

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Martha E. Partridge,

Case No. 04-33915

Debtor.

**NOTICE OF HEARING, VERIFIED MOTION FOR TURNOVER
TO THE TRUSTEE OF PROPERTY OF THE ESTATE AND
MEMORANDUM OF LAW IN SUPPORT OF MOTION**

TO: The Debtor and other parties in interest specified in Local Rule 9013-3:

1. Nauri Jo Manty, Trustee of the bankruptcy estate of the above-named Debtor (“Trustee”), moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion on **November 4, 2004 at 11:30 a.m.**, before The Honorable Dennis D. O’Brien, Judge of the U.S. Bankruptcy Court, in Courtroom Number 228A, U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.

3. Any response to this motion must be filed and delivered not later than November 1, 2004, which is three days prior to the hearing (excluding Saturdays, Sundays and holidays), or filed and mailed not later than October 28, 2004, which is seven days before the hearing (excluding Saturdays, Sundays and holidays). **IF A RESPONSE IS NOT TIMELY FILED, THE COURT, IN ITS DISCRETION, MAY GRANT THE RELIEF REQUESTED 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 case was filed on July 6, 2004. This case is now pending in this Court.

5. This motion arises under 11 U.S.C. §§ 541(a) and 542(a). This motion is filed pursuant to Bankruptcy Rule 9014 and Local Rules 9013-1, 9013-2, 9013-3 and 9013-5. The Trustee requests relief with respect to turnover of copies of the Debtor's 2002 property tax refund in the amount of \$434.00, 2003 property tax refund in the amount of \$567.00 and 2004 tax returns and refunds, when filed, including property tax and/or renter's rebate returns and refunds, if any.

MOTION FOR TURNOVER

6. The 341 meeting of creditors was held on August 5, 2004. The Trustee has requested turnover and by letter. See copy of the Trustee Administrator's August 18, 2004 letter to the Debtor's attorney attached hereto as Exhibit A. The Trustee has received some of the items requested. In order to fully administer the estate, the Trustee must obtain the requested 2002 tax refund in the amount of \$434.00 and 2003 property tax refund in the amount of \$567.00 and 2004 state and federal tax returns and refunds, when filed, including property tax and/or renters rebate returns and refunds, if any.

7. The Trustee also requests attorney fees in the amount of \$500.00.

MEMORANDUM OF LAW

The law pertinent to this motion is found in 11 U.S.C. §§ 541(a) and 542(a). 11 U.S.C. §541(a) provides that:

The commencement of a case under § 301, 302 or 303 of this title creates an estate. Such estate is comprised of all of the following property, wherever located and by whomever held:

- (1) Except as provided in subsections (b) and (c)(2) of this section, all legal or equitable interests of the debtor in property as of the commencement of this case.

11 U.S.C. §542 provides that:

- (a) Except as provided in subsections (c) or (d) of this section, an entity other than a custodian, in possession, custody, or control, during the case, of property that the trustee may use, sell, or lease under Section 363 of this title, or that the debtor may exempt under section 522 of this title, shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate.

The Trustee requests that the Court order the Debtor to turn over the 2002 property tax refund in the amount of \$434.00 and 2003 property tax refund in the amount of \$567.00 and the 2004 state and federal tax returns and refunds, when filed, including property tax and/or renters rebates and refunds, if any.

WHEREFORE, the Trustee requests that this Court, issue an order that Debtor turn over her 2002 property tax refund in the amount of \$434.00 and 2003 property tax refund in the amount of \$567.00 and 2004 returns and refunds, when filed, including property tax and/or renters rebate returns and refunds, if any.

The Trustee also requests attorney fees in the amount of \$500.00 payable from Debtor.

Dated: October 14, 2004.

RIDER BENNETT LLP

By /e/ Nauri Jo Manty

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Trustee Administrator
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August 18, 2004

Curtis K. Walker, Esq.
4356 Nicollet Avenue South
Minneapolis, MN 55409

Re: Martha Elizabeth Partridge
Bankruptcy Case No.: 04-33915-DDO
Our File No.: 19127/000101

Dear Mr. Walker:

This is a follow-up to the Trustee's review at the 341 Meeting of Creditors. Please instruct the Debtor to turnover to the Trustee copies of her 2001, 2002, 2003, and 2004 federal and state income tax returns. Please also have your client execute and return the enclosed Stipulation.

Please respond to this letter on or before August 30, 2004. If you have any questions, please do not hesitate to call me.

Very truly yours,

RIDER BENNETT, LLP

By Nancy Jaeckels
Nancy L. Jaeckels

NLJ/dmv



UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Martha E. Partridge,

Case No. 04-33915

Debtor.

UNSWORN CERTIFICATE OF SERVICE

I, Donna Voth, declare under penalty of perjury that on October 14, 2004, I served copies of the attached *Notice of Hearing, Verified Motion for Turnover to the Trustee of Property of the Estate and Memorandum of Law in Support of Motion* by first class U.S. mail, to the following parties:

Martha E. Partridge 5876 Prairie Ridge Drive Shoreview, MN 55126	United States Trustee 1015 U.S. Courthouse 300 So. Fourth St. Minneapolis, MN 55415
Ms. Thayer Butler 4356 Nicollet Avenue South Minneapolis, MN 55409	Hilary B. Bonial Joe M. Lozano, Jr. Tamara D. Pitts Karen P. Thomason Brice, Vander Linden & Wernick, P.C. P.O. Box 829009 Dallas, TX 75382-9009

Executed on: October 14, 2004

Signed: /e/ Donna Voth

Donna Voth
Legal Assistant
Rider Bennett LLP
333 South Seventh Street
Suite 2000
Minneapolis, MN 55402

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:
Martha E. Partridge,

Case No. 04-33915

Debtor.

ORDER

The above-captioned matter came on before this Court on the motion of the Trustee, Nauri Jo Manty, for the turnover of Debtor's 2002 property tax refund in the amount of \$434.00 and 2003 property tax refund in the amount of \$567.00 and 2004 returns and refunds, when filed, including property tax and/or renters rebate returns and refunds, if any.

Based upon all of the files, records and proceedings herein,

IT IS HEREBY ORDERED:

1. The Trustee's Motion for Turnover is granted.
2. The Debtor shall turn over the Debtor's 2002 property tax refund in the amount of \$434.00 and 2003 property tax refund in the amount of \$567.00 and 2004 returns and refunds, when filed, including property tax and/or renters rebate returns and refunds, if any.
3. The Debtor shall also pay the Trustee \$500.00 as and for attorney's fees awarded in bringing this motion.

Dated: _____, 2004.

BY THE COURT

Dennis D. O'Brien
Judge, United States Bankruptcy Court