

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Michael Croy,

Plaintiff,

v.

Graphicly, Inc.,

Defendant.

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Case No. 0:14-cv-00445-RHK-JJK

**DEFENDANT’S ANSWER TO  
PLAINTIFF’S COMPLAINT**

Defendant Graphicly, Inc. (“Graphicly” or “Defendant”), for its timely Answer to Plaintiff’s Complaint, denies each and every thing, fact, matter, and allegation set forth therein except as herein qualified, admitted, or otherwise explained, and further responds as follows:

**NATURE OF THE ACTION**

1. Paragraph 1 of the Complaint contains a recitation or summary of the description of Plaintiff’s claims to which no response is required. However, to the extent a response is required, Defendant denies the allegations of Paragraph 1 and puts Plaintiff to the strict proof thereof.

**PARTIES**

3. Defendant lacks information regarding Plaintiff’s current residence, but admits that during the period of his employment with Graphicly that Plaintiff informed it

that he resided in Minneapolis, Minnesota. Defendant admits that Plaintiff was employed as its Vice President of Sales for a period of time.<sup>1</sup>

4. Defendant admits the allegations of Paragraph 4 of the Complaint.

**JURISDICTION AND VENUE**

5. Plaintiff has failed to properly plead subject matter jurisdiction based on diversity of citizenship under 28 U.S.C. § 1332(a). The allegation regarding supplemental jurisdiction under 28 U.S.C. § 1367 is legally irrelevant. Accordingly, Defendant denies the allegations of Paragraph 5 of the Complaint.

6. Defendant denies the allegations of Paragraph 6 of the Complaint and puts Plaintiff to the strict proof thereof.

**STATEMENT OF FACTS**

7. Defendant denies the allegations of Paragraph 7 of the Complaint and puts Plaintiff to the strict proof thereof.

8. Defendant denies the allegations of Paragraph 8 of the Complaint and puts Plaintiff to the strict proof thereof.

9. Defendant denies the allegations of Paragraph 9 of the Complaint and puts Plaintiff to the strict proof thereof.

10. Defendant denies the allegations of Paragraph 10 of the Complaint and puts Plaintiff to the strict proof thereof.

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<sup>1</sup> Defendant has retained the paragraph numbers as noted in the Complaint even though the numbers are not numbered consecutively.

11. Defendant denies the allegations of Paragraph 11 of the Complaint and puts Plaintiff to the strict proof thereof.

12. Defendant denies the allegations contained in Paragraph 12 of the Complaint and puts Plaintiff to the strict proof thereof.

13. Defendant denies the allegations of Paragraph 13 of the Complaint and puts Plaintiff to the strict proof thereof.

14. Defendant denies the allegations contained in Paragraph 14 of the Complaint and puts Plaintiff to the strict proof thereof.

15. Defendant admits that Plaintiff's final paycheck was received by him, but denies the remaining allegations contained in Paragraph 15 of the Complaint.

**FIRST CAUSE OF ACTION**  
**BREACH OF CONTRACT**

16. Paragraph 16 of the Complaint incorporates by reference Paragraphs 1 through 15 and does not require a response. However, to the extent a response is required, Defendant repeats its previous response as to Paragraphs 1 through 15.

17. Defendant denies the allegations of Paragraph 17 of the Complaint and puts Plaintiff to the strict proof thereof.

18. Defendant denies the allegations of Paragraph 18 of the Complaint and puts Plaintiff to the strict proof thereof.

19. Defendant denies the allegations of Paragraph 19 of the Complaint and puts Plaintiff to the strict proof thereof.

**SECOND CAUSE OF ACTION**  
**PROMISSORY ESTOPPEL**

20. Paragraph 20 of the Complaint incorporates by reference Paragraphs 1 through 19 and does not require a response. However, to the extent a response is required, Defendant repeats its previous response as to Paragraphs 1 through 19.

