

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re: MAUS, BRUCE A.,

Chapter 7  
Bky. Case No. 04-34280

Debtor.

**DEBTOR'S VERIFIED RESPONSE**  
**TO MOTION OBJECTING TO**  
**EXEMPT PROPERTY**

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The Debtor hereby files this Verified Response to the Notice of Hearing and Motion Objecting to Exempt Property filed by the Trustee in this case.

The Trustee's objections to Debtor's claimed exemptions are twofold:

1. That Debtor's Anchor Bank checking account with a balance of \$5,000.00 is not exempt under Minn. Stat. §550.37, subd. 13, and Minn. Stat. §571.922, except to the extent of 75% of the amount in the account that Debtor can substantiate resulted from Debtor's earnings. The amount listed in Debtor's Anchor Bank checking account was valued at "nominal" in Debtor's Petition. In fact, the balance in Debtor's Anchor Bank checking account on the date of filing, July 23, 2004, was \$163.66. (See attached Exhibit A.)

The Debtor is attempting to determine the exact source of the deposits immediately preceding the date of filing. In the event Debtor is unable to establish that the source of the funds is Debtor's earnings, Debtor agrees that the \$163.66 would not be exempt. If the Debtor can establish that the deposits preceding the date of filing are earnings, Debtor asserts that 75% of the balance on the date of filing is exempt.

In either event, the Debtor proposes to pay the Trustee for the non-exempt portion of the Anchor Bank checking account balance.



# **EXHIBIT A**



Your Link to 24-hour Internet Banking.

For assistance, please call 952-808-8001 or e-mail support@anchorlink.com

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**Account Information** | [Bill Payment](#) | **Account Management**  
[Main](#) | [Transactions](#) | [Download](#) | [Statements](#) | [Transfers](#)

Current Account:

Current Balance: 1,109.03  
 Available Funds: 2,209.03

Transactions from 07/10/2004 to 07/23/2004

View Transactions Since

NOTE: CLICK on a column name to sort transactions by that column in ascending (↑) or descending (↓) order.

Date /	Check#	Description	Debits	Credits	Balance
07/11/2004		INTEREST DEPOSIT		0.09	81.98
07/12/2004		D/C TRN DOLLAR RENT A CAR 4908 SEATTLE WA 555712		45.03	127.01
07/12/2004		D/C TRN MCMENAMINS OLYMPI 4908 CENTRALIA WA 155662	(22.09)		105.72
07/12/2004		D/C TRN CAMP 9 SEAFOOD & 4908 CENTRALIA WA 251660	(30.40)		75.32
07/12/2004		D/C TRN DOLLAR RENT-A-CAR 4908 SEATTLE WA 553661	(250.00)		(174.68)
07/12/2004		Overdraft Item Charge	(25.00)		(199.68)
07/13/2004	713040031	Trsf from Business Checking Confirmation number 713040031		50.00	(149.68)
07/16/2004		TRANSFER FROM CREDIT LINE		200.00	50.32
07/19/2004		D/C TRN NWA AIR 01221 4908 MINNEAPOLIS MN 571019	(18.80)		31.52
07/19/2004		D/C TRN TWX*AOL SERVICE 0 4271 800-827-6364 VA 673372	(23.90)		7.62
07/20/2004	<a href="#">View Image</a>	Deposit		207.76	215.38
07/20/2004		ATM W/D KT WOODBURY CCD 4908 WOODBURY MN 004294	(101.50)		113.88
07/20/2004		ATM FEE KT WOODBURY CCD 4908 WOODBURY MN 004294	(1.00)		112.88
07/21/2004		D/C TRN PARADISE CAR WASH 4908 EAGAN MN 933450	(64.15)		48.73
07/22/2004		D/C TRN KINKO'S #0623 4908 EAGAN MN 029399	(21.07)		27.66
07/23/2004	723040046	Trsf from Business Checking Confirmation number 723040046		400.00	427.66
07/23/2004		D/C TRN AMERICAN RED CROS 4908 651-2916750 MN 407290	(61.00)		366.66
07/23/2004		ATM W/D USB APPLE VALLEY 4908 APPLE VALLEY MN 001449	(202.00)		164.66
07/23/2004		ATM FEE USB APPLE VALLEY 4908	(1.00)		163.66

