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STATE OF NEW YORK  
STATE OF FLORIDA  
STATE OF NEW JERSEY  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
SOUTHERN DISTRICT OF NEW YORK  
DISTRICT OF NEW JERSEY

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REPLY TO:  
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FLORAL PARK, NEW YORK 11001  
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October 19, 2004

Chief Judge Gregory F. Kishel  
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

**OBJECTION TO MODIFIED REORGANIZATION PLAN**

Dear Judge Kishel:

I hereby file this objection to the modified Chapter 13 reorganization plan filed by the above captioned debtors on October 18, 2004.

It is respectfully submitted that the debtors monthly expenses as set forth on Schedule J are overstated which results in the unsecured creditors receiving less than they would receive had the debtors not overstated their monthly expenses.

The Court should reject the reorganization plan as the following expenses are upon information and belief, overstated and unsupported and which expenses are unconscionable given the fact that the debtors earn over \$140,000 per year in income and have incurred debts to the creditors:

**Telephone** – The debtors claim \$140.00 per month in telephone expenses. An unlimited telephone plan costs approximately \$50.00 per month. The sum of \$140.00 set forth on the debtor's Schedule J is excessive, overstated and unconscionable and the result is detrimental to the creditors.

**Water & Sewer** – The debtors claim \$90.00 per month in water & sewer expenses. The sum of \$90.00 set forth on the debtor's Schedule J appears to be excessive, overstated and unconscionable and the result is detrimental to the creditors.

**Cable** – The debtors claim \$160.00 per month in cable expenses. \$160.00 per month is excessive and a luxury. The debtors should not be permitted to have cable service that costs \$160.00 per month when there are creditors who will receive less than they would if the luxury of cable was not included as a monthly cost. The sum of \$160.00 set forth

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on the debtor's Schedule J is excessive, overstated and unconscionable and the result is detrimental to the creditors.

**Medical and Dental Expenses** – The debtors claim \$790.00 per month in cable expenses when paying \$1,096 for health insurance. The sum of \$790.00 as set forth on the debtor's Schedule J is overstated.

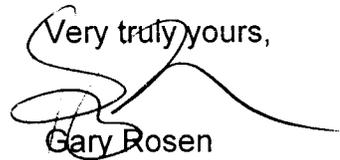
**Life Insurance** – The debtors claim \$300.00 per month in life insurance expenses. If the life insurance expenses are for whole life or NON TERM insurance, then the debtors are using creditors funds to increase cash value of their life insurance policies. The debtors should disclose the type of insurance policies that they maintain, and if the policies are not term policies, then the sum of \$300.00 per month should be rejected. The sum of \$300.00 set forth on the debtor's Schedule J is excessive, overstated and unconscionable and the result is detrimental to the creditors.

**Auto Insurance** – The debtors claim \$250.00 per month in auto insurance expenses. The debtors apparently own old vehicles which may not have collision insurance. The sum of \$250.00 set forth on the debtor's Schedule J is excessive, overstated and unconscionable and the result is detrimental to the creditors.

**Alimony, support** - The debtors claim \$250.00 per month in "Alimony, Maintenance and support paid to others". Upon information and belief, the debtors do not pay alimony or maintenance or support to others. The debtors also include the sum of \$564.00 as "child support". The sum of \$250.00 as set forth on the debtor's Schedule J is overstated.

Based on the foregoing, there should be an addition of approximately \$1,000.00 per month in addition to the monies set forth in the plan to pay creditors each month.

It is respectfully submitted that the **modified reorganization plan** be **REJECTED**.

Very truly yours,  
  
Gary Rosen

**GARY ROSEN LAW FIRM, P.C.**

cc :

Terri A. Georgen-Running, Esq.

Attorney for Debtors

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Clerk's Office

United States Bankruptcy Court

316 N. Robert Street

St. Paul, Minnesota 55101

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United States Trustee's Office

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Minneapolis, Minnesota 55415

**UNITED STATES BANKRUPTCY COURT**

DISTRICT OF MINNESOTA

04 OCT 25 AM 9:36

MODIFIED CHAPTER 13 PLAN

In re: **Robert L. Myers**  
**and Betty A. Myers**

Dated: October 18, 2004  
Case No. 04-33794

DEBTOR

*In a joint case,  
debtor means debtors in this plan.*

**1. PAYMENTS BY DEBTOR —**

- a. As of the date of this plan, the debtor has paid the trustee **\$2,100**.
- b. After the date of this plan, the debtor will pay the trustee **\$700** per month for **31 months**, beginning within 30 days\* after the filing of this plan for a total of **\$21,700**.
- c. The debtor will also pay the trustee **\$1514** for **14 months** beginning in month 35 of the plan (June 13, 2007), for a total of **\$21,196.\*\***
- d. The debtor will pay the trustee a total of **\$44,996** [line 1(a) + line 1(b) + line 1(c)].

