

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

IN RE: OYS, GERALD RAYMOND CHAPTER 7
OYS, DONNA MARIE BKY. CASE NO. 04-43914

Debtor(s).

NOTICE OF HEARING AND MOTION OBJECTING TO EXEMPT PROPERTY

TO: Entities specified in Local Rule 9013-3.

1. Terri A. Georgen, trustee (the “Trustee”) of the bankruptcy estate of the above-named Debtor(s) moves the Court for the relief requested below and gives notice of hearing.

2. A hearing will be held on this motion by the Honorable Nancy C. Dreher, Courtroom No. 7 West, United States Courthouse – 300 S. Fourth St., Minneapolis, Minnesota on **October 27, 2004 at 10:30 a.m.**, or as soon thereafter as counsel may be heard.

3. Any response to this motion must be filed and delivered not later than October 20, 2004, which is seven (7) days before the time set for the hearing (including Saturdays, Sundays, and holidays), or filed and served by mail not later than October 15, 2004, which is ten (10) days before the time set for the hearing (including 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 matter pursuant to 28 U.S.C. §§ 157 and 1334, FED. R. BANKR. P. 5005 and LOCAL RULE 1070-1. This is a core proceeding.

The petition commencing this Chapter 7 case was filed on 07/14/04 and is now pending before this court.

5. This motion arises under 11 U.S.C. §522, FED. R. BANKR. P. 4003 and Local Rule 4003-1(a). This motion is filed under FED. R. BANKR. P. 9014 and Local Rules 9001-1 to 9001-6 and 9013-1 to 9013-5. The Trustee requests relief with respect to the Debtor(s)'s claims of exemption.

6. The Debtor(s) have claimed the following assets exempt: (1) Jewelry: Minn. Stat. § 550.37(4)(a) - \$500 (the "Jewelry"); (2) American Income Life: Minn. Stat. §550.37(23) - \$12,910 (the "Life Insurance")¹; and (3) Office Equipment: Minn. Stat. §550.37(6) - \$2,100 (the "Office Equipment"); and 2002 Toyota Highlander: Minn. Stat. §550.37, subd. 12a (the "Toyota").

7. The Trustee objects to the claimed exemption in the Jewelry on the basis that Minn. Stat. §550.37, subd. 4(a) does not provide an exemption for jewelry (other than one watch per debtor).

8. The Trustee objects to the claimed exemption in the Life Insurance to the extent that the cash/loan value of the policy exceeds the statutory maximum of \$7,600 available under Minn. Stat. §550.37, subd. 23.

9. The Trustee objects to the claimed exemption in the Office Equipment on the basis that because Debtor Gerald Oys is retired, and Debtor Donna Oys is an employee, there is no plausible grounds to exempt the Office equipment as a "tool of the trade" for either Debtor.

10. The Trustee objects to the claimed exemption in the 2002 Toyota

¹ Although the ownership of the Life Insurance policy is scheduled as joint, Donna Oys testified at the 341 meeting that she was the owner of the Life Insurance policy.

Highlander (the “Toyota”) to the extent that the Debtors’ equity in the Toyota exceeds the statutory maximum of \$3,800 available under Minn. Stat. §550.37, subd. 12a.

WHEREFORE, the Trustee moves the Court for an order sustaining the Trustee’s objection(s) to claimed exempt property and such other relief as may be just and equitable.

Dated: September 10, 2004

GEORGEN-RUNNING LAW FIRM
A Professional Corporation

By: /e/ Terri A. Georgen-Running
Terri A. Georgen-Running (No. 238338)
P.O. Box 16355
St. Paul, MN 55116

(651) 699-6980
(651) 292-1234 *Facsimile*

ATTORNEYS FOR THE TRUSTEE

VERIFICATION. I, Terri A. Georgen-Running, the moving party declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: September 10, 2004

/e/ Terri A. Georgen-Running
Terri A. Georgen-Running, Trustee

UNITED STATES BANKRUPTCY COURT
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UNSWORN DECLARATION FOR PROOF OF SERVICE

I, Terri A. Georgen-Running, declare that on the date indicated below, I served the following:

(1) Notice of Hearing and Motion Objecting to Exempt Property; (2) Unsworn Declaration for Proof of Service; and (3) Proposed Order

upon each of the entities named below, by mail (unless otherwise indicated 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. Paul, Minnesota, addressed to each of them as follows:

UNITED STATES TRUSTEE
1015 U.S. COURTHOUSE
300 SOUTH FORTH STREET
MINNEAPOLIS, MN 55415

OYS, GERALD RAYMOND
OYS, DONNA MARIE
9127 STATE HIGHWAY 25 NE # H914
MONTICELLO, MN 55362-9159

GEORGE C. RIGGS
607 HIGHWAY 10 NE
BLAINE, MN 55434, MN 55434

And I declare under penalty of perjury that the foregoing is true and correct.

Date: September 10, 2004

/e/ Terri A. Georgen-Running

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

IN RE: OYS, GERALD RAYMOND CHAPTER 7
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ORDER

At Minneapolis, Minnesota, _____, 2004.

The above-entitled matter came before the Court on the Objection to Claimed Exempt Property filed by the Trustee. Appearances, if any, 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 Debtors' claimed exemption in Jewelry - \$500 is denied;
2. The Debtors' claimed exemption in American Income Life - \$12,910 is limited to \$7,600;
3. The Debtors' claimed exemption in Office Equipment - \$2,100 is denied; and
4. The Debtors' claimed exemption in the 2002 Toyota Highlander is limited to \$3,800.

Judge Nancy C. Dreher
UNITED STATES BANKRUPTCY JUDGE