

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

In re: )  
 ) Chapter 13  
THURLEE K. BELFREY, )  
 ) Case No. BKY 04-43619  
Debtor. )

OBJECTIONS OF THE UNITED STATES  
OF AMERICA TO THE CONFIRMATION OF THE  
DEBTOR'S CHAPTER 13 PLAN AND MOTION TO DISMISS

THE UNITED STATES OF AMERICA, Internal Revenue Service ("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, submits the following objections to the Confirmation of Chapter 13 Plan proposed by this debtor and Motion to Dismiss:

1. The confirmation hearing is scheduled for September 2, 2004, at 10:30 a.m. at U.S. Bankruptcy Court, U.S. Courthouse, Courtroom West 7, 300 South Fourth Street, Minneapolis, Minnesota.

2. The Court has jurisdiction over these objections and Motion to Dismiss pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bankr. P. 5005 and Loc. R. Bankr. P. (D. Minn.) 1070-1. This is a core proceeding. The petition commencing this Chapter 13 case was filed June 29, 2004. This case is now pending in this court.

3. These objections and Motion to Dismiss arise under 11 U.S.C. §§ 1322(a)(2); 1325(a)(5) and (6); and 1307(c) and Fed. R. Bankr. P. 3015. These objections and Motion to Dismiss are filed

under Fed. R. Bankr. P. 9013 and 9014 and Loc. R. Bankr. P. (D. Minn.) 3015-3, 3020-1 and 3020-3.

4. The United States, IRS, has a secured claim of \$15,916.52, unsecured priority claim of \$24,500.00 and an unsecured general claim of \$27,000.00 against this debtor. The total claim is \$67,416.52, as set forth in the filed Proof of Claim of the IRS, a copy of which is attached hereto as Exhibit A.

5. The IRS may have additional priority and general claims due from this debtor, but these are undetermined because the debtor has not filed federal income tax returns for the years 1998, 1999, 2000, 2001, 2002 and 2003 as explained in the Affidavit of Jane E. Pearson, which is attached as Exhibit B.

6. The Plan provides for the full payment of claims entitled to priority under 11 U.S.C. § 507; however, the Plan provides for an estimated payment to the IRS in the amount of \$60,000.00. While the Plan provides that the trustee will pay the amounts actually owed as priority claims, the actual amount of the priority claim of the IRS cannot be determined until this debtor files his federal income tax returns for the years 2001, 2002 and 2003.

7. Without a determination of the actual amount of the priority claim of the IRS, the feasibility of the debtor's Plan cannot be determined in accordance with 11 U.S.C. § 1325(a)(6).

8. The debtor's Plan fails to provide for payments to fully pay the secured claim of the IRS. As the Plan fails to provide for the secured claim of the IRS and as the IRS has not accepted the Plan, the Plan cannot be confirmed under 11 U.S.C § 1325(a)(5).

9. Failure of the debtor's Plan to provide for full payment of the allowed secured and priority tax claims of the IRS is grounds for dismissal of the case pursuant to 11 U.S.C. § 1307(c).

WHEREFORE, for the foregoing reasons, the United States prays that the Chapter 13 Plan filed by these debtor be denied confirmation and that the case be dismissed pursuant to 11 U.S.C. § 1307(c).

Date: August 17, 2004

THOMAS B. HEFFELFINGER  
United States Attorney

/e/ Roylene A. Champeaux  
By: ROYLENE A. CHAMPEAUX  
Assistant United States Attorney  
Attorney ID Number 154805  
600 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415  
(612) 664-5685

Attorneys for the United States  
of America, IRS



# Proof of Claim for Internal Revenue Taxes

Form 10  
Attachment

Department of the Treasury/Internal Revenue Service

In the Matter of: THURLEE K BELFREY  
AKA KARLOS & KARLO MANAGEMENT  
8901 DUNBAR KNOLL  
BROOKLYN PARK, MN 55443

Docket Number	04-43619
Type of Bankruptcy Case	Chapter 13
Date of Petition	06/29/2004

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.

## Secured Claims (Notices of Federal tax lien filed under internal revenue laws before petition date)

Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Penalty to Petition Date	Interest to Petition Date	Notice of Tax Lien Filed: Date Office Location
XXX-XX-5509	INCOME	12/31/1993	08/19/1996	\$1,722.09	\$1,472.66	\$2,042.15	12/10/1996 HENNEPIN E
XXX-XX-5509	INCOME	12/31/1995	07/22/1996	\$4,521.00	\$2,388.50	\$3,770.12	12/10/1996 HENNEPIN E
				\$6,243.09	\$3,861.16	\$5,812.27	

