

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 04-40896

In re:

Michael G. Hoffman and Christine H.
Hoffman,

Debtors.

**NOTICE OF HEARING AND MOTION
FOR TURNOVER OF PROPERTY
AND AWARD OF ATTORNEY'S FEES**

TO: The Debtor above-named and her attorney,

1. Randall L. Seaver, the Chapter 7 Trustee herein, moves the Court for the relief request below and gives Notice of hearing herewith.

2. The Court will hold a hearing on this motion at 10:30 a.m. on December 1, 2004 Courtroom 7 West, U.S. Bankruptcy Court, 300 South Fourth Street, Minneapolis, MN 55415 or as soon thereafter as counsel can be heard. Under applicable rules, any objection must be in writing, be delivered to the Trustee and the United States Trustee, and be filed with the clerk, not later than November 24, 2004 which is 7 days before the above date or file and served by mail not later than November 19, 2004 which is 10 days before the time set for hearing in accordance with Local Rules. **UNLESS A RESPONSE IS TIMELY SERVED AND FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

3. This Court has jurisdiction over this Motion under 28 U.S.C. §157 and §1334 and Bankruptcy Rule 5005. This Motion is filed under Local Rule 9013-2, this proceeding arises under 11 U.S.C. §542 and Local Rule 6072-1.

4. The petition commencing this Chapter 7 case was filed on February 23, 2004. The case is now pending in this Court.

5. Movant requests an order directing the Debtor to turnover to the Trustee all documents relating to or evidencing the purpose for the payments represented by the following drafts drawn on the Debtors' checking account: Draft 5009 - \$1,332.07; Draft 5054 - \$1,817.33; Draft 5182- \$ 865.96; Draft 5181 - \$1,735.63; and Draft 5093 - \$700.00.

6. Movant also requests an order directing the Debtors to turnover to the Trustee Wells Fargo credit card statements for the Debtors' credit card account from December 1, 2003 - February 1, 2004.

7. Pursuant to 11 U.S.C. §521(3)(4), the Debtors are required, among other things, to cooperate with the Trustee as necessary to enable the Trustee to perform the Trustee's duties, and to surrender to the Trustee all property of the estate and any recorded information including books, documents, records, and papers relating to property of the estate. Bankruptcy Rule 4002(4) also requires the Debtors to cooperate in the administration of the estate. The Debtors have not complied with their obligations in this matter. As a direct result of their failure to discharge their duties, the bankruptcy estate has incurred attorney's fees in bringing this turnover motion which would not otherwise have been incurred. The Debtors should bear the financial burden of their failure to discharge their obligations, and the estate should be awarded \$300 in attorney's fees to be paid by the Debtors.

WHEREFORE, the Trustee requests that the Debtors be required to turnover to the Trustee within 7 days from the hearing date on this motion:

1. All documents relating to or evidencing the purpose for the payments represented by the following drafts drawn on the Debtors' checking account: Draft 5009 - \$1,332.07; Draft

5054 - \$1,817.33; Draft 5182- \$ 865.96; Draft 5181 - \$1,735.63; and Draft 5093 - \$700.00 together with copies of the drafts; and

2. The Debtors credit card account statements from December 1, 2003 - February 1, 2004; and
3. \$300 for the bringing of this turnover motion.

FULLER, SEAVER & RAMETTE, P.A.

Dated: November 4, 2004

By: /e/ Randall L. Seaver
Randall L. Seaver 152882
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

Attorneys for Randall L. Seaver, Trustee

VERIFICATION

I, Randall L. Seaver, Trustee for the Bankruptcy Estate of Michael G. Hoffman and Christine H. Hoffman, named in the foregoing Notice of Hearing and Motion for Turnover of Property declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on November 4, 2004

/e/ Randall L. Seaver
Randall L. Seaver, Trustee

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 04-40896

In re:

Michael G. Hoffman and Christine H.
Hoffman,

UNSWORN CERTIFICATE OF SERVICE

Debtors.

I, Kari L. Fogarty, declare under penalty of perjury that on November 4, 2004, I mailed a copy of the Notice of Hearing and Motion for Turnover of Property and Award of Attorney's Fees and proposed Order by first class mail, postage prepaid to each entity named below at the address stated below for each entity:

Christine H. Hoffman
23449 Variolite St. NW
Elk River, MN 55330-2535

Michael G. Hoffman
23449 Variolite St. NW
Elk River, MN 55330-2535

Robert L. Kalenda
Kalenda & Associates
P.O. Box 902
St. Cloud, MN 56302

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

FULLER, SEAVER & RAMETTE, P.A.

Dated: November 4, 2004

By: /e/ Kari L. Fogarty
Kari L. Fogarty
Legal Secretary
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 04-40896

In re:

Michael G. Hoffman and Christine H.
Hoffman,

ORDER

Debtors.

This matter came on for hearing before this court on the motion of Randall L. Seaver, Chapter 7 Trustee, for turnover of property of the estate. Appearances, if any, were noted upon the record.

Upon the Motion of the Trustee, arguments of counsel, and the documents of record herein., and the Court being fully advised in the premises,

IT IS HEREBY ORDERED within seven (7) days from the entry of this Order the Debtors shall turnover to the Trustee the following:

1. All documents relating to or evidencing the purpose for the payments represented by the following drafts drawn on the Debtors' checking account: Draft 5009 - \$1,332.07; Draft 5054 - \$1,817.33; Draft 5182- \$865.96; Draft 5181 - \$1,735.63; and Draft 5093 - \$700.00 together with copies of the drafts.
2. The Debtors credit card account statements from December 1, 2003 - February 1, 2004.
3. Within 7 days from the date of the entry of this Order, the Debtors shall pay to the Trustee the sum of \$300 for attorney's fees incurred by the Trustee in bringing the turnover motion.

BY THE COURT:

Dated: _____, 2004

Nancy C. Dreher
U.S. Bankruptcy Judge