

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

**Tammie L. Clardy
a/k/a Tammie L. Perez
a/k/a/ Tammie L. Logan**

Debtor.

**Chapter 7
BK 04-32044 GFK**

RESPONSE TO MOTION TO DISMISS UNDER 11 U. S. C. SECT. 707(b)

Now comes the Debtor named above in this matter and by way of Response to the Motion to Dismiss dated May 21, 2004 filed by the Office of the United States Trustee make the following

- 1 Paragraphs 1 through 5 of said Motion are informational
- 2 The Debtor admits the facts as stated in paragraphs 6, 7, and 8 of said Motion
- 3 Regarding Paragraphs 9 through 11 of said Motion that Amended Schedule I and Amended Schedule J were served by U S Mail on May 19, 2004 and filed on May 21, 2004, resulting in the following changes
 - I Monthly Gross Wages

Galtier Health Svcs	40 Hr Wk At 22 78/Hr = \$911 20, Per month (4.3 x 911 20= <u>\$3,918</u>)
HealthPartners	10 5 Hr. Wk. At \$15 15/Hr=\$159 07, Per month (4 3 x 159 07= <u>\$684</u>)

$\$3,918 + \$684 = \underline{\$4,602}$

The amount of \$5,106 on the original Schedule I was not correct.

$5,106 - \$4602 = \504 decrease in gross income

- J The correct monthly rent is \$800, an increase of \$100 per month, Medical & dental expense is estimated at \$200 per month, an increase of \$200 per month, Transportation including car payments was estimated to be \$200 per month, an increase of \$130,

Debtor pays \$98 per month for life insurance which was not placed on the original Schedule J,

Debtor pays \$20 per month, that was not included on the original, Monthly payments for unsecured debt is approximately \$450, that was not on the original,

Debtor must buy uniforms for work; that expense was not placed in the original; an increase of \$120 per month

- 4 The above results in a negative \$728 in Debtor's disposable income that would mean that paragraphs 11, 12 and 14 are not correct

WHEREFORE, the Debtor respectfully requests that the Motion filed by the Office of the United State Trustee to dismiss under 11 U S C Section 707 (b) be dismissed

June 9, 2004

For the Debtor

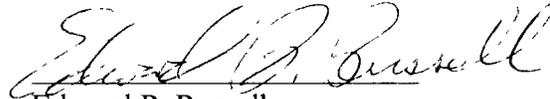


Edward P. Russell
520 Snelling Avenue N
St Paul, MN 55104
Lic No (651) 647-5600
Tele (651) 647-5600

VERIFICATION

I, Edward P Russell, attorney for the Debtor, Tammie L Clardy, named in this matter, declare under the pains of perjury that the foregoing is true and correct according to the best of my knowledge

June 9, 2004


Edward P Russell

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

**Tammie L. Clardy
a/k/a Tammie L. Perez
a/k/a/ Tammie L. Logan**

Debtor.

**Chapter 7
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AFFIDAVIT OF EDWARD P. RUSSELL

I am Edward P Russell and have represented and continue to represent the Debtor, Tammie L Clardy, in her Petition for Chapter 7 Bankruptcy

On her behalf I filed a Petition with accompanying schedules and Statement of Affairs on April 3, 2004 which was given the above case number.

That on May 10, 2004 I appeared with my client at the First Meeting of Creditors,

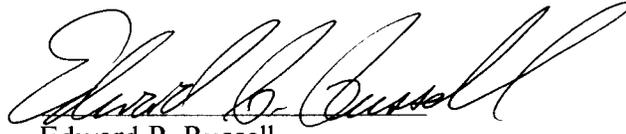
That at the close of that meeting I asked my client if the amounts on Schedules I and J were correct and she informed me that the amount for Gross Earnings on Schedule I was not correct and that certain expenses had not been recorded on Schedule J

Based on the information that I was given I Prepared Amended Schedules I and J and the Debtor signed the Electronic Declaration verifying these amended schedules on May 17, 2004

Service of these Amended Schedules was made on May 19, 2004 by placing in the U S Mail copies of those Schedules to the Office of the U. S Trustee, The Trustee, and all other entities stated in the Matrix

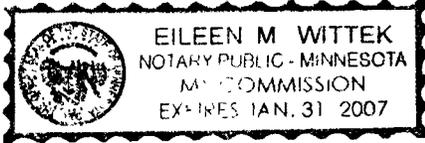
That these Amended Schedules were filed electronically with the Office of the Clerk, U S Bankruptcy Court on May 21, 2004

That I received the Motion of the U S Trustee to Dismiss my client's Petition on May 22, 2004 by mail


Edward P. Russell

The above named then appeared before me on this day, June 9, 2004 and stated the above is the truth to the best of his knowledge


Notary Public



UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Tammie L. Clardy
a/k/a Tammie L. Perez
a/k/a/ Tammie L. Logan

Debtor.

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MEMORANDUM OF LAW IN SUPPORT OR REQUEST TO DENY MOTION
TO DISMISS

The Motion to Dismiss brought by the Office of the U. S. Trustee is grounded on the ability of the Debtor to repay unsecured debt based on the original Schedules I and J that gave an amount of \$894 00 in disposable income. However, as the Amended Schedules I and J show there is a negative amount of \$728 00 for disposable income That shows that the Debtor does not have the ability to repay any of the unsecured debt which carries an interest rate in excess of 20%

Therefore, it is the contention of Debtor that the Motion to Dismiss has not been supported as is the burden of the U S Trustee to prove a substantial abuse in the Petition for Chapter 7 Bankruptcy, under 707 U S C Sect 707 (b)

June 9, 2004



Edward P Russell
520 Snelling Avenue N
St Paul, MN 55104
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Tele (651) 647-5600

Re Tammie L Clardy
Chapter 7
Case No 04-32044

I, Edward P Russell, attorney for the debtor, Tammie L Clardy, here certify that on June 9, 2004 her served the attached

Response of Debtor to Motion to Dismiss under 707 U S C (b),
Verification,
Affidavit of Edward P Russell and
Memorandum of Law,

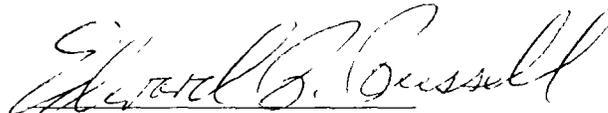
on the following by placing a true and correct copy thereof in an envelope addressed as follows

Sarah J Wencil, Esq
Office of the U S Trustee,
1015 U S Courthouse
300 S 4th St
Minneapolis, MN 55415

John A Hedback, Esq
2855 Anthony Ln S
Suite 201
St Anthony, MN 55418

And depositing the same, with postage prepaid in the United States mail at St Paul,
Minnesota

June 9, 2004


Edward P Russell