

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

In re:

Case No.: BKY 04-34117

DONALD STANLEY PRINS,

Debtor.

Chapter 7 Case

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**NOTICE OF HEARING  
AND  
MOTION OBJECTING TO CLAIMED EXEMPTIONS**

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

Paul W. Bucher, the trustee in bankruptcy in this case (the "trustee"), moves the Court for the relief requested below and gives notice of hearing.

1. The Court will hold a hearing on this Motion at 10:30 a.m. on November 3, 2004, in Courtroom No. 228A, at the United States Courthouse, at 316 North Robert Street, in St. Paul, Minnesota.
2. Because this Motion is being delivered at least 21 days or mailed at least 24 days before the hearing date, any response to this Motion must be filed and delivered not later than October 27, 2004, which is seven days before the time set for the hearing (including Saturdays, Sundays and holidays), or filed and served by mail not later than October 24, 2004, which is ten days before the time set for the hearing (including Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
3. This Court has jurisdiction over this Motion pursuant to Sections 157 and 1334 of Title 28 of the United States Code, Rule 5005 of the Federal Rules of Bankruptcy Procedure, and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on July 15, 2004. This case is now pending in this court.
4. This Motion arises under Section 522 of the United States Bankruptcy Code (11 U.S.C. §522), Rule 4003 of the Federal Rules of Bankruptcy Procedure, and Local Rule 4003-1(a). This Motion is filed under Rules 9013 and 9014 of the Federal Rules of Bankruptcy Procedure and Local Rules 9013-1, 9013-2, 9013-3 and 9013-5. The trustee requests relief with respect to objections to certain property claimed as exempt by the debtor.
5. The debtor has elected to claim property as exempt under Section 522(b)(1) of the United States Bankruptcy Code. See the attached Schedule C filed in this case.

6. The debtor has claimed the following asset as exempt under the following statute: Homestead – Real Property legally described as “Add. Plat of SWly Part of Block 57 2<sup>nd</sup> Add. North of Lot 20, Block 52A” under 11 U.S.C. §522(d)(1) in the amount of \$17,425.00. The debtor scheduled the homestead with no value (0.00); however, the debtor testified at the §341 meeting that the homestead was valued at approximately \$22,000.00 with the assessor’s office and that he believes that the homestead could sell for \$50,000.00. The debtor also testified he had an undivided ½ interest in the home. The Nobles County Auditor/Treasurer’s property tax statement shows the 2004 estimated market value to be \$20,600.00 (See Attached Exhibit A). The trustee objects to the claimed exemption on the grounds that the debtor has no clear idea what the homestead is worth, the trustee has insufficient information to determine the value and the ownership of the homestead, and that the debtor’s claim of exemption could be construed to be an attempt to exempt all the equity in the homestead in excess of the amount allowed by statute.

7. If oral testimony is necessary at the hearing, the trustee will call the debtor: Donald S. Prins, 420 Roos Ave., Worthington, MN 56187, who will testify concerning value of the homestead – real property, and any other matters, if necessary.

Wherefore, the trustee moves the Court for an order denying the above exemptions claimed by the debtors, and such other relief as the Court finds just and equitable.

Dated: September 30, 2004

/e/ Paul W. Bucher

Paul W. Bucher, Trustee  
206 South Broadway, Suite 505  
Post Office Box 549  
Rochester, Minnesota 55903-0549  
Telephone: (507) 288-9111

### **VERIFICATION**

I, Paul W. Bucher, the trustee in bankruptcy in this case and the moving party named in the foregoing Notice of Hearing and Motion Objecting to Claim of Exemption, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on September 30, 2004

/e/ Paul W. Bucher

Paul W. Bucher  
206 South Broadway, Suite 505  
Rochester, Minnesota 55904

Debtor(s)

**SCHEDULE C - PROPERTY CLAIMED AS EXEMPT**

Debtor elects the exemptions to which debtor is entitled under:

