

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

In RE:

QUALEY, ERIC A.,  
QUALEY, DIANE L.

Debtors.

Case No.: 04-60860  
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 November 17, 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 November 8, 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 November 3, 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 July 16, 2004. The case is now pending in this Court.

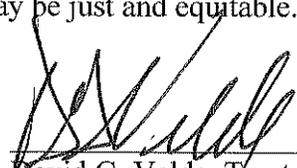
5. This motion arises under 11 U.S.C. § 522, and Bankruptcy Rule 4003 and Local Rule 4003-1(a). This motion is filed under Bankruptcy Rule 9014 and Local Rule 9013-1. Movant requests relief with respect to debtors' claims for exemption.

6. Debtors have claimed as exempt the following asset which the trustee objects to as follows: The bank account valued at \$100 in the petition, the computer/monitor/printer valued in the petition at \$500 and the homestead valued in the petition at \$55,000.

7. The trustee objects to the debtors' claim of exemption on the following basis: The debtor testified that the value of the homestead is \$70,000 not \$55,000 as stated in the petition. This significant difference creates doubt as to the validity of the asserted value and to the extent that the value exceeds \$70,000 these debtors do not have enough available exemptions under section (d)(5) to claim the items so listed.

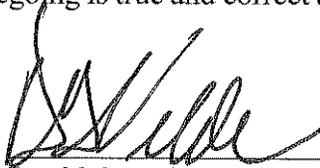
WHEREFORE, the Applicant moves the court for an order sustaining trustee's objection to claimed exempt property and such other relief as may be just and equitable.

Date: 10-5-04

  
\_\_\_\_\_  
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: 10-5-04

  
\_\_\_\_\_  
David G. Velde

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**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. To the extent that the value of the real estate consumes the amount allowed to be claimed exempt under Section 522(d)(5) the debtors claim of exemption for the bank account, computer/monitor/printer is denied. Further, to the extent that the value of the real estate exceeds the amount allowed to be claimed exempt under Section 522(d)(1), the remaining value is property of the estate.

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Judge Dennis D. O'Brien  
US Bankruptcy Court

