

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Bankruptcy No. 04-33797
Chapter 7

James R. and
Kathleen A. Schmidt,
Debtors.

RESPONSE IN OPPOSITION TO OBJECTION TO CLAIMED EXEMPTION

TO: THE TRUSTEE AND ALL OTHER INTERESTED PARTIES:

1. The Trustee has made a motion objecting to the Debtors' claimed objections in the above-entitled matter.

2. More particularly, the Trustee has objected to the Debtors' claimed amounts for the reason that the actual value of the property claimed as exempt under 11 U.S.C. 522 (d)(5) exceeds the allowable exemption for one debtor. The basis for this objection is, among other reasons, that the actual bank balances in the accounts exceed the scheduled values by approximately \$9,409.55. The latter approximate figure has been determined on the basis of certain copies of bank records of the Debtors. Counsel for the Debtors does not have these records at its disposal.

3. To the best of the Debtors' knowledge at the present time, as of April 1, 2004, the amount of assets exemptible on the basis of 11 U.S.C. 522 (d)(5) is \$ 10,225 per debtor.

4. To the best of the Debtors' knowledge at the present time, the amount of assets the Debtors assert as exemptible on the basis of 11 U.S.C. 522 (d)(5) is within allowable limits, as regards all reasons for objection. In this regard, the Debtors refer to the supporting materials, attached, detailing the assets asserted as exemptible under 11 U.S.C. 522 (d)(5) and the remaining exemptible amounts which, to the best of the Debtors' knowledge at the present time, are still available to the Debtors under 11 U.S.C. 522 (d)(5).

5. At the present time, counsel for the Debtors expressly neither affirms nor denies the amounts in their values the Trustee cites in the Trustee's objection, as counsel for the Debtors is not in receipt of certain copies of bank records to which the Trustee has referred in the Objection.

6. Counsel for the Debtors cordially renews counsel's request that the Trustee furnish the above-mentioned copies of bank records in this matter.

Dated this 12th day of October, 2004.

/s/ Thomas W. Van Hon

Thomas W. Van Hon #165189

Attorney at Law
19 SE 2nd Ave. – P.O. Box N
Fairfax, MN 55332
Phone: 507-426-7339
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Amount Allowed	(d)(5)		\$ 10,225.00
Property	James	Kathleen	
Homestead	\$ 0.50	\$ 0.50	
Shop	\$ 2,500.00	\$ 2,500.00	
Bremer Acct. 31675			\$ 100 scheduled
Bremer Acct. 320242			\$ 100 scheduled
Minnwest Bank			\$ 150 scheduled
Bremer Savings 642660			\$ 1000 scheduled
10-gauge shotgun	\$75		
12-gauge shotgun	\$150		
Redwood Band	\$0.50	\$0.50	
16-foot boat	\$100	\$100	
Sylvan boat	\$1,000	\$1,000	
Inst. Repair Equip.	\$1,800		
Inventory	\$1,750		
	\$ 7,376.00	\$ 3,601.00	
Amount available	\$ (10,225.00)	\$ (10,225.00)	
	\$ (2,849.00)	\$ (6,624.00)	

Thomas W. Van Hon
Attorney at Law

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October 12, 2004

Mr. Michael S. Dietz
206 South Broadway Suite 505
Rochester, MN 55903

RE: James R. & Kathleen A. Schmidt, Debtors, Bankruptcy Case No. 04-33797

Dear Mr. Dietz:

Enclosed please find the Debtor's Response to Motion Objecting to Claimed Property as well as materials in support of the Debtors' Response in the above-entitled matter.

Sincerely,

/s/ Thomas W. Van Hon

Thomas W. Van Hon

TVH:bdd

cc: File