

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:

Sharon J. Heimel,

BKY 04-31835

Chapter 7 case

Debtor.

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RESPONSE TO MOTION FOR ORDER  
DIRECTING DEBTOR TO SURRENDER PROPERTY

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Sharon J. Heimel ("Debtor") submits this response to the Motion for Order Directing Debtor to Surrender Property, filed on September 17, 2004 ("Motion") by Michael J. Iannacone, the duly appointed trustee ("Trustee").

The hearing on the Motion and this Response will be held in Courtroom No. 228B, Second Floor, U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota on October 26, 2004 at 10:00 a.m.

The property that is the subject of the Motion according to the Motion is the following:

<u>Year</u>	<u>Total</u>
1998	\$ 594.34
1999	\$ 572.00
2000	\$ 396.00
2001	\$ 349.00
2002	\$1,284.00
2003	<u>\$ 888.00</u>
	\$4,083.34

On information and belief, the trustee obtained his figures from the copies of the returns that the Debtor prepared at the trustee's demand, and provided to the trustee.

Based on the various notices and other items received from the taxing authorities, the information about the refunds is as follows:

<u>Year</u>	<u>Federal</u>	<u>State</u>	<u>Property</u>	<u>Total</u>
1998	\$ -0-	\$-0-	\$-0-	
1999	\$ -0-	\$-0-	\$-0-	
2000	\$ 10.00	\$ 89.00	\$-0-	

2001	\$501.55 <sup>1</sup>	\$252.00 <sup>2</sup>	too late	
2002	\$584.00	\$252.00	\$448.00	
2003	<u>\$ 94.00</u>	<u>\$ 89.00</u>	<u>\$705.00</u>	
	\$1,189.55	\$682.00	\$1,153.00	<u>\$3,024.55</u>

Attached hereto are copies of the refund checks received and reflected above.

The Debtor received several notices from the Minnesota Department of Revenue notifying her that the Debtor’s claim for a refund is disallowed because the return wa filed after the applicable statute of limitations for filing a claim for a refund had expired. Attached heretois a copy of the notices received. Accordingly, the income tax refunds in the “State” column and the property tax refund in the “Property: column are reflected above as \$-0-.

The Debtor learned that she will not receive a refund for federal income tax refund for the years 1998 and 1999 because the returns were filed after the statute of limitations expired. The Debtor was told that she would not receive a notice regarding these claims for tax refunds.

The Debtor has possession of the refund checks and will turn them over to the Trustee prior to the hearing on the Motion.

The Debtor received several of the refund checks after the Motion was filed: (1) the refund check issued by the State of Minnesota for the income tax refund for tax year 2001, by check dated September 23, 2004; (2) the refund check issued by the State of Minnesota for the income tax refund for tax year 2003, by check dated September 24, 2004; and (3) the refund check issues by the State of Minnesota for the property tax refund for tax year 2003, by check, dated September 21, 2004.

The Debtor was holding the refund checks until she had received all refunds.

The Debtor opposes the Trustee’s request for the imposition of attorneys fees of \$500 and asks this Court to deny the request.

By letter, dated July 14, 2004, the trustee provided a summary of the refunds coming due pursuant to the Debtor’s returns. A copy of the July 14 letter is attached hereto. According to the letter, the trustee asked the Debtor to remit the balance due the estate (the aggregate of \$4,083.34) “when the refunds are received.”

The Debtor received no further communication from the Trustee until she received a copy of the Motion.

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<sup>1</sup> The Debtor apparently made a mistake on the return filed for tax year ending December 31, 2001. Attached hereto is a notice form the IRS giving notice of the correction to the return. As a result of the mistake and the correction, the Debtor received a larger refund than reflected on her return.

<sup>2</sup> The Debtor also apparently made a mistake on the return filed for the state return for 2001. As a result of the mistake and the correction by the State, the Debtor received a larger refund than reflected on her return.

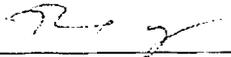
Under the circumstances, the Debtor does not believe an award of attorneys fees is merited. In addition, the Debtor's financial circumstances are very severe. The Debtor is currently facing expenses related to a new furnace, roof and windows. The Debtor does not have funds for these needed items; instead she has to seek assistance to meet these expenses. The Debtor has no funds with which to pay any attorneys fees awarded to the Trustee.

