

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Bky No. 04-45060

In re:

Diane H. Kresa,

Debtor.

**NOTICE OF HEARING AND
MOTION OBJECTING TO
CLAIMED EXEMPTIONS**

TO: The Debtor and other entities specified in Local Rule 9013-3.

1. Randall L. Seaver, the duly appointed Chapter 7 trustee herein (“Trustee”) moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 10:30 a.m. on December 1, 2004, in Courtroom 7 West, U.S. Bankruptcy Court, 300 South Fourth Street, Minneapolis, MN 55415.

3. Any response to this motion must be filed and delivered not later than November 24, 2004 which is 7 days before the time set for the hearing or filed and served by mail not later than November 19, 2004 which is 10 days before the time set for the hearing. **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 motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. This Chapter 7 case was commenced on September 10, 2004. The first meeting of creditors was originally scheduled for October 12, 2004. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. §522, Bankruptcy Rule 4003 and Local Rule 4003-1(a). This motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1 and 9013-2.

6. Attached hereto as Exhibit A is a true and correct copy of Debtor's Schedule C.

7. Objection is made to the Debtor's claimed of the Debtor's homestead legally described as Apartment No. 190, Apartment Ownership No. 12, Evergreens Condominium, Hennepin County, Minnesota. Objection is made to assure that the Debtor's claimed exemption entitles her to only \$1 in value in the homestead property, and that all value in excess of \$1, together with the property itself, remains property of the bankruptcy estate.

WHEREFORE, the Trustee requests that the Court holding that the Debtor's claimed \$1 exemption in property legally described as Apartment No. 190, Apartment Ownership No. 12, Evergreens Condominium, Hennepin County, Minnesota entitles the Debtor to \$1 in value in that property when it is liquidated by the Trustee and further holding that property itself and all equity in excess of \$1 remain property of the bankruptcy estate.

FULLER, SEAVER & RAMETTE, P.A.

Dated: November 4, 2004

By: /e/ Randall L. Seaver
Randall L. Seaver 152882
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

Attorneys for Randall L. Seaver, Trustee

VERIFICATION

I, Randall L. Seaver, the duly appointed Chapter 7 trustee of this Bankruptcy Estate, the moving party named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on November 4, 2004

/e/ Randall L. Seaver
Randall L. Seaver

In re Diane H. Kresa,
Debtor

Case No. _____

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:

[Check one box]

- 11 U.S.C. §522(b)(1): Exemptions provided in 11 U.S.C. §522(d). Note: These exemptions are available only in certain states.
 11 U.S.C. §522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for the 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemption
Real Property			
Homestead; 6127 - 72nd Lane N. Legal: Apartment No. 190, Apartment Ownership No. 12, Evergreens Condominium, Hennepin County, Minnesota.	11 U.S.C. § 522(d)(1)	1.00	102,000.00
Checking, Savings, or Other Financial Accounts, Certificates of Deposit			
Checking account @ US Bank	11 U.S.C. § 522(d)(5)	2,000.00	2,000.00
Savings account @ Employees Credit Union	11 U.S.C. § 522(d)(5)	75.00	75.00
Household Goods and Furnishings			
Normal Assortment of Household Goods	11 U.S.C. § 522(d)(3)	3,000.00	3,000.00
Wearing Apparel			
Misc. wearing apparel	11 U.S.C. § 522(d)(3)	600.00	600.00
Interests in Insurance Policies			
Life Insurance Policy	11 U.S.C. § 522(d)(8)	4,377.00	4,377.00
Interests in IRA, ERISA, Keogh, or Other Pension or Profit Sharing Plans			
401(k)	11 U.S.C. § 522(d)(10)(E)	6,000.00	6,000.00
Automobiles, Trucks, Trailers, and Other Vehicles			
Vehicle: 2003 Saturn Ion-3 Sedan	11 U.S.C. § 522(d)(2)	1.00	11,875.00

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UNSWORN CERTIFICATE OF SERVICE

Debtor.

I, Kari L. Fogarty, declare under penalty of perjury that on November 4, 2004 I mailed a copy of the Notice of Hearing and Motion Objecting to Claimed Exemptions by first class mail, postage prepaid to the following entities:

Diane H. Kresa
6127 72nd Lane North
Brooklyn Park, MN 55429

David S. Kingsbury
Kingsbury & Associates, Ltd.
14827 Energy Way
Apple Valley, M N 55124

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

FULLER, SEAVER & RAMETTE, P.A.

Dated: November 4, 2004

By: /e/ Kari L. Fogarty
Kari L. Fogarty
Legal Secretary
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Bky No. 04-45060

In re:

Diane H. Kresa,

ORDER

Debtor.

At Minneapolis, Minnesota this _____ day of _____, 2004.

The above matter came before the court on the objection of the Chapter 7 Trustee to exemptions. Appearances 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 the claimed exemption by the Debtor of \$1 in property legally described as Apartment No. 190, Apartment Ownership No. 12, Evergreens Condominium, Hennepin County, Minnesota entitles the Debtor to \$1 in value in that property when it is liquidated by the Trustee and the property itself and all equity in excess of \$1 remain property of the bankruptcy estate.

BY THE COURT:

Nancy C. Dreher
U.S. Bankruptcy Judge