(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 laws, state or local law where the debtor's domicile has been located for 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and 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 DEDUCTING EXEMPTIONS
<p><b>SCHEDULE A - REAL PROPERTY</b>                      ADD. PLT OF SWLY PART OF BLOCK 57                      2nd ADD. NORTH OF LOT 20 BLOCK 52A.</p>	<p>11 USC § 522(d)(1)</p>	<p>17,425.00</p>	<p>0.00</p>

COUNTY  
 STATE TAX-PAYABLE 2004  
 OF WORTHINGTON

SHARON A. BALSTER  
 NOBLES COUNTY AUD./TREAS.  
 P.O. BOX 757  
 WORTHINGTON, MN 56187  
 507-372-8231

TAXPAYERS COPY RETURN STUB WITH PAYMENT  
 PROCL# 31-0580-000 RCPT# 9244

TO 196 204

PROPERTY DESCRIPTION - FOR TAX PURPOSES ONLY  
 (LEGAL DESCRIPTION OF YOUR PROPERTY MAY DIFFER)

PLT OF SWLY PART OF BLOCK 57 2ND  
 NORTH 100' OF LOT 20 BLOCK 57A

PROPERTY CLASS

NEW IMPROVEMENTS  
 ESTIMATED MARKET VALUE  
 TAXABLE MARKET VALUE

PAYABLE 2003		PAYABLE 2004	
RES HSTD		RES HSTD	
	19,600		20,600
	19,600		20,600
(14.) SPECIAL ASSESSMENTS		CODE	AMOUNT
PAVING #84		21149	40.70
COUNTY DITCH # 10120			1.60
INT.		13.77 PRIN.	28.53
			221.70

*Handwritten: COPY*

DONALD S PRINS &  
 LEON W PRINS  
 420 ROOS AVE  
 WORTHINGTON MN 56187

3986-T

**2004**

Use this amount on Form M-1PR to see if you're eligible for a property tax refund  
 File by August 15. **IF BOX IS CHECKED, YOU OWE DELINQUENT TAXES AND ARE NOT ELIGIBLE**  
 Use this amount for the special property tax refund on schedule 1 of Form M-1PR

**YOUR PROPERTY TAX AND HOW IT IS REDUCED BY THE STATE**

Your property tax before reduction by state-paid aids and credits  
 Aid paid by the State of Minnesota to reduce your property tax  
 Homestead and agricultural credits paid by the State of Minnesota to reduce your property tax  
 Other credits paid by the State of Minnesota to reduce your property tax  
 Your property tax after reduction by state-paid aids and credits

	209.34		994.60
	1,009.31		690.50
	721.97		82.40
	78.40		.00
	.00		221.70
	209.34		82.86
	77.26		72.33
	66.58		.00
	.00		46.91
	51.06		14.60
	8.90		.87
	.04		2.68
	2.98		1.89
	1.72		.00
	.00		221.70
	209.34		42.30
	42.56		264.00
	252.00		132.00
			132.00

**WHERE YOUR PROPERTY TAX DOLLARS GO**

County A.  
 B.  
 City or town  
 State General Tax  
 School District 518  
 Special taxing districts  
 A. Voter approved levies  
 B. Other local levies  
 A. SWRDC  
 B. OKABENA-CCHEDA  
 C. WORTHINGTON HRA  
 D.  
 Non-school voter approved referenda levies  
 Total property tax before special assessments  
 Special assessments added to this property tax bill  
 YOUR TOTAL PROPERTY TAX AND SPECIAL ASSESSMENTS

PAY THIS AMOUNT NO LATER THAN MAY 17, 2004  
 PAY THIS AMOUNT NO LATER THAN OCTOBER 15, 2004

**DETACH THIS STUB AND RETURN IT WITH YOUR 1ST HALF PAYMENT**  
 MAKE CHECKS PAYABLE TO: NOBLES COUNTY AUDITOR/TREASURER

NO RECEIPT SENT UNLESS REQUESTED.  
 YOUR CANCELLED CHECK IS YOUR RECEIPT.

