

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA**

In re:

**DOUGLAS D. AND DARLA K.
MAMMENGA,**

**Bankruptcy No. 04-33062
Chapter 7**

Debtors

**NOTICE OF MOTION AND MOTION
OBJECTING TO CLAIMED
EXEMPTION**

TO: The Debtors and other entities specified in Local Rule 9013-3.

1. Michael S. Dietz, Trustee of the above bankruptcy estate moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this Motion on September 7, 2004, at 1:30 p.m., in Courtroom 228B, United States Courthouse, at 316 North Robert Street, in St. Paul, Minnesota.

3. Any response to this Motion must be filed and delivered not later than 1:30 p.m. on August 31, 2004, which is seven days before the hearing, or filed and served by mail not later than August 28, 2004, which is ten days before the time set for the hearing. **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 Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The Petition commencing this Chapter 7 case was filed on May 21, 2004. The case is now pending in this Court.

5. This Motion arises under 11 U.S.C. §§ 522, Bankruptcy Rule 4003 and Local Rule 4003-1(a). This Motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1, 9013-2, and 9013-5.

6. The Debtors have scheduled Cash on Hand valued at \$200, Wells Federal Bank Checking Account #470058355 valued at \$115, US Bank Checking Account #1-449-2920-2881 valued at \$55, 1972 Polaris snowmobile valued at \$25, Sears lawn mower valued at \$500, 1986 John Deere snow blower valued at \$100, Thrivent Financial Annuity, Contract #04199846 valued at \$2077, 100% of Husband's Accrued Wages payable on date of filing valued at \$698, 100% of Wife's Accrued Wages payable on date of filing valued at \$700, 2004 Federal and State Income Tax Refunds valued at \$1475, Pension Plan with ING valued at \$6959, and claimed all as exempt on Schedule C under 11 U.S.C. § 522(d)(5). The Debtors have scheduled Thrivent Financial Life Insurance, Contract #2702103 valued at \$5758 and Thrivent Financial Life Insurance, Contract #2387678 valued at \$7064, and claimed as exempt on Schedule C under 11 U.S.C. § 522(d)(8). Attached as Exhibit "A" is a true and correct copy of Schedule C filed in this case.

7. Movant objects to the above noted exemptions claimed in that schedule for the following reasons: The Trustee is without sufficient information to determine the exact type of the Thrivent Annuity Contract and the ING account, moreover, the trustee is unable to determine the ownership and actual value of these accounts and life insurance policies.

WHEREFORE, the Trustee moves the Court for an Order denying the claimed exemption of Cash on Hand, Wells Federal Bank Checking Account #470058355, US Bank Checking Account #1-449-2920-2881, 1972 Polaris snowmobile, Sears lawn mower, John Deere snow blower, Thrivent Financial Annuity, Contract #04199846, 100% of Husband's Accrued

Wages, 100% of Wife's Accrued Wages , 2004 Federal and State Income Tax Refunds, Pension Plan with ING, Thrivent Financial Life Insurance, Contract #2702103 and Thrivent Financial Life Insurance, Contract #2387678.

Dated: August 5, 2004

/e/ Michael S. Dietz

Michael S. Dietz
Registration No. 188517
DUNLAP & SEEGER, P.A.
Attorneys for Trustee
206 S. Broadway, Suite 505
Post Office Box 549
Rochester, Minnesota 55903
Telephone: (507) 288-9111

VERIFICATION

I, Michael S. Dietz, 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: August 5, 2004

/e/ Michael S. Dietz

Michael S. Dietz, Trustee
206 S. Broadway, Suite 505
Post Office Box 549
Rochester, Minnesota 55903
Telephone: (507) 288-9111

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled in, or (Check one box)

11 U.S.C. § 522(b)(1)

Exemptions provided in 11 U.S.C. § 522(d). Note: These exemptions are available only in certain states.

11 U.S.C. § 522(b)(2):

Exemptions available under applicable nonbankruptcy federal, state or local law where the debtor's domicile has been located for the 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, of the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

