

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: Thomas William Anderson and
Leslie Marie Anderson,

Chapter 7
Bky Case No. 04-30263
Adv. No. 04-3318

Debtors.

Patti J. Sullivan, Trustee,
Plaintiff.

v.

Thomas William Anderson and
Leslie Marie Anderson,

Defendants.

**NOTICE OF HEARING AND MOTION
FOR DEFAULT JUDGMENT**

TO: THE COURT, UNITED STATES TRUSTEE, THE DEBTORS AND THEIR
ATTORNEY:

1. Patti J. Sullivan, (Trustee), the duly appointed and acting Trustee of the
bankruptcy estate of the above-named Debtors, applies to the court for the relief requested below
and gives notice of hearing.

2. The Court will hold a hearing on this motion at 3:30 P.M. on September 20, 2004
in Courtroom No. 228B, at the United States Court House, 316 N Robert St., St. Paul, Minnesota
55101.

3. Any response to this motion must be filed and delivered not later than 3:30 P.M.
on September 15, 2004 which is three (3) days before the time set for the hearing (excluding
Saturdays, Sundays, and legal holidays), or filed and served by mail not later than September 9,
2004, which is seven (7) days before the time set for the hearing (excluding Saturdays, Sundays,
and legal holidays). **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, 11 U.S.C. §522 and Local Rules 7055-1. This action arises under 11 U.S.C. §727. This motion arises under Rule 55 of the Federal Rules of Civil Procedure made applicable to this proceeding by Rule 7055 of the Bankruptcy Rules of Procedure, and Local Rule 7055-1. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on January 19, 2004. The case is now pending in this Court.

5. This adversary proceeding arises in and relates to the bankruptcy estate of Thomas William Anderson and Leslie Marie Anderson, Bankruptcy Case Number 04-30263.

6. The Trustee has initiated an action to deny the discharge of the debtors in the above captioned bankruptcy case under the provisions of 11 U.S.C. §727(a)(6)(A) for failure to comply with an Order of the Court dated June 21, 2004, as more specifically set out in Plaintiff's Complaint.

7. The Trustee's Complaint further asserts that the failure to comply with the Order of the Court is the basis to deny the discharge under 11 U.S.C. §727(a)(6)(A) and 11 U.S.C. §727(c)(1), and requests an order of the Court denying the debtors' discharge.

8. The Trustee served the Complaint on both debtors and debtors' counsel by United States mail on July 23, 2004, and the response to the Summons and Complaint was due not later than 30 days after the date of the Summons, which was August 19, 2004. The Trustee also served the Summons and Complaint by certified mail, return receipt requested, which was received by the debtors individually on July 24, 2004, pursuant to the return receipts signed by Lisa Luettker.

9. There has been no answer or other response to the Summons and Complaint, despite the period of time for answering the Complaint having run, and accordingly the debtors are now in default of the adversary action.

WHEREFORE, the undersigned requests an order of the Court denying the defendants' discharge pursuant to 11 U.S.C. §727(a)(6)(A) and 11 U.S.C. §727(c)(1), and by default pursuant to Rule 55 of the Federal Rules of Civil Procedure.

Dated this 26th day of August 2004.

Ulvin and Sullivan Attorneys, P.A.

/e/Patti J. Sullivan

Patti J. Sullivan

Attorney ID No. 170124

P.O. Box 16406

St. Paul, MN 55116

(651) 699-4825

VERIFICATION. I, Patti J. Sullivan, Movant, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated this 26th day of August 2004.

/e/ Patti J. Sullivan

Patti J. Sullivan, Trustee

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: Thomas William Anderson and
Leslie Marie Anderson,

Chapter 7
Bky Case No. 04-30263
Adv. No. 04-3318

Debtors.

Patti J. Sullivan, Trustee,
Plaintiff.

v.

Thomas William Anderson and
Leslie Marie Anderson,

Defendants.

