

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

DUANE A. HAGEN

Bky Case No 04-61031 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 October 26, 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 October 21, 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 October 15, 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 August 31, 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 April 12, 2004 (the "Plan").
6. The Debtor has a mobile home that is to be paid through the Plan. The balance is listed as \$5035.00 but the Debtor indicated at the 341 meeting that the balance is actually \$3035.00. As this is to be paid in the Plan, the Plan should be modified to reflect the accurate amount.
7. The Debtor also stated he has a 2003 Ford Thunderbird with a debt of \$34,018.00. It appears that the vehicle maybe worth something less than that and may need to be reset if appropriate. As stated in the schedules, the vehicle has no equity and it appears to be excessive, more than transportation. It should be considered that the vehicle be surrendered and other, more reasonable transportation, be acquired and included in the budget and, possibly, in the Plan.

8. The Debtor has an insurance policy that appears to have some cash value. It is not listed in the schedules. Therefore, the Trustee is unable to determine the feasibility of the plan in regards to “the best interest test”.
9. The Plan has no summary of information on who is to be paid and should be modified to reflect the appropriate summary numbers.

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

Dated October 12, 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):

Duane A. Hagen
23891 County Road 86
Nevis, MN 56467

Debtor's Attorney:

Michael R. Ruffenach
Ruffenach Law Office
PO Box 262
Bemidji, MN 56601

Additional Copy(s) addressed to:

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: October 12, 2004

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

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This matter came before the Court on October 26, 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