

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

Bky No. 04-42822

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In re:

Christopher R. Cutts,  
  
Debtor.

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

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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 July 21, 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 July 16, 2004 which is three days before the time set for the hearing (excluding Saturdays, Sundays and holidays) or filed and served by mail not later than July 12, 2004 which is seven days before the time set for the hearing (excluding Saturdays, Sundays and holidays). **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. 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 Debtor's Schedule C.

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

(a) The Trustee discovered that the Debtor had about \$1,023 in cash from his bank account most of which he apparently had in his possession on the date of filing. He did not disclose possession of that cash. Objection is made to assure that the "blanket" exemption used by the Debtor stated as "Retirement plans, rentals & reasonable usage of realty during proceedings, tax refunds accrued, wages, all sums of deposit if any; exact amount unknown, but less than the unused amount in 11 USC 522(d)(5). All transfers by garnishment or execution are claimed exempt and avoided pursuant to 11 USC 522(f)(g) & 11 USC 547(f)" does not entitle the Debtor to any claimed exemption of this or any other concealed asset.

(b) Objection to the Debtor's claimed homestead exemption of \$15,000 is made to assure that the claimed exemption entitles the Debtor only to \$15,000 in value in the homestead and that all remaining value in that real property, together with the real property itself remains property of the bankruptcy estate.

WHEREFORE, the Trustee requests an Order of the Court:

1. Holding that the Debtor's "blanket" exemption is denied in its entirety, including any claimed exemption of cash.

2. Holding that the Debtor's claimed homestead exemption of \$15,000 in the property described at Schedule C entitles him to \$15,000 in value from the liquidation of that asset and holding that all equity in excess of that amount, together with the property itself remain property of the bankruptcy estate.

3. For such other and further relief as the court deems just and equitable.

**FULLER, SEAVER & RAMETTE, P.A.**

Dated: June 30, 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 June 30, 2004

/e/ Randall L. Seaver

Randall L. Seaver

Debtor

**SCHEDULE C. PROPERTY CLAIMED AS EXEMPT**

Debtor elects the exemptions to which debtor is entitled under:

*[Check one box]*

- 11 U.S.C. §522(b)(1): Exemptions provided in 11 U.S.C. §522(d). Note: These exemptions are available only in certain states.
- 11 U.S.C. §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
<u>Real Property</u>			
LOT 16, BLOCK 4, LENOX, ACCORDING TO THE RECORDED PLAT THEREOF, HENNEPIN COUNTY, MINNESOTA.	11 U.S.C. § 522(d)(1)	15,000.00	210,000.00
<u>Checking, Savings, or Other Financial Accounts, Certificates of Deposit</u>			
TCF Bank checking	11 U.S.C. § 522(d)(5)	5.00	5.00
<u>Household Goods and Furnishings</u>			
Household goods and furnishings	11 U.S.C. § 522(d)(3)	2,005.00	2,005.00
Lawn mower-\$10, snow blower-\$45	11 U.S.C. § 522(d)(3)	55.00	55.00
<u>Wearing Apparel</u>			
Wearing Apparel	11 U.S.C. § 522(d)(3)	300.00	300.00
<u>Firearms and Sports, Photographic and Other Hobby Equipment</u>			
Golf clubs-\$50, two mountain bikes-\$200	11 U.S.C. § 522(d)(5)	250.00	250.00
<u>Interests in Insurance Policies</u>			
Life insurance through employer (term) no cash value	11 U.S.C. § 522(d)(8)	0.00	0.00
<u>Automobiles, Trucks, Trailers, and Other Vehicles</u>			
2001 Chevrolet Tahoe	11 U.S.C. § 522(d)(2)	0.00	23,625.00
<u>Other Personal Property of Any Kind Not Already Listed</u>			
Computer	11 U.S.C. § 522(d)(5)	200.00	200.00
Retirement plans, rentals & reasonable usage of realty during proceedings, tax refunds accrued, wages, all sums of deposit if any; exact amount unknown, but less than the unused amount in 11 USC 522(d)(5). All transfers by garnishment or execution are claimed exempt and avoided pursuant to 11 USC 522(f)(g) & 11 USC 547(f).	11 U.S.C. § 522(d)(5)	50.00	50.00

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**UNSWORN CERTIFICATE OF SERVICE**

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I, Kari L. Fogarty declare under penalty of perjury that on June 30, 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:

Christopher R. Cutts  
3049 Hampshire Avenue South  
St. Louis Park, MN 55426

Robert J. Hoglund  
Hoglund, Chwialkowski, Greeman &  
Bergmanis  
P.O. Box 130938  
Roseville, MN 55113

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

**FULLER, SEAVER & RAMETTE, P.A.**

Dated: June 30, 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. 04-42822

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In re:

Christopher R. Cutts,

**ORDER**

Debtor.

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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 "blanket" exemption is denied in its entirety including any claimed exemption \$1,023 in cash is denied.

2. The Debtor's claimed homestead exemption of \$15,000 in the property described at Schedule C entitles him to \$15,000 in value from the liquidation of that asset but all equity in excess of that amount, together with the property itself remains property of the bankruptcy estate.

**BY THE COURT:**

\_\_\_\_\_  
Nancy C. Dreher  
U.S. Bankruptcy Judge