

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

IN RE:

BKY. NO. 04-32685

LORI ANN KORSON,

RESPONSE

DEBTOR(S).

TO: U.S. Trustee, Paul W. Bucher, 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 Motion and Motion Objecting to Claimed Exemptions tendered to the Court by the Chapter 7 trustee. Hearing on this matter is set for Thursday, September 2, 2004 at 2:15 p.m. before the Hon. Dennis D. O'Brien, Judge of Bankruptcy Court in Courtroom 228A, United States Courthouse, 316 North Robert Street, Saint Paul, MN 55101.
2. This Chapter 7 case was commenced on May 4, 2004. The debtor's 11 U.S.C. § 341 First Meeting of Creditors was held on June 23, 2004.
3. The trustee's objection pertains to the debtor's exemption claims as to the following assets: 1992 Ponderosa stock trailer, cash, one stud horse, five mares, two foals, First National Bank checking account, and Wells Fargo Bank checking account. The trustee contends that the debtor exceeds her available (d)(5) exemption limitations.
4. The debtor submits that she may or may not be in excess of her allowable exemption limitations. In any event, if she is in excess of her allowable exemption limitations, she reserves the right to amend her schedules accordingly. Given the language of the trustee's objection, the debtor would be denied any exemption to any of the foregoing items via *res judicata and collateral estoppel* were the Court to sustain the same (*In re Hewitt*, Bky. No. 97-33854 – Order Sustaining Trustee's Objection to Exemptions). The debtor, therefore, interposes this Response for purposes of preserving her rights to amend her schedules and for purposes of laying an exemption claim to the various items of property within, and not in excess of, her available exemption allowances.
5. The debtor further asserts that any excess would not be as large as the trustee may believe given that the Wells Fargo Bank checking account is actually an account belonging to debtor's former husband, Randy Korson.
6. Under Bankruptcy Rule 4003, an objecting party has the burden of proof concerning its objection to an exemption claim. The debtor, nonetheless, acknowledges that she may

be in excess of her available exemption limitations.

7. In any event, the debtor would elect to keep whatever items of property that she is able under her available exemption limitations. Were the Court to sustain the trustee's objection, notwithstanding the foregoing, the debtor would be perfunctorily relieved of all of the foregoing property as the trustee is requesting the Court to deny her exemption claim as to all of it and not just that portion in excess of the debtor's exemption limitations. The debtor submits that any such result would be highly inequitable.
8. If testimony is necessary at the foregoing hearing, the debtor and any parties called by the trustee may be called to testify as to the foregoing and as to any facts necessary to augment and further explain the same. The debtor does not anticipate any significant disagreements necessitating such hearing or testimony, however.

WHEREFORE, the debtor respectfully requests the Court not only to overrule the trustee's objection in its entirety but also to grant any further relief it deems appropriate and equitable in the premises.

Dated: this 29TH day of July, 2004.

ESKENS, GIBSON & BEHM LAW FIRM, CHTD.

/s/ Stephen J. Behm
Stephen J. Behm, #263758
Attorney for Debtors
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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 July 29, 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.

Paul W. Bucher, Chapter 7 Trustee, P.O. Box 549, Rochester, MN 55903.

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

Lori Ann Korson, 50013 296th Street, Gaylord, MN 55334.

Dated: this 29th day of July, 2004.

ESKENS, GIBSON & BEHM LAW FIRM, CHTD.

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