

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

In re: )  
 ) Bankruptcy No. 03-48940  
VIRGIL IVAR GOLTZ and )  
CHRISTINE RAE GOLTZ, ) Chapter 12  
 )  
Debtors. )

OBJECTIONS OF THE UNITED STATES  
OF AMERICA TO CONFIRMATION OF THE DEBTORS'  
AMENDED CHAPTER 12 PLAN OF REORGANIZATION DATED AUGUST 18, 2004

Now comes the United States of America - Internal Revenue Service (hereinafter "IRS"), by and through its attorneys, Thomas B. Heffelfinger, United States Attorney for the District of Minnesota and Roylene A. Champeaux, Assistant United States Attorney, and hereby objects to confirmation of the debtors' Amended Chapter 12 Plan of Reorganization dated August 18, 2004 (hereinafter "the Plan") as follows:

1. The Court will hold a hearing on Plan confirmation at 10:30 a.m. on November 18, 2004, in Courtroom No. 7 West, U.S. Bankruptcy Court, 300 South Fourth Street, Minneapolis, Minnesota 55415.

2. This Court has jurisdiction over these objections pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bankr. P. 5005 and Loc. R. Bankr. P. (D. Minn.) 1070-1. This proceeding is a core proceeding. This case was filed under Chapter 12 on December 31, 2003. This case is now pending in this Court.

3. These objections arise under 11 U.S.C. §§ 1222 and 1225(a)(6), and Fed. R. Bankr. P. 3015. These objections are filed under Fed. R. Bankr. P. 9014 and Loc. R. Bankr. P. (D. Minn.) 3015-3.

4. The IRS has a priority claim of \$10,000.00 against these debtors as set forth in the filed Proof of Claim of the IRS, a copy of which is attached as Exhibit A.

5. Since no objections to the tax claims of the IRS have been filed, the claims are deemed allowed pursuant to 11 U.S.C. § 502(a).

6. The IRS may have additional priority claims due from these debtors but they are undetermined because the debtors have not filed a Form 1040 federal tax return for 2003 as explained in the Affidavit of Jane E. Pearson, IRS Bankruptcy Specialist, which is attached as Exhibit B.

7. Without a determination of the actual amount of the priority claim of the IRS the feasibility of the debtors' Plan cannot be determined in accordance with 11 U.S.C. § 1225(a)(6).

8. The Plan fails to provide for full payment of the priority tax claim of the IRS under 11 U.S.C. § 507 as required under § 1222(a)(2). In fact the Plan fails to provide for any payment to the IRS.

9. A separate memorandum of law accompanies these objections.

WHEREFORE, the United States of America, on behalf of its agency, the IRS, by and through the undersigned attorneys, moves the Court for an order denying confirmation of the debtors' Amended Chapter 12 Plan of Reorganization dated August 18, 2004 and for such other relief as may be just and equitable.

Date: September 29, 2004

THOMAS B. HEFFELFINGER  
United States Attorney

/e/ Roylene A. Champeaux  
By: ROYLENE A CHAMPEAUX  
Assistant U.S. Attorney  
Attorney No. 154805  
600 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415  
(612) 664-5685

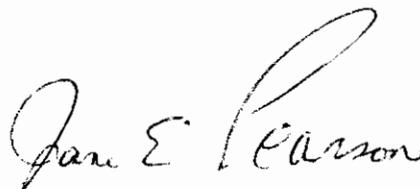
Attorneys for the United  
States of America, IRS

VERIFICATION

I, Jane E. Pearson, a Bankruptcy Specialist for the Internal Revenue Service, the movant named in the foregoing Chapter 12 Bankruptcy for Virgil Ivar Goltz, Christine Rae Goltz, Bankruptcy No. 03-48940, declares under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated:  
September 28, 2004

Signed:



JANE E. PEARSON  
BANKRUPTCY SPECIALIST



# Proof of Claim for Internal Revenue Taxes

Department of the Treasury/Internal Revenue Service

Form 10  
Attachment

In the Matter of: VIRGIL I & CHRISTINE R GOLTZ  
26077 680TH AVE  
COMFREY], MN 56019

Docket Number

03-48940

Type of Bankruptcy Case

Chapter 12

Date of Petition

12/31/2003

The United States has not identified a right of setoff or counterclaim. However, this determination is based on available data and is not intended to waive any right to setoff against this claim debts owed to this debtor by this or any other federal agency. All rights of setoff are preserved and will be asserted to the extent lawful.

## Unsecured Priority Claims under section 507(a)(8) of the Bankruptcy Code

<i>Taxpayer ID Number</i>	<i>Kind of Tax</i>	<i>Tax Period</i>	<i>Date Tax Assessed</i>	<i>Tax Due</i>	<i>Interest to Petition Date</i>
XXX-XX-6036	INCOME	12/31/2003	1 UNASSESSED LIABILITY	\$10,000.00	\$0.00
<b>Total Amount of Unsecured Priority Claims:</b>					<b>\$10,000.00</b>

1 UNASSESSED LIABILITY TAX CLAIMS HAVE BEEN FILED BECAUSE THE DEBTOR HAS FAILED TO FILE THE RETURN(S) FOR THE LISTED PERIODS. AS SOON AS THE DEBTOR FILES THE RETURN(S) WITH THE I.R.S. AS REQUIRED BY LAW, THIS CLAIM WILL BE ADJUSTED AS NECESSARY.



