

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Case No. 04-44619 RJK
Chapter 13

Donald J. Mrak, xxx-xx-3389
Elaine A. Mrak, xxx-xx-5180
2525 Rosewood Lane N.
Plymouth, MN 55441

Debtor.

NOTICE OF FILING MODIFIED PLAN PRIOR TO CONFIRMATION

TO: Standing Trustee, U.S. Trustee, all other parties entitled to notice

PLEASE TAKE NOTICE that the Debtor herewith files the attached Modified Chapter 13 Plan, pursuant to Local Rule 3015-2(a). The hearing on confirmation of the Modified Plan is set for November 18, 2004, at 10:30 a.m., in Courtroom No. 8 West, United States Courthouse, 300 South Fourth Street, Minneapolis, MN.

Any response to this motion must be served by delivery not later than 24 hours prior to the time and date set for the confirmation hearing or mailed not later than three days prior to the date set for the confirmation hearing. No plan has yet been confirmed in this case.

Dated: 10/15/04

By: /e/ Gregory J. Wald
Gregory J. Wald, Attorney for the
Debtor
3601 Minnesota Drive, Suite 800
Edina, MN 55425
952/921-5802 ID 165244

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:
Donald J. Mrak
Elaine A. Mrak

MODIFIED CHAPTER 13 PLAN

Dated: October 13, 2004

Debtor(s).

Case No.: 04-44619

1. **PAYMENTS BY DEBTOR -**

- a. As of the date of this plan, the debtor has paid the trustee \$460.00.
- b. After the date of this plan, the debtor will pay the trustee \$460.00 per month for 59 months, beginning October 28, 2004, for a total of \$27,140.00.
- c. The debtor will also pay the trustee - N/A
- d. The debtor will pay the trustee a total of \$27,600.00 [line 1(a) + line 1(b) + line 1(c)].

2. **PAYMENTS BY TRUSTEE-** The trustee will make payments only to creditors for which proofs of claim have been filed, make payments monthly as available, and collect the trustee's percentage fee of 10% for a total of \$2760.00 [line 1(d) /1.1 x .10] or such lesser percentage as may be fixed by the Attorney General. For purposes of this plan, month one (1) is the month following the month in which the debtor makes the debtor's first payment. Unless ordered otherwise, the trustee will not make any payments until the plan is confirmed. Payments will accumulate and be paid following confirmation.

3. **PRIORITY CLAIMS -** The trustee shall pay in full all claims entitled to priority under §507, including the following. The amounts listed are estimates only. The trustee will pay the amounts actually allowed.

Creditor	Estimated Claim	Monthly Payment	Beginning In Month #	Number Of Payments	TOTAL PAYMENTS
a. Attorney Fees	<u>\$1250.00</u>	<u>\$432.00</u>	<u>1</u>	<u>3</u>	<u>\$1250.00</u>
b. Internal Revenue Serv.	<u>\$13,302.00</u>	<u>\$pro rata</u>	_____	_____	<u>\$13,302.00</u>
c. Minn. Dept. of Revenue	<u>\$3750.00</u>	<u>\$pro rata</u>	_____	_____	<u>\$3750.00</u>
d. _____	\$ _____	\$ _____	_____	_____	\$ _____
e. TOTAL					<u>\$18,302.00</u>

4. **LONG-TERM SECURED CLAIMS NOT IN DEFAULT -** The following creditors have long term secured claims. Payments are current and the debtor will continue to make all payments which come due after the date the petition was filed directly to the creditors.

- a. _____
- b. _____

5. **HOME MORTGAGES IN DEFAULT (§1322(b)(5)) -** The trustee will cure defaults on claims secured only by a security interest in real property that is the debtor's principal residence as follows. The debtor will maintain the regular payments which come due after the date the petition was filed. The creditors will retain their liens. The amounts of default are estimates only. The trustee will pay the actual amounts of default.

Creditor	Amount Of Default	Monthly Payment	Beginning In Month #	Number Of Payments	TOTAL PAYMENTS
a. _____	\$ _____	_____	_____	_____	\$ _____
b. _____	\$ _____	_____	_____	_____	\$ _____
c. _____	\$ _____	_____	_____	_____	\$ _____
d. TOTAL					\$ _____

6. **OTHER LONG-TERM SECURED CLAIMS IN DEFAULT [1322(B)(5)] -** The trustee will cure defaults (plus interest at the rate of 8 percent per annum) on other claims as follows and the debtor will maintain the regular payments which come due after the date the petition was filed. The creditors will retain their liens. The amounts of default are estimates only. The trustee will pay the actual amounts of default.

