

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:

**Albert and Lori Januszewski,**

Case No. 04-30356-DDO

Debtors.

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**NOTICE OF HEARING, VERIFIED MOTION FOR TURNOVER  
TO THE TRUSTEE OF PROPERTY OF THE ESTATE AND  
MEMORANDUM OF LAW IN SUPPORT OF MOTION**

TO: The Debtors, and other parties in interest specified in Local Rule 9013-3:

1. Nauri Jo Manty, Trustee of the bankruptcy estate of the above-named Debtor (“Trustee”), moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion on September 8, 2004, at 2:00 p.m., before The Honorable Dennis D. O'Brien, Judge of the U.S. Bankruptcy Court, in Courtroom Number 228A, U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.

3. Any objection to the relief requested herein must be filed and delivered not later than September 1, 2004, which is seven (7) days before the time set for the hearing, or filed and served by mail not later than August 27, 2004, which is ten (10) days before the time set for the hearing. **UNLESS A WRITTEN RESPONSE IS TIMELY SERVED AND FILED, THE COURT MAY ENTER AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT A HEARING**

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition

commencing this case was filed under Chapter 7 on January 23, 2004. This case is now pending in this Court.

5. This motion arises under 11 U.S.C. §§ 541(a) and 542(a). This motion is filed pursuant to Bankruptcy Rule 9014 and Local Rules 9013-1, 9013-2, 9013-3 and 9013-5. The Trustee requests relief with respect to turnover of copies of the Debtors' 2003 state and federal income tax returns, and refunds, if any.

### MOTION FOR TURNOVER

6. The 341 meeting of creditors was held on February 20, 2004. The Trustee has requested turnover by letter. See copy of the April 19, 2004 letter to the Debtors' attorney attached hereto as Exhibit A. The Trustee has received no response to her letter. In order to fully administer the estate, the Trustee must obtain the requested 2003 state and federal tax returns, and refunds, if any.

7. The Trustee also requests attorney fees in the amount of \$500.00.

### MEMORANDUM OF LAW

The law pertinent to this motion is found in 11 U.S.C. §§ 541(a) and 542(a). 11 U.S.C. §541(a) provides that:

The commencement of a case under § 301, 302 or 303 of this title creates an estate. Such estate is comprised of all of the following property, wherever located and by whomever held:

- (1) Except as provided in subsections (b) and (c)(2) of this section, all legal or equitable interests of the debtor in property as of the commencement of this case.

11 U.S.C. §542 provides that:

- (a) Except as provided in subsections (c) or (d) of this section, an entity other than a custodian, in possession, custody, or control, during the case, of property that the trustee may use, sell, or lease under Section 363 of this title, or that the debtor may

exempt under section 522 of this title, shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate.

The Trustee requests that the Court order the Debtors to turn over their 2003 state and federal tax returns, and refunds, if any.

WHEREFORE, the Trustee requests that this Court, issue an order that Debtors turn over their 2003 state and federal tax returns, and refunds, if any. The Trustee also requests attorney fees in the amount of \$500.00 payable from Debtors.

Dated: August 11, 2004

RIDER BENNETT LLP

By     /e/ Nauri Jo Manty    

Nauri Jo Manty (#230352)  
333 South Seventh Street  
Suite 2000  
Minneapolis, MN 55402  
(612) 340-7950



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**UNSWORN CERTIFICATE OF SERVICE**

I, Donna M. Voth, declare under penalty of perjury that on August 11, 2004, I served copies of the attached *Notice of Hearing, Verified Motion for Turnover to the Trustee of Property of the Estate and Memorandum of Law in Support of Motion* by first class U.S. mail, to the following parties:

Albert and Lori Januszewski 1142 Aquarius Lane Eagan, MN 55123	United States Trustee 1015 U.S. Courthouse 300 So. Fourth St. Minneapolis, MN 55415
Robert C. Black Black Law Office 7400 Metro Boulevard, Suite 190 Edina, MN 55439	

Executed on August 11, 2004

/e/ Donna M. Voth  
Donna M. Voth  
Rider Bennett, LLP  
333 South Seventh Street, Suite 2000  
Minneapolis, MN 55402

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:

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Case No. 04-30356-DDO

Debtor.

**ORDER**

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The above-captioned matter came on before this Court on the motion of the Trustee, Nauri Jo Manty, for the turnover of Debtors' 2003 state and federal tax returns, and refunds, if any.

Based upon all of the files, records and proceedings herein,

IT IS HEREBY ORDERED:

1. The Trustee's Motion for Turnover is granted.
2. The Debtors shall turn over the Debtors' 2003 state and federal tax returns, and refunds, if any.
3. The Debtors shall also pay the Trustee \$500.00 as and for attorney's fees awarded in bringing this motion.

Dated: \_\_\_\_\_, 2004.

BY THE COURT

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Dennis D. O'Brien  
Judge, United States Bankruptcy Court