

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

In re: )  
 ) Chapter 13  
DONALD J. MRAK and )  
ELAINE A. MRAK, ) Case No. BKY 04-44619  
 )  
Debtors. )

OBJECTIONS OF THE UNITED STATES  
OF AMERICA TO THE CONFIRMATION OF THE  
DEBTORS' 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 these debtors and Motion to Dismiss:

1. The confirmation hearing is scheduled for October 21, 2004, at 10:30 a.m. at U.S. Bankruptcy Court, Courtroom 8 West, U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota 55415.

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 August 19, 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)(3) 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 an unsecured priority claim of \$19,751.05 and an unsecured general claim of \$4,049.11 against these debtors. The total claim is \$23,800.16, 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 claims due from these debtors, but they are undetermined because the debtors have not filed federal income tax returns for the years 2001, 2002 and 2003 as explained in the Affidavit of Marjorie Swanson, which is attached as Exhibit B.

6. This is the debtors' second Chapter 13 filing since January 2001. The debtors filed a Chapter 13 Petition, Bankruptcy No. 01-80163, on January 31, 2001 that was dismissed on July 14, 2004. The IRS filed a Proof of Claim in the amount of \$9,406.57 in this earlier bankruptcy. See Declaration of Roylene A. Champeaux, attached hereto as Exhibit C.

7. The Plan provides for the full payment of claims entitled to priority under 11 U.S.C. § 507; however, the Plan fails to provide for full payment of the IRS priority claim of \$19,751.05 (Plan provides \$14,000.00). 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 these debtors file their Federal income tax returns for the years 2001, 2002 and 2003.

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

9. The debtors failed to file and pay federal taxes during the pendency of their 2001 Chapter 13 case. The debtors then filed the instant bankruptcy case without filing three years of missing federal tax returns.

10. The United States submits that the debtors' conduct in filing this second case after failing to file and pay federal taxes during the entire time they were under the protection of the Bankruptcy Court in the earlier filing constitutes bad faith such that this case should be denied confirmation and dismissed.

11. Failure of the debtors' Plan to provide for full payment of the allowed 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 debtors be denied confirmation and that the case be dismissed as having been filed in bad faith.

Date: September 30, 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

## VERIFICATION

I, Marjorie Swanson, a Bankruptcy Specialist, of Area Nine (9) Small Business/Self Employed of the Internal Revenue Service, the movant named in the Chapter 13 Bankruptcy No. 04-44619, declares under penalty of perjury that the foregoing information regarding the bankruptcy of Donald J. Mrak and Elaine A. Mrak is true and correct according to the best of my knowledge, information, and belief.

Signed:   
Marjorie Swanson  
Bankruptcy Specialist

Dated: September 30, 2004

<b>UNITED STATES BANKRUPTCY COURT</b>		<b>DISTRICT OF MINNESOTA</b>	<b>PROOF OF CLAIM</b>				
Name of Debtor <b>DONALD J &amp; ELAINE A MRAK</b>		Case Number <b>04-44619</b>	 <p style="text-align: center;">THIS SPACE IS FOR COURT USE ONLY</p>				
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" of payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.							
Name of Creditor (The person or other entity to whom the debtor owes money or property): <b>Department of the Treasury - Internal Revenue Service</b>		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.  <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case.  <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.					
Name and address where notices should be sent: <b>Internal Revenue Service Internal Revenue Service 316 North Robert Street Stop 5700STP St. Paul, MN 55101 Telephone number: (605) 226-7216 Creditor #:6023123</b>		Account or other number by which creditor identifies debtor: <b>see attachment</b>					
<b>1. Basis for Claim</b> <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input checked="" type="checkbox"/> Taxes <input type="checkbox"/> Other _____		<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (fill out below) Last four digits of SS #: _____ Unpaid compensation for services performed from _____ to _____ (date) (date)					
<b>2. Date debt was incurred:</b> <b>see attachment</b>		<b>3. If court judgment, date obtained:</b>					
<b>4. Total Amount of Claim at Time Case Filed: \$</b> <table style="width:100%; border: none;"> <tr> <td style="text-align: center; width: 33%;"><u>4,049.11</u> <small>(unsecured)</small></td> <td style="text-align: center; width: 33%;"><u>19,751.05</u> <small>(secured)</small></td> <td style="text-align: center; width: 33%;"><u>23,800.16</u> <small>(priority)</small></td> <td style="text-align: center;"><u>23,800.16</u> <small>(Total)</small></td> </tr> </table> <p>If all or part of your claim is secured or entitled to priority, also complete Item 5 or 7 below.</p> <input checked="" type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.				<u>4,049.11</u> <small>(unsecured)</small>	<u>19,751.05</u> <small>(secured)</small>	<u>23,800.16</u> <small>(priority)</small>	<u>23,800.16</u> <small>(Total)</small>
<u>4,049.11</u> <small>(unsecured)</small>	<u>19,751.05</u> <small>(secured)</small>	<u>23,800.16</u> <small>(priority)</small>	<u>23,800.16</u> <small>(Total)</small>				
<b>5. Secured Claim.</b> <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____  Value of Collateral: \$ _____  Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____		<b>7. Unsecured Priority Claim.</b> <input checked="" type="checkbox"/> Check this box if you have an unsecured priority claim Amount entitled to priority \$ <u>19,751.05</u> Specify the priority of the claim: <input type="checkbox"/> Wages, salaries, or commissions (up to \$4,925)* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Up to \$2,225* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6). <input type="checkbox"/> Alimony, maintenance, or support owed to spouse, former spouse, or child - 11 U.S.C. § 507(a)(7). <input checked="" type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____). <small>* Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>					
<b>6. Unsecured Nonpriority Claim \$</b> <u>4,049.11</u>  <input type="checkbox"/> Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or part of your claim is entitled to priority.		THIS SPACE IS FOR COURT USE ONLY  <div style="border: 2px solid black; padding: 10px; text-align: center;"> <b>EXHIBIT</b>   <span style="font-size: 2em;">A.</span> </div>					
<b>8. Credits:</b> The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.  <b>9. Supporting Documents:</b> Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.  <b>10. Date-Stamped Copy:</b> To receive an acknowledgement of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.							
Date <b>09/17/2004</b>	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): <u>Marjorie Swanson</u> _____ /s/ <b>MARJORIE SWANSON 46-00405, Bankruptcy Specialist</b>						