*\*November 2004 plan payment.*

*\*\*Debtor's support payments for son's college end child support will end May 2007, resulting in an additional \$814 disposable income to devote to the plan.*

- 2. **PAYMENTS BY TRUSTEE —** The trustee will make payments only to creditors for which proofs of claim have been filed, make payments monthly as available, and collect the trustee's percentage fee of 10% for a total of **\$4,500 [1(d) x .10]** or such lesser percentage as may be fixed by the Attorney General. For purposes of this plan, month one (1) is the month following the month in which the debtor makes the debtor's first payment. Unless ordered otherwise, the trustee will not make any payments until the plan is confirmed. Payments will accumulate and be paid following confirmation.

- 3. **PRIORITY CLAIMS —** The trustee shall pay in full all claims entitled to priority under § 507, including the following. The amounts listed are estimates only. The trustee will pay the amounts actually allowed.

Creditor	Estimated Claim	Monthly Payment	Beginning in Month #	Number of Payments	TOTAL PAYMENTS
a. <u>Attorney Fees</u>	<u>\$ 2,500</u>	<u>\$ 630</u>	<u>1</u>	<u>4</u>	<u>\$ 2,500</u>
b. <u>IRS</u>	<u>\$10,200</u>	<u>\$1,514</u>	<u>35</u>	<u>7</u>	<u>\$10,200</u>
c. <u>Amy Myers</u>	<u>\$16,200</u>	<u>\$ 630</u>	<u>5</u>	<u>29</u>	<u>\$17,500</u>
d. <u>MDOR</u>	<u>\$ 1,400</u>	<u>\$1,514</u>	<u>43</u>	<u>1</u>	<u>\$ 1,400</u>
e. <u>NY State Tax Auth.</u>	<u>\$ 1,000</u>	<u>\$1,514</u>	<u>44</u>	<u>1</u>	<u>\$ 1,000</u>
TOTAL					<u>\$32,600</u>

- 4. **LONG-TERM SECURED CLAIMS NOT IN DEFAULT —** The following creditors have secured claims. Payments are current and the debtor will continue to make all payments that come due after the date the petition was filed directly to the creditors. The creditors will retain their liens.

- a. \_\_\_\_\_
- b. \_\_\_\_\_
- c. \_\_\_\_\_

- 5. **HOME MORTGAGES IN DEFAULT [§ 1322(b)(5)] —** The trustee will cure defaults on claims secured only by a security interest in real property that is the debtor's principal residence as follows. The debtor will maintain the regular payments that come due after the date the petition was filed. The creditors will retain their liens. The amounts of default are estimates only. The trustee will pay the actual amounts of default.

Creditor	Amount of Default	Monthly Payment	Beginning in Month #	Number of Payments	TOTAL PAYMENTS
a. _____	<u>\$ _____</u>	<u>\$ _____</u>	<u>_____</u>	<u>_____</u>	<u>\$ _____</u>
b. TOTAL					<u>\$ _____</u>

6. **OTHER LONG-TERM SECURED CLAIMS IN DEFAULT [§ 1322 (b)(5)]** — The trustee will cure defaults (plus interest at the rate of 8 per cent per annum) on other claims as follows and the debtor will maintain the regular payments which come due after the date the petition was filed. The creditors will retain their liens. The amounts of default are estimates only. The trustee will pay the actual amounts of default.

TOTAL	Creditor	Amount of	Monthly	Beginning in	Number of
	Default	Payment	Month #	Payments	PAYMENTS
a. _____	\$ _____	\$ _____	_____	_____	\$ _____
b. <b>TOTAL</b>					<b>\$ _____</b>

7. **OTHER SECURED CLAIMS [§ 1325(a)(5)]** — The trustee will make payments to the following secured creditors having a value as of confirmation equal to the allowed amount of the creditor's secured claim using a discount rate of 8 percent. The creditor's allowed secured claim shall be the creditor's allowed claim or the value of the creditor's interest in the debtor's property, whichever is less. The creditors shall retain their liens. NOTE: NOTWITHSTANDING A CREDITOR'S PROOF OF CLAIM FILED BEFORE OR AFTER CONFIRMATION, THE AMOUNT LISTED IN THIS PARAGRAPH AS A CREDITOR'S SECURED CLAIM BINDS THE CREDITOR PURSUANT TO 11 U.S.C. § 1327 AND CONFIRMATION OF THE PLAN WILL BE CONSIDERED A DETERMINATION OF THE CREDITOR'S ALLOWED SECURED CLAIM UNDER 11 U.S.C. § 506(a).

Creditor	Claim Amount	Secured Claim	Monthly Payment	Beginning in Month #	Number of Payments	TOTAL PAYMENTS
a. _____	\$ _____	\$ _____	\$ _____	_____	_____	\$ _____

8. **SEPARATE CLASS OF UNSECURED CREDITORS** — In addition to the class of unsecured creditors specified in ¶ 9, there shall be a separate class of nonpriority unsecured creditors described as follows: \_\_\_\_\_

- a. The debtor estimates that the total claims in this class are \$ \_\_\_\_\_
- b. The trustee will pay this class \$ \_\_\_\_\_

9. **TIMELY FILED UNSECURED CREDITORS** — The trustee will pay holders of nonpriority unsecured claims for which proofs of claim were timely filed and allowed the balance of all payments received by the trustee and not paid under ¶ 2, 3, 5, 6, 7, 8 and 11(a) their pro rata share of approximately **\$7,896** [line 1(d) minus lines 2, 3(e), 5(d), 6(d), 7(d), 8(b) and 11(a)].

