

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

BRADLEY J. SCHALLER
ANITA A. SCHALLER

Bky Case No 04-61041 DDO
Chapter 13

Debtor(s)

OBJECTION TO CLAIMED EXEMPTION ON PROPERTY

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

1. Michael J. Farrell, Trustee of the bankruptcy estate of the above-mentioned debtor(s), moves the Court for the relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this motion at 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 October 21, 2004, which is three days before the time set of the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than October 15, 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.
4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. § § 157 and 1334, 11 U.S.C. § § 522 and 542, Bankruptcy Rules 4003d, 9013 and 9014, and Local Rules 702 and 1201, et seq. This proceeding is a core proceeding. The petition commencing this Chapter 13 case was filed on September 1, 2004. The case is now pending in this Court. Movant is entitled to object to Debtor(s)' claims of exemption pursuant to Bankruptcy Rule 4003.
5. This motion arises under 11 U.S.C. § 522, 11 U.S.C. § 542, and Bankruptcy Rule 4003 and Local Rule 702. This motion is filed under Bankruptcy Rule 9014 and Local Rules 9001-1 to 9006-1 and 9013-1 to 9013-5.
6. The Co-Debtor, Anita Schaller, owns a ½ interest, with her sister owning the other half, in real estate valued at \$58,000.00. The ½ interest is valued at \$29,000.00. She has claimed \$19,687.00 exempt under 11 U.S.C. § 522(d)(5). The total of all the exemptions claimed under (d)(5) for this debtor is \$19,943.00. The amount allowed under law is \$10,200.00 and, therefore, the claimed

exemptions under 11 U.S.C. § 522(d)(5) exceeds what the law allows by \$9743.00.

WHEREFORE, the Trustee, Michael J. Farrell, moves the Court for an order sustaining his objection to the Debtor(s)' exemptions and such other relief as may be just and equitable.

Dated October 12, 2004

Michael J. Farrell
Chapter 13 Trustee
PO 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 Hearing and Trustee's Objection to Claim of Exemption
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):

Bradley J. Schaller
Anita A. Schaller
30086 County Hwy. 18
Underwood, MN 56586

Debtor's Attorney:

Allen Haugrud
PO Box 697
Fergus Falls, MN 56538-0697

Additional Copy(s) addressed to:

Washington Mutual
7800 N. 113th St.
Mail Stop MWIB201
Milwaukee, WI 53224

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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Upon the objection to property claimed as exempt filed by the trustee and upon all the files and records of the proceedings herein,

IT IS ORDERED:

The trustee's objections are sustained and the debtors' claimed exemptions are denied as filed.

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