

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Chapter 7
Bky. Case No. 04-30360

Timothy M. Kierstead,

NOTICE OF HEARING AND MOTION
FOR TURNOVER OF PROPERTY TO
THE ESTATE

Debtor.

TO: THE COURT, UNITED STATES TRUSTEE, THE DEBTOR AND HIS ATTORNEY:

1. Dorraine A. Larison, Trustee of the bankruptcy estate of the above-named Debtor, moves the court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 2:00 p.m. on September 1, 2004, in Courtroom No. 228A, at the United States Courthouse, at 316 North Robert Street in St. Paul, Minnesota.

3. Any response to this motion must be filed and delivered not later than August 25, 2004, which is seven (7) days before the time set for the hearing, or filed and served by mail not later than August 20, 2004, which is ten (10) days before the time set for 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 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 Chapter 7 case was filed on January 23, 2004. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. § 542(a), and Bankruptcy Rule 9013 and Local Rule 6072-1. This motion is filed under Bankruptcy Rule 9014 and Local Rules 9001-1 to

9001-6 and 9013-1 to 9013-5. Movant requests relief with respect to turnover of information regarding property of the estate and property of the estate.

6. Despite numerous written requests to the Debtor's attorney to surrender property or its value, the Debtor has failed to surrender and continues to withhold the following described property of the estate:

- a. A copy of the Debtor's 2003 Property Tax return;
- b. Debtor's 50% interest in Kierstead Truck & Auto, Inc.;
- c. Rental payments from commercial real estate from February 2004 through the present and all future rental payments;
- d. The balance in the Debtor's checking account on the date of filing in the amount of \$171.39;
- e. Cash on hand on the date of filing in the amount of \$20;
- f. Computer/Printer/Monitor valued at \$600;
- g. Tools valued at \$350;
- h. Car trailer valued at \$500;
- i. 1969 Dump truck valued at \$500;
- j. 1982 Honda Goldwing valued at \$800; and
- k. Van trailers valued at \$2,000.

7. The Debtor is required to surrender all property of the estate to the trustee under 11 U.S.C. § 521(4). The provisions of 11 U.S.C. § 542 require any entity in possession of property of the estate to turn such property over to the trustee.

WHEREFORE, Applicant moves the court for an order directing Debtor to surrender forthwith the property and information described above to the undersigned trustee.

Dated this 21st day of July, 2004.

/e/ Dorraine A. Larison
Dorraine A. Larison
I.D. No. 203609
GRAY, PLANT, MOOTY,
MOOTY & BENNETT, P.A.
1010 West St. Germain
Suite 600
St. Cloud, MN 56301
(320) 252-4414
Attorneys for Trustee

VERIFICATION. I, Dorraine A. Larison, the movant named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: July 21, 2004

/e/ Dorraine A. Larison
Dorraine A. Larison, Trustee

GP:1603711 v1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Chapter 7
Bky. Case No. 04-30360

Timothy M. Kierstead,

UNSWORN CERTIFICATE OF SERVICE

Debtor.

I, Jean Eisenschenk, declare under penalty of perjury that on July 21, 2004, I mailed the following documents:

**NOTICE OF HEARING AND MOTION FOR TURNOVER OF PROPERTY
AND ORDER**

by first class mail postage prepaid to each entity named below at the address stated below for each entity:

UNITED STATES TRUSTEE
1015 US COURTHOUSE
300 SOUTH FOURTH STREET
MINNEAPOLIS MN 55415

TIMOTHY M KIERSTEAD
757 COTTONWOOD RD
CUSHING MN 56443

ROBERT L KALENDA
ATTORNEY AT LAW
SUITE 2000
919 W ST GERMAIN STREET
ST CLOUD MN 56301

Executed on: July 21, 2004

/e/ Jean Eisenschenk
Jean Eisenschenk
GRAY, PLANT, MOOTY,
MOOTY & BENNETT, P.A.
Suite 600
1010 West St. Germain Street
St. Cloud, MN 56301

GP:1603727 v1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Chapter 7
Bky. Case No. 04-30360

Timothy M. Kierstead,

ORDER

Debtor.

At St. Paul, Minnesota, _____, _____.

Upon the motion of the Trustee in this case,

IT IS ORDERED: That the Debtor shall turn over to the Trustee, within ten (10) days of this order, the following:

- a. A copy of the Debtor's 2003 Property Tax return;
- b. Debtor's 50% interest in Kierstead Truck & Auto, Inc.;
- c. Rental payments from commercial real estate from February 2004 through the present and all future rental payments;
- d. The balance in the Debtor's checking account on the date of filing in the amount of \$171.39;
- e. Cash on hand on the date of filing in the amount of \$20;
- f. Computer/Printer/Monitor valued at \$600;
- g. Tools valued at \$350;
- h. Car trailer valued at \$500;
- i. 1969 Dump truck valued at \$500;

- j. 1982 Honda Goldwing valued at \$800; and
- k. Van trailers valued at \$2,000.

Dennis D. O'Brien
UNITED STATES BANKRUPTCY
JUDGE

GP:1603722 v1