# Proof of Claim for Internal Revenue Taxes

Form 10  
Attachment

Department of the Treasury/Internal Revenue Service

In the Matter of: DONALD J & ELAINE A MRAK  
2525 ROSEWOOD LANE N  
PLYMOUTH, MN 55441

Docket Number	04-44619
Type of Bankruptcy Case	Chapter 13
Date of Petition	08/19/2004

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.

PRIOR BANKRUPTCY(S) AFFECT THE PRIORITY DETERMINATION.

## 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-3389	INCOME	12/31/1997	06/02/2001	\$1,739.00	\$947.00
XXX-XX-3389	INCOME	12/31/1998	06/25/2001	\$1,353.00	\$580.90
XXX-XX-3389	INCOME	12/31/1999	06/25/2001	\$2,565.00	\$817.50
XXX-XX-3389	INCOME	12/31/2000	06/11/2001	\$2,810.63	\$499.02
XXX-XX-3389	INCOME	12/31/2001	1 UNASSESSED-NO RETURN	\$4,325.00	\$0.00
XXX-XX-3389	INCOME	12/31/2002	1 UNASSESSED-NO RETURN	\$3,044.00	\$0.00
XXX-XX-3389	INCOME	12/31/2003	1 UNASSESSED-NO RETURN	\$1,070.00	\$0.00
				<u>\$16,906.63</u>	<u>\$2,844.42</u>

Total Amount of Unsecured Priority Claims: \$19,751.05

## Unsecured General Claims

Penalty to date of petition on unsecured priority claims (including interest thereon) . . . . . \$4,049.11

Total Amount of Unsecured General Claims: \$4,049.11

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.

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION  
BKY No. 04-44619

DONALD J MRAK and )  
ELAINE A MRAK, )  
Plaintiffs, )  
v. ) AFFIDAVIT  
INTERNAL REVENUE SERVICE, )  
Defendant. )

STATE OF SOUTH DAKOTA )  
COUNTY OF BROWN ) ss.  
)

I, Marjorie Swanson, Bankruptcy Specialist, being first duly sworn, deposes and says:

1. I am employed by Area 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 Donald J. Mrak and Elaine A. Mrak have not filed Income tax returns for the years ending 2001, 2002 and 2003.

FURTHER YOUR AFFIANT SAYETH NOT.

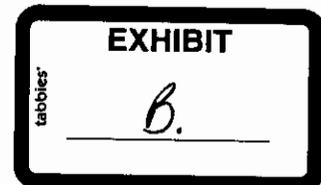
*Marjorie Swanson*  
Marjorie Swanson

Subscribed and Sworn to Before Me

This 22<sup>nd</sup> Day of Sept, 2004.

*Lush J. Dykema*  
NOTARY

*My Commission Expires:*  
11-19-2007



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

In re: )  
 ) Case No. BKY 04-44619  
DONALD J. MRAK and )  
ELAINE A. MRAK, ) Chapter 13  
 )  
Debtors. )

DECLARATION OF ROYLENE A. CHAMPEAUX

1. This declaration and the attached exhibits are submitted pursuant to 28 U.S.C. § 1746 in connection with the Objections of the United States of America to the Confirmation of the Debtor's Chapter 13 Plan and the United States Motion to Dismiss. I am the Assistant United States Attorney to whom this case is assigned.

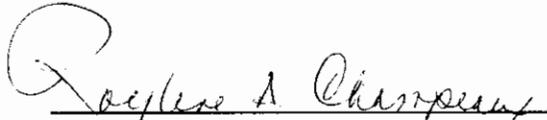
2. Attached are certified copies of the following:

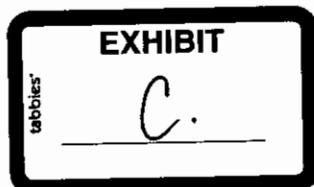
A. Docket - Bankruptcy No. 01-80163

B. Claims Register - Bankruptcy No. 01-80163

3. Pursuant to 28 U.S.C. § 1746 I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 29, 2004 in Minneapolis, Minnesota.

