remaining at the rate of ten and 71/100 percent (10.71%) per annum payable in 120 monthly payments from the date hereof.

Subject to the other provisions hereof, payment of interest and principal shall be made monthly in the amount of \$1,653.48 per month, commencing on January 10, 1999 and each and every January 10th thereafter until paid in full.

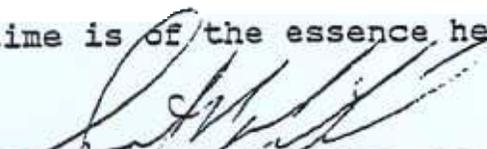
This note shall be binding upon the makers, their successors and assigns. The holder of this note may at its option without notice declare this note immediately due and payable for the entire unpaid principal hereof upon or at time after the occurrence of any of the following events: any default in the payment of this note; any default under the terms or conditions of any security agreement or other note, obligation, instrument, undertaking or agreement concurrently herewith or heretofore or hereafter given to or acquired and held by the holder hereof to which any maker, co-maker, endorser, surety or guarantor hereof is a party; if the holder hereof deems himself insecure; or if there is such a change in the condition or affairs, financial or otherwise, of any maker, co-maker,

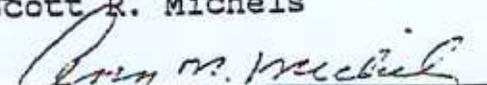
EXHIBIT

endorser, surety or guarantor hereof as in the option of the holder hereof increases the risk of repayment.

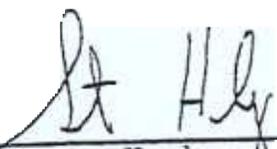
Each maker, co-maker, endorser, surety and guarantor hereof jointly and severally agrees to pay this note and guarantees payment hereof and waives demand, presentment, protest and notice of dishonor, and consents to any extensions and renewals hereof without notice, and consents to the release by the holder hereof with or without consideration of any of them, and exonerates the holder hereof from all duty and obligation to make demand on anyone for payment of any collateral now or hereafter securing this note or to give notice to anyone of non-payment thereof or to collect or sell the same and consents to the extension, renewal, exchange, surrender or release by the holder hereof with or without consideration of any such collateral, and agrees that when or at any time after this note becomes due the holder hereof may, without notice, offset or charge this note against any account then maintained by any of them with the holder hereof or then existing between any of them and the holder hereof and to pay any deficiency, and agrees in case of any default to pay all costs of collection, including reasonable attorneys fees, and the maximum interest or late charges permitted by law.

Should the holder of this note grant a further extension of any payments hereunder, it shall not be considered as a waiver of this note nor shall it release the obligation of payment herein; time is of the essence herein.



Scott R. Michels


Ann M. Michels



Steven C. Hruby

PROMISSORY NOTE

DATED: June 5, 1998

\$150,000

For value received, Scott R. Michels, Ann M. Michels, Steven C. Hruby , (Debtors), hereby promise to pay to the order of Alan C. Gruidl , the principal sum of one hundred fifty thousand (\$150,000) dollars, together with interest from the date hereof on the unpaid principal balance remaining at the rate of ten and 71/100 (10.71%) per annum in monthly payments of \$2,156.71 for a period of 120 months beginning January 10, 1999 and each and every January 10th thereafter until paid in full.

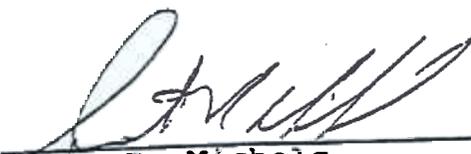
This note shall be binding upon the makers, their successors and assigns. The holder of this note may at its option without notice declare this note immediately due and payable for the entire unpaid principal hereof upon or at any time after the occurrence of any of the following events: default in the payment of this note; any default under the terms or conditions of any security agreement or other note, obligation, instrument, undertaking or agreement concurrently herewith or heretofore or hereafter given to or acquired and held by the holder hereof to which any maker, co-maker, endorser, surety or guarantor hereof is a party; if the holder hereof deems himself insecure; or if there is such a change in the condition or affairs, financial or otherwise, of any maker, co-maker, endorser, surety or guarantor hereof as in the option of the holder hereof increases the risk of repayment.

Each maker, co-maker, endorser, surety and guarantor hereof jointly and severally agrees to pay this note and guarantees

EXHIBIT

payment hereof and waives demand, presentment, protest and notice of dishonor, and consents to any extensions and renewals hereof without notice, and consents to the release by the holder hereof with or without consideration of any of them, and exonerates holder hereof from all duty and obligation to make demand on anyone for payment of any collateral now or hereafter securing this note or to give notice to anyone of non-payment thereof or to collect or sell the same and consents to the extension, renewal, exchange, surrender or release by the holder hereof with or without consideration of any such collateral, and agrees that when or at any time after this note becomes due the holder hereof may, without notice, offset or charge this note against any account then maintained by any of them with the holder hereof or then existing between any of them and the holder hereof and to pay any deficiency, and agrees in case of any default to pay costs of collection, including reasonable attorneys fees, and the maximum interest or late charges permitted by law.