Total Amount of Secured Claims: **\$15,916.52**

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

Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Interest to Petition Date
XXX-XX-5509	INCOME	12/31/2001	1 UNASSESSED-NO RETURN	\$9,000.00	\$0.00
XXX-XX-5509	INCOME	12/31/2002	1 UNASSESSED-NO RETURN	\$9,000.00	\$0.00
XXX-XX-5509	INCOME	12/31/2003	1 UNASSESSED-NO RETURN	\$6,500.00	\$0.00
				\$24,500.00	\$0.00

Total Amount of Unsecured Priority Claims: **\$24,500.00**

## Unsecured General Claims

Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Interest to Petition Date
XXX-XX-5509	INCOME	12/31/1998	1 UNASSESSED-NO RETURN	\$9,000.00	\$0.00
XXX-XX-5509	INCOME	12/31/1999	1 UNASSESSED-NO RETURN	\$9,000.00	\$0.00
XXX-XX-5509	INCOME	12/31/2000	1 UNASSESSED-NO RETURN	\$9,000.00	\$0.00
				\$27,000.00	\$0.00

Total Amount of Unsecured General Claims: **\$27,000.00**

1 UNASSESSED TAX LIABILITIES(S) HAVE BEEN LISTED ON THIS CLAIM BECAUSE OUR RECORDS SHOW NO RETURN(S) FILED. WHEN THE DEBTOR(S) FILES THE RETURN OR PROVIDES OTHER INFORMATION AS REQUIRED BY LAW THE CLAIM WILL BE AMENDED.

INTERNAL REVENUE SERVICE  
FACSIMILE FEDERAL TAX LIEN DOCUMENT

Lien Recorded : 12/10/1996 - 02:40AM  
Recording Number: 006672934-27  
UCC Number :  
Liber :  
Page :

District: NORTH CENTRAL

IRS Serial Number: 419609458

This Lien Has Been Filed in Accordance with  
Internal Revenue Regulation 301.6323(f)-1.

Name of Taxpayer :  
THURLEE BELFREY

Residence :  
8901 DUNBAR KNOLL  
BROOKLYN PARK, MN 55443-4013

With respect to each assessment below, unless notice of lien  
is refiled by the date in column(e), this notice shall constitute  
the certificate of release of lien as defined in IRC 6325(a).

Form (a)	Period (b)	ID Number (c)	Assessed (d)	Refile Deadline (e)	Unpaid Balance (f)
1040	12/31/1993	██████-5509	08/19/1996	09/18/2006	2837.83
1040	12/31/1995	██████-5509	07/22/1996	08/21/2006	5336.00

Filed at: COUNTY RECORDER  
HENNEPIN E  
MINNEAPOLIS, MN 55487-0083

Total | \$ 8173.83

This notice was prepared and executed at ST. PAUL, MN  
on this, the 09th day of December, 1996.

Authorizing Official:  
ACS

Title:  
SPF ADVISOR 41-01-0000

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION  
BKY No. 04-43619

THURLEE K. BELFREY, )  
KARLOS & KARLO MANAGEMENT, )  
 )  
Plaintiff, )  
 )  
v. ) AFFIDAVIT  
 )  
INTERNAL REVENUE SERVICE, )  
 )  
Defendant. )

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF HENNEPIN )

I, Jane E. Pearson, Bankruptcy Specialist, being first duly sworn, deposes and says:

1. I am employed by Territory 9 of the Internal Revenue Service Small Business/Self-Employed Division.
2. One of my duties is to review Chapter 13 Bankruptcy petitions and the Government records regarding the petitioner.
3. I have determined Thurlee K. Belfrey, Karlos & Karlo Management has not filed the federal income tax returns for the calendar years December 31, 1998, December 31, 1999, December 31, 2000, December 31, 2001, December 31, 2002 and December 31, 2003.

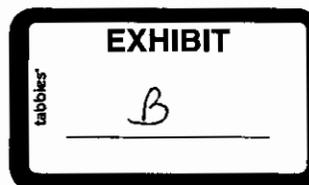
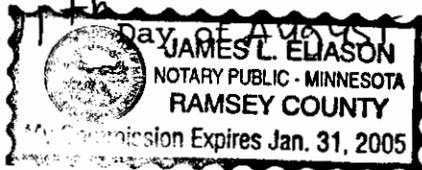
FURTHER YOUR AFFIANT SAYETH NOT.

*James L. Eliason*

*Jane E. Pearson*  
Jane E. Pearson

Subscribed and Sworn to Before Me

This 1<sup>st</sup> Day of August, 2004.



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

In re: )  
 ) Chapter 13  
THURLEE K. BELFREY, )  
 ) Case No. BKY 04-43619  
Debtor. )

MEMORANDUM IN SUPPORT OF OBJECTIONS OF THE  
UNITED STATES OF AMERICA TO THE CONFIRMATION  
OF DEBTOR'S CHAPTER 13 PLAN AND MOTION TO DISMISS

THE UNITED STATES OF AMERICA, Internal Revenue Service ("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, submits the following Memorandum in Support of its Objections to Confirmation of Debtor's Chapter 13 Plan and Motion to Dismiss.