The Debtor hereby provides notice that at any hearing on the Motion and this Response, the Debtor may seek testimony from any of the witnesses identified by the moving party, any other interested party and the following: the Debtor.

WHEREFORE the Debtor asks the Court for an order granting the following relief: (a) Denying the Motion; and (b) Granting any other relief the Court deems just and proper.

UNIVERSITY OF MINNESOTA  
LAW SCHOOL BANKRUPTCY  
CLINIC

Dated: October 19, 2004

  
\_\_\_\_\_  
Paul Yu  
(Student Attorney Under Court  
Student Attorney Admission Rule)  
C/o University of Minnesota Law School  
190 Law Center  
229 19<sup>th</sup> Avenue South  
Minneapolis, MN 55455

- AND -

Dated: October 19, 2004

/s/ Mary L. Cox  
\_\_\_\_\_  
William I. Kampf (#53387)  
Mary L. Cox (#176552)  
Supervising Attorneys  
220 Second Avenue South, Suite 1800  
Minneapolis, MN 55402  
Telephone: (612) 339-2500  
Facsimile: (612) 339-6364

Attorneys for Debtor





09 17 04 5 AUSTIN, TEXAS

Check No. 2306 58198599

58198599 I30 012000941HEIM KANS CYTAX REFUND

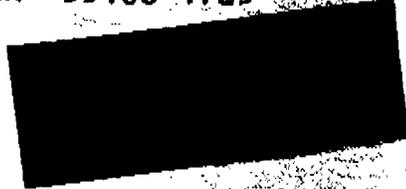
Pay to the order of SHARON J HEIMEL  
665 E NEBRASKA  
ST PAUL MN 55106-1725

12/00  
99

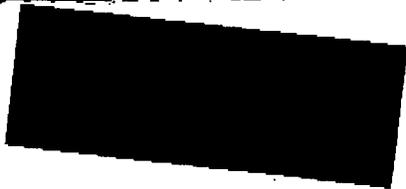
\$\*\*\*\*\*10\*00

VOID AFTER ONE YEAR

007  
Laura B. Brown  
ACTING REGIONAL SUPERVISOR OFFICE



230670 000000518 581985998 040904



Remove Check Along This Perforation

000002205  
PLEASE REMOVE THIS STUB BEFORE CASHING  
REMOVE CHECK ALONG THIS PERFORATION

DEPARTMENT OF FINANCE-STATE TREASURER  
STATE OF MINNESOTA  
ST. PAUL

WARRANT NUMBER: 25874716  
22-98  
980

ISSUE DATE: 09/02/2004  
FOR: 01/01/2000 - 12/31/2000  
DOCUMENT NUMBER: 5367832

PAY TO:  
SHARON J HEIMEL  
665 NEBRASKA AVE E  
SAINT PAUL MN 55106-1725

\$89.00

INDIVIDUAL INCOME TAX

Peggy S. Ingwin  
Commissioner of Finance

6096000962 25874716

Remove Check Along This Perforation

000033046

PLEASE REMOVE THIS STUB BEFORE CASHING

REMOVE CHECK ALONG THIS PERFORATION

DEPARTMENT OF FINANCE-STATE TREASURER  
STATE OF MINNESOTA  
ST. PAUL

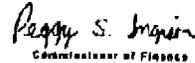
WARRANT NUMBER: 26063983  
22-96  
960

ISSUE DATE: 09/23/2004  
FOR: 01/01/2001 - 12/31/2001  
DOCUMENT NUMBER: 5428152

PAY TO:  
SHARON J HEIMEL  
665 NEBRASKA AVE E  
SAINT PAUL MN 55106-1725

\$252.00

INDIVIDUAL INCOME TAX

  
Peggy S. Ingwin  
Commissioner of Finance

096000962: 260639830

**United States Treasury** <sup>15-51</sup> 000 A 338,445,956

09 10 04 86 AUSTIN, TEXAS

58101806 130 012010941HEIM KANS CYTAX REFUND

Pay to the order of SHARON J HEIMEL  
665 E NEBRASKA  
ST PAUL MN 55106-1725

12/01  
06

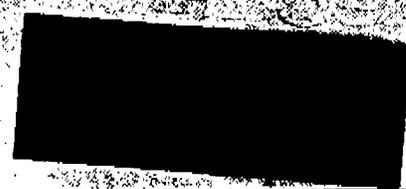
Check No. 2306 58101806

\$\*\*\*\*501\*55

VOID AFTER ONE YEAR







ACTING REGIONAL INSURANCE OFFICER

23067000000518058101806404904

# United States Treasury

15-51  
000 A 338,005,753

3



09 10 04 42 AUSTIN, TEXAS

Check No.