- a. The debtor estimates that the total unsecured claims held by creditors listed in ¶ 7 are **\$0.00**.
- b. The debtor estimates that the debtor's total unsecured claims (excluding those in ¶ 7 and ¶ 8 are **\$124,593**.
- c. Total estimated unsecured claims are **\$124,593** [line 9(a) + line 9(b)].

10. **TARDILY-FILED UNSECURED CREDITORS** — All money paid by the debtor to the trustee under ¶ 1, but not distributed by the trustee under ¶ 2, 3, 5, 6, 7, 8 or 9 shall be paid to holders of nonpriority unsecured claims for which proofs of claim were tardily filed.

11. **OTHER PROVISIONS** —

a.

12. **SUMMARY OF PAYMENTS** —

Trustee's Fee [Line 2] .....	\$ <b>4,500</b>
Priority Claims [Line 3(e)] .....	\$ <b>32,600</b>
Home Mortgage Defaults [Line 5(d)] .....	\$ _____
Long-Term Debt Defaults [Line 6(d)] .....	\$ _____
Other Secured Claims [Line 7(d)] .....	\$ _____
Separate Class [Line 8(b)] .....	\$ _____
Unsecured Creditors [Line 9(c)] .....	\$ <b>7,896</b>
<b>TOTAL [must equal Line 1(d)] .....</b>	<b>\$ 44,996</b>

Insert Name, Address, Telephone and License Number of Debtor's Attorney:

Terri A. Georgen (#238338)  
P.O. Box 16355  
St. Paul, MN 55116  
651-699-6980

Signed /e/ Robert L. Myers  
DEBTOR  
Signed /e/ Betty A. Myers  
DEBTOR

Robert L. Myers & Betty A. Myers

In re \_\_\_\_\_, Debtor

Case No. \_\_\_\_\_  
04 OCT 25 11 9:36 (if known)

**SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTORS**

Complete this schedule by estimating the average monthly expenses of the debtor and the debtor's family. Pro rate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate.

Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

Rent or home mortgage payment (include lot rented for mobile home)	\$	<u>1,550.00</u>
Are real estate taxes included? Yes _____ No <u>✓</u>		
Is property insurance included? Yes _____ No <u>✓</u>		
Utilities Electricity and heating fuel	\$	<u>280.00</u>
Water and sewer	\$	<u>90.00</u>
Telephone	\$	<u>140.00</u>
Other <u>cable</u>	\$	<u>160.00</u>
Home maintenance (Repairs and upkeep)	\$	<u>0.00</u>
Food	\$	<u>700.00</u>
Clothing	\$	<u>400.00</u>
Laundry and dry cleaning	\$	<u>100.00</u>
Medical and dental expenses	\$	<u>790.00</u>
Transportation (not including car payments)	\$	<u>550.00</u>
Recreation, clubs and entertainment, newspapers, magazines, etc.	\$	<u>250.00</u>
Charitable contributions	\$	<u>0.00</u>
Insurance (not deducted from wages or included in home mortgage payments)		
Homeowner's or renter's	\$	<u>0.00</u>
Life	\$	<u>300.00</u>
Health	\$	<u>0.00</u>
Auto	\$	<u>250.00</u>
Other <u>daycare</u>	\$	<u>440.00</u>
Taxes (not deducted from wages or included in home mortgage payments) (Specify) _____	\$	<u>0.00</u>
Installment payments (In chapter 12 and 13 cases, do not list payments to be included in the plan)		
Auto	\$	<u>0.00</u>
Other <u>haircuts/personal grooming</u>	\$	<u>100.00</u>
Other <u>houshold goods/supplies</u>	\$	<u>100.00</u>
Alimony, maintenance, and support paid to others	\$	<u>250.00</u>
Payments for support of additional dependents not living at your home	\$	<u>564.00</u>
Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$	<u>0.00</u>
Other <u>school and work lunches</u>	\$	<u>100.00</u>
<b>TOTAL MONTHLY EXPENSES (Report also on Summary of Schedules)</b>	<b>\$</b>	<b><u>7,114.00</u></b>

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**(FOR CHAPTER 12 AND 13 DEBTORS ONLY)**

Provide the information requested below, including whether plan payments are to be made bi-weekly, monthly, annually, or at some other regular interval.

A. Total projected monthly income	\$	<u>7,813.05</u>
B. Total projected monthly expenses	\$	<u>7,114.00</u>
C. Excess income (A minus B)	\$	<u>699.05</u>
D. Total amount to be paid into plan each _____ monthly	\$	<u>0.00</u>
(interval)		