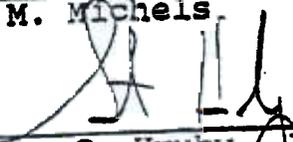
Should the holder of this note grant a further extension of any payments hereunder, it shall not be considered as a waiver of this note nor shall it release the obligation of payment herein; time is of the essence herein.



Scott R. Michels



Ann M. Michels



Steven C. Hruby

PROMISSORY NOTE

DATED: June 5, 1998

\$317,166

For value received, Scott R. Michels, Ann M. Michels, Steven C. Hruby, (Debtors), hereby promise to pay to the order of Alan C. Gruidl, the principal sum of \$317,166 in monthly payments of \$2,643.05 for a period of 120 months beginning January 10, 1999.

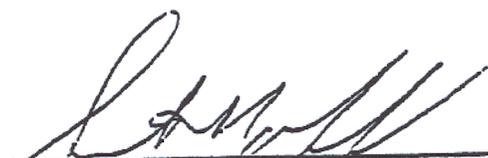
This note shall be binding upon the makers, their successors and assigns. The holder of this note may at its option without notice declare this note immediately due and payable for the entire unpaid principal hereof upon or at any time after the occurrence of any of the following events: any default in payment of this note; any default under the terms or conditions of any security agreement or other note, obligation, instrument, undertaking or agreement concurrently herewith or heretofore or hereafter given to or acquired and held by the holder hereof to which any maker, co-maker, endorser, surety or guarantor hereof is a party; if the holder hereof deems himself insecure; or if there is such a change in the condition or affairs, financial or otherwise, of any maker, co-maker, endorser, surety or guarantor hereof as in the option of the holder hereof increases the risk of repayment.

Each maker, co-maker, endorser, surety and guarantor hereof jointly and severally agrees to pay this note and guarantees payment hereof and waives demand, presentment, protest and notice of dishonor, and consents to any extensions and renewals hereof without notice, and consents to the release by the holder hereof

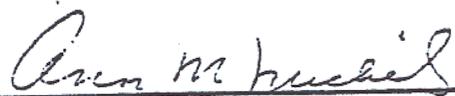
EXHIBIT

with or without consideration of any of them, and exonerates the holder hereof from all duty and obligation to make demand on anyone for payment of any collateral now or hereafter securing this note or to give notice to anyone of non-payment thereof or to collect or sell the same and consents to the extension, renewal, exchange, surrender or release by the holder hereof with or without consideration of any such collateral, and agrees that when or at any time after this note becomes due the holder hereof may, without notice, offset or charge this note against any account then maintained by any of them with the holder hereof or then existing between any of them and the holder hereof and to pay any deficiency, and agrees in case of any default to pay all costs of collection, including reasonable attorneys fees, and the maximum interest or late charges permitted by law.

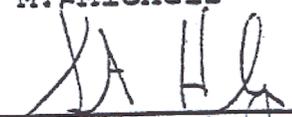
Should the holder of this note grant a further extension of any payments hereunder, it shall not be considered as a waiver of this note nor shall it release the obligation of payment herein; time is of the essence herein.



Scott R. Michels



Ann M. Michels



Steven C. Hruby

PROMISSORY NOTE

DATED: June 5, 1998

\$100,000

For value received, Scott R. Michels, Ann M. Michels, and Steven C. Hruby, (Debtors), hereby promise to pay to the order of Alan C. Gruidl, the principal sum of one hundred thousand dollars (\$100,000), together with interest on the unpaid principal balance remaining at the rate charged to Alan C. Gruidl on the note owed by Alan C. Gruidl to Norwest Bank, N.A., a copy of such note is attached hereto as Exhibit A. If the net income of The Albatross, Inc., before owners' compensation exceeds the sum of \$150,000, then the remaining income, net of income tax, shall be paid to Alan C. Gruidl in order to reduce the principal balance of this note.

Subject to the other provisions hereof, payment of interest principal shall be made to Alan C. Gruidl upon the same terms conditions as the Note owed by Alan C. Gruidl to Norwest Bank N.A., a copy of such note is attached hereto as Exhibit A.

This note shall be binding upon the makers, their successors and assigns. The holder of this note may at its option without notice declare this note immediately due and payable for the entire unpaid principal hereof upon or at any time after the occurrence of any of the following events: any default in the payment of this note; any default under the terms or conditions of any security agreement or other note, obligation, instrument, undertaking or agreement concurrently herewith or heretofore or

EXHIBIT

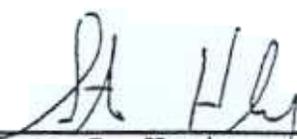
hereafter given to or acquired and held by the holder hereof to which any maker, co-maker, endorser, surety or guarantor hereof is a party; if the holder hereof deems himself insecure; or if there is such a change in the condition or affairs, financial or otherwise, of any maker, co-maker, endorser, surety or guarantor hereof as in the option of the holder hereof increases the risk of repayment.