2306 57803951

57803951 I30 012020941HEIM KANS CYTAX REFUND

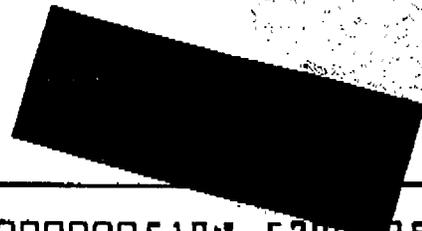
Pay to the order of SHARON J HEIMEL  
665 E NEBRASKA  
ST PAUL MN 55106-1725

12/02  
51

\$\*\*\*\*584\*45

VOID AFTER ONE YEAR

007  
*Sharon J Heimel*  
ACTING FEDERAL RESERVE OFFICER



23067 000000518 578039517 040904



Remove Check Along This Perforation

000006121

PLEASE REMOVE THIS STUB BEFORE CASHING

REMOVE CHECK ALONG THIS PERFORATION

DEPARTMENT OF FINANCE-STATE TREASURER  
STATE OF MINNESOTA  
ST. PAUL

WARRANT NUMBER: 25837454  
22-96  
960  
ISSUE DATE: 08/11/2004  
FOR: 01/01/2002 - 12/31/2002  
DOCUMENT NUMBER: 5312017

PAY TO:  
SHARON J HEIMEL  
665 NEBRASKA AVE E  
SAINT PAUL MN 55106-1725

\$448.00

PROPERTY TAX REFUND

*Peggy S. Ingerson*  
Commissioner of Finance

096000962 25837454

4



Remove Check Along This Perforation

00000673

PLEASE REMOVE THIS STUB BEFORE CASHING

REMOVE CHECK ALONG THIS PERFORATION

DEPARTMENT OF FINANCE STATE TREASURER  
 STATE OF MINNESOTA  
 ST. PAUL

WARRANT NUMBER: 25880118  
 22-96  
 960

ISSUE DATE: 09/08/2004  
 FOR: 01/01/2002 - 12/31/2002  
 DOCUMENT NUMBER: 5372572

PAY TO:  
 SHARON J HEIMEL  
 665 NEBRASKA AVE E  
 SAINT PAUL MN 55106-1725

\$252.00

INDIVIDUAL INCOME TAX

*Peggy S. Ingwin*  
 Commissioner of Finance

096000962 25880118



Remove Check Along This Perforation

000016675

REMOVE CHECK ALONG THIS PERFORATION

PLEASE REMOVE THIS STUB BEFORE CASHING

DEPARTMENT OF FINANCE-STATE TREASURER  
STATE OF MINNESOTA  
ST. PAUL



WARRANT NUMBER: 26090394  
22-96  
960

ISSUE DATE: 09/24/2004  
FOR: 01/01/2003 - 12/31/2003  
DOCUMENT NUMBER: 5434224

PAY TO:  
SHARON J HEIMEL  
665 NEBRASKA AVE E  
SAINT PAUL MN 55106-1725

\$89.00

INDIVIDUAL INCOME TAX

 *Peggy S. Ingwin*  
COMMISSIONER OF FINANCE

096000962: 26090394



Remove Check Along This Perforation

000017058

REMOVE CHECK ALONG THIS PERFORATION

PLEASE REMOVE THIS STUB BEFORE CASHING

DEPARTMENT OF FINANCE-STATE TREASURER  
STATE OF MINNESOTA  
ST. PAUL



WARRANT NUMBER: 26005029  
22-96  
960

ISSUE DATE: 09/21/2004  
FOR: 01/01/2003 - 12/31/2003  
DOCUMENT NUMBER: 5278661

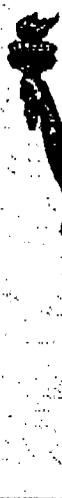
PAY TO:  
SHARON J HEIMEL  
665 NEBRASKA AVE E  
SAINT PAUL MN 55106-1725

\$705.00

PROPERTY TAX REFUND

 *Peggy S. Ingwin*  
COMMISSIONER OF FINANCE

096000962: 26005029



# United States Treasury

15-51  
000

A 338,005,754

Check No.



