

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: HUNTER, RONALD L. and
HUNTER, NANCY A.

Chapter 7
BKY CASE NO. 04-32725

Debtors.

**NOTICE OF HEARING AND MOTION
FOR TURNOVER OF INFORMATION
AND PROPERTY OF THE ESTATE**

TO: THE COURT, UNITED STATES TRUSTEE, THE DEBTORS AND THEIR
ATTORNEY AND OTHER PARTIES IN INTEREST SPECIFIED IN LOCAL RULE 9013-3:

1. Patti J. Sullivan, Trustee of the bankruptcy estate of the above-named Debtors
moves the court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 1:30 p.m. on September 22, 2004
in Courtroom No. 228A, at the United States Court House, 316 N Robert St., St. Paul, Minnesota
55101.

3. Any response to this motion must be filed and delivered not later than 1:30 on
September 17, 2004, which is three days before the time set for the hearing (excluding
intermediate Saturdays, Sundays and legal holidays), or filed and served by mail not later than
September 13, 2004, which is seven days before the time set for the hearing (excluding
intermediate Saturdays, Sundays and legal holidays). **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 Rules 4002 and 5005 and Local Rule 1070-1. This proceeding is a core
proceeding. The petition commencing this Chapter 7 case was filed on May 5, 2004. The case is
now pending in this Court.

5. This motion arises under 11 U.S.C. §§ 521, 541, 542(a) and 704 and Bankruptcy Rule 9013 and Local Rule 6072-1. This motion is filed under Bankruptcy Rule 9014 and Local Rules 9001-1 to 9006-1 and 9013-1 to 9013-5. The Chapter 7 Trustee requests turnover of property of the estate, and certain documents and information in order to properly administer the bankruptcy estate.

6. By correspondence dated June 29, 2004, July 14, 2004, and August 25, 2004, attached hereto and incorporated herewith as Exhibits "A", "B," and "C," the Trustee required turnover of property of the estate and information necessary to complete case administration. Despite numerous written requests to the debtors' attorney to surrender property or its value, the debtors have failed to surrender and continue to withhold the following described property of the estate: (1) debtors' M & I Bank account in the amount of \$586.05; (2) debtors' Como Credit Union account in an unknown amount; (3) debtors' Jewelry with a value of \$900.00; (4) debtor husband's non-exempt wages in an unknown amount; (5) debtor wife's non-exempt wages in the amount of \$223.44; (6) debtors' 2003 property tax refund in an unknown amount; (7) Como Credit Union statements for the time period covering 02/05/04 through 05/05/04; (8) debtor husband's paycheck stub from Target dated 05/07/04; (9) debtors' 2003 property tax return; and (10) debtors' 2003 federal and state business tax returns.

7. The debtors are required to surrender all property of the estate to the Trustee under 11 U.S.C. §521 (3) and (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.

8. Because the debtors failed to provide the requested information the Trustee has been unable to account for and administer all assets of the bankruptcy estate as required by 11 U.S.C. §704.

9. In order to ensure that the debtors comply with any order issued by the Court as a result of this motion in a timely manner, the Trustee requests that the order be specifically made applicable to revocation of the discharge under 11 U.S.C. §727 (a)(6)(A) to allow the Trustee to pursue revocation under §727(d)(3) should the debtors not promptly comply with its provisions.

10. This verified motion is based upon all of the files and records herein.

11. Pursuant to Local Rule 9013-2, a separate Memorandum of Facts and Law is submitted with this motion.

WHEREFORE, The undersigned requests an order of the Court:

1. Directing the debtors to turnover to the Trustee the following property of the estate and information: (1) debtors' M & I Bank account in the amount of \$586.05; (2) debtors' Como Credit Union account in an unknown amount; (3) debtors' Jewelry with a value of \$900.00; (4) debtor husband's non-exempt wages in an unknown amount; (5) debtor wife's non-exempt wages in the amount of \$223.44; (6) debtors' 2003 property tax refund in an unknown amount; (7) Como Credit Union statements for the time period covering 02/05/04 through 05/05/04; (8) debtor husband's paycheck stub from Target dated 05/07/04; (9) debtors' 2003 property tax return; and (10) debtors' 2003 federal and state business tax returns.
2. Directing that the failure to comply with the Order of the Court requiring a turnover and an accounting as provided for herein be grounds for revocation of discharge under 11 U.S.C. §727(a)(6)(A).
3. For such other relief as the Court deems just and equitable.