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

In re: )  
 ) Bankruptcy No. 03-48940  
VIRGIL IVAR GOLTZ and )  
CHRISTINE RAE GOLTZ, ) Chapter 12  
 )  
Debtors. )

MEMORANDUM OF THE UNITED  
STATES OF AMERICA IN SUPPORT OF ITS  
OBJECTIONS TO CONFIRMATION OF THE DEBTORS' AMENDED  
CHAPTER 12 PLAN OF REORGANIZATION DATED AUGUST 18, 2004

THE UNITED STATES OF AMERICA, Internal Revenue Service ("IRS") submits this memorandum in support of its objections to confirmation of the debtors' Amended Chapter 12 Plan of Reorganization dated August 18, 2004 (hereinafter "the Plan").

FACTS

The facts are as set forth in the objections to confirmation which accompany this memorandum.

LEGAL ARGUMENT

1. The Plan cannot be confirmed because the Plan fails to comply with 11 U.S.C. § 1222(a)(2) in that the Plan fails to provide for the payment of the priority claim of the IRS.

2. Since no objections to the tax claim of the IRS have been filed, the claim is deemed allowed pursuant to 11 U.S.C. § 502(a).

3. As the debtors have failed to file a 2003 federal income tax return, the debtors should be required to file this return so that the federal tax liabilities can be fully determined and properly treated by the Plan.

4. Until the missing federal tax return is filed, the IRS is unable to determine whether or not the Plan complies with 11 U.S.C. § 1225(a)(6).

CONCLUSION

For the foregoing reasons, the United States of America, on behalf of the IRS, objects to confirmation of the debtors' Amended Chapter 12 Plan of Reorganization dated August 18, 2004 and moves the Court for denial of plan confirmation.

Date: September 29, 2004

THOMAS B. HEFFELFINGER  
United States Attorney

/e/ Roylene A. Champeaux  
By: ROYLENE A CHAMPEAUX  
Assistant U.S. Attorney  
Attorney No. 154805  
600 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415  
(612) 664-5685

Attorneys for the United States  
of America, IRS

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:

Chapter 12

VIRGIL IVAR GOLTZ and  
CHRISTINE RAE GOLTZ,

Case Number: 03-48940

Debtors.

UNSWORN DECLARATION  
FOR PROOF OF SERVICE

I, Carla R. Kohl, employed by the Office of the United States Attorney, with office address 600 U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota 55415, declares that on September 30, 2004, I served the Objections of the United States of America to Confirmation of Debtors' Amended Chapter 12 Plan of Reorganization dated August 18, 2004, Memorandum in Support of Objections and proposed Order on the entities named below by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage and depositing same in the post office at Minneapolis, Minnesota, addressed to each of them as follows:

-----  
Thomas W. Van Hon, Esq.  
P.O. Box N  
Fairfax, MN 55332

Michael P. Kircher, Esq.  
Sunde, Olson, Kircher & Zender  
108 Armstrong Blvd. S.  
P.O. Box 506  
St. James, MN 56081

Mark C. Halverson, Esq.  
Chapter 12 Trustee  
P.O. Box 3544  
Mankato, MN 56002

Farm Service Agency  
400 AgriBank Bldg.  
375 Jackson Street  
St. Paul, MN 55101-1853

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

Ivar Goltz  
313 4th Ave. SE, Apt. 307  
Sleepy Eye, MN 56085

Virgil Ivar Goltz  
Christine Rae Goltz  
26077 680th Ave.  
Comfrey, MN 56019

Minnesota Department of Revenue  
Collection Enforcement Unit  
551 Bankruptcy Section  
P.O. Box 64447  
St. Paul, MN 55164

Paul W. Bucher, Esq.  
Dunlap & Seeger, P.A.  
206 S. Broadway, Ste. 505  
P.O. Box 549  
Rochester, MN 55903

UNSWORN DECLARATION  
FOR PROOF OF SERVICE-continued

Re: **VIRGIL IVAR GOLTZ AND CHRISTINE RAE GOLTZ**  
BKY No. 03-48940

Craig Anderson  
Assistant Attorney General  
Office of MN Attorney General  
Tax Litigation Division  
1100 NCL Tower  
445 Minnesota Street  
St. Paul, MN 55101-2128

-----  
And I declare, under penalty of perjury, that the foregoing  
is true and correct.

Executed: September 30, 2004 Signed: /e/ Carla R. Kohl  
CARLA R. KOHL

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

In re: )  
 ) Bankruptcy No. 03-48940  
VIRGIL IVAR GOLTZ and )  
CHRISTINE RAE GOLTZ, ) Chapter 12  
 )  
Debtors. )

ORDER

The above-entitled matter came before the Court on \_\_\_\_\_, 2004, for hearing on confirmation of the debtors' Chapter 12 Plan. Appearances were as noted in the record. Based upon the proceedings had on said date, the written submissions of the parties, the arguments of counsel, all of the files and records herein, and the findings of fact and conclusions of law, if any, entered upon the record;

IT IS HEREBY ORDERED THAT the debtors' Chapter 12 Plan of Reorganization is denied confirmation.

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NANCY C. DREHER  
United States Bankruptcy Judge