Creditor	Amount Of Default	Monthly Payment	Beginning In Month #	Number Of Payments	TOTAL PAYMENTS
a. _____	\$ _____	_____	_____	_____	\$ _____

7. **OTHER SECURED CLAIMS [§1325(a)(5)]** - The trustee will make payments to the following secured creditors having a value as of confirmation equal to the allowed amount of the creditor's secured claim using interest rate of 6%. The creditor's allowed secured claim shall be the creditor's allowed claim or the value of the creditor's interest in the debtor's property, whichever is less. The creditors shall retain their liens. NOTE: NOTWITHSTANDING A CREDITOR'S PROOF OF CLAIM FILED BEFORE OR AFTER CONFIRMATION, THE AMOUNT LISTED IN THIS PARAGRAPH AS A CREDITOR'S COLLATERAL VALUE BINDS THE CREDITOR PURSUANT TO 11 U.S.C. §1327 AND CONFIRMATION OF THE PLAN WILL BE CONSIDERED A DETERMINATION OF THE VALUE OF THE CREDITOR'S INTEREST IN THE DEBTOR'S PROPERTY UNDER 11 U.S.C. §506(a). Payment schedule is an estimate only.

Creditor	Claim Amount	Secured Claim	Monthly Payment	Beginning In Month #	Number of Payments	TOTAL PAYMENTS
a. Arcadia Financial Ltd.	\$11,500.00	\$5,500.00	\$432.00	3	14	\$5786.00
b. _____	\$ _____	\$ _____	\$ _____	_____	_____	\$ _____
c. _____	\$ _____	\$ _____	\$ _____	_____	_____	\$ _____
d. TOTAL						\$5786.00

8. **SEPARATE CLASS OF UNSECURED CREDITORS** - In addition to the class of unsecured creditors specified in paragraph 9, there shall be a separate class of nonpriority unsecured creditors described as follows: _____

- a. The debtor estimates that the total claims in this class are \$ _____.
- b. The trustee will pay this class \$ _____.

9. **TIMELY FILED UNSECURED CREDITORS** - The trustee will pay holders of nonpriority unsecured claims for which proofs of claim were timely filed the balance of all payments received by the trustee and not paid under paragraphs 2, 3, 5, 6, 7 and 8 their pro rata share of approximately \$752.00 [line 1(d) minus lines 2, 3(e), 5(d), 6(d), 7(d) and 8(b)].

- a. The debtor estimates that the total unsecured claims held by creditors listed in paragraph 7 are \$6,000.00.
- b. The debtor estimates that the debtor's total unsecured claims (excluding those in paragraph 7 and paragraph 8) are \$2000.00.
- c. Total estimated unsecured claims are \$8,000.00 [line 9(a) + line 9(b)].

10. **TARDILY-FILED UNSECURED CREDITORS** - All money paid by the debtor to the trustee under paragraph 1, but not distributed by the trustee under paragraphs 2, 3, 5, 6, 7, 8 or 9 shall be paid to holders of nonpriority unsecured claims for which proofs of claim were tardily filed.

11. **OTHER PROVISIONS - The Trustee may distribute funds not allocated above at his discretion.**

- a. Upon completion of payment of the secured portion of any claim, the property securing said claim shall vest in the debtor free and clear of any lien, claim or interest of the secured creditor.
- b. Executory contracts and unexpired leases are assumed unless otherwise specified herein.
- c.
 1. The debtors will file as and when due, without seeking extensions of time, any and all post-petition federal tax returns and will timely pay any and all post-petition federal income taxes. Should the debtors default on the timely filing of returns, and/or payment of any federal income tax, the IRS will be entitled to an *ex-parte* order for dismissal of this case without notice or hearing on the filing of an affidavit with the Court that attests to such default and also that the Internal Revenue Service had mailed a letter by first class mail to debtors and debtors' counsel that gave notice of said default and a 30 day period to cure and that such a cure had not been performed.
 2. The debtors will stay current on all payments to the Chapter 13 Trustee. Should the debtors fall behind on their payments to the Trustee, the Internal Revenue Service will be entitled to an *ex-parte* order for dismissal of this case without notice or hearing on the filing of an affidavit with the Court that attests to such default and also that the Internal Revenue Service had mailed a letter by first class mail to debtors and debtors' counsel that gave notice of said default and a 30 day period to cure and that such a cure had not been performed.
 3. If an order to dismiss the debtors' case is entered by the Court per the provision found in the above paragraphs #1 or #2, then the IRS will also be entitled to an order that bars the debtors from re-filing another Chapter 13 bankruptcy case for a period of 365 days from the date of the order.

