

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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IN RE:

Patrick J. Smithwick,  
  
Debtor,

MOTION TO REDUCE TIME  
TIME TO FILE OBJECTION  
TO EXEMPTION  
BKY 04-44990

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TO: UNITED STATES TRUSTEE, CHAPTER 13 TRUSTEE, and other parties in interest.

Patrick J. Smithwick, Debtor, moves the Court for the relief requested below and gives notice of hearing.

1. The Court will hold a hearing on this motion on October 6, 2004 at 2:00 p.m. in Courtroom 8 West, United States Courthouse, Minneapolis, Minnesota. Any response opposing this motion must be delivered and filed not later than October 1, 2004 at 2:00 a.m., which is three days before the hearing exclusive of Saturdays, Sundays, and holidays, or mailed and filed not later than September 29, 2004, which is five days before the hearing exclusive of Saturdays, Sundays, and holidays. If no response opposing the motion is timely filed, the Court may grant the motion without a hearing.

2. The Court has jurisdiction over this motion pursuant to 28 U.S.C. §157 and 1334. This proceeding is a core proceeding. This motion is brought pursuant to 11 U.S.C. §522(d)(1), Federal Rules of Bankruptcy Procedure 4003(b) and 9006(c)(1), and Local Rule 4003-1(b). The petition commencing this Chapter 13 case was filed on September 7, 2004. The meeting of creditors is scheduled for 2004. This case is pending before this court.

3. Debtor moves the Court for an order reducing the time to object to property claimed as exempt to October 11, 2004, and authorizing the Clerk of Bankruptcy Court to issue a certificate regarding property claimed as exempt on October 12, 2004 or thereafter if no

objection is timely made, and as grounds therefor states as follows.

4. At the time of his Chapter 13 filing, Debtor resided at his homestead located at 3634 Rainbow Drive, Minnesota 55345, legally described as:

Lot 8, except that part thereof lying Easterly of a line drawn from the Northwesterly corner of Lot 6 to a point on the southeasterly line of said Lot 8 distant 50 feet Southwesterly from the most Easterly corner of said Lot 8, Block 3, W. A. Ackerman's Groveland Manor. Hennepin County, Minnesota.

5. At the time of the bankruptcy filing, the above described homestead was subject to a mortgage in favor of Bremer Bank in the approximate amount of \$257,600. The homestead was also subject to a second mortgage in favor of Fidelity Bank in the approximate amount of \$50,000, and federal and state tax liens in the approximate total amount of \$79,000. The homestead has an estimated fair market value of \$475,000.

6. Bremer Bank foreclosed its mortgage by sale on March 2, 2004; Debtor's redemption period was scheduled to expire on September 15, 2004, 2004 but was extended by 60 days by Debtor's Chapter 13 filing pursuant to 11 U.S.C. §108(b).

7. Debtor has secured a buyer for the homestead and wishes to complete the sale transaction before the expiration of the 60 day redemption extension period. The buyer has required a certificate of property claimed as exempt as a condition of closing the sale. Debtor needs the sale proceeds to pay Debtor's liabilities as well as the costs of moving Debtor's household goods and payment of apartment rental fees.

8. Because the meeting of creditors is not scheduled until, Debtor will not be able to obtain a certificate of property claimed as exempt pursuant to Local Rule 4003-1(b) within the 60 day redemption extension unless the time period for objecting to property claimed as exempt is shortened.

9. This Court has discretion for cause shown to reduce the time period to object to property claimed as exempt by the Debtor pursuant to Federal Rule of Bankruptcy Procedure 9006(c)(1).

10. Reducing the time period to object to property claimed as exempt and authorizing

the Clerk of Bankruptcy Court to issue a certificate of property claimed as exempt on October 12, 2004, will enable Debtor to complete the sale of the homestead, pay for moving costs and apartment rent, and pay all liabilities in full.

WHEREFORE, Debtor requests an order reducing the time period to object to Debtor's claim of exempt property to October 11, 2004 and authorizing the Clerk of Bankruptcy Court to issue a certificate of property claimed as exempt on October 12, 2004 and thereafter, in the event that no objection is timely made, and for such other relief as is just and equitable.

*/e/ Ian Traquair Ball*

Ian Traquair Ball #4285  
Attorney for Debtor  
326 Plymouth Building  
12 South Sixth Street  
Minneapolis, MN 55402  
Tel: (612) 338-1313

Dated: September 22, 2004

Case No. 04-44990

VERIFICATION

Patrick J. Smithwick, Debtor, states that he has read the foregoing motion and that the facts stated therein are true and correct to the best of his knowledge and belief.

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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IN RE:

Patrick J. Smithwick,  
  
Debtor.

