

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In RE:

BAUMGARTNER, BRUCE,
BAUMGARTNER, PAULA,
Debtors.

Case No.: 03-61507
Chapter 7

NOTICE OF MOTION AND MOTION OBJECTING TO EXEMPT PROPERTY

TO: The United States Bankruptcy Court, the United States Trustee, the Debtors, the Debtors' attorney, and all parties who requested notice under Bankruptcy Rule 2002.

1. David G. Velde, Trustee of the bankruptcy estate of the above-named debtors moves the court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 11:00 a.m. on February 24, 2004, in US Bankruptcy Court, 204 US Courthouse 118 South Mill Street, Fergus Falls, Minnesota.

3. Any response to this motion must be filed and served not later than February 13, 2004, at 11:00 a.m., which is seven days before the time set for the hearing (excluding Saturdays, Sundays, and legal holidays), or filed and served by mail not later than February 10, 2004, which is ten days before the time set for the hearing (excluding Saturdays, Sundays, and legal holidays). **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. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on December 4, 2003. The case is now pending in this Court.

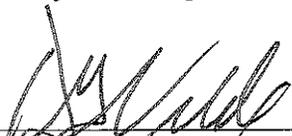
5. This motion arises under 11 U.S.C. § 522, and Bankruptcy Rule 4003 and Local Rule 4003-1(a). This motion is filed under Bankruptcy Rule 9014 and Local Rule 9013-1. Movant requests relief with respect to debtors' claims for exemption.

6. Debtors have claimed as exempt the following assets which the trustee objects to as follows: two 401k plans through Polaris valued at \$110,320.00 and \$29,000.00 claimed exempt under 11 USC § 522(d)(10)(E).

7. The trustee objects to the debtors' claim of exemption on the following basis: the debtors have not provided the trustee with verification that the pension plans qualify under the cited statute.

WHEREFORE, the Applicant moves the court for an order sustaining trustee's objection to claimed exempt property and such other relief as may be just and equitable.

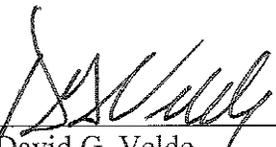
Date: 1/29/04



David G. Velde, Trustee
1118 Broadway
Alexandria, MN 56308
(320) 763-6561

Verification. I, David G. Velde, 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.

Date: 1/29/04



David G. Velde

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In RE:

BAUMGARTNER, BRUCE,
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Chapter 7

ORDER

At Fergus Falls, Minnesota, _____, _____.

Upon the Objection to Claimed Exempt Property filed by the Trustee and upon all the files and records of the proceedings herein,

IT IS ORDERED:

1. The debtors' two 401k plans through Polaris valued at \$110,320.00 and \$29,000.00 claimed exempt under 11 USC § 522(d)(10)(E) are not exempt.

Judge Dennis D. O'Brien
US Bankruptcy Court

STATE OF MINNESOTA)
) ss.
COUNTY OF DOUGLAS)

Julie A. Dolman, of the City of Alexandria, County of Douglas, in the State of Minnesota, being duly sworn, says that on the 29th day of January, 2004, she served the attached Notice of Motion and Motion Objecting to Exempt Property and proposed Order, by electronically filing with:

US Bankruptcy Court
204 PO Building
118 S. Mill Street
Fergus Falls MN 56537

and mailing to a copy thereof, enclosed in an envelope, postage prepaid, and by depositing same in the post office at Alexandria, Minnesota, directed to said at:

Habbo G. Fokkena
US Trustee
1015 US Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Kevin Duffy
Attorney at Law
P.O. Box 715
Thief River Falls, MN 56701

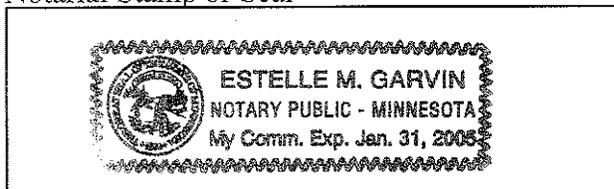
Bruce and Paula Baumgartner
31571 - 380th Avenue
Roseau, MN 56751

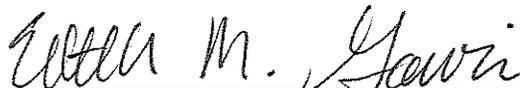


Julie A. Dolman

Subscribed and sworn to before me this 29th day of January, 2004.

Notarial Stamp or Seal





Notary Public