

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:)
) Case No. 04-60544
Rick A. Teberg and Janet)
M. Teberg a/k/a Janet Serocki,) Chapter 7
)
Debtors.)
_____)

**NOTICE OF HEARING AND MOTION OF WEST
CENTRAL INITIATIVE FOR DISALLOWANCE
OF EXEMPTIONS CLAIMED BY DEBTORS**

TO: RICK A. TEBERG AND JANET M. TEBERG a/k/a JANET SEROCKI, 1813
COURT STREET, FERGUS FALLS, MN 56537; LOGAN MOORE, 1118
BROADWAY, ALEXANDRIA, MN 56308, AND ALL OTHER ENTITIES
ENTITLED TO NOTICE OF THIS MOTION PURSUANT TO LOCAL RULES
2002-1 AND 9013-3(a)(1).

1. West Central Initiative (hereinafter "West Central") moves this Court to disallow the Debtors' claims of exemption.

2. The Court will hold a hearing on this motion on **August 25, 2004**, at **9:30 a.m.**, at U.S. Bankruptcy Court, 204 U.S.. Courthouse, 118 South Mill Street, Fergus Falls, MN 56537.

3. Any response to this motion must be filed and delivered not later than August 24, 2004, which is twenty-four (24) hours before the time set for the hearing, or filed and served by mail not later than August 22, 2004, which is three (3) days before the time set for the hearing.

4. This Court has jurisdiction over this motion pursuant to 28 USC § 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This is a core proceeding. The petition commencing this case was filed on May 4, 2004. This case is Chapter 7

proceeding. This case is now pending in this Court. This motion arises under 11 USC § 522, Bankruptcy Rule 4003 and Local Rule 4003-1.

5. West Central requests that this Court disallow the Debtors' claims of exemptions for the following reasons:

a) on information and belief it is stated that the Debtors have significantly undervalued certain assets including a 1996 Dodge Caravan, a 2001 Aluminacraft boat and Mercury motor, the Debtors' homestead and tools of the Debtors' trade. If proper values for the Debtors' assets are utilized, the Debtors would be able to exempt only a limited interest therein.

b) based on the Debtors' Schedule C, it is impossible to determine which Debtor is exempting which asset. A number of the assets exempted are titled (i.e., Dodge Caravan, camping trailer, homestead). Other assets are principally, if not exclusively, the sole property of one rather than both the Debtors. This would include tools of trade which are believed to consist principally of equipment utilized by the Debtor, Rick Teberg and his business. However, both the Debtors are declaring the maximum exemption available under 11 USC § 522(d)(6) with respect to the same. The Debtors should be required to specify which Debtor is declaring which assets exempt. If an asset is titled in the name of one Debtor or solely owned by one Debtor, the other Debtor should not be allowed to attempt to declare the same exempt to prevent liquidation of the asset by the Trustee and distribution of the proceeds to creditors.

6. At any hearing on this matter, West Central reserves the right to call:

- a) the Debtors, who will testify as to the assets they own, the acquisition price and age of the same, current values of said assets, etc.; and/or
- b) Jay Larson, Vice President of West Central Initiative, who will testify as to the Debtors' assets and the Debtors' and West Central's valuation of the same.

Dated this 27th day of July, 2004.

VOGEL LAW FIRM



By: _____

Jon R. Brakke MN ID #10765

218 NP Avenue

P.O. Box 1389

Fargo, ND 58107-1389

(701) 237-6983

ATTORNEY FOR WEST CENTRAL
INITIATIVE

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:)
) Case No. 04-60544
Rick A. Teberg and Janet)
M. Teberg a/k/a Janet Serocki,) Chapter 7
)
Debtors.)
_____)

**BRIEF IN SUPPORT OF MOTION OF WEST CENTRAL
INITIATIVE FOR DISALLOWANCE OF
EXEMPTIONS CLAIMED BY DEBTORS**

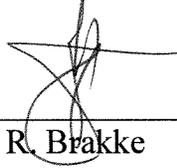
Based on its initial review of the Debtors' schedules, West Central Initiative (hereinafter "West Central") questions whether the Debtors have accurately valued the assets they seek to declare exempt. West Central is particularly concerned about the valuations utilized for the 1996 Dodge Caravan, the 2001 Aluminacraft boat and Mercury motor, the Debtors' homestead and tools of the Debtors' trade. It is the belief of West Central that if accurate values are utilized, the Debtors would not have sufficient exemptions to fully protect all these assets. This would make assets available for liquidation by the Trustee with the proceeds to be distributed to creditors.