Dated this 2nd day of September, 2004.

/e/ Patti J. Sullivan
Patti J. Sullivan
Trustee in Bankruptcy
Attorney ID No. 170124
P.O. Box 16406
St. Paul, MN 55116
(651) 699-4825

VERIFICATION

I, Patti J. Sullivan, Chapter 7 Trustee, the moving party, 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.

Executed on September 2, 2004.

Signed: /e/ Patti J. Sullivan
Patti J. Sullivan, Trustee

PATTI J. SULLIVAN
UNITED STATES CHAPTER 7 PANEL TRUSTEE

P.O. Box 16406, St. Paul, MN 55116

Telephone: (651) 699-4825

Facsimile: (651) 699-4831

June 29, 2004

David S. Wething, Esq.
4200 W County Road 42
Savage, MN 55378

Re: Hunter, Ronald L.
Hunter, Nancy A.
Bankruptcy No. 04-32725

Dear Mr. Wething:

The debtors can each exempt one life insurance policy; see In re Guyot 240 B.R. 326, (Bankr.D.Minn.1999). Please Amend Schedule C immediately and deleting two of the exemptions taken so that we do not have to file an Objection to Exemptions.

Also, please send us the following information within five (5) days from the date of this letter:

1. Como Credit Union bank statements for the time period covering 02/05/04 through 05/05/04;
- ✓2. M&I Bank statements regarding the certificate of deposit for the time period covering 02/05/04 through 05/05/04;
3. 2003 property tax return;
4. Mr. Hunter's paycheck stub dated 05/07/04;
5. Please clarify who has two jobs as referenced on Schedule B number 33.
6. Six (6) executed Stipulations relating to the 2003 property tax refund and the 2004 income tax refunds.

Ms. Patti Sullivan will be in the office on Thursday morning, July 1, 2004. Please call if you have any questions regarding this matter. Thank you for your cooperation.

Very truly yours,


Joeline Kissinger

Legal Assistant

cc: Hunter, Ronald L.
Hunter, Nancy A.

EXHIBIT

PATTI J. SULLIVAN
UNITED STATES CHAPTER 7 PANEL TRUSTEE
P.O. Box 16406, St. Paul, MN 55116
Telephone: (651) 699-4825
Facsimile: (651) 699-4831

July 14, 2004

David S. Wething
4200 W County Rd 42
Savage, MN 55378

Re: Hunter, Ronald L.
Hunter, Nancy A.
Bankruptcy No. 04-32725
Date of Filing: 05/05/04

Dear Mr. Wething:

My review of this file indicates the debtors have the following non-exempt property:

1. M & I Bank	\$586.05 (actual balance)
2. Como Credit Union	Unknown
3. Jewelry	\$900.00
4. Unearned wages (Ronald Hunter)	Unknown
5. Unearned wages (Nancy Hunter)	\$223.44 (actual amount)
6. 2003 property refund	Unknown
7. 2004 federal tax refund	Unknown
8. 2004 state tax refund	Unknown

Please provide the following documents so that I can accurately calculate the total non-exempt property:

1. Como Credit Union statements for the time period covering 02/05/04 through 05/05/04;
2. Ronald Hunter's paycheck stub from Target dated 05/07/04;
3. 2003 property tax return;
4. Six (6) executed Stipulations relating to the 2003 property tax refund and the 2004 income tax refunds; and
5. 2003 federal and state business tax returns.

EXHIBIT

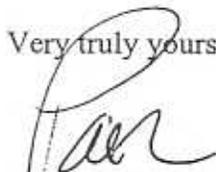
"B"

David S. Wething
July 14, 2004
Page 2

I will withdraw the Motion Objecting to Exempt Property upon receiving a copy of an Amended Scheduled C filed in this case.

I would appreciate a response to this letter within five (5) days from the date of this letter. If you have any questions regarding this matter, please feel free to contact me. Thank you for your cooperation.

Very truly yours,



Patti J. Sullivan
Trustee in Bankruptcy

PJS:jk

cc: Hunter, Ronald L.
Hunter, Nancy A.

