

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:	)	Chapter 7
	)	BKY Case No. 04-43649-NCD
Akpe A. Bruce-Kuajovi,	)	
	)	<b><u>VERIFIED NOTICE OF HEARING AND</u></b>
Debtor(s)	)	<b><u>MOTION OBJECTING TO CLAIMED</u></b>
	)	<b><u>EXEMPT PROPERTY</u></b>

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TO: The United States Bankruptcy Court, the United States Trustee, the debtor, the debtor's attorney, and all parties who requested notice under Bankruptcy Rule 2002 (none):

1. Julia A. Christians, Trustee herein, moves the Court for the relief requested below, and gives notice of hearing herewith.

2. The Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005, and Local Rule 1071-1. This motion is filed pursuant to Bankruptcy Rule 9014 and Local Rules 9013-1 through 9013-5. This proceeding arises under 11 U.S.C. § 522 and Local Rule 4003-1(a).

3. The Court will hold a hearing on this objection on September 29, 2004, at 10:30 a.m. in Courtroom No. 7 West, U.S. Courthouse, 300 South Fourth Street, Minneapolis, MN 55415, or as soon thereafter as counsel can be heard.

4. Any entity opposing the motion under Local Rule 9013-2 is required to file and serve a response, including a memorandum of facts and law and any opposing affidavit, not later than September 24, 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 September 20, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays and holidays). **If no response is timely served and filed, the Court may grant the relief requested without a hearing.**

5. The undersigned trustee hereby objects to the debtor's claim that the following property is exempt under the applicable exemption statute:

Real property located at 5728 45<sup>th</sup> Avenue South, Minneapolis, MN 55417, legally described as: Lot 8, Block 7, "Minnehaha Highlands", Hennepin County, Minnesota (the "Property").

6. The objection is made for the following reason:

Debtor claimed the non-homestead real property exempt pursuant to 11 U.S.C. §522(d)(5) to the extent of \$500. Debtor listed the value of his interest in the Property at \$70,000, as a one-half interest with his brother in property with a fair market value of \$140,000, subject to a lien of \$139,000. However, Debtor testified that the Property was valued at \$140,000 in 2001, the most recent time the Property was appraised, in connection with a re-financing. The Hennepin County Property Tax web database identifies an Estimated Market Value of \$168,500 as established by Assessor as of January 2, 2003. Given that actual real property sale prices in Hennepin County are typically higher than tax assessed values, the Trustee believes the value of the Property is in excess of \$168,500. Accordingly, the value of Debtor's equity interest in the Property far exceeds the limits of the exemption statute upon which Debtor is relying. The maximum amount of §522(d)(5) available to Debtor after deduction of the listed \$5 in exempted savings account deposits and \$50 in miscellaneous assets is \$10,170. All deposits of Debtor and miscellaneous assets sought to be exempted under (d)(5), including but not limited to tax refunds, in any amounts that exceed said sums, will not be exempt.

Dated: August 25, 2004

/e/ Julia A. Christians  
Julia A. Christians, Trustee  
One Financial Plaza, Suite 2500  
120 South Sixth Street  
Minneapolis, MN 55402  
(612) 338-5815

**VERIFICATION**

Julia A. Christians, being duly sworn, says that she is the Chapter 7 Trustee in this action, that she has read this Verified Notice and Objection To Claimed Exempt Property and that it is true of her own knowledge, to the best of her information.

/e/ Julia A. Christians \_\_\_\_\_  
Julia A. Christians

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re: ) Chapter 7  
 ) Case No. 04-43649-NCD  
Akpe A. Bruce-Kuajovi, )  
 )  
Debtor(s). )

**UNSWORN CERTIFICATE OF SERVICE**

I, Sarah L. Fortin, declare under penalty of perjury that on August 25, 2004, I mailed copies of the attached **Notice Of Hearing And Motion Objecting to Claimed Exempt Property; and proposed Order** by first class mail postage prepaid to each entity named below at the address stated below for each entity:

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

Akpe Bruce-Kuajovi  
6145 Thomas Avenue South  
Minneapolis, MN 55410

Robert J. Hoglund  
PO Box 130938  
Roseville, MN 55113

Executed on: August 25, 2004

/s/ Sarah L. Fortin  
Sarah L. Fortin, Legal Secretary  
Lapp, Libra, Thomson, Stoebner &  
Pusch, Chartered  
120 South Sixth Street, Suite 2500  
Minneapolis, MN 55402  
612/338-5815

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

_____	)	Chapter 7
In re:	)	BKY Case No. 04-43649-NCD
Akpe A. Bruce-Kuajovi,	)	
	)	
Debtor(s)	)	
_____	)	

**ORDER RESPECTING OBJECTION TO CLAIM OF EXEMPTION**

The objection of the trustee to the debtor's claim that the following property is exempt under 11 U.S.C. '522(d)(5): Real property located at 5728 45<sup>th</sup> Avenue South, Minneapolis, MN 55417, legally described as: Lot 8, Block 7, "Minnehaha Highlands", Hennepin County, Minnesota, came duly on for hearing on September 29, 2004. Appearances were as noted in the record.

Upon said objection and for cause shown, and upon all the files, records, and proceedings herein,

IT IS ORDERED,

That the debtor's claim of exemption in Real property located at 5728 45<sup>th</sup> Avenue South, Minneapolis, MN 55417, legally described as: Lot 8, Block 7, "Minnehaha Highlands", Hennepin County, Minnesota is hereby disallowed to the extent it exceeds the sum of \$10,170.

Dated:

\_\_\_\_\_  
The Honorable Nancy C. Dreher  
United States Bankruptcy Judge