

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

DAVID J. LARSON
DAWN M. LARSON

Bky Case No 04-60905 DDO
Chapter 13

Debtor(s)

OBJECTION TO CONFIRMATION OF PLAN

TO: All parties in interest under Local Rule 9013-3.

1. I, Michael J. Farrell, am the standing trustee assigned to the above-mentioned case.
2. A confirmation hearing has been set for 10:00 a.m. on September 28, 2004 in Courtroom 2 – 2nd Floor, 118 South Mill Street, Fergus Falls, Minnesota, 56537.
3. 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 prior to 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.**
4. The Court has jurisdiction pursuant to 28 U.S.C. § § 157 and 1334, Fed. R. Bankr. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 13 case was filed on July 30, 2004. This case is now pending in this Court.
5. This motion arises under 11 U.S.C. § 1322 and 1325 and Bankruptcy Rule 3015. This motion is filed under Bankruptcy Rule 9014 and Local Rules 3015-3, 9006-1, 9013-1 through 9013-5, and such other Local Rules as may apply. Movant requests relief with respect to denial of confirmation of the debtors' proposed Chapter 13 Plan filed on August 16, 2004 (the "Plan").
6. The Debtor, as stated in the schedules, is a self-employed person. Under 11 U.S.C. § § 1304 (c) and 704 (8), a debtor who is in business is required to submit to the Trustee financial information relative to the operations of the business, including, but not limited to, tax returns, periodic reports, and statements of receipts and disbursements. The Debtor has failed to supply the Trustee with the required information to determine feasibility of the Plan.
7. The Debtor lists as an asset in his case a 2003 Harley Davidson motorcycle valued at \$14,521.00. There is a loan in the amount of \$30,485.12 held against this asset. The Debtor is in default on the loan in the amount of \$1564.86. Clearly, the Debtor has no equity in this asset and it should be surrendered and the amount of the

monthly payment, \$362.93, be pledged to the Plan for the benefit of the unsecured creditors.

8. There is a cause of action pending regarding the sale of a home located in Moorhead. The value is listed in the schedules as \$18,000.00. This is potential disposable income and, therefore, any proceeds from this cause of action should be pledged to the Plan for the benefit of the unsecured creditors.
9. Trustee objects to the confirmation of the plan on the basis that Debtor has not provided the self-employed business paperwork necessary to determine the feasibility of the Plan and that the Debtor's have not pledged all disposable income to the Plan to the benefit of the unsecured creditors.

Therefore, the trustee requests that the proposed plan be denied and any other action the court deems fit.

Dated September 20, 2004

/s/ Michael J. Farrell

Michael J. Farrell, Trustee
Box 519
Barnesville, MN 56514
(218) 354-7356

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

Notice of Trustee's Objection to Confirmation of Plan
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):

DAVID J. LARSON
DAWN M. LARSON
14999 WALNUT LANE
MILTONA, MN 56354

Debtor's Attorney:

LOGAN MOORE
VELDE LAW FIRM
1118 BROADWAY
ALEXANDRIA, MN 56308

Additional Copy(s) addressed to:

WELLS FARGO BANK, NA
C/O MCCALLA, RAYNER, ET. AL.
BANKRUPTCY DEPARTMENT
1544 OLD ALABAMA ROAD
ROSWELL, GA 30076

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: September 20, 2004

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

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This matter came before the Court on September 28, 2004 at 10:00 a.m., or as soon thereafter as could be heard on Confirmation of Debtor's Chapter 13 Plan. 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:

Confirmation of Debtor's Chapter 13 Plan is DENIED.

Dated: _____

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