

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Bky. No.: 04-50570 GFK

MARGARET M. HUGHES-HUSBANDS and
JAMES F. HUSBANDS,
Debtors.

**NOTICE OF MOTION AND VERIFIED MOTION OBJECTING
TO PROPERTY CLAIMED AS EXEMPT**

TO: THE COURT, THE DEBTORS, THE DEBTORS' ATTORNEY DANIEL R. BINA, AND
THE UNITED STATES TRUSTEE

1. Robert R Kanuit, Trustee of the bankruptcy estate of the above-named debtors moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 2:00 p.m., on October 6, 2004, before the Honorable Gregory F. Kishel, in Courtroom 2 at the United States Courthouse, 515 West First Street, in Duluth, Minnesota.

3. Any response to this motion must be filed and delivered not later than September 29, 2004, which is seven (7) days before the time set for the hearing, or filed and served by mail not later than September 26, 2004 which is ten (10) 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, 11 U.S.C. § 522, 11 U.S.C. § 542, Bankruptcy Rules 4003d, 9013 and 9014, and Local Rules 702 and 1201, et seq. This proceeding is a core proceeding. The petition commencing this Chapter 7

case was filed on May 13, 2004. The case is now pending in this Court. Movant is entitled to object to Debtors' claims of exemption pursuant to Bankruptcy Rule 4003.

5. This motion arises under 11 U.S.C. § 522, 11 U.S.C. § 542, and Bankruptcy Rule 4003 and Local Rule 702. This motion is filed under Bankruptcy Rule 9014 and Local Rules 9001-1 to 9006-1 and 9013-1 to 9013-5. Movant requests relief with respect to Debtors' nonexempt property.

6. Debtors have claimed a homestead as exempt under Minn. Stat. §510.01 and §510.02, a ring and wedding band as exempt under Minn. Stat. §550.37, subd. 4(b), and a retirement benefit as exempt under Minn. Stat. §550.37, subd. 24, all of which claimed exemptions movant objects to.

7. Movant objects to debtors' claims of exemption for the following reasons:

- (a) As to the homestead, movant has requested permission from the debtors to have a real estate valuation expert view the interior of the premises, but to date debtors have refused to allow movant's expert access to the premises. Without an opinion of value from a real estate valuation expert, I am unable to determine whether debtors' claimed value for the homestead is accurate;
- (b) As to the ring and wedding band, jewelry is not exempt under Minn. Stat. §550.37, subd. 4(b); and
- (c) As to the retirement benefit, movant has requested information from the debtors to verify that the benefit is exempt but, to date, has not received the requested information.

WHEREFORE, trustee, Robert R. Kanuit, moves the Court for an order sustaining his objection to debtors' exemptions and such other relief as may be just and equitable.

Dated this 31st day of August, 2004.

/e/ Robert R. Kanuit
Robert R. Kanuit (#0252530)
Chapter 7 Trustee
4815 W. Arrowhead Road, #230
Hermantown, MN 55811
(218) 722-7722

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Bky. No.: 04-50570 GFK

MARGARET M. HUGHES-HUSBANDS and
JAMES F. HUSBANDS,
Debtors.

UNSWORN DECLARATION FOR PROOF OF SERVICE

The undersigned, being an employee of Kanuit & Bray, Ltd., attorneys licensed to practice law in this Court, with office address of 4815 W. Arrowhead Road, Hermantown, MN 55811, declares under penalty of perjury that on the date stated below, she served the annexed **Notice of Motion and Verified Motion Objecting to Property Claimed as Exempt and (proposed) Order** upon the persons/entities named below by mailing to them a copy thereof by enclosing same in an envelope with first class mail postage prepaid and depositing same in the post office at Hermantown, Minnesota, addressed as follows:

Margaret M. Hughes-Husbands and
James F. Husbands
4178 County Road 77
Tower, MN 55790-8132

Daniel R. Bina
Attorney at Law
1639 Main Street North, Suite 1
Pine City, MN 55063

James R. Geske
Wilford & Geske
7650 Currell Blvd., #300
Woodbury, MN 55125

American Express Centurion Bank
Becket and Lee, LLP, Agent
PO Box 3001
Malvern, PA 19355-0701

U.S. Department of Justice
Office of the United States Trustee
U.S. Courthouse, Suite 1015
300 South Fourth Street
Minneapolis, MN 55415

Ford Motor Credit Company
c/o Stewart, Zlimen & Jungers, Ltd.
430 Oak Grove Street, #200
Minneapolis, MN 55403

Dated this 31st day of August, 2004.

/e/ Bonnie K. Vanderpool
Bonnie K. Vanderpool

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Bky. No.: 04-50570 GFK

MARGARET M. HUGHES-HUSBANDS and
JAMES F. HUSBANDS,
Debtors.

ORDER

At Duluth, Minnesota, on October 6, 2004.

Upon the objection to property claimed as exempt filed by the trustee and upon all the files and records of the proceedings herein,

IT IS ORDERED:

The trustee's objections are sustained and the homestead, ring and wedding band, and retirement benefit are not exempt.

Honorable Gregory F. Kishel
United States Bankruptcy Judge