A number of the assets declared exempt by the Debtors would be considered titled property. Such assets include the 1996 Dodge Caravan, the camping trailer and the Debtors' homestead. Further, West Central states that certain of the assets declared exempt by the Debtors would be considered principally or solely owned by only one of the Debtors. This would include tools of the trade. On information and belief, the

same are stated to be tools used by the Debtor, Rick Teberg, in his business. However, to protect these assets from liquidation by the Trustee, both Debtors are claiming a tools of the trade exemption under 11 USC § 522(d)(6). The Debtors should be required to specify exactly which Debtor is declaring a particular asset exempt and only the Debtor owning an asset should be permitted to declare the same exempt.

Dated this 27th day of July, 2004.

VOGEL LAW FIRM



By: _____
Jon R. Brakke MN ID #10765

218 NP Avenue

P.O. Box 1389

Fargo, ND 58107-1389

(701) 237-6983

ATTORNEY FOR WEST CENTRAL
INITIATIVE

RE: Rick A. Teberg and Janet M. Teberg a/k/a Janet Serocki
Chapter 7 Bankruptcy Case No. 04-60544

STATE OF NORTH DAKOTA)
) ss
COUNTY OF CASS)

AFFIDAVIT OF SERVICE
BY MAIL

Holly A. Kittelson, being first duly sworn on oath, does depose and say: She is a resident of County of Cass, City of Fargo, State of North Dakota, is of legal age and not a party to or interested in the above entitled matter.

On July 27, 2004, affiant served the within:

**NOTICE OF HEARING AND MOTION OF WEST CENTRAL INITIATIVE
FOR DISALLOWANCE OF EXEMPTIONS CLAIMED BY DEBTORS;
BRIEF IN SUPPORT OF WEST CENTRAL INITIATIVE'S MOTION FOR
DISALLOWANCE OF EXEMPTIONS CLAIMED BY DEBTORS AND
PROPOSED ORDER**

by placing true and correct copies in envelopes addressed as follows:

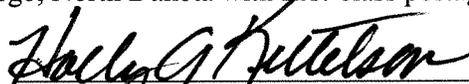
Rick a. Teberg
Janet M. Teberg
1813 Court Street
Fergus Falls, MN 56537

Logan Moore
1118 Broadway
Alexandria, MN 56308

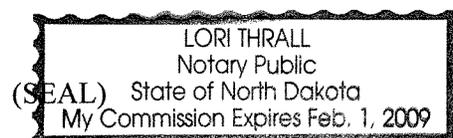
Tamara Yon
Bankruptcy Trustee
P.O. Box 605
Crookston, MN 56716

U.S. Bankruptcy Trustee
300 South 4th Street, #1015
Minneapolis, MN 554115

and causing them to be placed in the mail at Fargo, North Dakota with first-class postage prepaid.


Holly A. Kittelson

Subscribed and sworn to before me this 27th day of July, 2004.




Lori Thrall
Notary Public

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:)
) Case No. 04-60544
Rick A. Teberg and Janet)
M. Teberg a/k/a Janet Serocki,) Chapter 7
)
Debtors.)
_____)

ORDER

The motion of West Central Initiative for disallowance of exemptions claimed by Debtors came on before this Court's consideration on August 25, 2004, at 9:30 a.m., at the U.S. Bankruptcy Court, 118 South Mill Street, Fergus Falls, Minnesota. Based on all the files and pleadings herein, this Court finds that the Debtors have understated the value of assets they seek to declare exempt and additionally, that certain assets declared exempt wholly or partially by one Debtor are in fact owned by the other Debtor. The Debtors shall file amended schedules accurately disclosing the value of assets. Thereafter, the Debtors may file an amended Schedule C claiming exemptions based on the fair market value of assets. In submitting an amended Schedule C only the Debtor with an ownership interest in an asset may seek to declare the same exempt. To the extent the Debtors claim any assets are jointly owned, exemptions may be declared by the Debtors proportionate to the Debtor's ownership interest in the joint owned asset. This Court's findings and conclusions recited on the record at the end of the hearing are incorporated herein by reference.

Dated this _____ day of _____, 2004.

Honorable Dennis D. O'Brien
United States Bankruptcy Judge