TAXES OF \$50.00 OR LESS MUST BE PAID IN FULL.  
 IF YOU PAY YOUR TAXES LATE, YOU WILL BE CHARGED A PENALTY, SEE BACK FOR RATE.

PROCL# 31-0580-000 RCPT# 9244 RES HSTD  
 PROCL# 31-0580-000 RCPT# 9244 RES HSTD

AMOUNT DUE	AMOUNT DUE	TOTAL TAX
OCTOBER 15, 2004	MAY 17, 2004	354.00
2ND HALF TAX		132.00
PENALTY		
TOTAL		

DONALD S PRINS &  
 LEON W PRINS  
 420 ROOS AVE  
 WORTHINGTON MN 56187

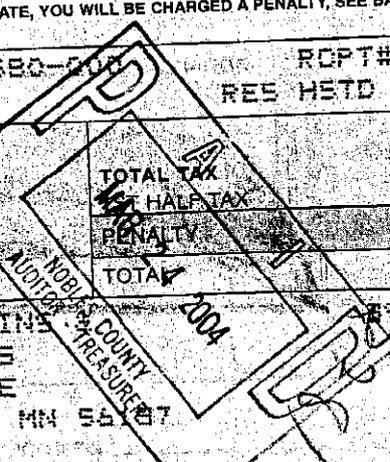
3986-T

DONALD S PRINS &  
 LEON W PRINS  
 420 ROOS AVE  
 WORTHINGTON MN 56187

MAIL TO: NOBLES COUNTY AUD./TREAS.  
 P.O. BOX 757  
 WORTHINGTON, MN 56187

EXHIBIT A

MAIL TO: NOBLES COUNTY AUD./TREAS.  
 P.O. BOX 757  
 WORTHINGTON, MN 56187



UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MINNESOTA

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In re:

Donald Stanley Prins

Debtor.

Bky Case No. 04-34117  
Chapter 7

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**UNSWORN CERTIFICATE OF SERVICE**

I, Jennifer M. Albright, declare under penalty of perjury that on September 30, 2004, I mailed copies of the following:

Notice of Hearing and Motion Objecting to Claimed Exemptions and Proposed Order

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

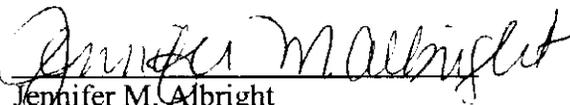
Donald S. Prins  
420 Roos Ave.  
Worthington, MN 56187

Frank P. Riley  
Attorney at Law  
915 4<sup>th</sup> Ave.  
Worthington, MN 56187

UNITED STATES TRUSTEE  
1015 U S COURTHOUSE  
300 SOUTH 4<sup>TH</sup> STREET  
MINNEAPOLIS MN 55415

Executed on September 30, 2004.

Signed:

  
Jennifer M. Albright  
DUNLAP & SEEGER, P.A.  
P O BOX 549  
ROCHESTER MN 55903-0549  
(507) 288-9111

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

In re:

Case No.: BKY 04-34117

DONALD STANLEY PRINS,

Debtor.

Chapter 7 Case

**ORDER DENYING CLAIMED EXEMPTIONS**

This matter came before the Court on the 3rd day of November, 2004, on the Motion of the Trustee Objecting to Claimed Exemptions. Appearances, if any, were noted of record. Based on the file, proceedings and record in this matter:

IT IS HEREBY ORDERED that:

The Trustee's Motion Objecting to Claimed Exemptions is sustained, and accordingly:

1. The debtor's claimed exemption of a Homestead – Real Property legally described as "Add. Plat of SWly Part of Block 57 2<sup>nd</sup> Add. North of Lot 20, Block 52A" is denied.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Honorable Dennis D. O'Brien  
United States Bankruptcy Judge