09 10 04 26

AUSTIN, TEXAS

2306 57803952

57803952 130 012030941HEIM KANS CYTAX REFUND

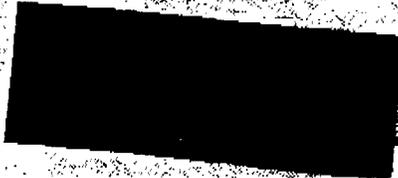
Pay to  
the order of

SHARON J HEIMEL  
665 E NEBRASKA  
ST PAUL MN 55106-1725

12/03  
52

\$\*\*\*\*\*94\*00

VOID AFTER ONE YEAR



007  
*Sharon Heimel*  
OFFICIAL SIGNATURE REQUIRED

23067

000000518 578039528 040904

Tax Operations Division

# Notice of Change to your Individual Tax Order of the Commissioner of Revenue

Your Social Security number
470-54-1292

Spouse's Social Security number

Tax Order Date	Account number
09/06/2004	5367830
	For year ending
	12/31/1998

SHARON J HEIMEL  
665 NEBRASKA AVE E  
SAINT PAUL, MN 55106-1725

We have adjusted your Minnesota Income Tax Return for the tax year shown above.

Claimed Refund  
Amount of Adjustment

417.74  
-417.74  
.00

Refund Allowed

YOUR CLAIM FOR REFUND ON YOUR MINNESOTA INDIVIDUAL INCOME TAX  
RETURN WAS FILED AFTER THE APPLICABLE STATUTE OF LIMITATIONS FOR  
FILING A CLAIM FOR REFUND. NO REFUND IS ALLOWABLE.

If you have any questions about this notice, you may call us at 651-296-3781. TTY users may call the Minnesota Relay Service at 711.

FOR YOUR RECORDS

RQEXPR

9

**MINNESOTA Department of Revenue**

Tax Operations Division

**Notice of Change to Your Property Tax Refund  
Order of the Commissioner of Revenue**

Your Social Security number
470-54-1292

Spouse's Social Security number

Tax Order Date	Account number
08/25/2004	5308128
	Tax Year
	12/31/1998

SHARON J HEIMEL  
665 NEBRASKA AVE E  
SAINT PAUL, MN 55106-1725

We have adjusted your Minnesota Property Tax Refund for the tax year shown above.

Claimed Refund	186.40
Amount of Adjustment	-186.40
Refund Allowed	.00

NO REFUND IS ALLOWABLE ON YOUR MINNESOTA PROPERTY TAX REFUND APPLICATION BECAUSE YOU DID NOT FILE A VALID APPLICATION WITHIN THE 1 YEAR TIME LIMIT ALLOWED BY STATE LAW.

If you have any questions about this notice, you may call us at 651-296-3781. TTY users may call the Minnesota Relay Service at 711.

FOR YOUR RECORDS

RGPTAN

Tax Operations Division

**Notice of Change to your Individual Tax  
Order of the Commissioner of Revenue**

Your Social Security number
470-54-1292

Spouse's Social Security number

Tax Order Date	Account number
09/06/2004	5367835
	For year ending
	12/31/1999

SHARON J HEIMEL  
665 NEBRASKA AVE E  
SAINT PAUL, MN 55106-1725

We have adjusted your Minnesota Income Tax Return for the tax year shown above.

Claimed Refund	189.00
Amount of Adjustment	-189.00
Refund Allowed	.00

YOUR CLAIM FOR REFUND ON YOUR MINNESOTA INDIVIDUAL INCOME TAX RETURN WAS FILED AFTER THE APPLICABLE STATUTE OF LIMITATIONS FOR FILING A CLAIM FOR REFUND. NO REFUND IS ALLOWABLE.

If you have any questions about this notice, you may call us at 651-296-3781. TTY users may call the Minnesota Relay Service at 711.

MINNESOTA Department of Revenue

Tax Operations Division

Notice of Change to Your Property Tax Refund  
Order of the Commissioner of Revenue

Your Social Security number
470-54-1292

Spouse's Social Security number

Tax Order Date	Account number
08/25/2004	5308129
	Tax Year
	12/31/1999

SHARON J HEIMEL  
665 NEBRASKA AVE E  
SAINT PAUL, MN 55106-1725

We have adjusted your Minnesota Property Tax Refund for the tax year shown above.

