

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

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MICHAEL J. QUILLING, RECEIVER
FOR HAMMERSMITH TRUST, LLC,
MICROFUND, LLC and B. DAVID
GILLILAND,

Civil Action No. 3-01-CV-1617-D

Plaintiff,

**DEFENDANT'S ANSWER TO
COMPLAINT**

-vs-

MELODY WOLCOTT GILLILAND,

Defendant.

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Melody Wolcott Gilliland and in answer to the Complaint in this matter says:

Parties

1. Admitted.
2. Admitted.

Jurisdiction and Venue

3. Defendant denies that the actions stated herein constitute receivership assets within the meaning of the Order Appointing the Receiver.

4. Denied for the reason that this action does not involve receivership assets.

Background Facts

5. Admitted.

6. Admitted.

7. Neither admitted nor denied, this Defendant being without sufficient information to form a belief. This Defendant has been informed that loans were made to Hammersmith which called for interest payments of 40% per month, but Defendant does not know if this is correct having not seen any of the notes. Defendant leaves Plaintiff to his proofs.

8. Neither admit nor deny the allegations of paragraph 8, this Defendant being without sufficient information to form a belief, and Defendant leaves Plaintiff to his proofs.

9. Neither admit nor deny the allegations of paragraph 9, this Defendant being without sufficient information to respond to this allegation, and Defendant leaves Plaintiff to his proofs.

10. Admits that the Defendant is the ex-wife of David Gilliland, and points out that the parties were divorced on the 9th day of October, 1995. Defendant admits receiving substantial amounts of money from David Gilliland subsequent to the divorce pursuant to the provisions of the Divorce Agreement and Judgment and in payment of certain other obligations of David Gilliland to the Defendant. Defendant denies that she gave no benefit in exchange for the payment she received and that obligations of David Gilliland to Defendant were discharged by such payment. Admits that the total amount paid by David Gilliland to the Defendant pursuant to the Divorce Agreement and Judgment and other obligations was in excess of \$263,190.

COUNT ONE

Constructive Trust & Disgorgement

11. The Defendant incorporates her answers to paragraphs 1 through 11 set forth above the same as if set forth verbatim herein.

12. Neither admits nor denies that the funds paid to Defendant are directly traceable to the funds of the defrauded lenders, this Defendant being without sufficient information to know whether

or not that is true, and leaves Plaintiff to his proofs; denies that even if they are so traceable that they are impressed with a constructive trust and denies that they constitute Receivership Assets. The Defendant has not received any ill-gotten gains and denies that Defendant should be required to disgorge anything.

13. Defendant admits that the Receiver seeks the imposition of a constructive trust and this Defendant points out that there is no allegation that Defendant possesses any asset for the constructive trust theory to apply to; admits that the Receiver seeks a money judgment but denies that the Plaintiff, under any theory, is entitled to a money judgment. It is pointed out that the Plaintiff does not allege that there are any assets now held by the Defendant which were purchased by the moneys paid to her by David Gilliland.

COUNT TWO

Fraudulent Transfer

14. The Defendant incorporates her answers to paragraphs 1 through 13 set forth above as if set forth verbatim herein.

15. Neither admits nor denies that the Hammersmith and Microfund programs were Ponzi schemes, this Defendant being without sufficient information to know that, and this Defendant leaves Plaintiff to his proofs. Defendant denies that she participated in any fraud in connection with any transfer or payment, and denies that the Receiver is entitled to recover any such funds from the Defendant.

COUNT THREE

Fees, Expenses, Costs, and Interest

16. The Defendant incorporates her answers to paragraphs 1 through 15 set forth above as if set forth verbatim herein.

17. Each and every allegation of paragraph 17 is denied for the reason that they are untrue.


JURY DEMAND

18. This Defendant acknowledges that the Plaintiff has requested that this case be tried before a jury.

WHEREFORE Defendant asks that the Complaint be dismissed as frivolous and without foundation in law, and that the Defendant be awarded all her costs, including actual attorney fees, as well as all travel and lodging expenses to go from her home to the Court for such hearings where her presence may be desirable or necessary.

Dated: September 10, 2001

Respectfully submitted,


Melody Wolcott Gilliland, Defendant *ad*
1236 Runaway Bay (Apt 3A)
Lansing MI 48917