APPLE VALLEY MN 001449

**Totals: (821.91) 903.68**

**Account Details**

[More Details](#)

**Previous Statement Balance: 1,109.03**

**Yesterday's Balance: 1,109.03**

# **EXHIBIT B**

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**National Travelers Life Company**  
4095 NW Urbandale Drive  
Urbandale IA 50322

**Fax Cover Sheet**

DATE: July 7, 2003

TIME: 1:57 PM

BRUCE A MAUS

FAX: 651-686-6113

FROM: RONI

PHONE: (800) - 232-5818

FAX: (515) - 645-4218

N01010914 & N01037009 MAUS, BRUCE A.

**Number of pages including cover sheet: 1**

**Message:**

THIS IS TO VERIFY THAT THE TWO POLICIES LISTED ABOVE ON YOUR LIFE ARE CURRENTLY IN FORCE. THE DEATH BENEFITS ARE AS FOLLOWS, N01010914 \$50,000 LEVEL TERM COVERAGE TO AGE 65 N01037009 \$250,000 10 YEAR LEVEL TERM.

17 + 18

**CONFIDENTIALITY NOTICE**

The documents accompanying this facsimile contain confidential information belonging to the sender which is legally privileged. This information is intended only for the use of the individual(s) named herein. The authorized recipient(s) of this information is prohibited from disclosing this information to any other party. If you are not the intended recipient, please be advised that unauthorized use, disclosure, copying, distribution, or the taking of any action in reliance on this information is

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re: MAUS, BRUCE A.,  
  
Debtor.

Chapter 7  
Bky. Case No. 04-34280

**MEMORANDUM OF LAW**

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FACTS

Debtor filed a Chapter 7 Bankruptcy petition on July 23, 2004. The 341 meeting was held on August 27, 2004. The Trustee filed a Notice of Hearing and Motion for Objection to Claimed Exempt Property on September 24, 2004.

The Trustee's exemption objections are twofold:

1. That the Anchor Bank checking account balance of \$5,000.00 is not exempt under Minn. Stat. §550.37, subd. 13 or, alternatively, that 25% of the funds on deposit are not exempt if it can be established that the funds in the checking account are earnings. (Minn. Stat. §571.922.) Debtor listed the value of the Anchor Bank checking account as "nominal" in the Petition. Attached to Debtor's Verified Response to the Motion as Exhibit A is a print-out of Debtor's Anchor Bank checking account showing the balance as of July 23, 2004, as \$163.66.

2. Trustee's second objection asserts that Debtor is entitled to claim the value of one of the six life insurance policies claimed exempt under Minn. Stat. §550.37, subd. 23. The Debtor selects Northwest Mutual Policy, #7261659, valued at \$842.00 in the Petition but with an actual value on July 23, 2004 of \$1,603.52 (see attached policy statement). Attached to Debtor's Verified Response to the Motion as Exhibit B is a National Travelers Life Company statement showing that policies #NO1037009 and #NO10010914 are term policies which have no cash value. Also attached hereto is a policy data review as of July 23, 2004, indicating that Northwest Mutual Policy #8-806-

578 had a cash value of \$47.22. Debtor is in the process of attempting to obtain verification of the actual cash values of the other listed life insurance policies.

ARGUMENT

1. Debtor is entitled to exempt up to 75% of the funds on deposit in the Anchor Bank checking account pursuant to Minn. Stat. §571.922 if he can establish that the funds are earnings. Debtor is attempting to obtain records to determine the source of the deposits immediately preceding July 23, 2004. Debtor reserves the right to offer oral testimony at the hearing and documentary evidence of the source of the funds on deposit in the Anchor Bank checking account if the funds are determined to be earnings. If not, Debtor agrees that the \$163.66 on deposit is not exempt.

2. Debtor is entitled to an Order that the Northwest Mutual policy #7261659 with a value of \$1,603.52 as of the date of filing is exempt. Debtor agrees that the cash value of the other policies is not exempt and is willing to compensate the Trustee accordingly.

Respectfully submitted,

EGAN, STEWART & LAUER, P.A.