Each maker, co-maker, endorser, surety and guarantor hereof jointly and severally agrees to pay this note and guarantees payment hereof and waives demand, presentment, protest and notice of dishonor, and consents to any extensions and renewals hereof without notice, and consents to the release by the holder hereof with or without consideration of any of them, and exonerates the holder hereof from all duty and obligation to make demand on anyone for payment of any collateral now or hereafter securing this note or to give notice to anyone of non-payment thereof or to collect or sell the same and consents to the extension, renewal, exchange, surrender or release by the holder hereof with or without consideration of any such collateral, and agrees that when or at any time after this note becomes due the holder hereof may, without notice, offset or charge this note against any account then maintained by any of them with the holder hereof or then existing between any of them and the holder hereof and to pay any deficiency, and agrees in case of any default to pay all costs of collection, including reasonable attorneys fees, and the maximum interest or late charges permitted by law. Should the

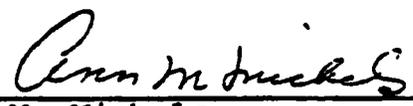
holder of this note grant a further extension of any payments hereunder, it shall not be considered as a waiver of this note shall it release the obligation of payment herein; time is of essence herein.



Scott R. Michels



Steven C. Hruby



Ann M. Michels

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that The Albatross, Inc., a corporation under the laws of the State of Minnesota, hereinafter referred to as "Seller," in consideration of the sum of One Dollar and other good and valuable consideration, to him in hand paid by Two Brothers Entertainment, Inc., a Minnesota Corporation, hereinafter referred to as "Buyer," the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, and convey unto the Buyer and his successors and assigns, forever, the following described goods, chattels, and personal property, to-wit:

SEE ATTACHED LIST

TO HAVE AND TO HOLD THE SAME, unto the Buyer, his successors and assigns, forever. And the Seller for himself, his heirs, executors, and administrators, covenants and agrees to and with the Buyer, his successors and assigns, to warrant and defend the sale of said goods, chattels, and personal property hereby made, unto the Buyer, his successors and assigns, against all and every person and persons whomsoever, lawfully claiming or to claim the same.

IN TESTIMONY WHEREOF, the Seller has hereunto set his hand this

_____ day of _____, 2000.

The Albatross, Inc.

By: _____

Its: _____

EXHIBIT

G



GERALD L. MASCHKA*
JOHN M. (JACK) RIEDY*
CHARLES W. RIES
JOHN CHUCK PETERSON
RICHARD H. KAKELDEY
RENEE C. RUBISH
RYAN B. MAGNUS
STACEY R. EDWARDS JONES

PHONE: 507.625.6600

June 1, 2001

Greg and Rich Wade
1728 West Bell Road
Phoenix, AZ 85023

RE: Two Brothers Entertainment, Inc./The Albatross

Dear Greg and Rich Wade:

I have been informed by my client that you are three months past due on rent. It is further anticipated that you will not be paying June rent. Therefore, you will be a total of four months past due in rent. Additionally, you are \$35,350.48 past due on the promissory notes and obligations assumed under the contract. The promissory notes provide that Al Gruidl may accelerate the notes in the event of a default. You are hereby notified that the notes have been accelerated and due in full immediately. Your total past due amounts are broken down as follows:

1. The Original Stock Contract balance past due as of May 31, 2001, is \$8,185.13, with an accelerated balance of \$110,914.79.
2. The Non-Compete balance past due and owing as of May 31, 2001, is \$12,829.21, with an accelerated balance of \$221,630.16.
3. The Equipment Contract balance past due and owing as of May 31, 2001, is \$10,649.14, with an accelerated balance of \$144,644.48.
4. Additionally, the contract requires you to pay health insurance for Al Gruidl. This amount is currently \$2,000 past due.
5. The loan at Wells Fargo Bank has a past due amount of \$1,687 and an outstanding principle balance of approximately \$100,000.

EXHIBIT 2

UNION SQUARE BUSINESS CENTER • SUITE 200
201 NORTH BROAD STREET • P.O. BOX 7 • MANKATO, MINNESOTA 56002-0007
PHONE: 507.625.6600 • FAX: 507.625.4002 • E MAIL: mrr-law@mrr-law.com

MEMBER OF THE NATIONAL BOARD OF TRIAL ADVOCACY AND/OR THE MINNESOTA STATE BAR ASSOCIATION

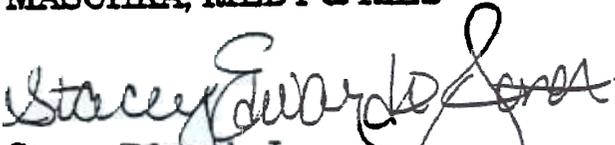
Page Two
June 1, 2001

The above notes and contracts were guaranteed not only by Two Brothers Inc., but by Rich Wade and Greg Wade personally. As such, we will be seeking payment on the contract and notes from the corporation as well as each of you individually. The security agreement provides that in the event of default, Mr. Gruidl may take possession of the assets of Two Brother's Inc. Paragraph 3 of the Sublease provides that in the event of default, you will reassign the leasehold interest back to Al Gruidl. Currently you are in default and Al Gruidl has the right to reclaim the premises.

In the event you do not pay off the contract and promissory notes or make other arrangements on or before June 4, 2001, Mr. Gruidl will be exercising his right to take back the assets and premises of the Albatross. The current balance due and owing Al Gruidl at this time is \$612,539.91 plus any unpaid rents.

