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DISTRICT OF NEW JERSEY

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August 9, 2004

Clerk's Office
United States Bankruptcy Court
316 N. Robert Street
St. Paul, Minnesota 55101

In Re: Robert Myers and Betty Myers, Debtors
Chapter 13
Case No. 04-33794

OBJECTIONS TO CONFIRMATION OF CHAPTER 13 PLAN

Dear Sir or Madam:

I am a creditor of the Estate of Robert Myers and Betty Myers, and I object to the confirmation of the plan submitted by the Debtors for the reasons set forth below.

The debtors claim a gross income of \$145,007.04 and a net income of \$7,813.05, equivalent to \$93,756.60, after all income taxes and social security and medicare contribution are deducted from the debtors gross salaries. The debtors have failed to properly identify their actual Schedule J expenditures, which causes creditors to receive less than they should receive had the debtors indicated proper and actual Schedule J expenditures as set forth below.

The debtors set forth in their proposed plan monthly expenses totaling \$7,114.00 per month leaving a paltry \$699.05 available to pay creditors. This is insufficient based on the debtors \$145,007.04 annual income. Based on the items set forth and discussed below, the debtors Chapter 13 plan should provide for monthly payments to creditors in the amount of no less than \$2,695.05, and more likely \$4,000.00 per month instead of the \$699.05 as claimed by the debtors.

It is respectfully submitted that the \$7,114.00 in monthly Schedule J expenditures are greatly overstated and exaggerated and set forth by the debtors without any support or evidence.

Schedule J includes monthly expenses which should be rejected.

(6)

With respect to Schedule J, It is respectfully submitted that:

- a) The medical and dental expenses of \$790.00 as set forth on Schedule F, amounting to \$9,480.00 is baseless and without merit. **Schedule E** indicates that the sum of **\$1,096.37** is deducted from Betty Myers salary. It appears that the debtors have health insurance. It is perplexing how the debtors can have \$9,480.00 in annual medical costs excluding the cost of health insurance, when the debtors have health insurance. It appears that if the debtors do not currently expend the sum of \$790.00 per month on medical expenses, that the sum of \$790.00 would be available MONTHLY to creditors. Unless the debtors demonstrate actual medical expenses of \$790.00 per month, then the court should reject the approximately or estimate used to formulate the debtors Chapter 13 plan.
- b) The debtors indicate monthly cable television expenses of \$160.00 per month, or \$1,920.00 per year. Cable television is a luxury. The cost of \$160.00 per month for cable television appears greatly excessive. The sum of \$160.00 per month should be rejected as a monthly living expense of the debtors. The sum of \$160.00 should therefore be available for creditors of the debtors.
- c) The debtors indicate \$550.00 per month, or \$6,600.00 per year as and for transportation expenses. In addition to the debtors listing \$550.00 per month as transportation expenses, the debtors list \$250.00 per month as and for automobile insurance. However, the debtors indicate that they own two vehicles, a 1996 GMC Sonoma truck and a 1991 Plymouth Voyager, and they lease no vehicles. Based upon the debtors schedules, the debtors own the two vehicles free of any loans, and therefore the sum of \$550.00 per month for transportation is excessive and unsubstantiated. The sum of \$550.00 should therefore be rejected as a monthly living expense, and the sum of \$550.00 should be available on a monthly basis to the creditors. There is no proof that debtors could submit to indicate an expense of \$550.00 for transportation costs when they own two vehicles outright and they separately claim \$250.00 per month for automobile insurance. It appears that the \$550.00 claimed by debtors is excessive and not an actual or legitimate expense of the debtors.
- d) The sum of \$250.00 per month for automobile insurance listed by debtors on Schedule F appears to be excessive in that it appears that the cost to insure a 1996 and a 1991 automobile should not cost \$3,000.00 per year. The debtors should be required to submit actual insurance policies to demonstrate the actual costs of automobile insurance. The actual amount of insurance for a 1996 and 1991 automobile should be approximately \$1,000.00 per year. The \$2,000.00 excessive amount should be available and paid to creditors in the amount of \$166.00 per month.
- e) The debtors indicate that they pay **\$1,500.00** per month for rent. They also indicate that they pay \$90.00 per month for water and sewer charges and

\$280.00 per month for electricity and heating costs. It is respectfully submitted that the debtors should be required to prove whether they are required to pay the costs of ACTUAL water and sewer charges and ACTUAL utility charges for the rental premises where they reside.