  
ROYLENE A. CHAMPEAUX



CERTIFIED COPY - Certified a true copy  
9 pages on (date) 9/29/04  
Lori Vosejka, Acting Clerk, United States  
Bankruptcy Court, District of Minnesota  
(SEAL) BY *[Signature]*, Deputy Clerk

U.S. Bankruptcy Court  
District of Minnesota (Minneapolis)

Bankruptcy Petition #: 01-80163

Date filed: 1/31/01 Date terminated: 9/8/04  
Assigned to: JUDGE ROBERT J KRESSEL  
Chapter 13 voluntary individual asset joint

=====

\* Attorneys \*

DONALD J MRAK  
2525 ROSEWOOD LN N  
PLYMOUTH, MN 55441  
SSN: 477-98-3389  
\* Debtor \*

IAN TRAQUAIR BALL  
12 S 6TH ST STE 326  
MINNEAPOLIS, MN 55402  
612-338-1313

ELAINE A MRAK  
2525 ROSEWOOD LN N  
PLYMOUTH, MN 55441  
SSN: 475-04-5180  
\* Debtor \*

IAN TRAQUAIR BALL  
(See above)

-----

U S TRUSTEE  
1015 U S COURTHOUSE  
300 S 4TH ST  
MINNEAPOLIS, MN 55415  
\* U S Trustee \*

JASMINE Z KELLER  
12 S 6TH ST STE 310  
MINNEAPOLIS, MN 55402  
\* Trustee \*

-----  
Proceedings include events between 1/1/31 and 9/29/04. CLOSED

- 1/31/01 1 Voluntary Petition missing documents: Schedules A through J due: 2/15/01 Chapter 13 Plan due on 2/15/01 Proof of Claim (gov) Deadline: 7/30/01 Electronically filed by Ian Ball on: Wed Jan 31 14:32:01 2001 (A205) [EOD 01/31/01]
- 1/31/01 -- Added U S TRUSTEE. (auto) [EOD 01/31/01]
- 1/31/01 2 Preliminary creditor list supplied by Debtor. (A205) [EOD 01/31/01]
- 2/1/01 -- Filing Fee Paid in Full Re: [1-1] Electronic Voluntary Partial Petition ( Filing Fee \$ 185.00 Receipt # 121390)

Proceedings include events between 1/1/31 and 9/29/04.  
01-80163 In re: DONALD J MRAK and ELAINE A MRAK

CLOSED  
DISMSD 0714

(lab) [EOD 02/02/01]

2/2/01 3 Order Upon Partial Case Filing ; Incomplete Filings Due:  
2/15/01 Certificate of Mailing. (lab) [EOD 02/02/01]

2/2/01 4 Declaration of Original Signature Re: [1-1] Electronic  
Voluntary Partial Petition . (lab) [EOD 02/02/01]

2/15/01 5 Schedules (A205) [EOD 02/15/01]

2/15/01 6 Creditor list supplied by debtor. (A205) [EOD 02/15/01]

2/15/01 7 Chapter 13 Plan. (A205) [EOD 02/15/01]

2/15/01 9 Notice of Meeting of Creditors under 11 USC 341(a)  
Scheduled For 11:15 3/21/01 At Ch. 13 Office Minneapolis  
Confirmation Hearing Set For 10:00 4/19/01 At Courtroom 8  
West (Minneapolis) ;Last Day to File Proofs of Claim:  
6/19/01 (bj) [EOD 02/22/01]

2/16/01 8 Notice of Appearance and Request for Service of Notice by  
Interested Party ARCADIA FINANCIAL LTD. (bj) [EOD 02/16/01]

2/16/01 10 Declaration of Original Signature Re: [5-1] Electronic  
Schedules . (bj) [EOD 02/22/01]

2/24/01 11 Courts BNC Certificate of Service Re: [9-1] Meeting . #  
of Notices: 15 were sent out. (auto) [EOD 02/27/01]

2/24/01 12 Court's Certificate of Mailing Re: [7-1] Chapter 13 Plan .  
(rte) [EOD 02/27/01]

3/22/01 13 Notice by Trustee JASMINE Z KELLER Re: [9-1] Meeting HAS  
NOT BEEN CONCLUDED. (ddj) [EOD 03/22/01]

3/27/01 14 Motion by Trustee JASMINE Z KELLER To Dismiss or Convert  
Case . Affidavit. Certificate of Service. (rte)  
[EOD 03/27/01]

3/27/01 -- Hearing Re: [14-1] Motion To Dismiss or Convert Case by  
JASMINE Z KELLER SCHEDULED For 10:00 4/19/01 at Courtroom 8  
West (Minneapolis) . (rte) [EOD 03/27/01]

4/5/01 15 Objection by Creditor INTERNAL REVENUE SERVICE to  
Confirmation of [7-1] Plan AND MOTION TO DISMISS.  
MEMORANDUM. CERTIFICATE OF SERVICE. PROPOSED ORDER. (dbs)  
[EOD 04/10/01]

4/5/01 17 Notice of Appearance and Request for Service of Notice by  
ROYLENE ANN CHAMPEAUX for Interested Party ROYLENE A  
CHAMPEAUX, Creditor INTERNAL REVENUE SERVICE . (bj)  
[EOD 04/11/01]

Proceedings include events between 1/1/31 and 9/29/04.  
01-80163 In re: DONALD J MRAK and ELAINE A MRAK

