

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
THIRD DIVISION

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In re:

BKY 03-38031 GFK

*David Michael Maynard and  
Litia Maynard,*

Chapter 13

Debtors.  
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**STIPULATION OF SETTLEMENT**

This Stipulation is entered into effective this 20<sup>th</sup> day of January 2004, among David Michael Maynard and Litia Maynard, (the “Debtors”), by and through their counsel, Craig W. Andresen (“Andresen”) and Jasmine Z. Keller (“Trustee”). (The Debtors, Andresen, and the Trustee may hereinafter be referred to collectively as the “Parties”.)

**RECITALS**

- A. The Debtors filed a Chapter 13 Plan dated November 7, 2003 (the “Plan”).
- B. In Schedule B of the petition, the Debtors disclosed an interest of Debtor David Michael Maynard in two IRAs, which were valued collectively at \$27,708 at the time of filing.
- C. The Debtors claimed both IRAs as exempt property pursuant to 11 U.S.C. § 522(b)(2) and Minn. Stat. § 550.37, subd. 24.
- D. Other non-exempt assets exist in the aggregate amount of \$562.50, and Debtor David Michael Maynard disclosed an interest in a possible inheritance, the value of which was unknown at filing, but potentially would increase the amount of non-exempt assets if received.
- 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 February 4, 2004 at 3:30 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, and further information is obtained on the likelihood of inheritance and the anticipated amount, 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 January 29, 2004.
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 Debtors' right to exempt the IRAs and a determination of any amount to be received from the inheritance.
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 Debtors' ability to file and serve a modified plan for hearing.
6. That this Stipulation is without prejudice to the Debtors' ability to amend their exemptions, if appropriate.
7. That upon the execution and filing of this Stipulation, the hearing now set for February 4, 2004 at 3:30 p.m. may be stricken from the Court's calendar, subject to its rescheduling, if necessary, when the Debtors' right to exempt the IRAs is determined.
8. That on or before January 29, 2004, Debtors' counsel will file a Signature Declaration on behalf of the Debtors memorializing their specific agreement with the Stipulation.

9. IN WITNESS WHEREOF, the Parties and counsel have executed this agreement.

By: /e/ Margaret H. Culp  
Thomas E. Johnson, #52000  
Margaret H. Culp, #180609  
Attorneys for Chapter 13 Trustee  
12 South Sixth Street, Suite 310  
Minneapolis, MN 55402  
Telephone: (612) 338-7591  
Facsimile: (612) 338-4529

By: /e/ Craig W. Andresen  
Craig W. Andresen, #186557  
Attorneys for David Michael Maynard  
and Litia Maynard  
2001 Killebrew Drive, Suite 330  
Bloomington, MN 55425

/e/ David Michael Maynard

/e/ Litia Maynard

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:

**David M. Maynard , and  
Litia Maynard,**

**SIGNATURE DECLARATION**

Debtor(s).

Case No. 03-38031-GFK

- PETITION, SCHEDULES & STATEMENTS  
 CHAPTER 13 PLAN  
 SCHEDULES AND STATEMENTS ACCOMPANYING VERIFIED CONVERSION  
 AMENDMENT TO PETITION, SCHEDULES & STATEMENTS  
 MODIFIED CHAPTER 13 PLAN  
 OTHER (Please describe: STIPULATION OF SETTLEMENT)

I [We], the undersigned debtor(s) or authorized representative of the debtor, *make the following declarations under penalty of perjury:*

- The information I have given my attorney and provided in the electronically filed petition, statements, schedules, amendments, and/or chapter 13 plan, as indicated above, is true and correct;
- The information provided in the "Debtor Information Pages" submitted as a part of the electronic commencement of the above-referenced case is true and correct;
- [Individual debtors only] If no Social Security Number is included in the "Debtor Information Pages" submitted as a part of the electronic commencement of the above-referenced case, it is because I do not have a Social Security Number;
- I consent to my attorney electronically filing with the United States Bankruptcy Court my petition, statements and schedules, amendments, and/or chapter 13 plan, as indicated above, together with a scanned image of this Signature Declaration and the completed "Debtor Information Pages," if applicable; and
- [corporate and partnership debtors only] I have been authorized to file this petition on behalf of the debtor.

Date: X Jan 26, 2004

X David M. Maynard  
Signature of Debtor or Authorized Representative

X Litia Maynard  
Signature of Joint Debtor

X David M Maynard  
Printed Name of Debtor or Authorized Representative

X LITIA MAYNARD  
Printed Name of Joint Debtor

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**UNSWORN DECLARATION FOR PROOF OF SERVICE**

I, Margaret H. Culp, employed by Jasmine Z. Keller, Chapter 13 Trustee, declare that on January 20, 2004, I served Notice of Hearing and Motion Objecting to Claim of Exemption, and proposed Order, on the individual(s) listed below, in the manner described:

**By electronic means:**

United States Trustee  
612-664-5516  
Craig W. Andresen, Esq.  
952-831-3821

**By first class U.S. mail, postage prepaid:**

David M. Maynard  
16570 Genesee Avenue  
Rosemount, MN 55068

Litia Maynard  
9025 Old Cedar Avenue South, Apt. 207  
Bloomington, MN 55425

Craig W. Andresen, Esq.  
2001 Killebrew Drive, Suite 330  
Bloomington, MN 55425

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

Executed: January 20, 2004

/e/ Margaret H. Culp

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**ORDER APPROVING STIPULATION**

This case came before the Court on a Stipulation of Settlement among the Debtor, Debtors' counsel, and the Trustee (collectively "Parties") entered into on January 20, 2004 and filed for record January 27, 2004. 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