Dated: October 13, 2004

By: /e/ Patrick W. Stewart  
Patrick W. Stewart, #105545  
15025 Garrett Avenue, Suite 200  
Apple Valley, MN 55124  
Telephone: (952)432-2200  
Attorneys for Debtor

Insured BRUCE A MAUS  
 Owner BRUCE A MAUS

Beneficiary Information  
 First Beneficiary NANCY KAY MAUS  
 Second Beneficiary See Beneficiary Agreement  
 Dated Oct 10, 1979

Plan Ordinary Life  
 Policy Number 7-261-659  
 Policy Date Oct 25, 1976  
 Premium paid by Insur. Service Acct 13-091-92  
 Age at Issue 25

Miscellaneous Information  
 This illustration assumes payment of all  
 premiums when due.  
 Policy paid up at age 100.  
 Dividends used to purchase additions  
 2004 Dividend 923.19\*  
 Policy assigned to ASSOCIATED BANK  
 Nonpayment provision is Automatic Prem Loan.  
 Premium Tax Basis \$6,484.47

Insurance Benefit  
 Base Policy 29,400  
 Dividend Additions 21,983  
 Total Death Benefit 51,383

Figures may not reflect actual Jul 23, 2004  
 values due to subsequent transactions.

Payment - Policy Year Beginning 2003  
 Frequency Annual/ISA  
 Base Policy 410.00  
 Waiver of Premium 7.20  
 Total Annual Amount Paid 417.20

\*2004 illustrated dividend included.  
 Illustrated dividend reflects current  
 (2004 scale) claim, expense, and  
 investment experience; is not an estimate  
 or guarantee of future results; and may  
 be larger or smaller than the dividend  
 actually paid.  
 Assumes loan balance remains constant.  
 Additional loans will reduce dividends.  
 Dividend increases with loan repayment.

Cash Values Assume Premiums Paid  
 to Jul 25, 2004  
 Guaranteed 9,730.09  
 Dividend Additions 10,252.43  
 Total Cash Value 19,982.52  
 2003 Cash Value Increase Not Available  
 2004 Cash Value Increase\* 1,651.18

Reserve basis and values amended  
 as of Jul 26, 1980.

Summary - Policy Year Ending 2004  
 2003 Payment 417.20  
 2004 Cash Value Increase\* 1,651.18  
 Difference 1,233.98CR

ISA Monthly Payment as of 10/12/2004  
 Monthly Premium 35.71  
 Total Monthly Payment 35.71

Loan Information  
 Policy Loan 17,897.21  
 Accrued Interest 481.79  
 Total Loan 18,379.00

Total payment through ISA may be more than  
 shown above if there is a service charge,  
 additional payment or multiple policies  
 paid through ISA.

Policy Loan Billing Date Mar 19, 2005  
 Policy Loan Rate 8%

\$ 1603.52

Prepared 10/12/2004

101204-113656-00001

The Northwestern Mutual Life Insurance Company 720 E. Wisconsin Ave. Milwaukee, WI 53202 414-271-1444

0033

Insured KRISTIN M MAUS  
 Owner BRUCE A MAUS

Plan Life Paid Up at Age 65  
 Policy Number 8-806-578  
 Policy Date Feb 25, 1983  
 Premium paid by Insur. Service Acct 13-091-92  
 Age at Issue 0

Insurance Benefit  
 Base Policy 12,000  
 Dividend Additions 11,119  
 Total Death Benefit 23,119

Payment - Policy Year Beginning 2004  
 Frequency Annual/ISA  
 Base Policy 89.00  
 Waiver of Premium 1.60  
 Additional Purchase Benefit 13.20  
 Total Annual Amount Paid 103.80

Cash Values - Assume Premiums Paid to Jul 25, 2004  
 Guaranteed 894.61  
 Dividend Additions 1,627.19  
 Total Cash Value 2,521.80

2004 Cash Value Increase 213.45  
 2005 Cash Value Increase\* 219.29

Summary - Policy Year Ending 2005  
 2004 Payment 103.80  
 2005 Cash Value Increase\* 219.29  
 Difference 115.49CR