CLOSED  
DISMSD 0714

- 4/9/01 16 Application For Compensation Filed by IAN TRAQUAIR BALL Attorney for Debtor. For Compensation ( Fees: \$ 850.00, ) (dbs) [EOD 04/10/01]
- 4/18/01 18 Order for employer of DONALD J MRAK, CENTURY COLLEGE to Pay Trustee \$ 438.46 BI-WEEKLY. Certificate of Mailing. (kkn) [EOD 04/18/01]
- 4/19/01 19 Minute Sheet Re: [15-1] confirmation of plan Objection by INTERNAL REVENUE SERVICE, [14-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER, [7-1] Chapter 13 Plan . CONFIRMATION HEARING AND TRUSTEE'S MOTION FOR DISMISSAL CONTINUED TO 5/17/01. INTERIM ORDER SUBMITTED BY INTERNAL REVENUE SERVICE. (dbs) [EOD 04/20/01]
- 4/19/01 -- Hearing Re: [14-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER Continued For 10:00 5/17/01 at Courtroom 8 West (Minneapolis), [7-1] Chapter 13 Plan ; CONTINUED Confirmation Hearing Set For 10:00 5/17/01 at Courtroom 8 West (Minneapolis) . (dbs) [EOD 04/20/01]
- 4/20/01 20 Order Deferring Ruling on [15-1] by INTERNAL REVENUE SERVICE confirmation of plan Objection, Deferring Ruling on [7-1] Chapter 13 Plan . CONTINUED TO 5/17/01. NO LATER THAN 2 WEEKS FROM DATE OF ORDER, DEBTORS SHALL FILE TAX RETURNS. IF NECESSARY, 2 WEEKS FROM DATE OF ORDER, DEBTORS SHALL FILE A MODIFIED PLAN. FAILURE TO FULLY COMPLY SHALL CONSTITUTE CAUSE FOR DISMISSAL. (4/19/01: KRESSEL, J) CERTIFICATE OF MAILING. (dbs) [EOD 04/20/01]
- 5/4/01 21 Notice of Hearing and Motion by Creditor CHASE MANHATTAN MORTGAGE CORP For Relief From Stay . Hearing Scheduled For 2:00 5/24/01 at Courtroom 8 West (Minneapolis) , Filing fee paid \$ 75.00, Record: E2638;Affidavit, Memorandum of Law, Proof of Service, Proposed Order. (A121) [EOD 05/04/01]
- 5/4/01 23 Withdrawal of [15-1] confirmation of plan Objection by INTERNAL REVENUE SERVICE by Creditor INTERNAL REVENUE SERVICE. CERTIFICATE OF SERVICE. (rmg) [EOD 05/08/01]
- 5/7/01 22 Declaration of Original Signature Re: [21-1] Motion For Relief From Stay by CHASE MANHATTAN MORTGAGE CORP . (rte) [EOD 05/07/01]
- 5/7/01 26 Copy of Letter From ATTY IAN BALL TO DEBTORS MRAK ON PAYMENT PROPOSAL TO CREDITOR CHASE MANHATTAN. (ddj) [EOD 05/14/01]
- 5/10/01 24 Modified Chapter 13 Plan filed by Debtor ELAINE A MRAK, Debtor DONALD J MRAK. NOTICE OF HEARING. CERTIFICATE OF SERVICE. (rmg) [EOD 05/10/01]
- 5/14/01 25 Response by Chapter 13 Trustee to [21-1] Motion For Relief From Stay by CHASE MANHATTAN MORTGAGE CORP (A151)

[EOD 05/14/01]

- 5/17/01 27 Minute Sheet Re: [24-1] Modified Plan by DONALD J MRAK, ELAINE A MRAK, [15-1] confirmation of plan Objection by INTERNAL REVENUE SERVICE . MOTION TO DISMISS STRICKEN. HEARING ON CONFIRMATION CONTINUED. (rte) [EOD 05/22/01]
- 5/17/01 -- Hearing Re: [24-1] Modified Plan by DONALD J MRAK, ELAINE A MRAK ; Confirmation Hearing Set For 10:00 6/21/01 at Courtroom 8 West (Minneapolis) . (rte) [EOD 05/22/01]
- 5/24/01 28 Order Denying [21-1] Motion For Relief From Stay by CHASE MANHATTAN MORTGAGE CORP. COURT'S CERTIFICATE OF MAILING. NOTICE OF ENTRY AFFIXED. (lmh) [EOD 05/24/01]
- 5/24/01 -- MOTION OF CHASE MANHATTAN MORTGAGE CORP. FOR RELIEF FROM STAY IS SETTLED. AGREED ORDER SUBMITTED. ORDER TO ENTER. (can) [EOD 05/24/01]
- 6/21/01 29 Minute Sheet Re: [24-1] Modified Plan by DONALD J MRAK, ELAINE A MRAK . PLAN CONFIRMED (bj) [EOD 06/21/01]
- 6/21/01 30 Order Confirming [24-1] Modified Plan by DONALD J MRAK, ELAINE A MRAK . Granting Attorney's Fees in the Amount of \$ 850.00. Certificate of Mailing. (bj) [EOD 06/21/01]
- 3/5/02 31 Affidavit of Default by Creditor CHASE MANHATTAN MORTGAGE CORP In RE: [28-1] Order. PROPOSED ORDER SUBMITTED. (lmh) [EOD 03/05/02]
- 3/5/02 32 Order Granting CHASE MANHATTAN MORTGAGE CORP. RELIEF FROM STAY RE [31-1] Affidavit by CHASE MANHATTAN MORTGAGE CORP. COURT'S CERTIFICATE OF MAILING. NOTICE OF ENTRY AFFIXED. (lmh) [EOD 03/05/02]
- 6/24/02 33 Motion by Trustee JASMINE Z KELLER To Dismiss or Convert Case . Affidavit. Certificate of Service. (rte) [EOD 06/24/02]
- 6/24/02 -- Hearing Re: [33-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER SCHEDULED For 10:00 7/18/02 at Courtroom 8 West (Minneapolis) . (rte) [EOD 06/24/02]
- 7/12/02 34 Response by Attorney IAN TRAQUAIR BALL to [33-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER . Proof of Service. ..DOCUMENTS NOT SUBMITTED: Affidavit, Memorandum of Law ..END DOCUMENTS NOT SUBMITTED. (A205) [EOD 07/12/02]
- 7/18/02 -- Minutes Re: [33-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER . MOTION CONTINUED. (rte) [EOD 07/22/02]
- 7/18/02 -- Hearing Re: [33-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER CONTINUED For 10:00 8/15/02 at Courtroom 8 West (Minneapolis) . (rte) [EOD 07/22/02]

