

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

**In re:
Lori A Alkire,**

Bky Case No.: 04-30196

Debtor.

Chapter 7

Retailers National Bank,

Adv. Pro. No. _____

Plaintiff,

vs.

**COMPLAINT TO DETERMINE
DISCHARGEABILITY OF DEBT**

Lori A Alkire,

Defendant.

**Retailers National Bank, by and through its counsel David Hoiland, hereby
represents as follows:**

- 1. The Court has jurisdiction to hear this complaint pursuant to 28 U.S.C. 157(a), (b)(1), (b)(2)(I) (core proceeding), 1334(b), and 11 U.S.C. 523(c).**
- 2. On 01/15/2004, Defendant filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code.**
- 3. Plaintiff is the holder of an unsecured claim against Defendant arising from credit card account number 4352375021626181.**
- 4. Between 10/21/2003 and 12/16/2003, the Defendant accumulated in excess of \$8,315.00 in retail charges and cash advances and/or convenience check charges toward this account.**
- 5. By the date the bankruptcy was filed, Defendants owed \$8,658.08 on this**

account.

- 6. Use of a credit card account constitutes an implied promise that the Defendants have the intention and ability to repay.**
- 7. Plaintiff relied upon Defendant express and implied representation of present intent and ability to repay.**
- 8. Accordingly, Plaintiff is entitled to judgment that this debt is excepted from discharge pursuant to 11 U.S.C. § 523(a)(2)(A).**
- 9. The Cardholder Agreement in effect between the parties requires Defendant to pay costs of collection, including reasonable attorney fees.**

WHEREFORE, Retailers National Bank, prays for judgment as follows:

- A. For money judgment against Defendant jointly and severally in the amount \$8,315.00 as of 12/16/2003;**
- B. That the Court except from discharge its claim against Defendants in the amount of \$8,315.00 plus interest, finance charges and attorney fees in accordance with the Cardholder Agreement of the parties; and**
- C. That the Court order such other such relief as it may deem appropriate.**

Respectfully submitted,

/e/David Jon Hoiland

David Jon Hoiland #46085

Attorney for Plaintiff

120 S. 6th Street - Suite 1100

Minneapolis, MN 55402

(612) 573-3686