

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:

Chapter 7

Bkcy Case No. 03-35761

**Rolin Henry Strunk,**

Debtor.

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**NOTICE OF HEARING, VERIFIED MOTION FOR TURNOVER  
TO THE TRUSTEE OF PROPERTY OF THE ESTATE AND  
MEMORANDUM OF LAW IN SUPPORT OF MOTION**

TO: The Debtor, and other entities specified in Local Rule 9013-3:

1. Nauri Jo Manty, Trustee of the bankruptcy estate of the above-named Debtor (“Trustee”), moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion on **October 25, 2004 at 1:30 p.m.**, before The Honorable Gregory F. Kishel, Chief Judge of the U.S. Bankruptcy Court, in Courtroom Number 228B, U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.

3. Any response to this motion must be filed and delivered not later than October 20, 2004, which is three days prior to the hearing (excluding Saturdays, Sundays and holidays), or filed and mailed not later than October 14, 2004, which is seven days before the hearing (excluding Saturdays, Sundays and holiday). **IF A RESPONSE IS NOT TIMELY FILED, THE COURT, IN ITS DISCRETION, MAY GRANT THE RELIEF REQUESTED WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition

commencing this case was filed under Chapter 7 on August 21, 2003. This case is now pending in this Court.

5. This motion arises under 11 U.S.C. §§ 541(a) and 542(a). This motion is filed pursuant to Bankruptcy Rule 9014 and Local Rules 9013-1, 9013-2, 9013-3 and 9013-5. The Trustee requests relief with respect to turnover of the Debtor's nonexempt asset consisting of a 1989 Harley Davidson Softtail Motorcycle (the "Motorcycle").

#### MOTION FOR TURNOVER

6. The 341 meeting of creditors was held on September 29, 2003. The Trustee has offered the assets for sale to the Debtor. See copy of the October 16, 2003 and November 30, 2003 letters to the Debtor's attorney attached hereto as Exhibit A. The Trustee has received no response to her letters. In order to fully administer the estate, the Trustee must obtain the requested Motorcycle.

7. The Trustee also requests attorney fees in the amount of \$500.00.

#### MEMORANDUM OF LAW

The law pertinent to this motion is found in 11 U.S.C. §§ 541(a) and 542(a). 11 U.S.C. §541(a) provides that:

The commencement of a case under § 301, 302 or 303 of this title creates an estate. Such estate is comprised of all of the following property, wherever located and by whomever held:

- (1) Except as provided in subsections (b) and (c)(2) of this section, all legal or equitable interests of the debtor in property as of the commencement of this case.

11 U.S.C. §542 provides that:

- (a) Except as provided in subsections (c) or (d) of this section, an entity other than a custodian, in possession, custody, or control, during the case, of property that the trustee may use, sell, or lease under Section 363 of this title, or that the debtor may

exempt under section 522 of this title, shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate.

The Trustee requests that the Court order the Debtor to turn over the Motorcycle.

WHEREFORE, the Trustee requests that this Court, issue an order that Debtor turn over his Motorcycle. The Trustee also requests attorney fees in the amount of \$500.00 payable from Debtor.

Dated: October 6, 2004

RIDER BENNETT LLP

By       /e/ Nauri Jo Manty      

Nauri Jo Manty (#230352)  
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Nancy L. Jaeckels  
Trustee Administrator  
(612) 335-3930  
nljaeckels@riderlaw.com

October 16, 2003

Robert J. Hoglund  
PO Box 130938  
Roseville, MN 55113

Re: Rolin Henry Strunk  
Bkcy Case No. 03-35761

Dear Mr. Hoglund:

Please let us know if the Debtor is interested in purchasing the scheduled Harley Davidson Softtail.

Please respond to this letter on or before October 30, 2003. If you have any questions, please give me a call.

Very truly yours,

RIDER BENNETT, LLP

By Nancy L. Jaeckels  
Nancy L. Jaeckels

NLJ





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**Nancy L. Jaeckels**  
Trustee Administrator  
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November 20, 2003

Robert J. Hoglund  
PO Box 130938  
Roseville, MN 55113

Re: Rolin Henry Strunk  
Bkcy Case No. 03-35761

Dear Mr. Hoglund:

We have not had a response to our October 16, 2003 letter asking whether the Debtor had an interest in purchasing the scheduled Harley Davidson Softtail. Please advise, or contact us to make arrangements for the Debtor to turnover the motorcycle.

Please respond to this letter on or before **December 3, 2003**. If you have any questions, please give me a call.

Very truly yours,

RIDER BENNETT, LLP

By *Nancy L. Jaeckels*  
Nancy L. Jaeckels

NLJ



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:

**Rolin Henry Strunk**

Case No. 03-35761-GFK

Debtor.

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**UNSWORN CERTIFICATE OF SERVICE**

I, Donna M. Voth, declare under penalty of perjury that on, October 6, 2004, I served copies of the attached *Notice of Hearing, Verified Motion for Turnover to the Trustee of Property of the Estate and Memorandum of Law in Support of Motion* by first class U.S. mail, to the following parties:

Rolin Henry Strunk 1942 Glenfield Court Eagan, MN 55122	United States Trustee 1015 U.S. Courthouse 300 So. Fourth St. Minneapolis, MN 55415
Robert J. Hoglund P.O. Box 130938 Roseville, MN 55113	

Executed on October 6, 2004

/e/ Donna M. Voth

Donna M. Voth  
Legal Administrative Assistant  
Rider Bennett, LLP  
333 South Seventh Street, Suite 2000  
Minneapolis, MN 55402

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:

**Rolin Henry Strunk,**

Case No. 03-35761-GFK

Debtor.

**ORDER**

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The above-captioned matter came on before this Court on the motion of the Trustee, Nauri Jo Manty, for the turnover of Debtor's 1989 Harley Davidson Softtail Motorcycle.

Based upon all of the files, records and proceedings herein,

IT IS HEREBY ORDERED:

1. The Trustee's Motion for Turnover is granted.
2. The Debtor shall turn over the Debtor's 1989 Harley Davidson Softtail Motorcycle within five days of the date of this order.
3. The Debtor shall also pay the Trustee \$500.00 as and for attorney's fees awarded in bringing this motion, within five days of the date of this order.

Dated: \_\_\_\_\_, 2004.

BY THE COURT

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Gregory F. Kishel  
Chief Judge, United States Bankruptcy Court