1. The United States, IRS, has a secured claim of \$15,916.52, an unsecured priority claim of \$24,500.00, and an unsecured general claim of \$27,000.00 against this debtor. The total claim is in the amount of \$67,416.52 as set forth in the filed Proof of Claim of the IRS.

2. 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).

3. As the debtor has not filed federal income tax returns for the years 1998, 1999, 2000, 2001, 2002 and 2003, the actual tax liabilities are unknown. Any tax liabilities due for the years 2001, 2002 and 2003 would be priority taxes, which must be paid in

full. This debtor should be required to file his federal income tax returns so that the tax liabilities can be fully determined and properly treated by the Plan.

4. The debtor's Plan fails to provide for adequate payments to fully pay the priority claims of the IRS under 11 U.S.C. § 507 as required under 11 U.S.C. § 1322(a)(2).

5. The debtor's Plan does not provide for payments to fully pay the secured claim of the IRS. As the Plan fails to provide for the secured claim of the IRS and as the IRS has not accepted the Plan, the Plan cannot be confirmed under 11 U.S.C. § 1325(a)(5).

6. Failure of the debtor's Plan to provide for full payment of the allowed secured and priority tax claims of the IRS is grounds for dismissal of the case pursuant to 11 U.S.C. § 1307(c).

WHEREFORE, for the foregoing reasons, the United States prays that the Chapter 13 Plan filed by this debtor be denied confirmation and that the case be dismissed pursuant to 11 U.S.C. § 1307(c).

Date: August 17, 2004

THOMAS B. HEFFELFINGER  
United States Attorney

/e/ Roylene A. Champeaux  
By: ROYLENE A. CHAMPEAUX  
Assistant United States Attorney  
Attorney ID Number 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 13

THURLEE K. BELFREY,

Case Number: 04-43619

Debtor.

UNSWORN DECLARATION  
FOR PROOF OF SERVICE

I, Muriel Holland, 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 August 17, 2004, I served the Objections of the United States of America to Confirmation of Debtor's Chapter 13 Plan and Motion To Dismiss, 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:

-----

George W. Roberts, Esq.  
1433 Utica Ave. So., Ste. 240  
Minneapolis, MN 55416

Marlin Intrg.  
110 Glen Street, #30  
Glens Falls, NY 12801

Jasmine Z. Keller, Esq.  
Chapter 13 Trustee  
12 S. 6<sup>th</sup> St., Ste. 310  
Minneapolis, MN 55402

Master Collision  
1101 W. 79th Street  
Bloomington, MN 55420

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

Preferred Bank  
3070 NW Coon Rapids Blvd.  
Coon Rapids, MN 55433

Thurlee K. Belfrey  
8901 Dunbar Knoll  
Brooklyn Park, MN 55443

Retailers Nat'l Bank -  
Marshall Field  
3701 Wayzata Boulevard  
MS 1A-K  
Minneapolis, MN 55416

Courey, Kosanda & Zimmer, P.A.  
8501 Golden Valley Road, #125  
Golden Valley, MN 55427

Sears  
13200 Smith Road  
Cleveland, OH 44130

Elements of Minnesota  
2940 W. 66th Street  
Richfield, MN 55423

Twin Lake North  
4601 Excelsior Blvd., #650  
Minneapolis, MN 55416

FNB-Marin  
c/o Arrow Financial  
7301 N. Lincolnwood  
Lincolnwood, IL 60712

U.S. Department of Education  
National Payment Center  
P. O. Box 4169  
Greenville, TX 75403

**UNSWORN DECLARATION FOR PROOF OF SERVICE - CONTINUED**

Re: Thurlee K. Belfrey  
Bky No. 04-43619

Nationwide Credit, Inc.  
2015 Vaughn Road NW, #400  
Keenesaw, GA 30144

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

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: August 17, 2004

Signed: /e/ Muriel Holland  
Muriel Holland

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

In re: )  
 ) Chapter 13  
THURLEE K. BELFREY, )  
 )  
 )  
 ) Case No. BKY 04-43619  
Debtor. )

ORDER

At Minneapolis, Minnesota, this \_\_\_ day of \_\_\_\_\_, 2004.

This matter came before the Court for hearing on Confirmation of the debtor's Plan. The United States of America, on behalf of the Internal Revenue Service, filed objections to confirmation and requested an Order denying confirmation and for an Order dismissing this case. Roylene A. Champeaux, Assistant United States Attorney, appeared on behalf of the United States. Other appearances were noted on the record.

It appears to the satisfaction of the Court that the debtor's Plan is not confirmable.

IT IS THEREFORE ORDERED:

1. Confirmation is denied.
2. The case is dismissed.

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NANCY C. DREHER  
United States Bankruptcy Judge