

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

In re:)
) Chapter 13
CHAD D. FUREY and)
AUTUMN L. KNIGHT-FUREY,) Case No. BKY 04-45124
)
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 this debtor and Motion to Dismiss:

1. The confirmation hearing is scheduled for November 18, 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 September 14, 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)(5) 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 a secured claim of \$17,697.85 and a priority claim of \$3,138.89 against these debtors. The total claim is \$20,836.74, 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 debtor Chad Furey has not filed his Form 941 business returns for the quarters ending March 31, 2004 and June 30, 2004. Debtor Autumn Knight-Furey has not filed her federal income tax return for the year 2001 as explained in the Affidavit of Jean Krysinski, which is attached as Exhibit B.

6. The Plan provides for the full payment of claims entitled to priority under 11 U.S.C. § 507; however, the Plan merely estimates the amount owed to the IRS as \$16,129.00 and proposes to pay \$16,129.00. 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 Autumn Knight-Furey files her federal income tax return for the year

2001 and Chad Furey files his Form 941 business tax returns for the quarters ending March 31, 2004 and June 30, 2004.

7. 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).

8. The debtors' Plan fails to provide for payments to fully pay the secured claim of the IRS. As the IRS has not accepted the Plan, the Plan cannot be confirmed under 11 U.S.C. § 1325(a)(5).

9. Failure of the debtors' Plan to provide for full payment of the allowed priority and secured 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 pursuant to 11 U.S.C. § 1307(c).

Date: October 26, 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, Jean A. Krysinski, Bankruptcy Specialist for the Internal Revenue Service, the movant named in the foregoing Chapter 13 Bankruptcy for Chad D. Furey, Autumn L. Knight-Furey as stated on the petition, Bankruptcy No. 04-45124, declares under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: *OCTOBER 21, 2004*

Signed:

Jean A. Krysinski
Jean A. Krysinski
Bankruptcy Specialist

Proof of Claim for Internal Revenue Taxes

Form 10
Attachment

Department of the Treasury/Internal Revenue Service

In the Matter of: AUTUMN L KNIGHT-FUREY & CHAD D FUREY
6151 295TH AVE NW
ISANTI, MN 55040

Docket Number	04-45124
Type of Bankruptcy Case	Chapter 13
Date of Petition	09/14/2004

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.

Secured Claims (Notices of Federal tax lien filed under internal revenue laws before petition date)

Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Penalty to Petition Date	Interest to Petition Date	Notice of Tax Lien Filed: Date	Office Location
41-1891289	WT-FICA	12/31/2002	10/06/2003	\$4,638.11	\$2,683.73	\$366.47	07/13/2004	ISANTI E
41-1891289	FUTA	12/31/2002	04/19/2004	\$167.45	\$60.88	\$12.85	07/13/2004	ISANTI E
41-1891289	WT-FICA	03/31/2003	11/10/2003	\$2,274.87	\$722.83	\$144.83	07/13/2004	ISANTI E
41-1891289	WT-FICA	06/30/2003	10/27/2003	\$2,343.32	\$276.15	\$117.98	07/13/2004	ISANTI E
41-1891289	WT-FICA	09/30/2003	04/26/2004	\$1,558.73	\$481.79	\$59.33	07/13/2004	ISANTI E
41-1891289	WT-FICA	12/31/2003	04/26/2004	\$1,388.87	\$212.13	\$38.44	07/13/2004	ISANTI E
41-1891289	FUTA	12/31/2003	05/03/2004	\$123.47	\$22.16	\$3.46	07/13/2004	ISANTI E
				<u>\$12,494.82</u>	<u>\$4,459.67</u>	<u>\$743.36</u>		

Total Amount of Secured Claims: **\$17,697.85**

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-3324	INCOME	12/31/2001	1 UNASSESSED-NO RETURN	\$361.15	\$0.00
41-1891289	WT-FICA	03/31/2004	1 UNASSESSED-NO RETURN	\$1,388.87	\$0.00
41-1891289	WT-FICA	06/30/2004	1 UNASSESSED-NO RETURN	\$1,388.87	\$0.00
				<u>\$3,138.89</u>	<u>\$0.00</u>

Total Amount of Unsecured Priority Claims: **\$3,138.89**

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.

INTERNAL REVENUE SERVICE
FACSIMILE FEDERAL TAX LIEN DOCUMENT

Lien Recorded : 07/13/2004 - 09:29AM
Recording Number: 2739
UCC Number :
Liber :
Page :

BANKRUPTCY DOCKET: 04-45124@MN

Area: SMALL BUSINESS/SELF EMPLOYED #9
Lien Unit Phone: (651) 312-8080

IRS Serial Number: 181383704

This Lien Has Been Filed in Accordance with
Internal Revenue Regulation 301.6323(f)-1.

Name of Taxpayer :
CHAD FUREY

Residence :
6151 295TH AVE NW
ISANTI, MN 55040-5000

With respect to each assessment below, unless notice of lien
is refiled by the date in column(e), this notice shall constitute
the certificate of release of lien as defined in IRC 6325(a).