Proceedings include events between 1/1/31 and 9/29/04.  
01-80163 In re: DONALD J MRAK and ELAINE A MRAK

CLOSED  
DISMSD 0714

8/15/02 -- Minutes Re: [33-1] Motion To Dismiss or Convert Case by  
JASMINE Z KELLER . CASE DISMISSED. (rte) [EOD 08/19/02]

8/19/02 35 Order Dismissing Case. Certificate of Service. (rte)  
[EOD 08/19/02]

8/28/02 36 Motion by Trustee JASMINE Z KELLER To Vacate [35-1] To  
Dismiss Order . AFFIDAVIT. CERTIFICATE OF SERVICE.  
PROPOSED ORDER. (dbs) [EOD 08/28/02]

8/28/02 37 Order Granting [36-1] Motion To Vacate [35-1] To Dismiss  
Order by JASMINE Z KELLER . (dbs) [EOD 08/28/02]

8/28/02 -- Hearing Re: [33-1] Motion To Dismiss or Convert Case by  
JASMINE Z KELLER Continued For 10:00 9/19/02 at Courtroom 8  
West (Minneapolis) . (dbs) [EOD 08/28/02]

9/3/02 38 Court's Certificate of Mailing Re: [37-1] Order . (D\_S)  
[EOD 09/03/02]

9/12/02 39 Modified Chapter 13 Plan filed by Debtor ELAINE A MRAK,  
Debtor DONALD J MRAK . (dbs) [EOD 09/12/02]

9/12/02 40 Motion By Debtor ELAINE A MRAK, Debtor DONALD J MRAK To  
Confirm Modified Plan . AFFIDAVIT. (dbs) [EOD 09/12/02]

9/12/02 41 Certificate of Service by IAN TRAQUAIR BALL for Debtor  
ELAINE A MRAK, Debtor DONALD J MRAK of [39-1] Modified  
Plan by DONALD J MRAK, ELAINE A MRAK, [40-1] Motion To  
Confirm Modified Plan by DONALD J MRAK, ELAINE A MRAK . (dbs  
[EOD 09/12/02]

9/12/02 -- Hearing Re: [40-1] Motion To Confirm Modified Plan by  
DONALD J MRAK, ELAINE A MRAK Scheduled For 10:00 10/17/02  
at Courtroom 8 West (Minneapolis) . (dbs) [EOD 09/12/02]

9/12/02 42 Application for Postconfirmation Compensation Filed by  
Attorney for Debtor. Fees: \$ 225. Proposed Order,  
Administrative expense proof of claim. (A205) [EOD 09/12/02]

9/12/02 43 Application for Postconfirmation Compensation Filed by  
Attorney for Debtor. Fees: \$ 225. Proposed Order,  
Administrative expense proof of claim. (A205) [EOD 09/12/02]

9/19/02 -- Minutes Re: [33-1] Motion To Dismiss or Convert Case by  
JASMINE Z KELLER . HEARING CONTINUED. (rte)  
[EOD 09/24/02]

9/19/02 -- Hearing Re: [33-1] Motion To Dismiss or Convert Case by  
JASMINE Z KELLER CONTINUED For 10:00 10/17/02 at Courtroom  
8 West (Minneapolis) . (rte) [EOD 09/24/02]

Proceedings include events between 1/1/31 and 9/29/04. CLOSED  
01-80163 In re: DONALD J MRAK and ELAINE A MRAK DISMSD 0714

10/17/02 -- Minutes Re: [40-1] Motion To Confirm Modified Plan by DONALD J MRAK, ELAINE A MRAK, [33-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER . MOTION TO DISMISS STRICKEN. MODIFIED PLAN CONFIRMED. (rte) [EOD 10/22/02]

10/22/02 44 Order Confirming Postconfirmation [39-1] Modified Plan by DONALD J MRAK, ELAINE A MRAK . Certificate of Service. (rte) [EOD 10/22/02]

10/23/02 45 Order Granting Postconfirmation Attorney's Fees Re: [42-1] Chapter 13 Application in the Amount of \$ 225.00. Certificate of Service. (lmm) [EOD 10/23/02]

10/23/02 46 Order Granting Postconfirmation Attorney's Fees Re: [43-1] Chapter 13 Application in the Amount of \$ 225.00. Certificate of Service. (lmm) [EOD 10/23/02]

6/25/03 47 Notice of Hearing and Motion by Trustee JASMINE Z KELLER To Dismiss or Convert Case . Hearing Scheduled for 10:30 7/17/03 at Courtroom 8 West (Minneapolis) Affidavit, Proof of Service. (A149) [EOD 06/25/03]

7/11/03 48 Response by Debtor ELAINE A MRAK, Debtor DONALD J MRAK to [47-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER . Proof of Service. ..DOCUMENTS NOT SUBMITTED: Affidavit, Memorandum of Law ..END DOCUMENTS NOT SUBMITTED. (A205) [EOD 07/11/03]

7/17/03 -- Minutes Re: [47-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER. HEARING CONTINUED. (rmg) [EOD 07/21/03]