**COMBINED AFFIDAVIT OF
PATTI J. SULLIVAN IN SUPPORT
OF APPLICATION FOR
DEFAULT JUDGMENT**

STATE OF MINNESOTA:

COUNTY OF RAMSEY:

Patti J. Sullivan, being duly sworn, deposes and says:

1. I am the duly appointed and acting Trustee in the above captioned bankruptcy case and have personal knowledge of the facts set forth in this Affidavit.

2. I make this affidavit to fulfill the requirements for an affidavit of default an affidavit of identification and an affidavit on the merits as required by Local Rule 7055-1 of the United States Bankruptcy Court for the District of Minnesota.

AFFIDAVIT OF DEFAULT

3. The Plaintiff filed a Complaint against the Defendants on July 20, 2004.

4. The Clerk of Bankruptcy Court issued the Summons in this adversary proceeding on July 20, 2004.

5. Plaintiff served copies of the Summons and Complaint in this matter upon the Defendants by certified mail within the required 10 days pursuant to Bankruptcy Rule 7004(f). True copies of the certified mail receipts are attached hereto as Exhibits "A1", and "A2".

6. More than 30 days have elapsed since the issuance of the Summons by the Clerk of the Bankruptcy Court.

7. The Defendants have failed to answer or otherwise defend or respond to Plaintiff's Complaint as required by Bankruptcy Rule 7012(a). Nor have the defendants in any manner appeared herein by attorney or otherwise, and that the defendants are in default herein and plaintiff prays for judgment according to law.

AFFIDAVIT OF IDENTITY

8. The defaulting parties are Thomas William Anderson and Leslie Marie Anderson who reside at 1757 Bluebill Drive, Eagan, Minnesota 55122-3142.

9. To the best of my knowledge and information, the Defendants are fully competent and not on active duty in the military of the United States or any of its allies, nor have they been ordered to report for such military service, and that this affidavit is made in compliance with the Soldiers' and Sailors' Civil Relief Act of 1940 and amendments thereto.

AFFIDAVIT OF MERITS

10. The petition commencing this Chapter 7 case was filed on January 19, 2004. The case is now pending in this Court.

11. This adversary proceeding arises in and relates to the bankruptcy estate of Thomas William Anderson and Leslie Marie Anderson, Bankruptcy Case Number 04-30263.

12. The Trustee has initiated an action to deny the discharge for the debtors' failure to comply with an Order of the Court dated June 21, 2004, as more specifically set out in Plaintiff's Complaint.

13. The Trustee's Complaint further asserts that the failure to comply with the Order of the Court is the basis to deny the discharge under 11 U.S.C. §727(a)(6)(A) and 11 U.S.C. §727(c)(1), and request an order of the Court denying the debtors' discharge.

14. The Trustee served the Complaint on both debtors and debtors' counsel by United States mail on July 23, 2004, and the response to the Summons and Complaint was due not later than 30 days after the date of the Summons, which was August 19, 2004. The Trustee also served the Summons and Complaint by certified mail, return receipt requested, which was received by the debtors individually on July 24, 2004, pursuant to the return receipts signed by Lisa Luettkke. There has been no answer or other response to the Summons and Complaint and Plaintiff respectfully requests that the Court enter a default judgment denying the debtors' discharge.

AFFIDAVIT OF RELIEF REQUESTED

Plaintiff requests an order of the Court denying the debtors' discharge pursuant to 11 U.S.C. §727(a)(6)(A) and 11 U.S.C. §727(c)(1), and by default pursuant to Rule 55 of the Federal Rules of Civil Procedure.

Dated this 26th day of August, 2004.



Patti J. Sullivan

Subscribed and sworn to before me
this 26th day of August, 2004,
by Patti J. Sullivan.

Lisa D. Comstock



UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: Thomas William Anderson and
Leslie Marie Anderson,

Debtors.

Chapter 7
Bky Case No. 04-30263
Adv. No. 04-3318

Patti J. Sullivan, Trustee,
Plaintiff.

v.

Thomas William Anderson and
Leslie Marie Anderson,

Defendants.

