

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:

BKY 03-36274

Dennis E. and Diane L. Schiller,

Debtor(s).

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

**PLEASE TAKE NOTICE** that the Court will hold a hearing on the following motion on October 20, 2004 at 11:30 a.m. in Courtroom 228A, 228 Federal Building, 316 North Robert Street, St. Paul, Minnesota, or as soon thereafter as counsel can be heard. Any objection to this motion shall be filed and delivered no later than October 15, 2004 at 11:30 a.m. which is three (3) business days prior to the hearing, or mailed no later than October 11, 2004 which is seven (7) prior to the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

John A. Hedback, trustee for the bankruptcy estate, (Trustee) hereby moves the Court for an Order requiring that the Debtor(s) turn over property of the estate, and states in support thereof as follows:

1. The Movant is the trustee in the above-captioned case. This case is presently pending as a case under Chapter 7 of the United States Bankruptcy Code.
2. This Court has jurisdiction over this motion under Sections 157 and 1334 of Title 28 of the United States Code. This matter is a core proceeding. This motion is brought pursuant to Section 542 of the Bankruptcy Code and Local Bankruptcy Rules 6072 and 9013.
3. During the course of the administration of the bankruptcy estate, the Trustee asked the Debtor(s) to turn over the following property and/or information:
  - a. Any and all documentation that Debtors may have concerning time shares they owned on the date of the filing of the bankruptcy.

The foregoing documents and information are hereinafter referred to as Property.

4. The Debtor(s) have failed to turn over the Property.
5. The attorney for the Debtors has provided no response.
6. The Property constitutes property of the bankruptcy estate.

7. Trustee's efforts to recover the Property have been fruitless.

8. Trustee also requests that the Court award attorney's fees in the amount of \$250. Trustee has previously given notice to Debtor that if this motion was filed such a request would be made.

9. Pursuant to Local Rule 1209, Trustee does not submit a separate memorandum of law in support of this motion.

**WHEREFORE**, Trustee requests the Court to enter an order as follows:

- (A) Directing the Debtor(s) to turn over the Property on or before the date specified in the Court's order;
- (B) Awarding the Trustee attorney's fees in the amount of \$250 payable from the Debtor; and
- (C) Granting any other relief the Court deems just and proper.

The Movant verifies under penalty of perjury that the information contained in the foregoing motion is true and correct to the best of the Movant's knowledge, information and belief.

Dated: September 29, 2004

\_\_\_\_\_/e/ John Hedback\_\_\_\_\_  
John A. Hedback, Trustee  
Atty #142438  
2855 Anthony Lane South, Suite 201  
St. Anthony, MN 55418  
(612) 436-3280

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**UNSWORN DECLARATION FOR PROOF OF SERVICE**

The undersigned, being an employee of Hedback, Arendt & Carlson, PLLC, attorneys licensed to practice law in this Court, with offices located at 2855 Anthony Lane South, Suite 201, St. Anthony, Minnesota, declares that on the date indicated below, I served the following:

1. Notice of Motion and Motion for Turnover of Property;
2. Proposed Order; and
3. Unsworn Declaration for Proof of Service

on each of the entities named below by delivering to each of them by mail (unless otherwise indicated) a copy thereof at their addresses which are as follows:

Dennis E. and Diane L. Schiller  
19890 Chili Avenue  
Farmington, MN 55024

Curtis K. Walker  
4356 Nicollet Avenue S  
Minneapolis, MN 55409

Office of United States Trustee  
1015 US Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415

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

Dated: September 29, 2004

\_\_\_\_\_/e/ John Hedback\_\_\_\_\_

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:

BKY 03-36274

Dennis E. and Diane L. Schiller,

**ORDER REQUIRING TURNOVER  
OF PROPERTY**

Debtor(s).

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This case came before the Court for hearing on the motion of the Trustee. Appearances were noted on the record. Based on the motion, argument(s) of counsel, and the file in this case,

**IT IS HEREBY ORDERED:**

1. The Debtor(s) and his/her/its/their agents shall turn over the following property of the estate to the Trustee:
  - a. Any and all documentation that Debtors may have concerning time shares they owned on the date of the filing of the bankruptcy.
2. The Debtor(s) shall comply with Term 1 of this order within 15 days from the date of this Order.
3. The Debtor(s) shall also pay John A. Hedback \$250 as and for attorney's fees awarded in bringing this motion.

BY THE COURT

Dated: \_\_\_\_\_

\_\_\_\_\_  
U.S. Bankruptcy Judge

NOTICE TO DEBTORS: You are hereby advised that failure to comply with this Order may be grounds for denial or revocation of a discharge in this case under Section 727(a)(6)(A) of the Bankruptcy Code.