

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MINNESOTA**

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**In re:**

**RICHARD M. & BETTY L. HART,**

**Debtors**

**Bankruptcy No. 04-35003  
Chapter 7**

**NOTICE OF MOTION AND MOTION  
OBJECTING TO CLAIMED  
EXEMPTION**

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

1. Michael S. Dietz, Trustee of the above bankruptcy estate 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 10:00 a.m., in Courtroom 228A, United States Courthouse, at 316 North Robert Street, in St. Paul, Minnesota.

3. Any response to this Motion must be filed and delivered not later than 10:00 a.m. on October 28, 2004, which is seven days before the hearing, or filed and served by mail not later than October 25, 2004, which is ten days before the time set for the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION 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 Chapter 7 case was filed on August 26, 2004. The case is now pending in this Court.

5. This Motion arises under 11 U.S.C. §§ 522, Bankruptcy Rule 4003 and Local Rule 4003-1(a). This Motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1, 9013-2, and 9013-5.

6. The Debtors have scheduled the following property: Savings account at Mayo Clinic Credit Union, Eight year old Compaq computer, .410 Pump shotgun, 1995 Chevrolet Suburban, 1995 Chevrolet S-10, 1994 Chevrolet Blazer, 1978 El Camino, 2002 Bombardier four-wheeler, 1996 homemade trailer, 1994 snowmobile trailer, 1997 Yamaha Virago motorcycle and claimed all as exempt on Schedule C under 11 U.S.C. §522(d)(5). Attached as Exhibit "A" is a true and correct copy of Schedule C filed in this case.

7. Movant objects to the above noted exemptions claimed in that schedule for the following reasons: The scheduled value of the above items exceeds the allowable (d)(5) exemption for one debtor by approximately \$700. In addition, the Trustee is without sufficient information to determine the actual market value of the above items. Moreover, the Trustee believes that the actual market is higher than the scheduled value.

**WHEREFORE**, the Trustee moves the Court for an Order denying the claimed exemption of the Savings account at Mayo Clinic Credit Union, Eight year old Compaq computer, .410 Pump shotgun, 1995 Chevrolet Suburban (VIN#1GNFK16K4SJ325886), 1995 Chevrolet S-10 (VIN#1GCCS1447S8233095), 1994 Chevrolet Blazer (VIN#1GNDDT13W4R0167223), 1978 El Camino (VIN#1W80U8K418201), 2002 Bombardier four-wheeler, 1996 homemade trailer (VIN#DPSMN962231), 1994 snowmobile trailer, 1997 Yamaha Virago motorcycle (VIN#JYA1TEE01VA080228).

Dated: October 7, 2004

/e/ Michael S. Dietz

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Michael S. Dietz

Registration No. 188517

DUNLAP & SEEGER, P.A.  
Attorneys for Trustee  
206 S. Broadway, Suite 505  
Post Office Box 549  
Rochester, Minnesota 55903  
Telephone: (507) 288-9111

**VERIFICATION**

I, Michael S. Dietz, Trustee, the moving party named in the foregoing Notice of Hearing and Motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on: October 7, 2004

/e/ Michael S. Dietz

Michael S. Dietz, Trustee  
206 S. Broadway, Suite 505  
Post Office Box 549  
Rochester, Minnesota 55903  
Telephone: (507) 288-9111

## EXHIBIT “A”

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
ST. PAUL DIVISION**

IN RE: Richard Mylan Hart  
Betty Lou Hart

CASE NO

CHAPTER 7

**SCHEDULE C (PROPERTY CLAIMED AS EXEMPT)**

Debtor elects the exemptions to which debtor is entitled under: (Check one box)

- 11 U.S.C. Sec. 522(b)(1): Exemptions provided in 11 U.S.C. Sec. 522(d). Note: These exemptions are available only in certain states.
- 11 U.S.C. Sec. 522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for the 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 Exemption
Homestead at 217 Second Place NW, Byron MN Lot 7, Block 1, Baack's Second Addition, Byron, Olmsted County, Minnesota.	11 U.S.C. Sec. 522(d)(1)	\$14,000.00	\$140,000.00
Savings account at Mayo Clinic Credit Union	11 U.S.C. Sec. 522(d)(5)	\$100.00	\$100.00
Furniture, appliances, linens, bedding, pots, pans, dishes, silverware.	11 U.S.C. Sec. 522(d)(3)	\$4,000.00	\$4,000.00
Eight year old Compaq computer	11 U.S.C. Sec. 522(d)(5)	\$100.00	\$100.00
Wedding ring	11 U.S.C. Sec. 522(d)(4)	\$500.00	\$500.00
Five year ring	11 U.S.C. Sec. 522(d)(4)	\$150.00	\$150.00
Wedding ring	11 U.S.C. Sec. 522(d)(4)	\$90.00	\$90.00
.410 Pump shotgun	11 U.S.C. Sec. 522(d)(5)	\$100.00	\$100.00
\$10,000 whole life policy with Prudential	11 U.S.C. Sec. 522(d)(8)	\$300.00	\$300.00
1995 Chevrolet Suburban-Transmission and transfer case are out of it-210,000 miles	11 U.S.C. Sec. 522(d)(5)	\$2,500.00	\$2,500.00
1995 Chevrolet S-10; tried unsuccessfully to sell at \$1,800.	11 U.S.C. Sec. 522(d)(5)	\$1,500.00	\$1,500.00
1994 Chevrolet Blazer-118,000 miles	11 U.S.C. Sec. 522(d)(2)	\$2,500.00	\$2,500.00
		<b>\$26,340.00</b>	<b>\$152,340.00</b>

