

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

IN RE:

BKY. NO. 04-31455

KRISTIN A. LOWRY,

RESPONSE

DEBTOR(S).

TO: U.S. Trustee, Charles W. Ries, Chapter 7 Trustee, and all parties in interest entitled to notice under Bankruptcy Rules 2002, 9010 and Local Rule 2002-1.

1. Debtor, by and through her undersigned attorney of record and pursuant to Local Rule 9013-2(b), interposes this Response in opposition to the Notice of Hearing and Motion for Turnover tendered to the Court by the Chapter 7 trustee. Hearing on this matter is set for November 15, 2004 at 1:30 p.m. before the Hon. Gregory F. Kishel, Chief Judge of Bankruptcy Court in United States Bankruptcy Court, Courtroom 228A, 316 North Robert Street, Saint Paul, MN 55101.
2. This Chapter 7 case was commenced on March 11, 2004. The debtor's 11 U.S.C. § 341 First Meeting of Creditors was duly conducted on April 28, 2004.
3. The trustee's motion pertains to the debtor's apparent failure to turnover certain information, namely, the address of one Joey Larson to whom the debtor paid roughly \$1,600.00 before filing for bankruptcy relief. The trustee has requested an Affidavit from Joey Larson and any other documentation and has requested in his motion, among other things, that the debtor be ordered to pay the trustee \$250.00 as for attorneys fees and costs.
4. The debtor's payment to said individual was a cash payment and so no documentation, per se, exists. Additionally, the debtor has no authority over Joey Larson to force that person to sign an Affidavit. The debtor has offered to pay the trustee the \$1,600.00 but the trustee has been reluctant to accept the same without more documentation proving that only \$1,600.00 was paid. Counsel for the debtor has requested the debtor to provide the address for Joey Larson and counsel will again request the same.
5. The debtor contends that an award of attorneys fees to the trustee would be unjustified as no level of malice or purposeful evasion on the part of the debtor has been affirmatively established.
6. If testimony is necessary at the foregoing hearing, the debtor may be called to testify as to the foregoing and as to any facts necessary to augment and further explain the same. The trustee and any witnesses called by him may also be called by the debtor to testify.

WHEREFORE, the debtor respectfully requests the Court to deny the trustee's motion in its entirety and to grant any further relief it deems appropriate and equitable in the premises.

Dated: this 26th day of October, 2004.

ESKENS, GIBSON & BEHM LAW FIRM, CHTD.

/s/ Stephen J. Behm
Stephen J. Behm, #263758
Attorney for Debtor
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Mankato, MN 56002-1056
Telephone: (507) 345-5500

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**UNSWORN CERTIFICATE
OF SERVICE**

DEBTOR(S).

I, Stephen J. Behm, attorney with Eskens, Gibson & Behm Law Firm, Chtd., 115 East Hickory Street, Suite 200, P.O. Box 1056, Mankato, MN 56002-1056, declare that on October 26, 2004, I mailed copies of the attached **Response** by first class mail postage prepaid to each entity named below at the addresses stated below for each entity.

Charles W. Ries, Chapter 7 Trustee, P.O. Box 7, Mankato, MN 56002-0007.

U.S. Trustee, 1015 U.S. Courthouse, 300 South Fourth Street, Minneapolis, MN 55415.

Kristin A. Lowry, 844 ½ South Avenue, North Mankato, MN 56003.

Dated: this 26TH day of October, 2004.

ESKENS, GIBSON & BEHM LAW FIRM, CHTD.

/s/ Stephen J. Behm
Stephen J. Behm, #263758
Attorney for Debtor
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