Claimed Refund	234.00
Amount of Adjustment	-234.00
	Refund Allowed .00

NO REFUND IS ALLOWABLE ON YOUR MINNESOTA PROPERTY TAX REFUND APPLICATION BECAUSE YOU DID NOT FILE A VALID APPLICATION WITHIN THE 1 YEAR TIME LIMIT ALLOWED BY STATE LAW.

If you have any questions about this notice, you may call us at 651-296-3781. TTY users may call the Minnesota Relay Service at 711.

FOR YOUR RECORDS

RQPTRN

Tax Operations Division

**Notice of Change to Your Property Tax Refund  
Order of the Commissioner of Revenue**

Your Social Security number
470-54-1292

Spouse's Social Security number

Tax Order Date	Account number
08/28/2004	5308130
	Tax Year
	12/31/2000

SHARON J HEIMEL  
665 NEBRASKA AVE E  
SAINT PAUL, MN 55106-1725

We have adjusted your Minnesota Property Tax Refund for the tax year shown above.

Claimed Refund	297.00
Amount of Adjustment	-297.00
Refund Allowed	.00

**NO REFUND IS ALLOWABLE ON YOUR MINNESOTA PROPERTY TAX REFUND APPLICATION BECAUSE YOU DID NOT FILE A VALID APPLICATION WITHIN THE 1 YEAR TIME LIMIT ALLOWED BY STATE LAW.**

If you have any questions about this notice, you may call us at 651-296-3781. TTY users may call the Minnesota Relay Service at 711.

FOR YOUR RECORDS

IANNAcone LAW OFFICE  
ATTORNEYS AT LAW  
8687 EAGLE POINT BLVD.  
LAKE ELMO, MINNESOTA 55042



MICHAEL J. IANNAcone  
-----  
HEATHER L. IANNAcone

TELECOPIER (651) 297-6182  
TELEPHONE (651) 224-3361

July 14, 2004

EMAIL-HLI@IANNAcone.COM

*Heimel*  
Ms. Sharon J. Heimel  
665 Nebraska Ave. E.  
St. Paul, MN 55106

Re: Bankruptcy 04-31835

Dear Ms. Heimel:

I reviewed the income tax returns which you have provided to me concerning the above-referenced bankruptcy. The following is a computation of the amount of tax refunds due to your bankruptcy estate. If either the Internal Revenue Service or the State of Minnesota send you information indicating they are withholding part or all of your refund for payment of back taxes owed, please provide this office with a copy of such correspondence.

1998	Federal	77.00
	State	417.00
	Property taxes	100.34
1999	Federal	149.00
	State	189.00
	Property taxes	234.00
2000	Federal	10.00
	State	89.00
	Property taxes	297.00
2001	Federal	223.00
	State	126.00
	Property taxes	0.00
2002	Federal	584.00
	State	252.00
	Property taxes	448.00

Ms. Sharon J. Heimel  
July 14, 2004  
Page Two

2003	Federal	94.00
	State	89.00
	Property taxes	705.00

**Balance due estate** **\$4,083.34**

You should remit the amount indicated as "Balance due estate" payable to **Michael J. Iannacone, Trustee**, 8687 Eagle Point Blvd., Lake Elmo, Minnesota 55042 when the refunds are received.

Very truly yours,



Heather L. Iannacone

HLL:knt

cc: William I. Kampf, Esq.

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:

BKY 04-31835

Client,

Debtor.

PROOF OF SERVICE

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The undersigned states that she is an employee of Henson & Efron, P.A., and in the course of said employment, on the date indicated below, she served the following via facsimile and U.S. Mail

**(1) Response to Motion for Order Directing Debtor to Surrender Property; and  
(2) Proof of Service**

on the entities named below and/or on the attached service by enclosing true and correct copies of same in an envelope, properly addressed and postage prepaid, and depositing same in the United States mail, unless otherwise noted; and that she certifies the foregoing under penalty of perjury.

United States Trustee  
300 South Fourth Street  
1015 U.S. Courthouse  
Minneapolis, MN 55415  
Fax: 612-664-5516

Michael J. Iannacone, Esq.  
Trustee  
8687 Eagle Point Blvd.  
Lake Elmo, MN 55042  
Fax: (651) 297-6187

Dated: October 19, 2004

/e/ Nancy W. McDonagh