DEBTOR'S MEMORANDUM  
OF LAW  
BKY 04-44990

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I. FACTS

Patrick J. Smithwick, Debtor, filed his Chapter 13 petition on September 7, 2004. At the time of his filing, Debtor's right of redemption of his homestead was scheduled to expire on September 15, 2004, as a result of a prior foreclosure sale by Bremer Bank. Accordingly, Debtor filed a Chapter 13 petition, resulting in an extension of the redemption period for 60 days pursuant to 11 U.S.C. §108(b). Debtor has found a purchaser for the home and now wishes to complete the sale, but the buyer requires a certificate of property claimed as exempt. Since the meeting of creditors is not scheduled until October 20, 2004 and Local Rule 4003-1(b)(2) prohibits the Clerk of Bankruptcy Court from issuing a certificate of property claimed as exempt not less than 31 days after conclusion of the meeting of creditors, Debtor would not be able to obtain the certificate until after the expiration of the redemption extension.

II. ARGUMENT

Federal Rule of Bankruptcy Procedure 9006(c) authorizes the Court in its discretion, for cause shown, to reduce the time period to object to property claimed as exempt by a debtor. Rule 9006(c)(2) specifies various actions for which the Court may not reduce the time period, but objection to property claimed as exempt is not included in this list of prohibited reductions. Shortening the time period to object to property claimed as exempt

will not create an undue hardship for creditors or the Chapter 13 trustee. The affected parties will have ample time from the date of service of this motion as notice of the Debtor's intent to claim his home-stead as exempt and the proposed shortened deadline for objecting to the exemption claim.

Since the sale of the homestead will provide the Debtor with funds to pay for the costs of moving and for payment of apartment rental fees, and since Debtor intends to pay all his liabilities in full from the proceeds of the sale, good cause exists to shorten the deadline for objection.

Accordingly, Debtor requests the Court for its order setting a deadline of October 11, 2004 for filing an objection to property claimed as exempt by the Debtor and authorizing the Clerk of Bankruptcy Court to issue a certificate of property claimed as exempt on October 12, 2004 or thereafter, if no objection is timely filed.

***/e/ Ian Traquair Ball***

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Ian Traquair Ball #4285  
Attorney for Debtor  
326 Plymouth Building  
12 South Sixth Street  
Minneapolis, MN 55402  
Tel: (612) 338-1313

Dated: September 22, 2004

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re:

**CERTIFICATE OF  
SERVICE**

PATRICK J. SMITHWICK,  
  
Debtor(s).

BKY 04-44990

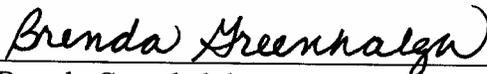
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I, Brenda Greenhalgh, declare under penalty of perjury that on September 22, 2004, I mailed copies of the foregoing Motion to Reduce Time to File Objection to Exemption to each entity named below at the stated addresses.

Jasmine Z. Keller  
Chapter 13 Trustee  
310 Plymouth Building  
12 South 6th Street  
Minneapolis MN 55402

United States Trustee  
1015 US Courthouse  
300 South 4th Street  
Minneapolis MN 55415

Patrick J. Smithwick  
3634 Rainbow Drive  
Minnetonka, MN 55345

Dated: September 22, 2004

  
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Brenda Greenhalgh

BREMER BANK  
CO MICHELLE R JESTER ATTY  
150 S 5TH ST STE 1800  
MINNEAPOLIS MN 55402

FIDELITY BANK  
PO BOX 2937  
WICHITA KS 67201

INTERNAL REVENUE SVC  
STOP 5700  
316 N ROBERT ST  
ST PAUL MN 55101

MN DEPT OF REVENUE  
551 BANKRUPTCY SECTION  
PO BOX 64447  
ST PAUL MN 55164

WELLS FARGO CARD SVCS  
PO BOX 6412  
CAROL STREAM IL 60197

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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IN RE:

Patrick J. Smithwick,  
  
Debtor,

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ORDER REDUCING TIME  
TO OBJECT TO PROPERTY  
CLAIMED AS EXEMPT  
BKY 04-44990

This case came before the Court on October 6, 2004 on a motion by Debtor to reduce the time period to object to property claimed as exempt to October 11, 2004, and authorizing the Clerk of Bankruptcy Court to issue a certificate of property claimed as exempt on October 12, 2004 or thereafter in the event no objection is timely filed. Appearances were noted in the record. Based on the motion of Debtor, and the file, records, and proceeding herein, and for good cause shown,

IT IS ORDERED:

The deadline to object to property claimed as exempt by the Debtor pursuant to 11 U.S.C. 522(b)(1) is October 11, 2004. In the event that no objection is timely made, the Clerk of Bankruptcy Court is authorized to issue a certificate of property claimed as exempt on October 12, 2004 or thereafter, upon request of the Debtor and payment of applicable fees.

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United States Bankruptcy Judge

Dated: