

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

IN RE:

ROBERT A. DICKEN,

DEBTOR.

BANKRUPTCY NO. 04-60123
CHAPTER 11 CASE

DISCLOSURE STATEMENT
OF JUNE 2, 2004

Introduction

Robert A. Dicken, Chapter 11 Debtor in Possession, provides this Disclosure Statement to all of his known creditors in order to disclose information deemed by him to be material, important, and necessary for his creditors to arrive at a reasonably informed decision in exercising the right to vote to accept or reject his Plan of Reorganization providing for payment of outstanding debt, assumption or rejection of executory contracts, or unexpired leases, and other matters.

General History and Background

I was born and raised in Thief River Falls, Minnesota graduating from high school in 1967. I attended Concordia College in Moorhead, Minnesota, graduating in 1971. My wife, Connie, and I were married three weeks after she graduated from high school in 1970. I attended the University of Minnesota Medical School graduating in 1974. Our son Jeremy was born in 1972 and our daughter Lisa in 1974 just before I started my family practice training. I spent nine years in family practice, three years in the U.S. Air Force in Germany, and six years in Thief River Falls, Minnesota. I financed my education on my own.

In 1984 the opportunity to train in ophthalmology presented itself and I returned to the

University of Minnesota, completing my ophthalmology residency in 1987. I returned to Thief River Falls, Minnesota where I continue to practice ophthalmology as an independent practitioner.

On January 1, 1988, I began my independent practice in ophthalmology. I had approximately \$150,000.00 in debt acquired during my ophthalmology training. I began my practice without a salary and with the cost of equipment for my office, acquired more debt. From 1988 to 1994, I built my practice while sending my children to college. In 1994, myself and several ophthalmic colleagues formed Northwest Eye Center Associates, P.A. and Northwest Eye Center Optical, Inc. to acquire and run practices in Detroit Lakes, Mahanomen, Ada, and Fertile, Minnesota. When these practices required capital investment my partners withdrew and I continued these companies on my own. By the end of 1996, these practices were growing.

In the spring of 1997, flooding closed the Ada, Minnesota office. In July 1997, the optometrist in Detroit Lakes Minnesota resigned. He also serviced the Mahanomen, Minnesota office. To keep Northwest Eye Center Associates, P.A. and Northwest Eye Center Optical, Inc. functioning, significant further debt was acquired, primarily loans from Northern State Bank in Thief River Falls, Minnesota. By December 1998, the total debt with Northern State Bank (personal and business notes 192596, 192732, 203679, 204160, 194967, and 203678) totaled \$950,000.00. On December 23, 1998, I refinanced \$950,000.00 with Northern State Bank at 9% interest with payments of \$7,500.00 bi-weekly (\$195,000.00/year). See attachment I. With revenues generated by Dicken, P.A., I felt I could pay this note.

In March of 1998, Northwest Eye Center Associates, P.A. sold the Detroit Lakes, Minnesota and Mahanomen, Minnesota offices to Dr. Larry Morrison. Dr. Morrison also had offices in Detroit Lakes and Mahanomen, Minnesota. The sale price did not cover debt in the two practices but was

preferable to finding a new doctor and continuing to compete with Dr. Morrison. The potential increase in surgical volume was the deciding factor. See Attachment II. From December 1998 to July 2000, I was paying Northern State Bank and beginning a retirement plan.

The year 2000 started the cascade of events that resulted in my chapter 11 filing. In July of 2000, Dr. Craig Mickelson was asked to leave the Thief River Falls, Minnesota ophthalmic practice by his partner, Dr. Hal Freeman. Dr. Mickelson established a practice in Thief River Falls, Minnesota which adversely affected Dicken P.A. revenues. In December of 2000, Dr. Larry Morrison in Detroit Lakes and Mahnommen, Minnesota stopped working with Northwest Eye Center and Dicken, P.A. (In 1999 Detroit Lakes/Mahnommen accounted for 20.5% of Dicken P.A. revenues, in 2000 for 24.1%). These two events caused a large drop in revenues for Dicken. P.A.

In 2001, Dicken P.A. revenues declined to \$397,945.88, compared to \$530,748.21 in 2000. In 2001, I paid Northern State Bank \$222,636.00, on loans to cover personal and business expenses, including taxes. A significant amount of the existing credit card debt was accumulated in 2001 and 2002 to cover deficits. In April 2001, I cashed out my retirement plan to cover continuing expenses. Revenues in 2002 were \$363,097.80, less than 2001. See Attachment III for yearly Revenues from 1997 - 2002.

In mid-2002, I acquired a practice based in Devils Lake, North Dakota in an attempt to generate the income necessary to pay my debts. I am currently working two practices, Dicken, P.A. in Minnesota and Northeast Eye Center, P.C. in North Dakota.

In late 2002, it became clear that retiring the Northern States Bank and credit card debt was not a viable situation. Negotiations with Northern State Bank resulted in a "reorganization" that I believe would have worked if not for my breakup with Xygent, Inc.

Events Precipitating the Bankruptcy

My rural practices have benefitted from the services provided by mobile surgical companies. For many years, I used Midwest Surgical Services, Inc. (hereafter “MSS”). Thomas Eakins, Paul Schmidt and Paul Ehlen were the primary partners in MSS. They sold MSS in 2000. In late 2000, they approached me with their plan to form a new mobile surgical company, Xygent, Inc. They would provide start-up capital and I would bring my surgical volume to the new company. This was the time of my greatest financial pressures (until now) and I was to be Xygent’s medical director and hold 10% of the company’s stock. In February 2001, Xygent, Inc. began with Dicken, P.A. as its only source of revenue.

As my financial situation worsened, Mr. Eakins and Mr. Schmidt advanced me \$360,000.00 on October 10, 2001. The initial term of the loan was one year. In October of 2002, Mr. Eakins agreed to accept interest only payments. Subsequently, several discussions were held with Mr. Eakins and Mr. Schmidt on resolving this debt with revenues from my position as Xygent’s medical director and a shareholder in the Company. In 2003 and early 2004, I had multiple meetings with Mr. Eakins and Mr. Schmidt at which I repeatedly expressed displeasure at their financial management of the Company, their failure to honor promises made, their mishandling of contracts, and particularly a “commission” arrangement with Mr. David Kolker. These multiple meetings resulted in Mr. Eakins June 4, 2003, letter to me. See Attachment IV. I agreed we could no longer work together and was concerned that the “Kolker” payments Mr. Eakins suggested could violate federal anti-kickback statutes. The letter also failed to address the situations of my technician, Daron Schleske and my son, Jeremy Dicken, who both had previously worked for Midwest Surgical Services and now worked for Xygent, Inc. I offered to sell my stock in Xygent, Inc. to Mr. Eakins

and Mr. Schmidt on several occasions but received no response. Daron Schleske and Jeremy Dicken approached me in August 2003 stating they could not continue to work with Xygent, Inc. They asked if I would use a new mobile surgical company they were creating and I agreed. On October 4, 2004, I informed Mr. Eakins and Mr. Schmidt that I would be working with Heartland Surgical Services, Inc. I asked to negotiate a settlement of my debt and the sale of my stock in Xygent, Inc.

Mr. Eakins and Xygent, Inc. have filed two lawsuits. After consulting with my attorney, Mr. Delray Sparby, in the two lawsuits, he referred me to Mr. David L. Johnson, my bankruptcy attorney. I filed chapter 11 bankruptcy on February 5, 2004

General Background regarding the Debtor's Assets

I own a home in Thief River Falls, Minnesota. The address is 1225 Edgewood Drive. The estimated fair market value of this property is \$238,000.00. There is a mortgage on this property in favor of Northern State Bank of Thief River Falls, Minnesota. When I filed for bankruptcy, the outstanding mortgage debt was \$235,049.36.

I also own a house in Thief River Falls, Minnesota. The address is 703 North Main Avenue. This property is quite old and, at present, without major remodeling, has no rental value. I use this property mainly for storage of business records. I also have some weight equipment and musical instruments at this property which I use during my spare time. This property is also mortgaged to Northern State Bank of Thief River Falls, Minnesota. The estimated fair market value is \$46,000.00. The outstanding indebtedness, at the time of my bankruptcy filing, was \$44,299.65.

Finally, as far as real estate, I own some vacant land located at 727 Bowman Avenue, Thief River Falls, Minnesota. The estimated fair market value of this property is \$3,900.00. There are no outstanding mortgages or other encumbrances against this property.

All of the real estate is owned jointly with my wife. At the time of my bankruptcy, and thereafter, these mortgages were and have been kept current. Real estate taxes have also been paid and are current on these properties. Both homes are insured to full insurable value.

A summary of my personal assets and their estimated values, on February 4, 2004, the date of my bankruptcy filing, follow:

Description	Estimated Market Value
Cash on person	\$250.00
Joint checking account with spouse	\$112.41*
Household goods owned jointly with spouse	\$5,000*
Clothes, shoes, jackets, and accessories,	\$1,500.00
Wedding band and watch	\$350.00
Musical instruments and PA system	\$5,000.00
Jointly owned sports and other hobby equipment	\$250.00*
Three term insurance policy (face amounts - \$3,000,000.00, \$2,000,000.00, and \$250,000.00) - no cash value	\$0.00
Own 10% of Xygent, ODC, Inc.	\$160,000.00
Own 100% of Dicken Management, Inc. (no owner equity)	\$1.00
Own 100% of Dicken, P.A. (market value is off of 2003 income tax return)	\$138,712.00
Own 100% of Northeast Eye Center, P.C. (market value is off of 2003 income tax return)	\$694.00
Own 100% of Northwest Eye Center Associates, P.A. (no owner equity)	\$1.00
Own 12.7% of Injector Corp., Inc.	\$1,227.38

Own 21.56 shares of Midwest Medical Insurance	\$1,329.00
Own 33.33% of Ophthalmic Consultants, Inc. (no owner equity)	\$1.00
Own 34.25% of Northwest Optical, Inc.	\$17,125.00
Own 50% of Bergan Travel, Inc. (market value is 50% of capital stock, additional paid-in capital, and retained earnings as of 12/31/03)	\$23,184.00
1975 Yamaha 400 Enduro	\$1,000.00
1981 Datsun 280 ZX owned jointly with spouse	\$1,000.00*
1984 Nissan 300 ZX owned jointly with spouse	\$1,500.00*
Digital camera owned jointly with spouse	\$100.00*
Total:	\$358,336.79

*On jointly owned assets, market value is my one-half interest.

General Background Regarding the Debtor's Liabilities

As far as secured claims, I have four loans at Northern State Bank at Thief River Falls, Minnesota. Two (2) of the loans relate to real estate mortgages which I previously mentioned. The mortgage payment on our family home is \$1,445.24 each month. Real estate taxes and insurance is not included. As stated, this loan, both before and subsequent to my bankruptcy, is current. The mortgage payment on the other property is \$372.65 each month. Real estate taxes and insurance are not included. This loan both before, and after my bankruptcy, has been kept current.

On February 4, 2004, the date of my bankruptcy filing, the outstanding indebtedness on the other two loans was \$552,690.57. Since the time of my filing, I have made some adequate protection payments. As of June 2, 2004, the outstanding indebtedness on these loans is

\$556,486.00.

As far as priority creditors, I owe the Internal Revenue Service for 2001 and 2003 income tax. The IRS has filed a Proof of Claim in this case. The amount of the claim is \$55,258.07. The IRS has also filed a general unsecured claim (penalty to date of petition, including interest), in the amount of \$5,576.25.

When I filed for bankruptcy, I had a significant amount of credit card debt totaling \$265,289.94. Non credit card accounts consisted of:

Description	Amount
Diamonds & Designs (this is an obligation of my spouse)	\$44,775.32
Pro-Laser (doubtful as to personal liability)	\$8,900.00
Shooting Star Casino (rent)	\$5,751.61
Total:	\$59,426.93

The claims of Thomas Eakins and Xygent, Inc. are disputed, contingent, and unliquidated as to amount. Mr. Eakins lawsuit seeks damages of \$360,000.00. Xygent seeks damages in excess of \$50,000.00.

General Background on Debtor's Business and Leases and Executory Contracts

Northeast Eye Center, P.C. leases a 2002 Envoy from GMAC Financial Services. This is a 36 month lease beginning February 28, 2002. I am listed as a co-lessee. The monthly lease payment is \$532.29. The lease is current.

Ophthalmic Consultants, Inc. purchased the practice of Thomas Dowhan, M.D. in Devils Lake, North Dakota. Northeast Eye Center, P.C. makes the payments. I do not believe I am personally liable on these contracts.

My primary income is derived from Robert A. Dicken, M.D., P.A., a/k/a Northwest Eye Center and Northeast Eye Center PC. Total gross income for 2003 was \$841,499.00, some of this income being generated by Dr. Donneberg who works for Northeast Eye Center.

