

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:)	Chapter 7
)	BKY Case No. 04-44558-RJK
Jack Ordus Barnes,)	
)	
Debtor(s))	<u>VERIFIED NOTICE OF HEARING</u>
)	<u>AND MOTION OBJECTING TO</u>
)	<u>CLAIMED EXEMPT PROPERTY</u>

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 November 3, 2004, at 9:30 a.m. in Courtroom No. 8 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 October 29, 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 October 25, 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: Debtor's interest in real property located at 8742 Ridge Ponds Court, Victoria, Minnesota, 55386, legally described as Lot 12, Block 1, Deer Run Seventh Addition Carver County, State of Minnesota.

6. The objection is made for the following reason: Debtor listed the value of the property at \$512,400.00 and listed a mortgage balance of \$420,000.00. Debtor claimed the property exempt under Minn. Stat. §§ 510.01, 510.02, to the extent of \$92,000.00. However, Debtor testified under oath that the size of the lot is approximately three quarters of an acre. The home is located within the platted area of the city of Victoria, Minnesota. Thus, the size of the property exceeds the one-half acre size limitation set forth in the exemption statute upon which Debtor is relying.

Dated: October 15, 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

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)
Debtor.)

UNSWORN CERTIFICATE OF SERVICE

I, Sarah L. Fortin, declare under penalty of perjury that on October 15, 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

Jack Ordus Barnes
8742 Ridge Ponds Court
Victoria, MN 55386

James M. Kempainen
Christians & Gross
8609 Lyndale Avenue S
Minneapolis, MN 55420

Executed on: October 15, 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

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)	
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 Minn. Stat. §§ 510.01, 510.02: Debtor's interest in real property located at 8742 Ridge Ponds Court, Victoria, Minnesota, 55386, legally described as Lot 12, Block 1, Deer Run Seventh Addition Carver County, State of Minnesota, came duly on for hearing on November 3, 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 the following property is hereby disallowed: real property located at 8742 Ridge Ponds Court, Victoria, Minnesota, 55386, legally described as Lot 12, Block 1, Deer Run Seventh Addition Carver County, State of Minnesota.

Dated:

The Honorable Robert J. Kressel
United States Bankruptcy Judge