

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

BRUCE W. LUTHER

BKY Case No. 04-60753 DDO

Chapter 13

Debtor(s).

**NOTICE OF HEARING AND
MOTION FOR DISMISSAL**

Michael J. Farrell, Chapter 13 Trustee, hereby moves to dismiss the above-entitled Chapter 13 case.

1. The Court will hold a hearing on this motion at 10:00 a.m. on September 28, 2004 in Courtroom 2 – 2nd Floor, 118 South Mill Street, Fergus Falls, Minnesota, 56537.
2. Any response to this motion must be filed and delivered not later than 10:00 a.m. on September 23, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than September 17, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays, and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
3. The Debtor commenced this case by filing a voluntary Chapter 13 petition on June 24, 2004. This case is pending before this Court.
4. The Court has jurisdiction pursuant to 28 U.S.C. § § 157 and 1334. This motion is brought pursuant to 11 U.S.C. §1307, Bankruptcy Rule 1017 and Local Rule 1017.
5. The Debtor has failed to make payments to the Trustee as outlined in the proposed Plan. To date, the Debtor has paid to the Trustee no payments. The Debtor is currently one month in default totaling \$250.00. This amount does not include any payments that may come due between now and the time of the hearing.
6. A 341 meeting was scheduled for August 6, 2004. The Debtor appeared at the schedule time but failed to participate in the 341 investigation. To date, no 341 meeting has been held.
7. The Debtor petition was filed on June 24, 2004. At the 341 meeting, The Debtor provided the Trustee with a signed statement withdrawing his signature from the bankruptcy petition. At present, the Debtor has no valid bankruptcy petition or schedules. Therefore, the Debtor does not qualify for relief under bankruptcy law.

WHEREFORE, the Trustee requests an order as follows:

- (A) Dismissing the above entitled Chapter 13 case; and
- (B) Granting any other relief the Court deems just and proper.

Dated: August 12, 2004

/s/ Michael J. Farrell

Michael J. Farrell, Standing Trustee

PO Box 519

Barnesville, MN 56514

(218) 354-7356

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

BRUCE W. LUTHER

BKY Case No. 04-60753 DDO
Chapter 13

Debtor(s).

The undersigned, being an employee of the standing Chapter 13 Trustee, declares that on the date indicated below, I served the following:

Notice of Hearing and Trustee's Motion to Dismiss
and Unsworn Declaration of Proof of Service

Upon each of the entities named below, by mail (unless otherwise indicated below) by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid, and depositing same in the post office at Barnesville, Minnesota, addressed to each of them as follows:

Debtor(s):

BRUCE W. LUTHER
1892 HIDDEN VALLEY LANE NW
MILTONA, MN 56354

Debtor's Attorney:

IAN T. BALL
12 S. 6TH ST., SUITE 326
MINNEAPOLIS, MN 55402

Additional Copy(s) addressed to:

KRISTI A. HASTINGS
PEMBERTON, SORLIE, RUFER
& KERSHNER, PLLP
PO BOX 866
FERGUS FALLS, MN 56538-0866

UNITED STATES TRUSTEE
1015 U.S. COURTHOUSE
300 W. 4TH ST.
MINNEAPOLIS, MN 55415

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

Dated: August 12, 2004

/s/ Belinda D. Kurtz
Belinda D. Kurtz
Chapter 13 Office

UNITED STATES BANKRUPTCY COURT
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In Re:

BRUCE W. LUTHER

BKY Case No. 04-60753 DDO
Chapter 13

Debtor(s).

This matter came before the Court on September 28, 2004 at 10:00 a.m., or as soon thereafter as could be heard, on a motion by the Chapter 13 Trustee to dismiss this case. The appearances are as noted on the record. The court made its findings and conclusion on the record. Based on the Local and Federal Rules of Bankruptcy Procedure, it is

HEREBY ORDERED:

That this Chapter 13 Case is dismissed.

Dated: _____

Judge Dennis D. O'Brien
U.S. Bankruptcy Judge