My personal adjusted gross income, from all sources, was \$214,575.00 in 2003, \$376,694.00 in 2002, and \$436,261.00 (includes \$250,000.00 distribution from retirement account) for 2001. My current salary is \$15,000.00 per month.

My practice rents space from Dakota Clinic, Ltd. out of Fargo, North Dakota. I personally guaranteed the lease. The street address for my business premises is 1720 Hwy. 59 SE, Suite 1, Thief River Falls, Minnesota. The lease began on December 31, 1998, and expires December 31, 2009. I sub-lease two-thirds of the space to Freeman & Associates, O.D.s, P.A. The monthly rent to Dakota Clinic is \$3,750.00. This does not include real estate taxes which run approximately \$4,000.00 a year. Freeman & Associates pays two-thirds of the monthly rent obligation directly to Dakota Clinic and pays two-thirds of the real estate taxes.

My practice also leases space from Manito Mall, Inc. of Mahanomen, Minnesota. I believe I signed a personal guaranty. I no longer actively practice there. I sub-lease this space to Lakes Northwest Eye Center, P.A., a Minnesota professional corporation. The owner of this corporation is Larry Morrison. Manito Mall, Inc. consented to this sub-lease.

Summary of Plan

My Plan provides for payment of administrative expenses. This Class consists of reasonable compensation for professional services rendered by my attorney and accountant. These claims will be paid on Court Order and no later than thirty (30) days of the effective date of my Plan, unless otherwise agreed by the holder of such claim. In the event my Plan is not approved in its entirety by

the Court, I will request the Court to approve payment of all Class 1 claims at the time of hearing concerning approval of professional fee applications. Included within this class of claims will be U.S. Trustee quarterly fees, which I will continue pay and file monthly reports, until my case is closed.

My Plan will provide for:

1. Payment of two (2) home mortgage loans at Northern State Bank of Thief River Falls, Minnesota, in accordance with the pre-petition contracts (approximately \$1,820.00 each month - does not include real estate taxes and insurance);
2. Payment of two (2) other loans at Northern State Bank. The secured amount of \$150,000.00, will be paid over a term of five (5) years with interest at 8%, the monthly payment being \$3,000.00. The unsecured amount of \$400,000.00 will be paid over a term of ten (10) years without interest, the monthly payment being \$3,333.33;
3. Payment of a priority claim to the IRS in the amount of \$55,258.07 payable over a term of six (6) years, with interest at 5%, the annual payment being approximately \$10,900.00;
4. Payment of unsecured non-priority creditor claims (approximately \$270,000.00) in full over a term of ten (10) years, without interest, in annual installments of \$27,000.00, to be distributed pro-rata; and
5. Settlement of contingent and unliquidated claims (Thomas Eakins and Xygent, Inc.) by surrender of my stock in Xygent and payment of \$100,000.00 by December 31, 2004.

My Plan will provide for me to assume a vehicle lease I am a co-lessee on with GMAC Financial Services. I will also assume my guarantee on a lease with Dakota Clinic, Ltd. I am rejecting my guarantee on a lease with the Manitok Mall. I do not believe I am personally liable on a purchase contract or building lease with Thomas Dowhan M.D. (practice in Devils Lake, North Dakota). Therefore, no position is being taken with respect to this particular matter.

The effective date of the Plan is ten (10) days after the entry of an Order confirming the Chapter 11 Plan as submitted or as hereafter modified.

Means for Execution of Plan and Cash Flow and Liquidation Analysis

The means and sources to fund my Plan will be my salary (take home-pay of approximately \$10,000.00 per month) and expected pass-through profit from the Dicken, P.A. and Northwest Eye Center. The profit from these S-Corps was \$25,138.00 in 2001, \$223,919.00 in 2002 and \$170,452.00 in 2003. Current monthly living expenses, which includes mortgage payments, taxes, and insurance, run approximately \$7,500.00. Generally speaking, the bulk of my real and personal property assets are encumbered and/or exempt. The value of my practice and other business interests, while not exempt, are in large part related to my personal service and contingent on my ability and willingness to work. Administrative and priority claims will exceed \$60,000.00. I do not have a retirement plan or account. If my estate was liquidated, including my practice and other business assets (I project no blue sky), there is a strong likelihood unsecured creditors, including contingent and unliquidated claims, would not be paid.

Representations

No representations concerning myself, my business affairs and value of collateral is authorized by me or anyone else other than as set forth in this Disclosure Statement. You should

rely only upon the information contained in this Disclosure Statement. Under the Plan, the claims of creditors may be treated differently and repayment terms may alter existing legal and contractual rights to payment.