7/17/03 -- Hearing Re: [47-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER Continued For 10:30 8/21/03 at Courtroom 8 West (Minneapolis) . (rmg) [EOD 07/21/03]

8/21/03 -- Minutes Re: [47-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER . HEARING CONTINUED (slw) [EOD 08/25/03]

8/21/03 -- Hearing Re: [47-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER CONTINUED For 10:30 9/18/03 at Courtroom 8 West (Minneapolis) . (slw) [EOD 08/25/03]

9/18/03 -- Minutes Re: [47-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER . HEARING CONTINUED (slw) [EOD 09/22/03]

9/18/03 -- Hearing Re: [47-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER CONTINUED For 10:30 10/16/03 at Courtroom 8 West (Minneapolis) . (slw) [EOD 09/22/03]

Proceedings include events between 1/1/31 and 9/29/04. CLOSED  
01-80163 In re: DONALD J MRAK and ELAINE A MRAK DISMSD 0714

10/10/03 49 Notice of Hearing and Motion by Debtor ELAINE A MRAK, Debtor DONALD J MRAK To Confirm Modified Plan . Hearing Scheduled for 10:30 11/20/03 at Courtroom 8 West (Minneapolis) Affidavit, Proof of Service. ..DOCUMENTS NOT SUBMITTED: , Memorandum of Law ..END DOCUMENTS NOT SUBMITTED. (A205) [EOD 10/10/03]

10/10/03 50 Modified Chapter 13 Plan filed by Debtor ELAINE A MRAK, Debtor DONALD J MRAK. Proof of Service. ..DOCUMENTS NOT SUBMITTED: , Signature declaration (if debtor is filer) ..END DOCUMENTS NOT SUBMITTED. (A205) [EOD 10/10/03]

10/15/03 51 Simplified application for Postconfirmation Compensation Filed by Attorney for Debtor. Fees: \$ 225. Expenses: \$ 0. Proposed Order. (A205) [EOD 10/15/03]

10/15/03 52 Simplified application for Postconfirmation Compensation Filed by Attorney for Debtor. Fees: \$ 225. Expenses: \$ 0. Proposed Order. (A205) [EOD 10/15/03]

10/15/03 -- Added Party IAN TRAQUAIR BALL by Ian Ball to Matrix on Wed Oct 15 14:28:54 2003. (A205) [EOD 10/15/03]

10/15/03 -- Added Party IAN TRAQUAIR BALL by Ian Ball to Matrix on Wed Oct 15 14:30:33 2003. (A205) [EOD 10/15/03]

10/16/03 -- Minutes Re: [47-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER . HEARING CONTINUED (slw) [EOD 10/20/03]

10/16/03 -- Hearing Re: [47-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER CONTINUED For 10:30 11/20/03 at Courtroom 8 West (Minneapolis) . (slw) [EOD 10/20/03]

11/20/03 -- Minutes Re: [49-1] Motion To Confirm Modified Plan by DONALD J MRAK, ELAINE A MRAK, PLAN CONFIRMED. [47-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER . MOTION STRICKEN (slw) [EOD 11/25/03]

11/25/03 53 Order Confirming Postconfirmation [50-1] Modified Plan by DONALD J MRAK, ELAINE A MRAK . Certificate of Service. (slw) [EOD 11/25/03]

11/25/03 54 Order Granting Postconfirmation Attorney's Fees Re: [51-1] Chapter 13 Application in the Amount of \$ 225.00. Certificate of Service. (dbs) [EOD 11/25/03]

11/25/03 55 Order Granting Postconfirmation Attorney's Fees Re: [52-1] Chapter 13 Application in the Amount of \$ 225.00. Certificate of Service. (dbs) [EOD 11/25/03]

1/28/04 56 Notice of Hearing and Motion by Trustee JASMINE Z KELLER To Dismiss or Convert Case . Hearing Scheduled for 10:30 2/19/04 at Courtroom 8 West (Minneapolis) Affidavit, Proof of Service. (A324) [EOD 01/28/04]

Proceedings include events between 1/1/31 and 9/29/04.  
01-80163 In re: DONALD J MRAK and ELAINE A MRAK

CLOSED  
DISMSD 0714

2/19/04 -- Minutes Re: [56-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER . MOTION STRICKEN (slw) [EOD 02/24/04]

3/4/04 57 Debtor(s) Address Changed Per Letter. (A205) [EOD 03/04/04]

3/8/04 58 Debtor(s) Address Changed Per Letter. (A324) [EOD 03/08/04]

4/28/04 59 Notice of Hearing and Motion by Trustee JASMINE Z KELLER To Dismiss or Convert Case . Hearing Scheduled for 10:30 5/20/04 at Courtroom 8 West (Minneapolis) Affidavit, Proof of Service. (A149) [EOD 04/28/04]

5/17/04 60 Response by Debtor ELAINE A MRAK, Debtor DONALD J MRAK to [59-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER . Proof of Service. ..DOCUMENTS NOT SUBMITTED: Affidavit, Memorandum of Law ..END DOCUMENTS NOT SUBMITTED. (A205) [EOD 05/17/04]

5/18/04 61 Amended [60-1] Response Filed by Debtor ELAINE A MRAK, Debtor DONALD J MRAK. Proof of Service. (A205) [EOD 05/18/04] [Edit date 05/19/04]

5/20/04 -- Minutes Re: [59-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER . HEARING CONTINUED (slw) [EOD 05/24/04]

5/20/04 -- Hearing Re: [59-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER CONTINUED For 10:30 6/17/04 at Courtroom 8 West (Minneapolis) . (slw) [EOD 05/24/04]