21. Defendant denies the allegations of Paragraph 21 of the Complaint and puts Plaintiff to the strict proof thereof.

22. Defendant denies the allegations of Paragraph 22 of the Complaint and puts Plaintiff to the strict proof thereof.

23. Defendant denies the allegations of Paragraph 23 of the Complaint and puts Plaintiff to the strict proof thereof.

24. Defendant denies the allegations of Paragraph 24 of the Complaint and puts Plaintiff to the strict proof thereof.

**THIRD CAUSE OF ACTION**  
**UNJUST ENRICHMENT**

25. Paragraph 25 of the Complaint incorporates by reference Paragraphs 1 through 24 and does not require a response. However, to the extent a response is required, Defendant repeats its previous response as to Paragraphs 1 through 24.

26. Defendant denies the allegations of Paragraph 26 of the Complaint and puts Plaintiff to the strict proof thereof.

27. Defendant denies the allegations of Paragraph 27 of the Complaint and puts Plaintiff to the strict proof thereof.

28. Defendant denies the allegations of Paragraph 28 of the Complaint and puts Plaintiff to the strict proof thereof.

29. Defendant denies the allegations of Paragraph 29 of the Complaint and puts Plaintiff to the strict proof thereof.

**FOURTH CAUSE OF ACTION**  
**FAILURE TO MAKE PROMPT PAYMENT OF COMMISSIONS**

30. Paragraph 30 of the Complaint incorporates by reference Paragraphs 1 through 29 and does not require a response. However, to the extent a response is required, Defendant repeats its previous response as to Paragraphs 1 through 29.

31. Defendant denies the allegations of Paragraph 31 of the Complaint and puts Plaintiff to the strict proof thereof.

32. Defendant denies the allegations of Paragraph 32 of the Complaint and puts Plaintiff to the strict proof thereof.

33. Defendant denies the allegations of Paragraph 33 of the Complaint and puts Plaintiff to the strict proof thereof.

34. Defendant denies the allegations of Paragraph 34 of the Complaint and puts Plaintiff to the strict proof thereof.

**FIFTH CAUSE OF ACTION**  
**FALSE STATEMENTS TO INDUCE CHANGE OF EMPLOYMENT**

35. Paragraph 35 of the Complaint incorporates by reference Paragraphs 1 through 34 and does not require a response. However, to the extent a response is required, Defendant repeats its previous response as to Paragraphs 1 through 34.

36. Defendant denies the allegations of Paragraph 36 of the Complaint and puts Plaintiff to the strict proof thereof.

37. Defendant denies the allegations of Paragraph 37 of the Complaint and puts Plaintiff to the strict proof thereof.

38. Defendant denies the allegations of Paragraph 38 of the Complaint and puts Plaintiff to the strict proof thereof.

**ALLEGED PRAYER FOR RELIEF**

Defendant denies the allegations and Plaintiff's entitlement to any of the relief set forth in the WHEREFORE clauses in the Complaint.

**AFFIRMATIVE AND OTHER DEFENSES**

1. Plaintiff has failed to state a claim or claims upon which relief can be granted.
2. The Complaint fails, in whole or in part, due to accord and satisfaction or novation.
3. The claims set out in the Complaint fail, in whole or in part, for failure or lack of consideration.
4. Service of process was insufficient and was not made in accordance with Rule 4 of the Federal Rules of Civil Procedure or the laws of the state of Minnesota.
5. Venue is not proper in this judicial district.
6. Defendant reserves the right to assert additional affirmative defenses as may appear appropriate in light of discovery or subsequent events.

**WHEREFORE**, having responded to the allegations in Plaintiff's Complaint, Defendant Graphicly, Inc. hereby requests that the Court enter an Order:

A. Dismissing the Complaint in its entirety, with prejudice, and awarding Defendant its costs and expenses, including reasonable attorney's fees, as set forth under the law; and

B. Awarding Defendant such other relief as the Court deems just and proper.

Dated: May 16, 2014

Respectfully submitted,

OGLETREE, DEAKINS, NASH, SMOAK  
& STEWART, P. C.

*s/ Bruce J. Douglas*

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