

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Bky No. 04-42810

In re:

Paul E. Pearson,

Debtor.

**NOTICE OF HEARING AND
MOTION OBJECTING TO
CLAIMED EXEMPTIONS**

TO: The Debtor and other entities specified in Local Rule 9013-3.

1. Randall L. Seaver, the duly appointed Chapter 7 trustee herein (“Trustee”) moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 2:30 p.m. on August 25, 2004, in Courtroom 7 West, U.S. Bankruptcy Court, 300 South Fourth Street, Minneapolis, MN 55415.

3. Any response to this motion must be filed and delivered not later than August 18, 2004 which is seven days before the time set for the hearing or filed and served by mail not later than August 13, 2004 which is ten days before the time set for the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. This Chapter 7 case was commenced on May 18, 2004. The first meeting of creditors was originally scheduled for June 17, 2004 and continued to July 1, 2004. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. §522, Bankruptcy Rule 4003 and Local Rule 4003-1(a). This motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1 and 9013-2.

6. Attached hereto as Exhibit A is a true and correct copy of Debtors' Schedule C.

7. Movant objects to the Debtor's exemptions claimed in that schedule as follows, for the following reasons:

(a) Objection is made to the Debtor's claimed exemption of the business decks, misc. office furniture all over 30 years old.

(b) Objection is made to the Debtor's claimed exemption of a 30 year old forklift and racking.

8. Objection is made to the claimed exemption of these items because the Debtor has not derived any income from any purported "business" in 2003-2004 and so is not engaged in a "business" trade or profession and therefore the above items are not reasonably necessary in a trade, business or profession of the Debtor.

WHEREFORE, the Trustee requests that the Court deny the following exemptions claimed by the Debtor:

1. Business decks and misc. office furniture;
2. Forklift and racking; and
3. Grant such other and further relief as the court deems just and equitable.

FULLER, SEAVER & RAMETTE, P.A.

Dated: July 27, 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, the duly appointed Chapter 7 trustee of this Bankruptcy Estate, the moving party named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on July 27, 2004

/e/ Randall L. Seaver

Randall L. Seaver

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
ST. PAUL DIVISION**

IN RE: **PAUL E. PEARSON**

CASE NO

CHAPTER **7**

SCHEDULE C (PROPERTY CLAIMED AS EXEMPT)

Debtor elects the exemptions to which debtor is entitled under: (Check one box)

- 11 U.S.C. Sec. 522(b)(1): Exemptions provided in 11 U.S.C. Sec. 522(d). Note: These exemptions are available only in certain states.
- 11 U.S.C. Sec. 522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for the 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemption
HOMESTEAD 2745 SCOTT AVE. N., GOLDEN VALLEY, MN 55422 LEGALLY DESCRIBED AS: LOT 008 BLOCK 004 DAWN ACRES 1ST ADDN, LOCATED IN HENNEPIN COUNTY	MS §§ 510.01, 510.02	\$104,000.00	\$190,000.00
NORMAL HOUSEHOLD GOODS	MS § 550.37 subd. 4(b)	\$2,000.00	\$2,000.00
NORMAL WEARING APPAREL	MS § 550.37 subd. 4(a)	\$300.00	\$300.00
LIFE INSURANCE, TERM	MS § 550.37 subd. 23	\$0.00	\$0.00
CARPET LAYERS PENSION FUND, IN REPAYMENT, FOR DISCLOSURE PURPOSES ONLY, EXACT AMOUNT UNKNOWN, PAYING AT \$496.00/MO	MS § 550.37 subd. 24	\$0.00	\$0.00
1993 BUICK STATION WAGON	MS § 550.37 subd. 12a.	\$1,000.00	\$1,000.00
BUSINESS DESKS, MISC OFFICE FURNITURE, ALL OVER 30 YRS OLD	MS § 550.37 subd. 6	\$500.00	\$500.00
30 YR OLD FORKLIFT, RACKING, USED BY DEBTOR IN HIS CARPETING BUSINESS	MS § 550.37 subd. 6	\$2,000.00	\$2,000.00
		\$109,800.00	\$195,800.00

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 04-42810

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UNSWORN CERTIFICATE OF SERVICE

Debtor.

I, Kari L. Fogarty declare under penalty of perjury that on July 27, 2004 I mailed a copy of the Notice of Hearing and Motion Objecting to Claimed Exemptions and proposed Order by first class mail, postage prepaid to the following entities:

Paul E. Pearson
2745 Scott Avenue North
Golden Valley, MN 55422

Barbara J. May
Attorney at Law
4105 N. Lexington, Suite 310
Arden Hills, MN 55126

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

FULLER, SEAVER & RAMETTE, P.A.

Dated: July 27, 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. 04-42810

In re:

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ORDER

Debtor.

At Minneapolis, Minnesota this _____ day of _____, 2004.

The above matter came before the court on the objection of the Chapter 7 Trustee to exemptions. Appearances were as noted upon the record.

Based upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED:

That the Trustee's objection is sustained and

1. The Debtor's claimed exemption of business desks and miscellaneous office furniture is denied.

2. The Debtor's claimed exemption of a fork lift and racking is denied.

BY THE COURT:

Nancy C. Dreher
U.S. Bankruptcy Judge