Sincerely,

MASCHKA, RIEDY & RIES



Stacey Edwards Jones

SEJ:kms

Enclosures

c: Al Gruidl

extended, or prepaid or accelerated, or any right in the provisions of the Promissory Note waived, without notice and without impairing or affecting the liabilities herein.

This Guaranty shall be binding upon the undersigned and upon his successors and assigns, and shall inure to the benefit of Alan C. Gruidl, his heirs, legal representatives, and assigns.

Dated:

Gregory A. Wade



Richard T. Wade

SUBLEASE AGREEMENT

This Sublease is made this _____ day of _____, 2001, by and between #1 Sun, Inc., a Minnesota corporation and Brandie-Alexander, Inc., a Minnesota corporation (hereinafter referred to as "Sublessor") and Gregory A. Wade and Richard T. Wade (hereinafter referred to as Sublessees").

The Sublessor lets to the Sublessees and Sublessees rents from Sublessor the following described premises: approximately 9,293 sq. ft. of commercial space along with the common area utilized in the general commercial space known as University Square Shopping Center, Mankato, Minnesota.

The Sublessees agree to each of the following:

- 1. Payment of rent.** Pay the rent and common area maintenance as set forth in the Leases by and between #1 Sun, Inc., and David Peters dated the 1st day of June, 1995, and Brandie-Alexander, Inc., and David Peters dated the 1st day of May, 1991.
- 2. Sublease.** This is a Sublease. The Sublessor's interest in the premises is as Sublessees under an underlying Leases made by David Peters as Landlord, and #1 Sun, Inc., as Tenant, dated June 1, 1995, and David Peters as Landlord, and Brandie-Alexander, Inc. dated May 1, 1991, a copies of which, initialed for identification, are attached hereto. This Sublease is expressly made subject to all the terms and conditions of the underlying Leases and does not do or omit to do anything which will breach any of its terms. If the underlying Lease is terminated this Sublease shall terminate simultaneously and any unearned rent paid in advance shall be refunded to the Sublessees, if such termination is not the result of a breach by the Sublessees of the within Sublease. The Sublessees shall assume the obligation for performance of all of the Sublessor's obligations under the underlying Lease.
- 3. Amendments.** Sublessees acknowledge and accept the terms of any and all lease amendments entered into by and between Tenant and Landlord.
- 4. Term.** Sublessees acknowledges that the term of this Sublease shall be for a period as provided in the Leases referred to herein provided Sublessees are not in default of any of the terms and conditions contained in the Asset Transfer Agreement by and between Scott Michels, Ann Michels, Steven Hruby and Alan Gruidl and Two Brothers Entertainment, Inc., of the duties and obligations contained in said agreements and the promissory note or notes signed commensurate therewith. In the event of default or any of the obligations by Sublessees, Sublessees hereby agree to reassign said Leasehold interests back to Sublessor as their interests appear. Sublessees acknowledge and agree that the Subleases shall terminate and be of no

EXHIBIT 4

further effect subsequent to the reassignment of said Leases.

5. **Entire Agreement.** This instrument supersedes all agreements previously made between the parties relating to its subject matter. There are no other understandings or agreements between them, except as otherwise provided herein.

IN WITNESS WHEREOF the Sublessor has signed and sealed this instrument on _____, 2001, the Sublessees have signed and sealed this instrument on _____, 2001.

SUBLESSOR:

SUBLESSEES:

#1 Sun, Inc.
Brandie-Alexander, Inc.

Gregory A. Wade

By: _____
ITS _____

Richard T. Wade

CONSENT OF LESSOR:

The undersigned Lessor, Roger W. Peters, hereby agrees and consents to the above Sublease to Gregory A. Wade and Richard T. Wade.

Roger W. Peters

WITNESS

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

BKY No. 03-31304
ADV. No. 04-3112

In re:

Alan Curtis Gruidl and Jacqueline Ann Gruidl,
Debtors.

**DEFENDANTS GREGORY A. WADE,
RICHARD T. WADE AND TWO
BROTHERS ENTERTAINMENT,
INC.'S RESPONSE TO PLAINTIFF'S
FIRST REQUEST FOR ADMISSIONS**

Randall L. Seaver, Trustee,
Plaintiff,

vs.

Gregory A. Wade, Richard T. Wade and Two
Brothers Entertainment, Inc.,
Defendants.

Defendants above named, pursuant to Bankruptcy Rule 7036, respond to Plaintiff's First
Request for Admissions as follows:

Attached as Exhibit 1 is a true and correct copy of the Contract Assumption Agreement dated
December 1, 2000 ("Agreement"), executed by Defendants Two Brothers Entertainment,
Inc., Richard T. Wade and Gregory A. Wade, by which Defendants assumed obligations then
held by the Albatross, Inc., Scott Michels, individually, Ann Michels, individually, and
Steven Hraby, individually.

RESPONSE: Denied.

2. Richard T. Wade executed the Agreement in his individual capacity at page 7, Exhibit 1

RESPONSE: Denied.

