

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
THIRD DIVISION**

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In re:

BKY 03-36364 GFK

*Kou Kristine Vang,*  
*a/k/a Kou Kristine Vang,*

Chapter 13

Debtor.

NOTICE OF OBJECTION TO  
CONFIRMATION OF PLAN

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TO: All parties entitled to notice pursuant to LOCAL RULE 9013-3.

1. Jasmine Z. Keller, Standing Chapter 13 Trustee (the "Trustee"), by and through the undersigned counsel, moves the court for the relief requested below and gives notice of hearing herewith.

2. A hearing on this motion will be held before the Honorable Chief Judge Gregory F. Kishel, Courtroom 228B, U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota, at 10:30 a.m. on **November 25, 2003**, or as soon thereafter as counsel may be heard.

3. Any response to this motion must be filed and delivered not later than 10:30 a.m. on November 24, 2003, which is 24 hours before the time set for hearing, or filed and served by mail not later than November 20, 2003, which is three business days before the hearing date. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, FED. R. BANKR. P. 5005, and LOCAL RULE 1070-1. The proceeding is a core proceeding. The petition commencing this case was filed on September 17, 2003. The case is now pending in this court.

5. This motion arises under 11 U.S.C. §§ 1322 & 1325 and FED. R. BANKR. P. 3015 and LOCAL RULES 3015-1. Movant requests relief with respect to denial of confirmation of the Plan.

6. The Debtor filed a Chapter 13 Plan dated September 16, 2003 (the "Plan"). The Plan provides for payments of \$150 per month for 36 months for a total contribution of \$5,400. The Plan would allow for distribution of \$2,794.34 on account of estimated nonpriority unsecured claims of approximately \$83,316. As of the date of this objection, the proposed return to unsecured creditors appears to be no more than 3%.

7. To date, the Debtor has paid the Trustee \$300 and is current in contributions to the Plan through November 2003.

8. The Debtor has exempted her interest in a rollover IRA, valued at filing at \$15,739.

9. The Trustee has objected to exemption of the IRA, said objection to be heard on January 5, 2003 at 2:30 p.m.

10. The Trustee objects to confirmation of the Plan on the grounds that the Plan does not meet the best interest of creditors under 11 U.S.C. § 1325(a)(4). *And see: In re Jenkins*, No. 03-45729, 2003 WL 22423164 (Bankr. D. Minn. October 24, 2003).

11. If necessary, the Trustee reserves the right to call a member of her staff and the Debtor to testify as to the matters alleged in this motion.

WHEREFORE, the Trustee requests entry of an order as follows:

- a. Denying confirmation of the Debtor's Plan; and
- b. Granting such other and further relief the Court deems equitable and just.

Dated: November 17, 2003

**Jasmine Z. Keller, Trustee**

/e/ Margaret H. Culp  
Thomas E. Johnson, #52000  
Margaret H. Culp, #180609  
Counsel to the Chapter 13 Trustee  
310 Plymouth Building  
12 South Sixth Street  
Minneapolis, MN 55402

#### VERIFICATION

I, Margaret H. Culp, an employee of Jasmine Z. Keller, the Standing Chapter 13 Trustee, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: November 17, 2003

/e/ Margaret H. Culp  
Margaret H. Culp  
310 Plymouth Building  
12 South Sixth Street  
Minneapolis, MN 55402

UNITED STATES BANKRUPTCY COURT  
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In re:

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Debtor.  
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BKY 03-36364 GFK

Chapter 13

**MEMORANDUM IN SUPPORT OF OBJECTION TO CONFIRMATION**

FACTS

The facts supporting the Trustee's objection are summarized in the accompanying motion and will not be repeated here. The Trustee also relies on the representations made by the Debtor in her Schedules.

LEGAL DISCUSSION

Pursuant to 11 U.S.C. § 1325(a)(4), the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim must not be less than the amount that would be paid on such claims if the estate of the debtor were liquidated under chapter 7 of this title on such date. *11 U.S.C. § 1325(a)(4). In re Jenkins*, No. 03-45729 , WL 22423164 (Bankr. D. Minn. October 24, 2003).

In this case, the IRA is valued at \$15,739. It is the Trustee's position that the Plan should pay at least that amount to unsecured creditors in order to meet the "best interest" test.

For the reasons stated herein, the Trustee respectfully requests that confirmation of the Debtor's proposed Plan be denied, and for such other relief as the Court determines just and equitable.

Respectfully submitted:

Dated: November 17, 2003

/e/ Margaret H. Culp  
Thomas E. Johnson, ID #52000  
Margaret H. Culp, ID #180609  
Counsel for Chapter 13 Trustee  
310 Plymouth Building  
12 South 6<sup>th</sup> Street  
Minneapolis, MN 55402-1521  
612-338-7591

**UNITED STATES BANKRUPTCY COURT  
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In re:

BKY 03-36364 GFK

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a/k/a Kou Kristine Kessler,*

Chapter 13

Debtor.

UNSWORN DECLARATION  
FOR PROOF OF SERVICE  
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The undersigned, an employee of Jasmine Z. Keller, Standing Chapter 13 Trustee, declares that on November 17, 2003, she served the following:

1. Notice and Objection to Confirmation of Plan;
2. Memorandum of Facts and Law
3. Proposed order; and
4. Unsworn Declaration for Proof of Service

on each of the entities named below as follows:

**By electronic means only:**

U.S. Trustee  
612-664-5516

Michael K. Hoverson, Esq.  
952-349-2726

**By United States Mail, postage pre-paid:**

Kou K. Vang  
1595 Highland Parkway, #201  
St. Paul, MN 55116

Michael K. Hoverson, Esq.  
Michael K. Hoverson & Associates, P.A.  
333 Washington Avenue North, Suite 308  
Minneapolis, MN 55401

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

Dated: November 17, 2003

/e/ Margaret H. Culp  
Margaret H. Culp

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
THIRD DIVISION**

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In re:

BKY 03-36364 GFK

*Kou Kristine Vang  
a/k/a Kou Kristine Kessler,*

Chapter 13

ORDER

Debtor.

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At St. Paul, Minnesota \_\_\_\_\_.

This matter came before the Court on the Chapter 13 Trustee's Objection to Confirmation of Plan and Motion to Dismiss. Appearances were noted on the record. Based on the files, the proceedings, and record herein,

IT IS ORDERED:

1. Confirmation of the Debtor's Plan is **DENIED**.

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Honorable Gregory F. Kishel  
Chief United States Bankruptcy Judge