

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
THIRD DIVISION

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In re:

BKY 03-36364 GFK

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

Chapter 13

Debtor.  
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**STIPULATION OF SETTLEMENT**

This Stipulation is entered into effective this 24<sup>th</sup> day of November 2003, among Kou Kristine Vang, f/k/a Kou Kristine Kessler (the “Debtor”), by and through her counsel, Michael K. Hoverson (“Hoverson”) and Jasmine Z. Keller (“Trustee”). (The Debtor, Hoverson, and the Trustee may hereinafter be referred to collectively as the “Parties”.)

**RECITALS**

- A. The Debtor filed a Chapter 13 Plan dated September 16, 2003 (the “Plan”).
- B. In Schedule B of the petition, the Debtor disclosed her interest in an IRA, which she valued at \$15,739 at the time of filing.
- C. The Debtor claimed the entire IRA as exempt property pursuant to 11 U.S.C. § 522(b)(2) and Minn. Stat. § 550.37, subd. 24.
- D. At the creditors’ meeting, the Debtor testified that she rolled the IRA over from a former employer’s pension plan.
- E. The Trustee filed a Motion Objecting to Confirmation of Chapter 13 Plan on the basis that the Plan fails the “best interest of creditors” test under 11 U.S.C. § 1325(a)(4).
- F. The Trustee also filed an objection to exemption of the IRA, which is scheduled to be heard on January 5, 2004 at 2:30 p.m.
- G. The Parties have become aware that the issue of exemption of IRAs under Minn. Stat.

§ 550.37, subd. 24 has been certified to the Minnesota Supreme Court.

H. In order to ensure that payments to creditors are not delayed while the Parties await a decision by the Minnesota Supreme Court, the Trustee has proposed a resolution of the Trustee's objection, which she believes is fair and reasonable.

#### AGREEMENT

The Parties agree:

1. That the Plan may be confirmed on November 25, 2003.
2. That confirmation of the Plan will be not be considered *res judicata* on the issue of whether the Plan meets the best interest of creditors test under 11 U.S.C. § 1325(a)(4).
3. That the Trustee's objection shall be continued on subsequent confirmation calendars for tracking purposes while the Parties await legal determination of the Debtor's right to exempt the IRA.
4. That this Stipulation is without prejudice to the Trustee's ability to bring a separate objection or motion to dismiss upon other grounds.
5. That this Stipulation is without prejudice to the Debtor's ability to file and serve a modified plan for hearing.
6. That this Stipulation is without prejudice to the Debtor's ability to amend her exemptions, if appropriate.
7. That upon the execution and filing of this Stipulation, the hearing now set for January 5, 2004 at 2:30 p.m. may be stricken from the Court's calendar, subject to its rescheduling, if necessary, when the Debtor's right to exempt the IRA is determined.
8. IN WITNESS WHEREOF, the Parties and counsel have executed this agreement.

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Kou Kristine Kessler

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**ORDER APPROVING STIPULATION**

This case came before the Court on a Stipulation of Settlement among the Debtor, Debtor's counsel, and the Trustee (collectively "Parties") entered into on November 24, 2003 and filed for record November 24, 2003. Based upon the Stipulation, and all of the files, records and proceedings herein,

IT IS ORDERED:

The Stipulation is **APPROVED**.

**BY THE COURT:**

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

\_\_\_\_\_  
Gregory F. Kishel  
Chief United States Bankruptcy Judge