12. **SUMMARY OF PAYMENTS -**

Trustee's Fee [Line 2]	\$ 2760.00
Priority Claims [Line 3(e)]	\$ 18,302.00
Home Mortgage Defaults [Line 5(d)]	\$ _____
Long-Term Debt Defaults [Line 6(d)]	\$ _____
Other Secured Claims [Line 7(d)]	\$ 5786.00
Separate Class [Line 8(b)]	\$ _____
Unsecured Creditors [Line 9]	\$ 752.00
TOTAL [must equal Line 1(d)]	\$ 27,600.00

Gregory J. Wald ID #165244
 Attorney for Debtor(s)
 3601 Minnesota Drive, Suite 800
 Edina, MN 55435
 (952) 921-5802

Signed _____
 DEBTOR

Signed _____
 DEBTOR (if joint case)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Donald J. Mrak
Elaine A. Mrak
Debtor(s).

SIGNATURE DECLARATION

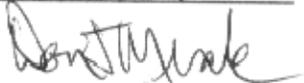
Case No. 04-44619

- PETITION, SCHEDULES & STATEMENTS
 CHAPTER 13 PLAN
 SCHEDULES AND STATEMENTS ACCOMPANYING VERIFIED CONVERSION
 AMENDMENT TO PETITION, SCHEDULES & STATEMENTS
 MODIFIED CHAPTER 13 PLAN
 OTHER (Please describe: _____)

I [We], the undersigned debtor(s) or authorized representative of the debtor, **make the following declarations under penalty of perjury:**

- The information I have given my attorney and provided in the electronically filed petition, statements, schedules, amendments, and/or chapter 13 plan, as indicated above, is true and correct;
- The information provided in the "Debtor Information Pages" submitted as a part of the electronic commencement of the above-referenced case is true and correct;
- **[individual debtors only]** If no Social Security Number is included in the "Debtor Information Pages" submitted as a part of the electronic commencement of the above-referenced case, it is because I do not have a Social Security Number;
- I consent to my attorney electronically filing with the United States Bankruptcy Court my petition, statements and schedules, amendments, and/or chapter 13 plan, as indicated above, together with a scanned image of this Signature Declaration and the completed "Debtor Information Pages," if applicable; and
- **[corporate and partnership debtors only]** I have been authorized to file this petition on behalf of the debtor.

Date: 10/13/04

X 
Signature of Debtor or Authorized Representative

Donald J. Mrak
Printed Name of Debtor or Authorized Representative

X 
Signature of Joint Debtor

Elaine A. Mrak
Printed Name of Joint Debtor

In Re: Donald and Elaine Mrak

**U. S. BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Debtor(s) Case Number BKY: 04-44619

**UNSWORN DECLARATION
FOR PROOF OF SERVICE**

I, Julie Nistler, of the office of Gregory J. Wald, attorney licensed to practice law in this court, with office address of 3601 Minnesota Drive, Suite 800, Edina, MN 55435, declares that on **October 20, 2004**, I served the Notice Filing Modified Plan Prior to Confirmation to 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 Edina, Minnesota addressed to each of them as follows:

Jasmine Z. Keller, Trustee
310 Plymouth Building
12 South 6th Street
Minneapolis, MN 55402

U.S. Trustee
1015 U.S. Courthouse
300 South 4th Street
Minneapolis, MN 55415

Internal Revenue Service
Room 320, Stop 5700
316 North Robert Street
St. Paul, MN 55101

United States Attorney
Attn: Roylene A. Champeaux
600 United States Courthouse
300 South Fourth Street
Minneapolis, MN 55415

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

Executed: 10-20-04

Signed: Julie Nistler

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