

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY 04-30053

Barbara Jean Jacobson,

**NOTICE OF HEARING AND
OBJECTION TO CLAIMED
EXEMPT PROPERTY**

Debtors.

1. John A. Hedback, the duly appointed trustee for the bankruptcy estate in the above-referenced bankruptcy case hereby gives notice of his objection to claimed exempt property and provides notice of hearing herewith.

2. The Court will hear this objection on April 8, 2004, at 11:00 a.m., or as soon thereafter as counsel can be heard in Courtroom 228 A, 228 Federal Building, 316 North Robert Street, St. Paul, Minnesota.

3. Any responses to this objection shall be filed and delivered no later than April 5, 2004, at 11:00 a.m. which is three (3) business days prior to the hearing, or mailed no later than March 30, 2004, which is seven (7) days prior to the hearing. **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 under Sections 175 and 1334 of Title 28 of the United States Code. This motion is brought pursuant to Section 522 of the Bankruptcy Code and local Rule 4003-1. This is a core proceeding.

5. The Debtor(s), in Schedule C, claimed as exempt the following property:

- a. Debtor's homestead legally described as Lot 4 Block 3 River Oaks Second Addition and Lot 3 in Block five (5) of Sunny Acres, Washington County, Minnesota; and
- b. Cash and checking having a combined value of \$1,000.00

6. a. Debtor listed this homestead property as having a value of \$690,000 and being subject to mortgages and liens in the amount of \$493,358.00. Trustee has received information that Debtor had the property listed for sale for over \$800,000. In addition the Debtor testified that the property is on more than one half of an acre. Debtor claims this property exempt under 510.01. Trustee contends that the equity in the property exceeds that available under Minnesota Statutes and that the area of the property exceeds that which can be claimed exempt under Minnesota Statutes.

b. Debtor claimed as exempt cash and deposits under Minnesota Statutes 571.922. That Statute only exempts the proceeds from a garnishment up to 75%. Debtor is claiming the entire funds as the proceeds from wages. Trustee objects to anything above and beyond 75% of proceeds

specifically allocated to wages as being exempt.

WHEREFORE, the trustee requests an order:

- (A) Sustaining the trustee's objections to the Debtor's claimed exemption of the Property;
and
- (B) Granting any other relief the Court deems just and proper.

Dated: March 8, 2004

_____/s/ John A. Hedback_____
John A. Hedback, Atty #142438
Trustee
2855 Anthony Lane South, Suite 201
St. Anthony, MN 55418
(612) 789-1331

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY 04-30053

Barbara Jean Jacobson,

Debtor(s).

UNSWORN DECLARATION FOR PROOF OF SERVICE

The undersigned, being an employee of Foster, Hedback, Brever, Arendt & Carlson, PLLC, attorneys licensed to practice law in this Court, with offices located at Suite 201 Anthony Place, 2855 Anthony Lane South, St. Anthony, Minnesota, declares that on the date indicated below, I served the following:

1. Notice of Hearing and Objection to Claimed Exempt Property;
2. Proposed Order; and
3. Unsworn Declaration for Proof of Service

upon each of the entities named below by mail (unless otherwise indicated below) by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid, and depositing same in the post office at St. Anthony, Minnesota, addressed to each of them as follows:

Barbara Jean Jacobson
10845 Kingsborough Trail
Cottage Grove, MN 55016

Alan J. Albrecht
7066 Brooklyn Blvd.
Brooklyn Center, MN 55429

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

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

Dated: March 8, 2004

_____/e/ John A. Hedback_____

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

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Barbara Jean Jacobson,

ORDER

Debtor.

This bankruptcy case came before the Court on objection by the Trustee to certain claim(s) of exempt property by the Debtor(s). Appearances were noted on the record. Based on the objection, argument of counsel and the files, records and proceedings herein,

IT IS HEREBY ORDERED: that the Trustee's Objection to Claimed Exempt Property is sustained. Debtor's interest in the following property is not exempt:

- a. Debtor's homestead legally described as Lot 4 Block 3 River Oaks Second Addition and Lot 3 in Block five (5) of Sunny Acres, Washington County, Minnesota; and
- b. Cash and checking having a combined value of \$1,000.00

BY THE COURT

Dated: _____

U.S. Bankruptcy Judge