EXHIBIT E

3. Gregory A. Wade executed the Agreement in his individual capacity at page 8.

RESPONSE: Denied.

4. Gregory A. Wade executed the Agreement in his capacity as President of Two Brothers Entertainment, Inc. at page 8, Exhibit 1.

RESPONSE: Denied.

5. Exhibit C to Exhibit 1 is a true and correct copy of the Leasehold Improvement Note, referenced in the Agreement, Exhibit 1 at page 3, para. 2.1(a).

RESPONSE: Denied.

6. Exhibit D to Exhibit 1 is a true and correct copy of the Equipment Note, referenced in the Agreement, Exhibit 1 at page 3, para. 2.1(b).

RESPONSE: Denied.

7. Exhibit E to Exhibit 1 is a true and correct copy of the Non-Compete Note, referenced in the Agreement, Exhibit 1 at page 3, para. 2.1(c).

RESPONSE: Denied.

8. Exhibit 3 is a true and correct copy of a personal Guaranty of Richard Wade and Gregory Wade of the obligation of Two Brothers Entertainment, Inc. d/b/a the Albatross, to Alan Gruidl, guaranteeing the payment of the Non-Compete Note, dated June 5, 1998, which had an outstanding balance of \$224,659.25 on December 1, 2000, as referenced in para. 2.1(c) of the Agreement.

RESPONSE: Denied.

9. Gregory Wade and Richard Wade signed the Guaranty for the Non-Compete Note, an unsigned copy of which is attached as Exhibit 3.

RESPONSE: Denied.

10. Exhibit F to Exhibit 1 is a true and correct copy of the Promissory Note reflecting Alan Gruidl's \$100,000 obligation to Norwest Bank f/k/a Wells Fargo Bank referenced in the Agreement, Exhibit 1 at page 4, para. 3.3.

RESPONSE: Denied.

11. Defendants assumed Alan Gruidl's obligation to Wells Fargo Bank for a note in the principle amount of \$100,000.

RESPONSE: Denied.

12. Gregory A. Wade and Richard T. Wade executed a Sublease Agreement dated December 1, 2000 with #1 Sun, Inc. and Brandie-Alexander, Inc., corporations owned and controlled by Alan Gruidl, an unsigned copy of which is attached as Exhibit 4.

RESPONSE: Denied.

13. Under the Sublease Agreement, Defendants assumed the Lease for the premises located at 1608 Warren Street, Mankato, Minnesota and assumed all obligations thereunder, including the payment of monthly rent, which rent was \$7,312 per month in the year 2001.

RESPONSE: Denied.

14. Defendants failed to make the monthly payments on the Leasehold Improvement Note after March 1, 2001 and are in default on the Leasehold Improvement Note.

RESPONSE: Denied.

15. Defendants failed to make the monthly payments on the Equipment Note after March 1, 2001 and are in default on the Equipment Note.

RESPONSE: Denied.

16. Defendants failed to pay the monthly payments on the Non-Compete Note after March 1, 2001 and are in default on the Non-Compete Note.

RESPONSE: Denied.

17. Defendants failed to make the monthly payments due on the Wells Fargo Note and are in default on the Wells Fargo Note.

RESPONSE: Denied.

18. Defendants breached the terms of the Sublease Agreement by failing to pay rent for four months or more.

RESPONSE: Denied.

19. Exhibit 2 is a true and correct copy of a letter mailed by Stacey Edwards Jones, attorney for Alan Gruidl, to Richard Wade and Gregory Wade, providing written notice of default of the Leasehold Improvement Note, the Equipment Note, the Non-Compete Note, the Wells Fargo Note, and the Sublease Agreement in June 2001.

RESPONSE: Denied.

Gregory Wade and Richard Wade executed a personal guaranty of the Leasehold Improvement Note with a balance of \$107,014.53.

RESPONSE: Denied.

Gregory Wade and Richard Wade executed a personal guaranty of the Equipment Note with a balance of \$139,584.27.

RESPONSE: Denied.

Dated: July 27 2004

FOLEY & MANSFIELD, PLLP

By: Joseph M. Barnett
Thomas J. Lallier (#163041)
Samuel S. Rufer (#330735)
Joseph M. Barnett (#0314493)
250 Marquette Avenue, Suite 1200
Minneapolis, MN 55401
T: 612/338-8788
F: 612/338-8690

**ATTORNEYS FOR DEFENDANTS GREGORY
A. WADE, RICHARD T. WADE AND TWO
BROTHER ENTERTAINMENT, INC.**

Affidavit of Service by U.S. Mail and Facsimile

STATE OF MINNESOTA)
) ss:
COUNTY OF HENNEPIN)

Kathryn Mrozek, of the law firm of Foley & Mansfield, PLLP, in the City of Minneapolis, State of Minnesota, being first duly sworn, states that on the 27th day of July, 2004, she served upon counsel for Plaintiff, the attached DEFENDANTS GREGORY A. WADE, RICHARD T. WADE AND TWO BROTHERS ENTERTAINMENT, INC.'S RESPONSE TO PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS, together with this Affidavit of Service, by placing a true and correct copy in the United States Mail at Minneapolis, Minnesota, addressed as follows:

Andrea M. Hauser, Esq.
Randall L. Seaver, Esq.
Fuller Seaver & Remette, P.A.
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337

the last known address of said counsel, and by sending a true and correct copy via facsimile to said counsel at 952/890-0244.


