

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

GARY W. CORBIN
GEORGIANNA CORBIN

BKY Case No. 03-35178 GFK
Chapter 13

Debtor(s).

**NOTICE OF HEARING AND
MOTION FOR DISMISSAL**

Michael J. Farrell, Chapter 13 Trustee, hereby moves to dismiss the above-entitled Chapter 13 case.

1. The Court will hold a hearing on this motion at 10:00 a.m. on October 28, 2004 in Courtroom 228B - 2nd Floor, 316 North Robert Street, St. Paul, Minnesota, 55101.
2. Any response to this motion must be filed and delivered not later than 10:00 a.m. on October 25, 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 19, 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.**
3. The Debtor commenced this case by filing a voluntary Chapter 13 petition on July 29, 2003. This case is pending before this Court.
4. The Court has jurisdiction pursuant to 28 U.S.C. § § 157 and 1334. This motion is brought pursuant to 11 U.S.C. §1307, Bankruptcy Rule 1017 and Local Rule 1017.
5. The Debtor has failed to maintain payments as outlined in the Court approved Plan. To date, the Debtor has paid \$1000.00. The Debtors' current monthly payment is \$125.00. The last payment was on May 24, 2004 in the amount of \$250.00. The Debtors are in default by a total of \$625.00. This amount is through August and does not include any payments that may come due before the hearing date.
6. The Debtors filed a plan with the Court on July 29, 2003. The order confirming that plan was signed on October 23, 2003. In paragraph 11 of the Court approved plan, it states "Debtor submits all future earnings or other income to such supervision or control of the trustee as is necessary for the execution of the plan." The Trustee has sent two written reminders regarding the tax returns but, to date, he has not received a response. Without copies of the Debtors state and federal income returns, the Trustee is unable to determine if, in fact, the Debtors received an income tax refund which has not been turned over to the Trustee

WHEREFORE, the Trustee requests an order as follows:

- (A) Dismissing the above entitled Chapter 13 case; and
- (B) Granting any other relief the Court deems just and proper.

Dated: September 20, 2004

/s/ Michael J. Farrell

Michael J. Farrell, Standing Trustee

PO Box 519

Barnesville, MN 56514

(218) 354-7356

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GEORGIANNA CORBIN

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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 Motion to Dismiss
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):

GARY W. CORBIN
GEORGIANNA CORBIN
323 13TH ST. N. APT. 302
SAUK RAPIDS, MN 56379

Debtor's Attorney:

IAN T. BALL
12 S. 6TH ST., SUITE 326
MINNEAPOLIS, MN 55402

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: September 20, 2004

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

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This matter came before the Court on October 28, 2004 at 10:00 a.m., or as soon thereafter as could be heard, on a motion by the Chapter 13 Trustee to dismiss this case. 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:

That this Chapter 13 Case is dismissed.

Dated: _____

Judge Gregory F. Kishel
U.S. Bankruptcy Judge