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
ST. PAUL DIVISION

IN RE: Richard Mylan Hart  
Betty Lou Hart

CASE NO

CHAPTER 7

**SCHEDULE C (PROPERTY CLAIMED AS EXEMPT)**

*Continuation Sheet No. 1*

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemption
1978 El Camino	11 U.S.C. Sec. 522(d)(5)	\$500.00	\$500.00
2002 Bombardier four-wheeler	11 U.S.C. Sec. 522(d)(5)	\$3,000.00	\$3,000.00
1996 homemade trailer	11 U.S.C. Sec. 522(d)(5)	\$800.00	\$800.00
1994 trailer 8x102 snowmobile trailer	11 U.S.C. Sec. 522(d)(5)	\$150.00	\$150.00
1997 Yamaha Virago motorcycle	11 U.S.C. Sec. 522(d)(5)	\$2,500.00	\$2,500.00
		\$32,790.00	\$158,790.00

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re:

Bankruptcy Case No. 04- 35003

RICHARD M. & BETTY L. HART,

Debtors.

UNSWORN CERTIFICATE OF SERVICE

I, Emily D. Stenhoff, declare under penalty of perjury that on October 7, 2004, I mailed copies of the following:

Trustee's Notice of Motion and Motion Objecting to Claimed Exemption

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

OFFICE OF THE US TRUSTEE  
1015 UNITED STATES COURTHOUSE  
300 SOUTH FOURTH STREET  
MINNEAPOLIS MN 55415

WILLIAM BODENSTEINER  
309 S MAIN ST  
AUSTIN MN 55912

RICHARD M. & BETTY L. HART  
PO BOX 333  
BYRON MN 55920

Executed on October 7, 2004

Signed:



Emily D. Stenhoff  
DUNLAP & SEEGER, P.A.  
P O BOX 549  
ROCHESTER MN 55903-0549  
(507) 288-9111

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MINNESOTA

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In re:

Bky Case No. **04-35003**

**RICHARD M. & BETTY L. HART,**

Chapter 7

**Debtors**

**ORDER SUSTAINING TRUSTEE'S  
OBJECTION TO DEBTORS' CLAIM  
OF EXEMPTION**

AT ST. PAUL, MINNESOTA,

This Chapter 7 case came on before the Court on November 4, 2004, for a hearing on the Trustee's objection to the Debtor's claimed exemption of the following property:

Savings account at Mayo Clinic Credit Union, Eight year old Compaq computer, .410 Pump shotgun, 1995 Chevrolet Suburban (VIN#1GNFK16K4SJ325886), 1995 Chevrolet S-10 (VIN#1GCCS1447S8233095), 1994 Chevrolet Blazer (VIN#1GNNDT13W4R0167223), 1978 El Camino (VIN#1W80U8K418201), 2002 Bombardier four-wheeler, 1996 homemade trailer (VIN#DPSMN962231), 1994 snowmobile trailer, 1997 Yamaha Virago motorcycle (VIN#JYA1TEE01VA080228)

Appearances, if any, were noted on the record. Upon the documents on file herein and the arguments of counsel:

**IT IS HEREBY ORDERED AND DETERMINED:**

1. The Trustee's objection is sustained.
2. The Debtor's interest in the Savings account at Mayo Clinic Credit Union, Eight year old Compaq computer, .410 Pump shotgun, 1995 Chevrolet Suburban (VIN#1GNFK16K4SJ325886), 1995 Chevrolet S-10 (VIN#1GCCS1447S8233095), 1994 Chevrolet Blazer (VIN#1GNNDT13W4R0167223), 1978 El Camino (VIN#1W80U8K418201), 2002 Bombardier four-wheeler, 1996 homemade trailer (VIN#DPSMN962231), 1994 snowmobile trailer, 1997 Yamaha Virago motorcycle (VIN#JYA1TEE01VA080228) are not exempt and are property of the bankruptcy estate to be administered by the Trustee in due course.

Dated: November \_\_, 2004

BY THE COURT:

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Dennis D. O'Brien  
United States Bankruptcy Judge