Kathryn Mrozek

Subscribed and sworn to before me
this 27th day of July, 2004


Notary Public

LAW OFFICES

FULLER, SEAVER & RAMETTE, P.A.

A PROFESSIONAL ASSOCIATION

Timothy D. Fuller
Randall L. Seaver
James E. Ramette
Andrea M. Hauser

SUITE 132
PORTLAND CORPORATE CENTER
12400 PORTLAND AVENUE SOUTH
BURNSVILLE, MN 55337

TELEPHONE (952) 890-0888
FACSIMILE (952) 890-0244

August 9, 2004

VIA FACSIMILE (612) 338-8690 AND FIRST CLASS MAIL

Joseph Barnett, Esq.
Samuel S. Rufer, Esq.
Foley & Mansfield, PLLP
250 Marquette Avenue
Suite 1200
Minneapolis MN 55401

**RE: Randall L. Seaver, Trustee v. Gregory A. Wade, Richard T. Wade and Two Brothers
Entertainment, Inc.
ADV No. 04-3112
Our File No. 03-4656**

Dear Messrs. Rufer and Barnett:

We have not received the Defendants' response to the Trustee's first Request for Production of Documents or to the First Set of Interrogatories which were due on July 30, 2004. Therefore, I am setting a telephonic discovery conference for Wednesday, August 11, 2004 at 10:00 a.m. in accordance with Bankruptcy Rule 7037 and Local Bankruptcy Rule 7037-1. Defendants' complete response to the discovery request prior to that time would obviate the need for a discovery conference.

Very truly yours,

FULLER, SEAVER & RAMETTE, P.A.



Andrea M. Hauser

EXHIBIT F

LAW OFFICES

FULLER, SEAVER & RAMETTE, P.A.

A PROFESSIONAL ASSOCIATION

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TELEPHONE (952) 890-0888
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August 11, 2004

VIA FACSIMILE (612) 338-8690 AND FIRST CLASS MAIL

Joseph M. Barnett, Esq.
Foley & Mansfield, PLLP
250 Marquette Avenue
Suite 1200
Minneapolis MN 55401

**RE: Randall L. Seaver, Trustee v. Gregory A. Wade, Richard T. Wade and Two Brothers
Entertainment, Inc.
ADV No. 04-3112
Our File No. 03-4656**

Dear Mr. Barnett:

I writing to confirm our discussion today in the Bankruptcy Rule 7037(b) discovery conference in which you informed me that Defendants no longer wish to be represented by Foley & Mansfield, PLLP in this litigation, prompting your firm to file its Motion for Leave to Withdraw set for September 7, 2004. Defendants have not produced any documents pursuant to Plaintiff's First Request for Production of Documents nor have they answered Plaintiff's First Set of Interrogatories.

The Trustee will continue to seek a complete discovery response from Defendants and may file a Motion to Compel Production of Documents and Answers to Interrogatories, if appropriate.

Very truly yours,

FULLER, SEAVER & RAMETTE, P.A.


Andrea M. Hauser

EXHIBIT G

GUARANTY

For value received, the sufficiency of which is hereby specifically acknowledged, the undersigned, GREGORY A. WADE and RICHARD T. WADE, hereby guarantee the prompt payment when due, whether at the dates specified therein, the maturity date, or theretofore upon acceleration of maturity pursuant to the provisions hereof, of any and all indebtedness and liabilities of Two Brothers Entertainment, Inc., a Minnesota Corporation, D/B/A The Albatross, to Alan C. Gruidl, under that certain Promissory Note made June 5, 1998, by Scott Michels, Ann Michels, and Steven Hruby, in the original principal sum of \$115,000 the "Promissory Note")

This Guaranty is an absolute and direct guaranty of payment and is in no way conditional or contingent upon any attempt to collect from Scott Michels, Ann Michels, and Steven Hruby, under the above referenced Promissory Note. Payment under this Guaranty is secured by a security interest in favor of Alan C. Gruidl in substantially all of the assets of the undersigned corporation, which security interest is evidenced by a Security Agreement dated Dec 1st, 2000. If the indebtedness under said Promissory Note in the original principal amount of \$115,000.00 is not paid by Two Brothers Entertainment, Inc when due as aforesaid, then the undersigned agrees that he will pay the same to Alan C. Gruidl. Failure to pay any such amount by Two Brothers Entertainment, Inc., shall constitute a default and Alan C Gruidl may exercise all of his remedies under this Guaranty, Promissory Note, and Security Agreement, as well as the law, to collect the same from the undersigned.

The undersigned agrees that the Promissory Note of even date herewith in the original principal sum of \$115,000.00 may be amended, renewed, or extended, or the time of any payment

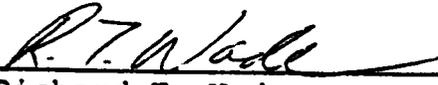
EXHIBIT H

extended, or prepaid or accelerated, or any right in the provisions of the Promissory Note waived, without notice and without impairing or affecting the liabilities herein.