I have employed David L. Johnson of McNair, Larson & Carlson, Ltd., located at 51 Broadway, Suite 600, P. O. Box 2189, Fargo, North Dakota 58108, (701) 293-9190, to draft this Disclosure Statement and Plan on my behalf and to seek confirmation of the Plan. Mr. Johnson only represents my interest and any party in interest reviewing this Disclosure Statement should seek the advice of their own counsel.

All of the information contained in this Disclosure Statement has not been subject to a certified audit. I am unable to warrant or represent that the information contained in this Disclosure Statement is completely accurate, however, great effort has been made to verify the information contained herein.

Acceptance of Plan

Pursuant to Title 11 U.S.C. § 1126, each Class of creditors which is impaired (not paid in full or not paid according to existing loan or contractual terms) by the Plan, has the right to vote or reject the Plan. While there may be more than one creditor in a particular Class of creditors, the Class of creditors will be deemed to have voted to accept a Plan if more than one-half of the creditors holding at least two-thirds of the amount of the total claims in the Class vote to accept the Plan.

All creditors entitled to vote on a Plan may cast their vote by completing the ballot form as explained in more detail in a Court Order to be enclosed with the Disclosure Statement.

Votes will only be counted as submitted by creditors whose claim is listed in the bankruptcy

schedules as undisputed, non-contingent, and liquidated or who have filed a proof of claim with the bankruptcy court prior to the date scheduled for confirmation of the Plan, which has not been disallowed or objected to prior to the tabulation of the votes accepting or rejecting the Plan.

The Court will schedule a hearing to determine whether the Plan has been accepted by the requisite number of creditors and whether I have satisfied all of the requirements of the bankruptcy code concerning confirmation of the Plan. Each creditor will receive, either with this Disclosure Statement or separately, the bankruptcy court's notice of hearing concerning confirmation of the Plan. You may attend the confirmation hearing if you wish but only your vote will be considered irregardless of whether you attend the confirmation hearing.

At the confirmation hearing, the court will determine, among other things, whether the Plan has been accepted by each class of creditors.

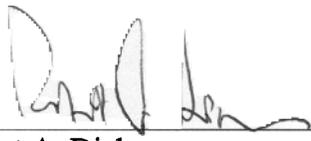
Despite the fact a group of a creditors as a whole votes to accept the Plan, unless each member of the group of creditors will be paid in full upon confirmation of the Plan or unless each member of the group votes to accept the Plan, the bankruptcy court will determine whether under the Plan each Class member receives property of value as of the effective date of the Plan that is not less than the amount that the group members would have received or retained if my property was liquidated and distributed under Chapter 7 of the United States Bankruptcy Code as of the effective date of the Plan.

The Plan may also be confirmed even if it is not accepted by one or all of the groups of creditors if the bankruptcy court finds that the Plan does not discriminate unfairly amongst creditors and is fair and equitable as to each group of creditors.

I may also chose to rely on the cram down provisions of the bankruptcy code to seek

confirmation of the Plan if it is not accepted by all Classes of creditors. Whether the Plan can be so confirmed will be determined by the Court according to whether or not the Plan satisfies the requirements of Title 11 U.S.C. § 1129(b). The Court is not allowed to alter the Plan. The Court can only decide whether or not the Plan, as submitted, should be confirmed.

Dated this 2nd day of June, 2004.



Robert A. Dicken

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

SIGNATURE DECLARATION

Robert A. Dicken

Debtor(s).

Case No. _____

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

I [~~We~~] Robert A. Dicken, the undersigned debtor(s) or authorized individual, **herby declare under penalty of perjury** that 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. I consent to my attorney electronically filing my petition, a scanned image of this declaration, statements and schedules, amendments, and/or chapter 13 plan, as indicated above, with the United States Bankruptcy Court. I understand that a scanned image of this declaration is to be converted to PDF, and either inserted as the last page in the electronic submission or electronically submitted within five days after the above-named documents have been electronically submitted.

[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7. I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

[If petitioner is a corporation or partnership] I declare under penalty of perjury that the information provided in the petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor. The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

Date: 06-02-04

X 
Signature of Debtor or Authorized Individual

X _____
Signature of Joint Debtor

Robert A. Dicken
Printed Name of Debtor or Authorized Individual

Printed Name of Joint Debtor