Loan Information  
 Policy Loan 2,395.02  
 Accrued Interest 79.56  
 Total Loan 2,474.58

Policy Loan Billing Date Feb 18, 2005  
 Policy Loan Rate 8%

47.22

Beneficiary Information  
 First Beneficiary BRUCE A & NANCY K MAUS  
 Second Beneficiary See Beneficiary Agreement  
 Dated Jan 25, 1983

Miscellaneous Information  
 This illustration assumes payment of all premiums when due.  
 Policy paid up at age 65.  
 Dividends used to purchase additions  
 2004 Dividend 100.82  
 Aggregate APB Remaining 140,000  
 Next Purchase Date Feb 25, 2005  
 Option Amount 20,000  
 Policy assigned to ASSOCIATED BANC-CORP  
 ATTN MICHAEL PORCELLO  
 Nonpayment provision is Automatic Prem Loan.  
 Premium Tax Basis \$1,901.41

Figures may not reflect actual Jul 23, 2004 values due to subsequent transactions.

\*2005 illustrated dividend included.  
 Illustrated dividend reflects current (2004 scale) claim, expense, and investment experience; is not an estimate or guarantee of future results; and may be larger or smaller than the dividend actually paid.  
 Assumes loan balance remains constant.  
 Additional loans will reduce dividends.  
 Dividend increases with loan repayment.

101204-113666-00001

Prepared 10/12/2004

The Northwestern Mutual Life Insurance Company 720 E. Wisconsin Ave. Milwaukee, WI 53202 414-271-1444

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re: MAUS, BRUCE A.,

Debtor.

Chapter 7  
Bky. Case No. 04-34280

**UNSWORN DECLARATION**  
**FOR PROOF OF SERVICE**

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Patrick W. Stewart, an attorney licensed to practice law in this court, with an office address of 15025 Garrett Avenue, Suite 200, Apple Valley, Minnesota 55124, declares that on October 12, 2004, he served the Verified Response to Motion Objecting to Exempt Property in the above-captioned matter upon the persons named below, by United States mail, in envelopes, postage prepaid, addressed to each as follows:

Patti J. Sullivan, Trustee  
P.O. Box 16406  
St. Paul, MN 55116

Bruce A. Maus  
1586 Sherwood Court  
Eagan, Minnesota 55122

Office of the U.S. Trustee  
1015 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, Minnesota 55415

Dated: October 12, 2004

/e/ Patrick W. Stewart

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re: MAUS, BRUCE A.,

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Chapter 7  
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**UNSWORN DECLARATION**  
**FOR PROOF OF SERVICE**

---

Patrick W. Stewart, an attorney licensed to practice law in this court, with an office address of 15025 Garrett Avenue, Suite 200, Apple Valley, Minnesota 55124, declares that on October 13, 2004, he served Debtor's Memorandum of Law in the above-captioned matter upon the persons named below, by United States mail, in envelopes, postage prepaid, addressed to each as follows:

Patti J. Sullivan, Trustee  
P.O. Box 16406  
St. Paul, MN 55116

Bruce A. Maus  
1586 Sherwood Court  
Eagan, Minnesota 55122

Office of the U.S. Trustee  
1015 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, Minnesota 55415

and additionally by facsimile transmittal to Patti J. Sullivan, Trustee, at (651)699-4831.

Dated: October 13, 2004

/e/ Patrick W. Stewart

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re: MAUS, BRUCE A.,

Debtor.

Chapter 7  
Bky. Case No. 04-34280

**ORDER**

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Appearances were as noted upon the record. Upon the objection to claimed exempt property filed by the trustee and upon all the files and records of the proceedings herein:

IT IS HEREBY ORDERED:

1. The Debtor's claimed exemption in the Anchor Bank checking account in the amount of \$163.66 is disallowed.
2. The Debtor's claimed exemption in the Northwest Mutual policy #7261659 valued at \$842.00 is allowed.
3. The Debtor's claimed exemptions in the National Travelers Life Company policy #NO1037009; Northwest Mutual policy #8-806-244; Northwest Mutual policy #8-806-878; and Northwest Mutual policy #9510394 are disallowed.

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

\_\_\_\_\_  
U.S. Bankruptcy Judge