This Guaranty shall be binding upon the undersigned and upon his successors and assigns, and shall inure to the benefit of Alan C. Gruidl, his heirs, legal representatives, and assigns.

Dated:

Gregory A. Wade

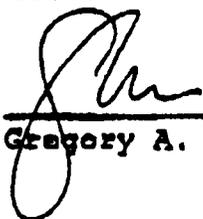


Richard T. Wade

extended, or prepaid or accelerated, or any right in the provisions of the Promissory Note waived, without notice and without impairing or affecting the liabilities herein.

This Guaranty shall be binding upon the undersigned and upon his successors and assigns, and shall inure to the benefit of Alan C. Gruidl, his heirs, legal representatives, and assigns.

Dated:

 FOR Z BROTHERS ENTERTAINMENT INC.

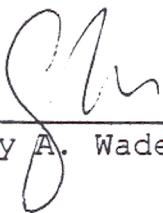
Gregory A. Wade

Richard T. Wade

extended, or prepaid or accelerated, or any right in the provisions of the Promissory Note waived, without notice and without impairing or affecting the liabilities herein.

This Guaranty shall be binding upon the undersigned and upon his successors and assigns, and shall inure to the benefit of Alan C Gruidl, his heirs, legal representatives, and assigns.

Dated:



Gregory A. Wade

Richard T. Wade

GUARANTY

For value received, the sufficiency of which is hereby specifically acknowledged, the undersigned, GREGORY A. WADE and RICHARD T. WADE hereby guarantee the prompt payment when due, whether at the dates specified therein, the maturity date, or theretofore upon acceleration of maturity pursuant to the provisions hereof, of any and all indebtedness and liabilities of Two Brothers Entertainment, Inc., a Minnesota corporation, D/B/A The Albatross, to Alan C. Gruidl, under that certain Promissory Note made June 5, 1998, by Scott Michels, Ann Michels, and Steven Hruby, in the original principal sum of \$150,000 (the "Promissory Note")

This Guaranty is an absolute and direct guaranty of payment and is in no way conditional or contingent upon any attempt to collect from Scott Michels, Ann Michels, and Steven Hruby, under the above referenced Promissory Note. Payment under this Guaranty is secured by a security interest in favor of Alan C. Gruidl in substantially all of the assets of the undersigned corporation, which security interest is evidenced by a Security Agreement dated Dec 1ST, 2000. If the indebtedness under said Promissory Note in the original principal amount of \$150,000.00 is not paid by Two Brothers Entertainment, Inc. when due as aforesaid, then the undersigned agrees that he will pay the same to Alan C. Gruidl. Failure to pay any such amount by Two Brothers Entertainment, Inc., shall constitute a default and Alan C. Gruidl may exercise all of his remedies under this Guaranty, the Promissory Note, and Security Agreement, as well as the law, collect the same from the undersigned.

The undersigned agrees that the Promissory Note of even date herewith in the original principal sum of \$150,000.00 may be amended, renewed, or extended, or the time of any payment

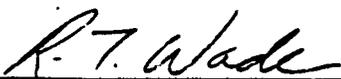
EXHIBIT I

extended, or prepaid or accelerated, or any right in the provisions of the Promissory Note waived, without notice and without impairing or affecting the liabilities herein.

This Guaranty shall be binding upon the undersigned and upon his successors and assigns, and shall inure to the benefit of Alan C. Gruidl, his heirs, legal representatives, and assigns.

Dated:

Gregory A. Wade



Richard T. Wade

DEC-01-00 FRI 13:16

P. 12/15

extended, or prepaid or accelerated, or any right in the provisions of the Promissory Note waived, without notice and without impairing or affecting the liabilities herein.

This Guaranty shall be binding upon the undersigned and upon his successors and assigns, and shall inure to the benefit of Alan C. Gruidl, his heirs, legal representatives, and assigns.

Dated:

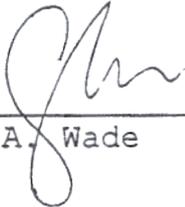
 FOR TWO BROTHERS ENTERTAINMENT INC.
Gregory A. Wade

Richard T. Wade

extended, or prepaid or accelerated, or any right in the provisions of the Promissory Note waived, without notice and without impairing or affecting the liabilities herein.

This Guaranty shall be binding upon the undersigned and upon his successors and assigns, and shall inure to the benefit of Alan C. Gruidl, his heirs, legal representatives, and assigns.

