

IN THE CIRCUIT COURT OF COUNTY,

PLAINTIFF

VS.

CAUSE NO.

DEFENDANT

ANSWER TO COMPLAINT

COMES NOW the Defendant, Individually and D.B.A. and files this his/her Answer and Affirmative Defenses and in response would show as follows, to-wit:

1. Paragraph 1 .
2. Paragraph 2 .
3. Paragraph 3 .
4. Paragraph 4 .
5. Paragraph 5 .
6. Paragraph 6 .
7. Paragraph 7 .
8. Paragraph 8 .
9. Paragraph 9 .
10. Paragraph 10 .
11. Paragraph 11 .
12. Paragraph 12 .
13. Paragraph 13 .
14. Paragraph 14 .
15. Paragraph 15 .

16.	Paragraph 16	.
17.	Paragraph 17	
18.	Paragraph 18	.
19.	Paragraph 19	.
20.	Paragraph 20	
21.	Paragraph 21	.
22.	Paragraph 22	.
23.	Paragraph 23	
24.	Paragraph 24	.
25.	Paragraph 25	
26.	Paragraph 26	.
27.	Paragraph 27	.
28.	Paragraph 28	
29.	Paragraph 29	.
30.	Paragraph 30	
31.	Paragraph 31	.
32.	Paragraph 32	.
33.	Paragraph 33	
34.	Paragraph 34	.
35.	Paragraph 35	
36.	Paragraph 36	.
37.	Paragraph 37	.
	Defendant	.

Defendant respectfully requests the Complaint be dismissed at Plaintiff's costs and that Defendant be awarded reasonable attorney fees for having to defend same.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief can be granted.
2. This Court lacks jurisdiction as Plaintiff seeks equitable relief and jurisdiction and venue is properly vested in the Chancery Court of _____ County, _____.
3. That the Plaintiff is guilty of the Doctrine of Unclean Hands and is entitled to no relief whatsoever due to Plaintiff's diversion of funds due to partnership.
4. Punitive damages must not be awarded unless Plaintiff proves his/her case beyond a reasonable doubt in the determination of a unanimous jury.
5. The prayer for punitive damages seeks to impose an excessive fine within the meaning of the Excessive Fines Clause of the Eighth Amendment to the Constitution of the United States.
6. This Defendant avers that any award of punitive damages to the Plaintiff in this case would violate the procedural and/or substantive safeguards provided to the Defendant under the Fifth, Sixth, Eighth and/or Fourteenth Amendments to the Constitution of the United States and/or under Article 3, Section 14 and Section 26 of the Constitution of the State of _____, in that punitive damages are penal in nature and, consequently, the Defendant is entitled to the same procedural and/or substantive safeguards accorded to criminal defendants.
7. This Defendant avers that it would violate the self-incrimination clause of the Fifth Amendment to the Constitution of the United States of America and/or Article 3, Section 26 of the Constitution of the State of _____, to impose against the Defendant punitive damages, which are penal in nature, yet compel the Defendant to disclose potentially incriminating documents and evidence.
8. This Defendant affirmatively alleges that, inasmuch as the Plaintiff prays for punitive damages, an award of such damages should be denied for the reason that such an award violates the due process requirements of the Fourteenth Amendment and/or Fifth Amendment of the Constitution of the United States of America and Article 3, Section 14 of the Constitution of the State of _____ in that:
 - a. Said damages are intended to punish and deter Defendant and thus this proceeding is essentially criminal in nature;
 - b. That Defendant is being compelled to be a witness against itself in a proceeding essentially and effectively criminal in nature, in violation of Defendant's right to due process and in violation of Article 3, Section 14 of the Constitution of the State of _____, as

well as the Fifth Amendment and/or Fourteenth Amendment to the Constitution of the United States.

c. That the Plaintiff's burden of proof to establish punitive damages in this proceeding, effectively criminal in nature, is less than the burden of proof required in other criminal proceedings, and thus violated Defendant's right to due process as guaranteed by the Fifth Amendment and/or Fourteenth Amendment to the Constitution of the United States of America and rights under Article 3, Section 14 of the Constitution of the State of _____ ;

d. That inasmuch as this proceeding is essentially and effectively criminal in nature, Defendant is being denied the requirement of adequate notice of the elements of the offense, and that the law and authorities authorizing punitive damages are sufficiently vague and ambiguous so as to be in violation of the due process clause of the Fifth Amendment and/or Fourteenth Amendment of the United States Constitution and in violation of Article 3, Section 14 of the Constitution of the State of _____ ; and/or

e. That the awarding of disproportionate judgments against Defendants who commit similar offenses resulting in similar injury, but who differ only in material wealth, constitutes an arbitrary and invidious discrimination prohibited by the equal protection clause and rights of the Defendant under the Fourteenth Amendment to the Constitution of the United States and constitutes impermissible punishment of status.

9. Statute of Frauds-Complaints by the Plaintiff concerning breach of contract and any allegations flowing therefrom prohibit any recovery under the Statute of Frauds.

10. Estoppel-Defendant would show that Plaintiff is an experienced businessman that was well aware of the interest he/she received and is estopped from denying his/her written Bill of Sale attached as Exhibit " _____ " to the Complaint which evidences the full extent of his/her dealings and obligations.

Respectfully submitted,

Attorney for

Of counsel:

Telephone:
MSB #
Attorney for