PATTI J. SULLIVAN
UNITED STATES CHAPTER 7 PANEL TRUSTEE

P.O. Box 16406, St. Paul, MN 55116

Telephone: (651) 699-4825

Facsimile: (651) 699-4831

8-25-04

**THIS IS A
FOLLOW-UP
ACCORDING TO OUR FILES, WE
HAVE NOT RECEIVED A REPLY
TO THIS LETTER, YOUR
EARLY ATTENTION TO THIS
MATTER WILL BE APPRECIATED**

2x

~~July 14, 2004~~

David S. Wething
4200 W County Rd 42
Savage, MN 55378

Re: Hunter, Ronald L.
Hunter, Nancy A.
Bankruptcy No. 04-32725
Date of Filing: 05/05/04

Dear Mr. Wething:

My review of this file indicates the debtors have the following non-exempt property:

- | | |
|-----------------------------------|---------------------------|
| 1. M & I Bank | \$586.05 (actual balance) |
| 2. Como Credit Union | Unknown |
| 3. Jewelry | \$900.00 |
| 4. Unearned wages (Ronald Hunter) | Unknown |
| 5. Unearned wages (Nancy Hunter) | \$223.44 (actual amount) |
| 6. 2003 property refund | Unknown |
| 7. 2004 federal tax refund | Unknown |
| 8. 2004 state tax refund | Unknown |

Please provide the following documents so that I can accurately calculate the total non-exempt property:

1. Como Credit Union statements for the time period covering 02/05/04 through 05/05/04;
2. Ronald Hunter's paycheck stub from Target dated 05/07/04;
3. 2003 property tax return;
4. Six (6) executed Stipulations relating to the 2003 property tax refund and the 2004 income tax refunds; and
5. 2003 federal and state business tax returns.

EXHIBIT

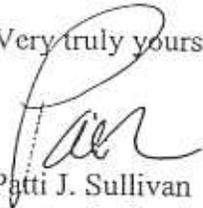
"C"

David S. Wething
July 14, 2004
Page 2

I will withdraw the Motion Objecting to Exempt Property upon receiving a copy of an Amended Scheduled C filed in this case.

I would appreciate a response to this letter within five (5) days from the date of this letter. If you have any questions regarding this matter, please feel free to contact me. Thank you for your cooperation.

Very truly yours,



Patti J. Sullivan
Trustee in Bankruptcy

PJS:jk

cc: Hunter, Ronald L.
Hunter, Nancy A.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: HUNTER, RONALD L. and
HUNTER, NANCY A.,

Chapter 7
BKY CASE NO. 04-32725

Debtors.

TRUSTEE'S MEMORANDUM OF FACTS AND LAW
IN SUPPORT OF MOTION FOR TURNOVER OF
INFORMATION AND PROPERTY OF THE ESTATE

Patti J. Sullivan, Chapter 7 Trustee, submits the following Memorandum of Facts and Law in Support of Motion for Turnover in the above-captioned, and as grounds therefore would respectfully show the Court:

FACTS

1. This Chapter 7 case was filed on May 5, 2004, and is pending before this Court.
2. Patti J. Sullivan, was appointed as Chapter 7 Trustee on May 6, 2004.
3. The Trustee made demand upon the debtors for turnover of information needed to administer the bankruptcy case on June 29, 2004, July 14, 2004, and August 25, 2004, as shown in Exhibits "A," "B," and "C," (attached) to the instant motion, and incorporated therein.
4. The debtors failed to supply necessary information to the Trustee in response to the turnover demand.
5. The debtors continue to withhold information necessary to conclude administration of the bankruptcy case.

DISCUSSION

1. Turnover of Information.

Bankruptcy debtors receive a substantial benefit when relieved of personal liability for repayment of unsecured obligations through discharge. In achieving a balance between the rights of debtors and their creditors, Congress has determined that debtors have an affirmative duty to turn over information necessary to a complete administration of the bankruptcy case.

Sections 521(3) and (4) of the Bankruptcy Code provide in pertinent part,

[t]he debtor shall . . .

(3) if a trustee is serving in the case, cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties under this title;

(4) if a trustee is serving in the case, surrender to the trustee all property of the estate and any recorded information, including books, documents, records, and papers, relating to property of the estate, whether or not immunity is granted under Section 344 of this title;

. . . .

The law interpreting the above sections of the Code is well settled concerning a debtor's affirmative obligation to cooperate with the trustee and to supply necessary information for case administration. See: In re: Lange, 110 B.R. 907, 909 (Bankr. D. Minn 1990); In re: Bently, 120 B.R. 712, 715 (Bankr. S.D.N.Y. 1990); and In re: Ridley, 115 B.R. 731, 736 (Bankr. D. Mass. 1990).