- f) The debtors claim that they pay \$250.00 per month in "Alimony, Maintenance". It is respectfully submitted that the \$500.00 per month in child support is indicated and included in the Chapter 13 plan, and that the claimed \$250.00 per month in "Alimony, Maintenance" is frivolous and unsubstantiated. It is respectfully submitted that the debtors do not pay any alimony or maintenance to any prior spouse and the sum of \$250.00 per month should be rejected and available to the creditors of the debtors.
- g) The debtors claim \$140.00 per month for telephone costs. It is respectfully submitted that the sum of \$140.00 is an excessive amount given the availability of unlimited calling plans for approximately \$60.00 per month. The debtors do not state how many telephone lines they maintain and whether they maintain cellular telephone lines. It is respectfully submitted that the debtors are claiming a sum which is \$80.00 per month in excess of actual and proper telephone costs, which sum should be available to the creditors.

Schedule E fails to state when the date that the claim was incurred which is a requirement of Schedule E.

It is respectfully submitted that the debtors have listed creditors who are not legitimate and bona fide creditors. Upon information and belief, there are numerous creditors listed as having given loans to the debtors, but who hold no promissory notes or evidence of providing loans to the debtors.

It is respectfully submitted that the debtors have listed persons who had provided **GIFTS** to the debtors, not loans. The improper listing of the following persons as creditors results in the legitimate creditors receiving less than what they should receive. If the debtors do not provide evidence of promissory notes, then the following listed alleged debts should be rejected and removed from the schedules.

The following listed debts of the creditors should be rejected and removed from Schedule F, unless evidence of providing loans to the debtors is submitted to the Court:

1. Elizabeth McNey Yates listed as having provided a \$10,000 loan to the debtors;
2. Mr. and Mrs. Joel Greenblatt listed as having provided a \$15,000 loan to the debtors;
3. Mr. and Mrs. Scott Levy listed as having provided a \$5,000 loan to the debtors;

4. Rhonda Yoss Kaplan listed as having provided a \$2,000 loan to the debtors;

No less than \$32,000.00 in loans should be removed from debtors Schedule F.

All creditors should be required to file a proof of claim or the claim listed on the petition should be expunged to dispose of improperly scheduled claims.

It is respectfully submitted that I did not receive notice of the meeting of the creditors due to debtors counsel listing my zip code as 11426 instead of 11001. The court records indicates that notice was provided on July 28, 2004 to debtors counsel that the mailing to my office was returned to the Bankruptcy Court and that I did not receive notice of the meeting of the creditors. As the debtor's counsel did not take any action to fax or send notice to me, the meeting of the creditors should be held again.

It is respectfully submitted that the debtors have filed a Chapter 7 bankruptcy on January 23, 1992 in the United States Bankruptcy Court, Eastern District of New York - Brooklyn. Debtors know that they cannot frivolously list creditors claims on a bankruptcy petition as they have allegedly done on the instant Chapter 13 petition.

It is respectfully submitted that the debtors filed knowingly erroneous Schedules to this Court.

The debtor Robert Myers filed for bankruptcy protection the day that he was to appear in Supreme Court, Nassau County, New York before the Honorable David Sullivan for a hearing on Contempt of Court. The hearing was to hold Mr. Myers in contempt for willfully disregarding a Court Order requiring him to pay for his ex-wife's legal fees incurred in proceedings which occurred in the aforesaid court to compel Mr. Myers compliance with Court Orders directing him to pay child support for his two children with his prior wife. The contempt hearing has been adjourned.

Due to the contempt hearing, Mr. Myers filed for bankruptcy protection and submitted erroneous schedules to this court as set forth above.

WHEREFORE, it is respectfully requested that the debtors filing for Chapter 13 bankruptcy protection be dismissed with prejudice due to the false monetary statements made to this court for debtors earning over \$145,000.00 per year.

Thank you very much,

Very truly yours,



Gary Rosen

cc :

Trustee

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United States Trustee's Office

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Chief Judge Gregory F. Kishel

United States Bankruptcy Court

316 N. Robert Street

St. Paul, Minnesota 55101