6/10/04 62 Amended [61-1] Amended Document Filed by Debtor ELAINE A MRAK, Debtor DONALD J MRAK (A205) [EOD 06/10/04]

6/17/04 -- Minutes Re: [59-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER . MATTER SETTLED. AGREED ORDER TO ENTER. (dbs) [EOD 06/21/04]

6/21/04 63 Order Denying [59-1] Motion To Dismiss or Convert Case by JASMINE Z KELLER . CERTIFICATE OF MAILING. (dbs) [EOD 06/21/04]

6/23/04 64 Simplified application for Postconfirmation Compensation Filed by Attorney for Debtor. Fees: \$ 225. Expenses: \$ 0. Proposed Order. (A205) [EOD 06/23/04]

6/23/04 -- Added Party IAN TRAQUAIR BALL by Ian Ball to Matrix on Wed Jun 23 09:44:28 2004. (A205) [EOD 06/23/04]

6/23/04 65 Order Granting Postconfirmation Attorney's Fees Re: [64-1] Chapter 13 Application in the Amount of \$ 225.00. Certificate of Service. (dbs) [EOD 06/23/04]

Proceedings include events between 1/1/31 and 9/29/04. CLOSED  
01-80163 In re: DONALD J MRAK and ELAINE A MRAK DISMSD 0714

7/13/04 66 Affidavit of Default by Trustee JASMINE Z KELLER In Re:  
[59-1] Motion To Dismiss or Convert Case by JASMINE Z  
KELLER and [63-1] Order Proposed Order. ..DOCUMENTS NOT  
SUBMITTED: , Proof of Service ..END DOCUMENTS NOT  
SUBMITTED. (A324) [EOD 07/13/04]

7/14/04 67 Order Dismissing Case. (rmg) [EOD 07/14/04]

7/22/04 68 Court's Certificate of Mailing Re: [67-1] To Dismiss Order  
. (r\_g) [EOD 07/22/04]

7/28/04 69 Chapter 13 trustee's final report in dismissed case. (A324)  
[EOD 07/28/04]

9/8/04 70 Order Closing Case and Discharging Trustee. (cnn)  
[EOD 09/08/04]

9/8/04 -- Case Closed. (cnn) [EOD 09/08/04]

District of Minnesota  
CLAIMS REGISTER

09/29/04 Last Date to File Claims: \*\*/\*\*/\*\* 01-80163 Page 1  
 Last Date to File Claims for Governmental Unit: \*\*/\*\*/\*\*  
 DONALD J MRAK  
 ELAINE A MRAK

Name and Address of Claimant	Amount of Claims Filed and Allowed	Remarks
No: 1 Filed: 02/21/01 CHASE MANHATTAN MORTGAGE CORP 3415 VISION DR COLUMBUS OH 43219	Filed Amt: 10,374.08 arr	(n/a) (n/a) (n/a) (n/a) 1664077789
No: 2 Filed: 03/15/01 ARCADIA FINANCIAL LTD PO BOX 1472 MPLS MN 55440 1472	Filed Amt: 21,075.93 sec	(n/a) (n/a) (n/a) (n/a) 0345596101
No: 3 Filed: 03/21/01 DEPT OF THE TREASURY IRS 316 N ROBERT ST STOP 5700STP ST PAUL MN 55101	Filed Amt: 23,500.00 prt	(n/a) (n/a) (n/a) (n/a)
No: 4 Filed: 03/26/01 PROVIDIAN NATIONAL BANK 4900 JOHNSON DR PLEASANTON CA 94588	Filed Amt: 1,487.66 uns	Amended by 14 (n/a) (n/a) (n/a) (n/a) 4465670700528458
No: 5 Filed: 05/08/01 DEPT OF THE TREASURY IRS 316 N ROBERT ST STOP 5700STP ST PAUL MN 55101	Filed Amt: 9,406.57 prt	(n/a) (n/a) (n/a) (n/a)
No: 6 Filed: 06/11/01 US BANK PO BOX 17143 DENVER CO 80217	Filed Amt: 13,194.27 sec	(n/a) (n/a) (n/a) (n/a) 30200154589970001
No: 7 Filed: 07/30/01 MN DEPT OF REVENUE BANKRUPTCY SECTION PO BOX 64447 ST PAUL MN 55164	Filed Amt: 4,218.47 prt	(n/a) (n/a) (n/a) (n/a) 477983389475045180

CERTIFIED COPY - Certified a true copy  
 3 pages on date 9/29/04  
 Lori Vosejka, Acting Clerk, United States  
 Bankruptcy Court, District of Minnesota  
 (SEAL) BY [Signature] Deputy Clerk

DECLARATION  
EXHIBIT B

District of Minnesota  
CLAIMS REGISTER

09/29/04      Last Date to File Claims: \*\*/\*\*/\*\*      01-80163  
 Last Date to File Claims for Governmental Unit: \*\*/\*\*/\*\*  
 DONALD J MRAK  
 ELAINE A MRAK

