

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In RE:

FAYETTE, TERRY MICHAEL,

Case No.: 04-60636

Chapter 7

Debtor.

NOTICE OF MOTION AND MOTION OBJECTING TO EXEMPT PROPERTY

TO: The United States Bankruptcy Court, the United States Trustee, the Debtor, the Debtor's 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 9:30 a.m. on August 25, 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 August 16, 2004, at 9:30 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 August 11, 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 May 24, 2004. The case is now pending in this Court.

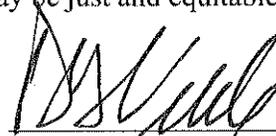
5. This motion arises under 11 U.S.C. § 522, and Bankruptcy Rule 4003 and Local Rule 4003-1(a). This motion is filed under Bankruptcy Rule 9014 and Local Rule 9013-1. Movant requests relief with respect to debtor's claims for exemption.

6. Debtor has claimed as exempt the following assets which the trustee objects to as follows: real estate described as Red Lake Rapids Addition Lots 1, 2, 3 and N 13' of Lot 4 Block 28, valued in the bankruptcy petition at \$73,800 and claimed exempt under 11 U.S.C. § 522(d)(1) and cash on hand valued at \$100, bank account valued at \$200, 1995 Jeep valued at \$4,000 and 1999 Victoria motorcycle valued at \$8,000 all claimed exempt under 11 U.S.C. § 522(d)(5).

7. The trustee objects to the debtor's claim of exemption on the following basis: The debtor testified at the 341 hearing that the value of the real estate was actually \$83,000. Therefore the debtor consumed and exceeded the amounts allowed under 11 U.S.C. § 522(d)(1) and (5).

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.

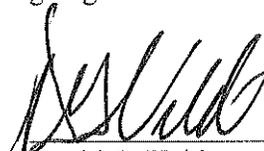
Date: 7/19/04



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: 7/19/04



David G. Velde

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In RE:

FAYETTE, TERRY MICHAEL,

Debtor.

Case No.: 04-60636

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 debtor's real estate described as Red Lake Rapids Addition Lots 1, 2, 3 and N 13' of Lot 4 Block 28, claimed exempt under 11 U.S.C. § 522(d)(1) is not exempt to the extent it exceeds the amount allowed under the cited statute.

2. The debtor's cash on hand, bank account, 1995 Jeep, and 1999 Victoria motorcycle all claimed exempt under 11 U.S.C. § 522(d)(5) are not exempt.

Judge Dennis D. O'Brien
US Bankruptcy Court

STATE OF MINNESOTA)
) ss.
COUNTY OF DOUGLAS)

I, Estelle M. Garvin, of Alexandria, County of Douglas, in the State of Minnesota, being duly sworn, says that on the 19th day of July, 2004, she served the attached Notice of Motion and Motion Objecting to Exempt Property by electronically filing with:

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

and 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 Alexandria, Minnesota, 56308 address to each of them as follows:

Mr. Habbo G. Fokkena
U S Trustee
1015 U S Courthouse
300 South 4th Street
Minneapolis , MN 55415

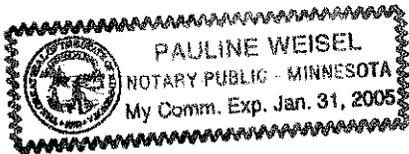
Thomas V. Omdahl
Attorney at Law
424 DeMers Avenue
Grand Forks ND 58201

Terry Fayette
PO Box 231
Thief River Falls, MN 56701

Executed: July 19, 2004

Estelle M. Garvin

Subscribed and sworn to before me this 19th day of July, 2004.



Pauline Weisel

Notary Public