

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY 04-43863

Jason Wozniak,

Debtor(s).

**MEMORANDUM CONTINUING OBJECTION TO
CONFIRMATION OF CHAPTER 13 PLAN**

Michael Farrell, Chapter 13 trustee, by and through his undersigned attorney, hereby objects to confirmation of the Chapter 13 plan filed by Debtor.

1. Debtor(s) commenced this case by filing a voluntary Chapter 13 petition on June 30, 2004. Debtor(s) filed a Chapter 13 plan on that date. The plan provides for payments of \$225.00 per month for 36 months, resulting in a dividend to unsecured creditors of 31 percent.

2. Trustee objected on the basis that Debtors not submitting all of their projected disposable income during the first three years into the plan.

3. Debtors filed a Modified Chapter 13 Plan on August 26, 2004. The plan includes the following language; "The debtor shall provide the Trustee will copies of all tax returns filed for 2004, 2005 and 2006, and will not cash any refund checks received until it can be determined if any of the funds need to be paid to the Trustee as additional payment to the plan.."

4. Trustee believes that this language does not meet the objection as filed. Debtors are not pledging to submit all of their disposable income. They are not pledging the tax refund themselves but some portion thereof, which is unknown. Further, it is not the obligation of the trustee to determine what amounts the debtors are to pay in, debtors should define that in the plan.

5. Counsel for Trustee had discussed this objection with counsel for Debtor after the modified plan was filed and understood that the language would be changed.

WHEREFORE, Michael Farrell requests an order as follows:

(A) Denying confirmation of the Chapter 13 plan; and

(B) Granting any other relief the Court deems just and proper.

Hedback Arendt & Carlson, PLLC

Dated: October 5, 2004

_____/e/ John A. Hedback_____
John A. Hedback, #142438
Attorney for Chapter 13 Trustee
2855 Anthony Lane South, Suite 201
St. Anthony, MN 55418
(612) 789-1331
Attorneys for the Movant

UNITED STATES BANKRUPTCY COURT
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Jason Wozniak,

**UNSWORN DECLARATION FOR
PROOF OF SERVICE**

Debtor(s).

The undersigned, being an employee of Hedback, Arendt & Carlson, PLLC, attorneys licensed to practice law in this Court, with office address of 2855 Anthony Lane, St. Anthony, MN 55418, declares that on the date below, I served the following:

1. Memorandum Continuing Objection to Confirmation of Chapter 13 Plan; and
2. Unsworn Declaration for Proof of Service.

upon each of the entities named below by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid and depositing same in the post office at St. Anthony, MN addressed to each of them as follows:

Office of United States Trustee
1015 US Courthouse
300 South Fourth Street
Minneapolis, MN 55415

JASON M WOZNIAK
4005 24TH ST S
ST CLOUD, MN 56301

JEFFREY MICHAEL BRUZEK
PRESCOTT & PEARSON
443 OLD HWY 8 STE 208
NEW BRIGHTON, MN 55112
By Facsimile 651 633-7562

and I certify under penalty of perjury, that the foregoing is true and correct.

Dated: October 5, 2004

_____/e/ John A. Hedback_____