

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

In Re: Bankruptcy 03-33085
Chapter 7 Case

Melanie N. Garcia-Hernandez,

Debtor(s).

NOTICE OF MOTION AND MOTION
FOR AN ORDER DIRECTING DEBTOR
TO SURRENDER PROPERTY

TO: The debtor(s) and other entities specified in Local Rule 9013-3.

1. Michael J. Iannacone moves the Court for the relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this motion at 2:00 p.m. on September 22, 2004 in Courtroom 228A, United States Courthouse, 316 North Robert Street, St. Paul, Minnesota or as soon thereafter as counsel may be heard.
3. Any response to this motion must be filed and delivered not later than September 15, 2004, which is seven (7) days before the time set for the hearing (including Saturdays, Sundays, and holidays), or filed and served by mail not later than September 12, 2004, which is ten (10) days before the time set for the hearing (including 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 over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This is a core proceeding.
5. The petition commencing this Chapter 7 case was filed on April 29, 2003. The case is now pending in this Court.
6. This motion arises under 11 U.S.C. § 521(4) and Bankruptcy Rule 4002.

7. Movant is the trustee of the bankruptcy estate of the debtor. The debtor has failed to surrender and continues to withhold the following estate property from the trustee:

2003 state and federal income tax refunds in the amount of \$337.67.

8. Debtor is required to surrender and deliver to the trustee all estate property, 11 U.S.C. § 521(4).

WHEREFORE, Movant requests an Order of the Court directing debtor to surrender forthwith all of the property of the estate described above to the trustee at the address indicated for the trustee and \$500.00 in legal fees and cost and disbursement incurred in bringing on this motion and for such other and further relief as the Court deems just and equitable in the proceeding.

Dated: August 24, 2004

____/e/ Michael J. Iannacone____
Michael J. Iannacone, #48719
8687 Eagle Point Boulevard
Lake Elmo, MN 55042
(651) 224-3361

Debtor(s) last known address:

249 Winona St. W.
St. Paul, MN 55107

Verification. I, Michael J. Iannacone, 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.

Executed on June 11, 2004

____/e/ Michael J. Iannacone____

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

In Re:

Bankruptcy 03-33085
Chapter 7 Case

Melanie N. Garcia-Hernandez,

**UNSWORN CERTIFICATE
OF SERVICE**

Debtor(s).

I, Krisann Treague, employed by Michael J. Iannacone, attorney licensed to practice law in this Court, with office address of 8687 Eagle Point Boulevard, Lake Elmo, Minnesota, declare that on August 24, 2004, I mailed copies of a **NOTICE OF MOTION AND MOTION FOR AN ORDER DIRECTING DEBTOR TO SURRENDER PROPERTY AND PROPOSED ORDER** by first class mail postage prepaid to each entity named below at the address stated below for each entity:

United States Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Melanie N. Garcia-Hernandez
249 Winona St. W.
St. Paul, MN 55107

Robert J. Hogle, Esq.
P.O. Box 130938
Roseville, MN 55113

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

Executed on: August 24, 2004

____/e/ Krisann Treague ____

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

In Re: Bankruptcy 03-33085
Chapter 7 Case

Melanie N. Garcia-Hernandez,

O R D E R

Debtor(s).

At St. Paul, Minnesota.

The above-entitled matter came on for hearing before the undersigned Judge of Bankruptcy Court upon the motion of the trustee for an Order directing the debtor(s) to surrender property to the trustee.

Michael J. Iannacone, Esq. appeared on behalf of the motion and other appearances are as noted in the record.

Upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED, that the debtor shall surrender and deliver to the trustee at 8687 Eagle Point Boulevard, Lake Elmo, Minnesota the following described property on or before October 4, 2004:

2003 state and federal income tax refunds in the amount of \$337.67. The debtor shall pay the trustee \$500.00 as and for attorney's fees awarded in bringing this motion.

Dated this ____ day of _____, 2004.

Dennis D. O'Brien, Judge
United States Bankruptcy Court