

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 03-33277

In re:

Joel D. Troska and Sheryl K. Troska,

Debtors.

**NOTICE OF HEARING AND MOTION
FOR TURNOVER OF PROPERTY**

TO: The Debtor above-named and her attorney,

1. Randall L. Seaver, the Chapter 7 Trustee herein, moves the Court for the relief request below and gives Notice of hearing herewith.

2. The Court will hold a hearing on this motion at 2:00 p.m. on November 2, 2004 Courtroom No. 228B, U.S. Bankruptcy Court, 316 North Robert Street, St. Paul, MN 55101 or as soon thereafter as counsel can be heard. Under applicable rules, any objection must be in writing, be delivered to the Trustee and the United States Trustee, and be filed with the clerk, not later than October 28, 2004 which is 3 days before the above date or file (excluding Saturdays, Sundays and holidays) and served by mail not later than October 22, 2004 which is 7 days before the time set for hearing (excluding Saturdays, Sundays and holidays) in accordance with Local Rules. **UNLESS A RESPONSE IS TIMELY SERVED AND FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

3. This Court has jurisdiction over this Motion under 28 U.S.C. §157 and §1334 and Bankruptcy Rule 5005. This Motion is filed under Local Rule 9013-2, this proceeding arises under 11 U.S.C. §542(e) and Local Rule 6072-1

4. The petition commencing this Chapter 7 case was filed on May 6, 2003. The case is now pending in this Court.

5. According to information received by Trustee from the Minnesota Department of Revenue, the Debtors were entitled to receive a federal income tax refund of \$4,854 and a state tax refund of \$1,637 for the year 2003. The Trustee has demanded 34.25% of those refunds, which are bankruptcy estate property from the Debtors to no avail. The Trustee requests an order directing the Debtors to turnover to the Trustee \$2,223.17 which represents the estate's share of the 2003 tax refunds apparently received by the Debtors.

WHEREFORE, the Trustee requests an order of the court:

1. Directing the Debtors to turnover to the Trustee the sum of \$2,223.17 within 7 days from the hearing date on this motion.

FULLER, SEAVER & RAMETTE, P.A.

Dated: October 18, 2004

By: /e/ Randall L. Seaver
Randall L. Seaver 152882
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

Attorneys for Randall L. Seaver, Trustee

VERIFICATION

I, Randall L. Seaver, Trustee for the Bankruptcy Estate of Joel D. Troska and Sheryl K. Troska, named in the foregoing Notice of Hearing and Motion for Turnover of Property declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on October 18, 2004

/e/ Randall L. Seaver
Randall L. Seaver, Trustee

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 03-33277

In re:

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Debtors.

UNSWORN CERTIFICATE OF SERVICE

I, Kari L. Fogarty declare under penalty of perjury that on October 18, 2004 I mailed a copy of the Notice of Hearing and Motion for Turnover of Property and proposed Order by first class mail, postage prepaid to the following entities:

Joel D. Troska
61929 230th Street
Alden, MN 56009

Sheryl Kay Troska
61929 230th Street
Alden, MN 56009

Scott K. Springer
Adams Rizzi & Sween
200 First Street NW
Austin, MN 55912

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

FULLER, SEAVER & RAMETTE, P.A.

Dated: October 18, 2004

By: /e/ Kari L. Fogarty
Kari L. Fogarty
Legal Secretary
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 33277

In re:

Joel D. Troska and Sheryl K. Troska,

ORDER

Debtor.

This matter came on for hearing before this court on the motion of Randall L. Seaver, Chapter 7 Trustee, for turnover of property of the estate. Appearances, if any, were noted upon the record.

Upon the Motion of the Trustee, arguments of counsel, and the documents of record herein., and the Court being fully advised in the premises,

IT IS HEREBY ORDERED:

1. Within seven (7) days from the entry of this Order the Debtors shall turnover to the Trustee the sum of \$2,223.17.

BY THE COURT:

Dated: _____, 2004

Gregory F. Kishel
U.S. Bankruptcy Judge