DESCRIPTION OF PROPERTY	SPECIFY LAW PROVIDING EACH EXEMPTION	VALUE OF CLAIMED EXEMPTION	CURRENT MARKET VALUE OF PROPERTY WITHOUT DEDUCTIBLE EXEMPTION
Homestead located at 630 W. Giro St., Truman, MN 56088	11 U.S.C. § 522(d)(1)	\$ 9,317.00	\$ 55.00
Cash on Hand	11 U.S.C. § 522(d)(5)	200.00	200.00
Wells Federal Bank, Fairmont, MN. Checking Acct #470058355	11 U.S.C. § 522(d)(5)	115.00	115.00
US Bank, Fairmont, MN: Checking Acct #1-449-2920-2881	11 U.S.C. § 522(d)(5)	55.00	55.00
Miscellaneous Household Goods & Furnishings located at Truman, MN 56088	11 U.S.C. § 522(d)(3)	2,000.00	2,000.00
Miscellaneous Wearing Apparel located at Truman, MN 56088	11 U.S.C. § 522(d)(3)	200.00	200.00
1988 Chevrolet Camero Coupe, VIN 1G1FP21S0JL167758;	11 U.S.C. § 522(d)(2)	500.00	500.00
1995 Dodge Intrepid, VIN 1B3HD46T5SF639055	11 U.S.C. § 522(d)(2)	2,000.00	2,000.00
1972 Polaris snowmobile	11 U.S.C. § 522(d)(5)	25.00	25.00
Sears lawn mower	11 U.S.C. § 522(d)(5)	500.00	500.00
1986 John Deere snow blower	11 U.S.C. § 522(d)(5)	100.00	100.00
Wedding Ring - husband	11 U.S.C. § 522(d)(4)	25.00	25.00
Wedding Ring - wife	11 U.S.C. § 522(d)(4)	250.00	250.00
Anniversary Ring	11 U.S.C. § 522(d)(4)	50.00	50.00
Thrivent Financial, Appleton, WI: Life insurance Contract #2702103	11 U.S.C. § 522(d)(8)	5,758.00	5,758.00
Life insurance Contract #2387678	11 U.S.C. § 522(d)(8)	7,064.00	7,064.00
Annuity, Contract #04199846	11 U.S.C. § 522(d)(5)	2,077.00	2,077.00
100% of Husband's Accrued Wages payable on date of filing (estimated)	11 U.S.C. § 522(d)(5)	690.00	690.00
100% of Wife's Accrued Wages payable on date of filing (estimated)	11 U.S.C. § 522(d)(5)	700.00	700.00
2004 Federal & State Income Tax Refunds (estimated)	11 U.S.C. § 522(d)(5)	1,475.00	1,475.00
Pension Plan with ING is not the property of the bankruptcy estate. In the event it is, it is claimed as exempt pursuant to 11 U.S.C. § 522(d)(10e) or 11 U.S.C. § 522(d)(1) and (d)(5).	11 U.S.C. § 522(d)(5)	6,959.00	6,959.00
Any assets owned by Debtor that have been inadvertently omitted and/or not claimed exempt are claimed exempt under any unused amount remaining pursuant to 11 U.S.C. § 522(d)(5).			

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Bankruptcy Case No. 04-33062

DOUGLAS D. AND DARLA K. MAMMENGA,

Debtors.

UNSWORN CERTIFICATE OF SERVICE

I, Emily D. Stenhoff, declare under penalty of perjury that on August 5, 2004, I mailed copies of the following:

Trustee's Notice of Motion and Motion Objecting to Claimed Exemption

by US Mail, postage pre-paid, to each entity named below at the address stated below:

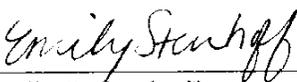
OFFICE OF THE US TRUSTEE
1015 UNITED STATES COURTHOUSE
300 SOUTH FOURTH STREET
MINNEAPOLIS MN 55415

TERRY W. VIESSELMAN
VIESSELMAN & BARKE PA
123 DOWNTOWN PLAZA
FAIRMONT MN 56031

DOUGLAS D. AND DARLA K. MAMMENGA
630 WEST CIRO STREET
TRUMAN MN 56088

Executed on August 5, 2004

Signed: _____



Emily D. Stenhoff
DUNLAP & SEEGER, P.A.
P O BOX 549
ROCHESTER MN 55903-0549
(507) 288-9111

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA

In re:

**DOUGLAS D. AND DARLA K.
MAMMENGA,**

Debtors

Bky Case No. **04-33062**
Chapter 7

**ORDER SUSTAINING TRUSTEE'S
OBJECTION TO DEBTORS' CLAIM
OF EXEMPTION**

AT ST. PAUL, MINNESOTA,

This Chapter 7 case came on before the Court on May 21, 2004, for a hearing on the Trustee's objection to the Debtor's claimed exemption of the following property:

Cash on Hand, Wells Federal Bank Checking Account #470058355, US Bank Checking Account #1-449-2920-2881, 1972 Polaris snowmobile, Sears lawn mower, John Deere snow blower, Thrivent Financial Annuity, Contract #04199846, 100% of Husband's Accrued Wages, 100% of Wife's Accrued Wages, 2004 Federal and State Income Tax Refunds, Pension Plan with ING, Thrivent Financial Life Insurance, Contract #2702103 and Thrivent Financial Life Insurance, Contract #2387678.

Appearances, if any, were noted on the record. Upon the documents on file herein and the arguments of counsel:

IT IS HEREBY ORDERED AND DETERMINED:

1. The Trustee's objection is sustained.
2. The Debtor's interest in Cash on Hand, Wells Federal Bank Checking Account #470058355, US Bank Checking Account #1-449-2920-2881, 1972 Polaris snowmobile, Sears lawn mower, John Deere snow blower, Thrivent Financial Annuity, Contract #04199846, 100% of Husband's Accrued Wages, 100% of Wife's Accrued Wages, 2004 Federal and State Income Tax Refunds, Pension Plan with ING, Thrivent Financial Life Insurance, Contract #2702103 and Thrivent Financial Life Insurance, Contract #2387678 are not exempt and are property of the bankruptcy estate to be administered by the Trustee in due course.

Dated: August __, 2004

BY THE COURT:

Gregory F. Kishel
United States Bankruptcy Judge