Due to the debtors' failure to supply necessary information and property of the estate, administration of this bankruptcy case has been unduly delayed. The trustee is entitled to an Order requiring that the debtors provide the following information and property of the estate: (1) debtors' M & I Bank account in the amount of \$586.05; (2) debtors' Como Credit Union account in an unknown amount; (3) debtors' Jewelry with a value of \$900.00; (4) debtor husband's non-exempt wages in an unknown amount; (5) debtor wife's non-exempt wages in the amount of \$223.44; (6) debtors' 2003 property tax refund in an unknown amount; (7) Como Credit Union statements for the time period covering 02/05/04 through 05/05/04; (8) debtor husband's paycheck stub from Target dated 05/07/04; (9) debtors' 2003 property tax return; and (10) debtors' 2003 federal and state business tax returns.

Forfeiture of Discharge.

Under 11 U.S.C. §727 (a)(6)(A), the Code provides that if debtors refuse to comply with court orders, discharge of debts may be withheld. In this case, the trustee requests that if the trustee's motion is granted, the terms of the Order be applicable under 11 U.S.C. §727 (a)(6)(A) so that the debtors will have an additional incentive to perform in a timely manner.

Based upon the foregoing, the Chapter 7 trustee is entitled to an Order requiring that the debtors turnover non-exempt funds and information requested in Exhibits "A," "B," and "C," attached to the Motion so that she may conclude administration of the bankruptcy estate. To expedite resolution of this matter, the Trustee requests that the Order be designated a lawful Order pursuant to 11 U.S.C. §727 (a)(6)(A).

Dated this 2nd day of September, 2004.

/e/ Patti J. Sullivan

Patti J. Sullivan
Trustee in Bankruptcy
Attorney ID No. 170124
P.O. Box 16406
St. Paul, MN 55116
(651) 699-4825

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In the Matter of:

HUNTER, RONALD L. and
HUNTER, NANCY A.,

BKY NO. 04-32725

Debtors.

UNSWORN CERTIFICATE OF SERVICE

I, Joeline Kissinger, declare under penalty of perjury that on the 2nd day of September, 2004, I mailed a copy of the attached Notice of Hearing and Motion for Turnover of Information and Property of the Estate, Trustee's Memorandum of Facts and Law in Support of Motion for Turnover of Information and Property of the Estate, and Proposed Order by first class mail postage prepaid to each entity named below or on the statement attached at the address stated below or in said attachment for each entity:

David S. Wething, Esq.
4200 W County Rd 42
Savage, MN 55378

United States Trustee
1015 United States Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Ronald L. Hunter
13785 Glendale Trail
Savage, MN 55378-2084

Nancy A. Hunter
13785 Glendale Trail
Savage, MN 55378-2084

Executed on this 2nd day of September, 2004.


Joeline Kissinger

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: HUNTER, RONALD L. and
HUNTER, NANCY A.,

Chapter 7
BKY CASE NO. 04-32725

Debtors.

ORDER

The above captioned matter came before the Court on September 22, 2004, on motion by the Chapter 7 Trustee Patti J. Sullivan in this case, seeking an order requiring the debtors to turnover information and property of the estate.

Patti J. Sullivan appeared for the Trustee. Other appearances are noted in the record.

The Court made its findings of fact and conclusions of law on the record pursuant to Rule 52 of the Federal Rules of Civil Procedure and Bankruptcy Rule 7052.

Based upon the files and records, and arguments of counsel,

IT IS HEREBY ORDERED:

1. That the debtors shall turn over to the trustee the following information and property of the estate: (1) debtors' M & I Bank account in the amount of \$586.05; (2) debtors' Como Credit Union account in an unknown amount; (3) debtors' Jewelry with a value of \$900.00; (4) debtor husband's non-exempt wages in an unknown amount; (5) debtor wife's non-exempt wages in the amount of \$223.44; (6) debtors' 2003 property tax refund in an unknown amount; (7) Como Credit Union statements for the time period covering 02/05/04 through 05/05/04; (8) debtor husband's paycheck stub from Target dated 05/07/04; (9) debtors' 2003 property tax return; and (10) debtors' 2003 federal and state business tax returns within ten (10) days of the entry of this Order.
2. That this Order shall constitute a lawful Order within the meaning of 11 U.S.C. §727 (a)(6)(A) for purposes of discharge revocation should the debtors fail to comply with its terms in a timely manner.

Dated this ____ day of _____, 2004.

Dennis D. O'Brien
United States Bankruptcy Judge