Form (a)	Period (b)	ID Number (c)	Assessed (d)	Refile Deadline (e)	Unpaid Balance (f)
941	12/31/2002	41-1891289	10/06/2003	11/05/2013	\$6,866.87
940	12/31/2002	41-1891289	04/19/2004	05/19/2014	\$229.46
941	03/31/2003	41-1891289	11/10/2003	12/10/2013	\$2,833.16
941	06/30/2003	41-1891289	10/27/2003	11/26/2013	\$2,511.79
941	09/30/2003	41-1891289	04/26/2004	05/26/2014	\$1,995.13
941	12/31/2003	41-1891289	04/26/2004	05/26/2014	\$1,550.08
940	12/31/2003	41-1891289	05/03/2004	06/02/2014	\$142.44

Filed at: COUNTY RECORDER
ISANTI E
CAMBRIDGE, MN 55008

Total | \$16,128.93

This notice was prepared and executed at ST PAUL, MN
on this, the 12th day of July, 2004.

Authorizing Official:
KAREN BREHMER

Title:
REVENUE OFFICER 29-05-2123

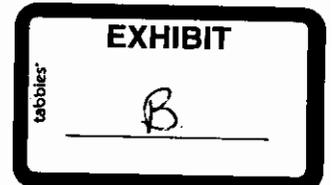
UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION
BKY No. 04-45124

CHAD D. FUREY,)
AUTUMN L. KNIGHT-FUREY,)
)
Plaintiffs,)
)
v.) AFFIDAVIT
)
INTERNAL REVENUE SERVICE,)
)
Defendant.)

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

I, Jean A. Krynski, Bankruptcy Specialist, being first
duly sworn, deposes and says:

1. I am employed by Territory 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 Chad D Furey has not filed his Business returns 941 for the quarter ending March 31, 2004 and June 30, 2004. Autumn has not filed her federal income tax return for the calendar year ending December 31, 2001.



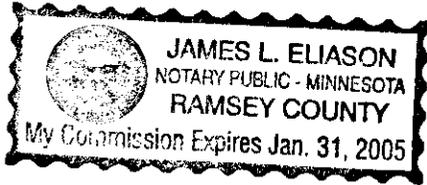
FURTHER YOUR AFFIANT SAYETH NOT.

Jean A. Kryszinski
Jean A. Kryszinski

Subscribed and Sworn to Before Me

This 21st Day of October, 2004.

James J. Eliason
NOTARY



UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

In re:)
) Chapter 13
CHAD D. FUREY and)
AUTUMN L. KNIGHT-FUREY,) Case No. BKY 04-45124
)
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 a secured claim of \$17,697.85 and an unsecured priority claim of \$3,138.89 against these debtors. The total claim is in the amount of \$20,836.74 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 Debtor Chad Furey has not filed his Form 941 business tax returns for the quarters ending March 31, 2004 and June 30, 2004 and as the Debtor Autumn Knight-Furey has not filed her federal income tax return for the year 2001, the actual tax liabilities are unknown. Any tax liabilities due for years 2001 and 2004 would be priority taxes, which must be paid in full. These debtors should be required to file these federal 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) because the actual amount of the IRS priority claim is unknown due to unfiled returns.

5. The debtors' Plan fails to provide for payments to fully pay the secured claim of the IRS and as the IRS has not accepted the Plan, the Plan cannot be confirmed under 11 U.S.C. § 1325(a)(5).

6. Failure of the debtors' Plan to provide for full payment of the allowed priority and secured 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 to 11 U.S.C. § 1307(c).

Date: October 26, 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

CHAD D. FUREY and
AUTUMN L. KNIGHT-FUREY,

Case Number: 04-45124

Debtors.

UNSWORN DECLARATION
FOR PROOF OF SERVICE

I, Muriel Holland, 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 October 26, 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:

Richard J. Pearson, Esq.
Prescott & Pearson
443 Old Highway 8, Suite 208
New Brighton, MN 55112

Floors Northwest
5155 E. River Rd, Ste. 414
Minneapolis, MN 55421

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

Mark Pitzele, Esq.
Attorney at Law
1550 Utica Ave. So., Ste. 500
St. Louis Park, MN 55416

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

Visa/Cross Country
P. O. Box 310711
Boca Raton, FL 33431-0711

Chad D. Furey
Autumn L. Knight-Furey
6151 - 295th Ave NW
Isanti, Minnesota 55040

Visa/Providian
Attn: Bky Dept.
P. O. Box 5050
Norcross, GA 30091

Wells Fargo Bank NA
Attn: Bky Dept/X7801-014
3476 Stateview Boulevard
Fort Mill, SC 28715

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

Village Bank
3350 Bridge Street NW
St. Francis, MN 55070

UNSWORN DECLARATION FOR PROOF OF SERVICE - Cont.

Re: CHAD D. FUREY and
AUTUMN L. KNIGHT-FUREY
Bky. No. 04-45124

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

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

Executed: October 26, 2004 Signed: /e/ Muriel Holland
Muriel Holland

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

In re:)
) Chapter 13
CHAD D. FUREY and)
AUTUMN L. KNIGHT-FUREY,)
) Case No. BKY 04-45124
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.

ROBERT J. KRESSEL
United States Bankruptcy Judge