Name and Address of Claimant	Amount of Claims Filed and Allowed	Remarks
-----		
No: 8      Filed: 08/13/01	Filed Amt: 1,323.00    prt	(n/a)
MN DEPT OF REVENUE BANKRUPTCY SECTION PO BOX 64447 ST PAUL MN 55164		(n/a) (n/a) (n/a) 477983389
-----		
No: 9      Filed: 02/25/02	Filed Amt: 13,433.17    sec	(n/a)
US BANK PO BOX 5229 CINCINNATI OH 45201-5229		(n/a) (n/a) (n/a) 3235458997001
-----		
No: 10      Filed: 09/13/02	Filed Amt: 225.00    pri	(n/a)
IAN TRAQUAIR BALL 12 S 6TH ST STE 326 MPLS MN 55402		(n/a) (n/a) (n/a)
-----		
No: 11      Filed: 09/13/02	Filed Amt: 225.00    pri	(n/a)
IAN TRAQUAIR BALL 12 S 6TH ST STE 326 MPLS MN 55402		(n/a) (n/a) (n/a)
-----		
No: 12      Filed: 10/15/03	Filed Amt: 225.00    pri	(n/a)
IAN TRAQUAIR BALL 12 S 6TH ST STE 326 MPLS MN 55402		(n/a) (n/a) (n/a)
-----		
No: 13      Filed: 10/15/03	Filed Amt: 225.00    pri	(n/a)
IAN TRAQUAIR BALL 12 S 6TH ST STE 326 MPLS MN 55402		(n/a) (n/a) (n/a)
-----		
No: 14      Filed: 12/15/03	Filed Amt: 1,487.66	Amendment of 4
SHERMAN ACQUISITION LP PO BOX 10587 GREENVILLE SC 29607		(n/a) (n/a) (n/a) (n/a) ASSIGNMENT
-----		

District of Minnesota  
CLAIMS REGISTER

09/29/04 Last Date to File Claims: \*\*/\*\*/\*\* 01-80163  
Last Date to File Claims for Governmental Unit: \*\*/\*\*/\*\*  
DONALD J MRAK  
ELAINE A MRAK

Page 3

-----  
Name and Address of Claimant Amount of Claims Filed and Allowed Remarks  
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No: 15 Filed: 06/23/04 Filed Amt:  
225.00 pri (n/a)  
IAN TRAQUAIR BALL (n/a)  
12 S 6TH ST STE 326 (n/a)  
MPLS MN 55402 (n/a)  
-----

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

In re: )  
 ) Chapter 13  
DONALD J. MRAK and )  
ELAINE A. MRAK, ) Case No. BKY 04-44619  
 )  
Debtors. )

MEMORANDUM IN SUPPORT OF OBJECTIONS OF THE  
UNITED STATES OF AMERICA TO THE CONFIRMATION  
OF DEBTORS' 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 Debtors' Chapter 13 Plan and Motion to Dismiss.

1. The United States, IRS, has an unsecured priority claim of \$19,751.05 and an unsecured general claim of \$4,049.11 against these debtors. The total claim is \$23,800.16, 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 debtors have not filed their Federal income tax returns for the years 2001, 2002 and 2003, the actual tax liabilities are unknown. Any tax liabilities due for years 2001, 2002 and 2003 would be priority taxes, which must be paid in full. The debtors should be required to file their Federal income tax

returns so that the tax liabilities can be fully determined and properly treated by the Plan.

4. The debtors' 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. These debtors have failed to file and pay federal income taxes over the course of approximately three years. After the debtors obtained confirmation of a Chapter 13 Plan in Bankruptcy No. 01-80163, the debtors failed to file and pay their post-petition federal income taxes. This 2001 Chapter 13 case was dismissed on July 14, 2004 on the motion of the Chapter 13 Trustee. One month later the instant case was filed. At the time the instant case was filed, the debtors had failed to file their federal income tax returns for the years 2001, 2002 and 2003. The United States submits that the debtors are attempting to manipulate the Bankruptcy Code in furtherance of a scheme to avoid paying federal income taxes. The United States submits that the debtors' conduct in this regard constitutes bad faith such that the Plan should be denied confirmation and the case dismissed.

6. Failure of the debtors Plan to provide for full payment of the allowed priority tax claim 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 debtors be denied confirmation and that the case be dismissed pursuant as having been filed in bad faith.

Date: September 30, 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

DONALD J. MRAK and  
ELAINE A. MRAK,

Case Number: 04-44619

Debtors.

UNSWORN DECLARATION  
FOR PROOF OF SERVICE

I, Carla R. Kohl, 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 September 30, 2004, I served the Objections of the United States of America to Confirmation of Debtors' Chapter 13 Plan and Motion To Dismiss, Memorandum in Support of Objections and Motion to Dismiss 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:

-----

Gregory J. Wald, Esq.  
3601 Minnesota Dr., Ste. 800  
Edina, MN 55435

Providian  
P.O. Box 9539  
Manchester, NH 03108

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

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

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

Craig Anderson  
Assistant Attorney General  
Office of MN Attorney General  
Tax Litigation Division  
1100 NCL Tower  
445 Minnesota Street  
St. Paul, MN 55101-2128

Donald J. Mrak  
Elaine A. Mrak  
2525 Rosewood Lane N.  
Plymouth, MN 55441

Arcadia Financial Ltd  
P.O. Box 1472  
Minneapolis, MN 55440

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

Executed: September 30, 2004 Signed: /e/ Carla R. Kohl  
CARLA R. KOHL

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

In re: )  
 ) Chapter 13  
DONALD J. MRAK and )  
ELAINE A. MRAK, )  
 ) Case No. BKY 04-44619  
Debtors. )

ORDER

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

This matter came before the Court for hearing on Confirmation of the debtors' 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 debtors' Plan is not confirmable.

IT IS THEREFORE ORDERED:

1. Confirmation is denied.
2. The case is dismissed as having been filed in bad faith.

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ROBERT J. KRESSEL  
United States Bankruptcy Judge