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER FOR JUDGMENT

This cause of action came before the court on the application of Patti J. Sullivan, Trustee, Plaintiff in the above-entitled cause, for a default judgment, pursuant to Rule 7055 of the Rules of Bankruptcy Procedure and Local Rule 7055.1 of the United States Bankruptcy Court of the District of Minnesota.

The Court finds as follows:

FINDINGS OF FACT

I.

The Complaint in the above cause was filed in this Court on July 20, 2004.

II.

The Complaint was properly served on defendants on July 23, 2004.

III.

No answer or other response has been made by the Defendants.

IV.

In support of the request of entry of default judgment, Plaintiff submitted the Combined Affidavit of Patti J. Sullivan, Trustee.

V.

This bankruptcy case was commenced on January 19, 2004.

VI.

On June 2, 2004, the Chapter 7 Trustee filed a motion for turnover. This Court entered an Order on June 21, 2004, ordering the Debtor to turnover to the Trustee: (1) copies of all bank statements and check registers for all of the debtors' bank accounts for the year prior to their filing; (2) the debtors' 2002 and 2003 income tax returns; (3) the source of the following deposits into their TCF account: \$17,849.72 on February 26, 2004 and \$2,500.00 on March 5, 2004; (4) the reason why Premier Bank was not listed as a creditor; (5) all documentation regarding the debt owed to Premier Bank; and, (6) information regarding payments made by the debtors as follows: (a) 2/26/04 in the amount of \$4,000.00; (b) 3/01/04 in the amount of \$4,934.00; (c) 3/01/04 in the amount of \$4,000.00; (d) 3/11/04 in the amount of \$2,500.00; and, (e) to Pawn America in the amount of \$1,868.30 within ten (10) days of the entry of the Order. The debtors have failed to turnover the requested information and documentation and have failed to comply with the Order of the Court.

VII.

The Trustee then filed a Summons and Complaint with the court and served it upon the debtors and the debtors' attorney, which objects to the debtors' discharge.

CONCLUSIONS OF LAW

I.

Defendants' failure to answer or plead constitutes a default under Rule 7055 of the Rules of Bankruptcy Procedure.

II.

The said Order of the Court dated June 21, 2004 is a lawful order within the meaning of 11 U.S.C. § 727(a)(6)(A), for purpose of objection to discharge.

III.

The debtors have failed to comply with the Order of the Court dated June 21, 2004.

ORDER FOR JUDGMENT

Accordingly, for the reasons stated,
T IS ORDERED:

1. That the discharge of the debtors' is hereby denied.

Let Judgment Be Entered Accordingly:

Dated: _____

Gregory F. Kishel
Chief Judge Of U.S. Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

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Leslie Marie Anderson,

Debtors.

Chapter 7
BKY CASE NO. 04-30263
ADV. NO. 04-3318

Patti J. Sullivan, Trustee
Plaintiff.

v.

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Leslie Marie Anderson,

Defendants.

UNSWORN CERTIFICATE OF SERVICE

I, Joeline Kissinger, declare under penalty of perjury that on the 26th day of August, 2004, I mailed copies of the following **Notice of Hearing and Motion for Default Judgment, Combined Affidavit of Patti J. Sullivan in Support of Application for Default Judgment, and Proposed Findings of Fact, Conclusions of Law, and Order for Judgment** by first class mail postage prepaid to each entity named below or on the statement attached at the address stated below or in said attachment for each entity:

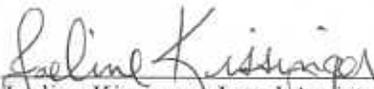
Malin D. Greenberg
600 South Highway 169
Suite 1525
Minneapolis, MN 55426

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

Thomas W. Anderson
1757 Bluebill Drive
Eagan, MN 55122

Leslie M. Anderson
1757 Bluebill Drive
Eagan, MN 55122

Executed on this 26th day of August, 2004.


Joeline Kissinger, Legal Assistant
Uvin and Sullivan Attorneys, P.A.
P.O. Box 16406
St. Paul MN 55116
651-699-4825