Dated:



Gregory A. Wade

Richard T. Wade

GUARANTY

value received, the sufficiency of which is hereby specifically acknowledged, the undersigned, GREGORY A. WADE and RICHARD T. WADE, hereby guarantee the prompt payment when due, whether at the dates specified therein, the maturity date, or theretofore upon acceleration of maturity pursuant to the provisions hereof, of any and all indebtedness and liabilities of Two Brothers Entertainment, Inc., a Minnesota corporation, D/B/A The Albatross, to Alan C. Gruidl, under that certain Promissory Note made June 5, 1998, by Scott Michels, Ann Michels, and Steven Hruby, in the original principal sum of \$317,166 (the "Promissory Note")

Guaranty is an absolute and direct guaranty of payment and is in no way conditional or contingent upon any attempt to collect from Scott Michels, Ann Michels, and Steven Hruby, under the above referenced Promissory Note. Payment under this Guaranty is secured by a security interest in favor of Alan C. Gruidl in substantially all of the assets of the undersigned corporation, which security interest is evidenced by a Security Agreement dated Dec 15th, 2000. If the indebtedness under said Promissory Note in the original principal amount of \$317,166.00 is not paid by Two Brothers Entertainment, Inc. when due as aforesaid, then the undersigned agrees that he will pay the same to Alan C. Gruidl. Failure to pay any such amount by Two Brothers Entertainment, Inc., shall constitute a default and Alan C. Gruidl may exercise all of his remedies under this Guaranty, the Promissory Note, and Security Agreement, as well as the law, to collect the same from the undersigned.

The undersigned agrees that the Promissory Note of even date herewith in the original principal sum of \$317,166.00 may be amended, renewed, or extended ~~or the time of any payment~~

EXHIBIT J

extended, or prepaid or accelerated, or any right in the provisions of the Promissory Note waived, without notice and without impairing or affecting the liabilities herein.

This Guaranty shall be binding upon the undersigned and upon his successors and assigns, and shall inure to the benefit of Alan C. Gruidl, his heirs, legal representatives, and assigns.

Dated:

Gregory A. Wade



Richard T. Wade

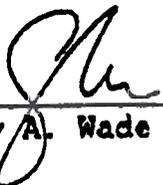
DEC-01-00 FRI 13:15

P. 11/15

extended, or prepaid or accelerated, or any right in the provisions of the Promissory Note waived, without notice and without impairing or affecting the liabilities herein.

This Guaranty shall be binding upon the undersigned and upon his successors and assigns, and shall inure to the benefit of Alan C. Gruidl, his heirs, legal representatives, and assigns.

Dated:

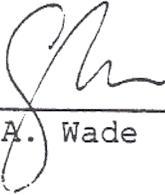
 FOR TWO BROTHERS ENTERTAINMENT INC.
Gregory A. Wade

Richard T. Wade

extended, or prepaid or accelerated, or any right in the provisions of the Promissory Note waived, without notice and without impairing or affecting the liabilities herein.

This Guaranty shall be binding upon the undersigned and upon his successors and assigns, and shall inure to the benefit of Alan C. Gruidl, his heirs, legal representatives, and assigns.

Dated:



Gregory A. Wade

Richard T. Wade

UNSWORN CERTIFICATE OF SERVICE

I, Andrea M. Hauser, declare under penalty of perjury that on August 24, 2004, I caused to be served the following documents:

1. Trustee's Motion to Compel Response to Discovery and for Sanctions;
2. Local Rule 7037-1 Statement;
3. Memorandum in Support of Trustee's Motion to Compel Discovery Response;
4. Affidavit of Andrea M. Hauser;
5. Proposed Order; and
6. Objection to Motion for Leave to Withdraw

by first-class mail upon following persons and entities:

Thomas J. Lallier, Esq.
Samuel S. Rufer, Esq.
Joseph Barnett, Esq.
Foley & Mansfield, PLLP
250 Marquette Avenue
Suite 1200
Minneapolis MN 55401

Office of the United States Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis MN 55415

FULLER, SEAVER & RAMETTE, P.A.

Executed on August _24, 2004

By: /e/ Andrea M. Hauser
Andrea M. Hauser 207469
12400 Portland Avenue South
Suite 132
Burnsville, MN 55337
(952) 890-0888

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

BKY No. 03-31304
ADV No. 04-3112

Alan Curtis Gruidl and Jacqueline Gruidl,

Debtors.

ORDER

Randall L. Seaver, Trustee,

Plaintiff,

vs.

Gregory A. Wade, Richard T. Wade, and
Two Brothers Entertainment, Inc.,

Defendants.

The above-captioned proceeding came on for hearing on the 7TH day of September, 2004 in St. Paul, Minnesota upon a motion of the Trustee, Randall L. Seaver, for an order compelling discovery responses and for sanctions pursuant to Bankruptcy Rule 7037 and Federal Rules of Civil Procedure 37. Appearances were as noted on the record.

Upon the files, records and proceeding herein, the Court being fully advised in the premises:

IT IS HEREBY ORDERED THAT:

1. Defendants Gregory A. Wade and Richard T. Wade shall provide complete responses to Plaintiff's First Request for Production of Documents and First Request for Answers to Interrogatories on or before September 17, 2004.
2. The Trustee is awarded reasonable expenses, including attorneys' fees in the amount of \$700 payable by Defendants Gregory A. Wade and Richard T. Wade.
3. Defendants' Responses to Trustee's First Request for Admissions are stricken and

all of the Admissions are deemed admitted.

4. Defendants' Affirmative Defenses in their Answer are stricken;

5. The deadline for the completion of discovery in this matter is 60 days from the date of this order.

BY THE COURT:

Dated: _____, 2004

Gregory F. Kishel
Judge of U.S. Bankruptcy Court