

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY 04-50707

Devin K. and Beth A. Hoag,

Debtors.

**NOTICE OF HEARING AND
OBJECTION TO CLAIMED
EXEMPT PROPERTY**

1. John A. Hedback, the duly appointed trustee for the bankruptcy estate in the above-referenced bankruptcy case hereby gives notice of his objection to claimed exempt property and provides notice of hearing herewith.

2. The Court will hear this objection on October 6, 2004, at 2:00 p.m., or as soon thereafter as counsel can be heard in Courtroom 2, U.S. Bankruptcy Court, U.S. Courthouse, Room 416, 515 West 1st St., Duluth, MN 55802.

3. Any responses to this objection shall be filed and delivered no later than October 1, 2004, at 2:00 p.m. which is three (3) business days prior to the hearing, or mailed no later than September 27, 2004, which is seven (7) days prior to 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 under Sections 175 and 1334 of Title 28 of the United States Code. This motion is brought pursuant to Section 522 of the Bankruptcy Code and local Rule 4003-1. This is a core proceeding.

5. The Debtor(s), in Schedule C, claimed as exempt the following property:

- a. Real property legally described as the Southeast Quarter of Southwest Quarter, Section 8, Township 50, Range 18, St. Louis County, Minnesota.
- b. Checking account at Wells Fargo Bank, Duluth, valued at \$20.

6. Debtors claim that the real property has a value of \$17,500 and that the checking account has a value of \$20. Debtors claimed these properties exempt under section (d)(5). Their testimony was that their valuation was based on the 2004 property tax estimated market value. Trustee has learned that the 2005 estimated market value for the same property is actually \$20,600. Therefore Trustee believes that the value of the real estate and deposits being claimed exempt exceeds the amount available for exemption under section (d)(5).

WHEREFORE, the trustee requests an order:

- (A) Sustaining the trustee's objections to the Debtor's claimed exemption of the Property; and
- (B) Granting any other relief the Court deems just and proper.

Dated: August 27, 2004

_____/e/ John A. Hedback_____
John A. Hedback, Atty #142438
Trustee
2855 Anthony Lane South, Suite 201
St. Anthony, MN 55418
(612) 436-3280

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY 04-50707

Devin K. and Beth A. Hoag,

Debtor(s).

UNSWORN DECLARATION FOR PROOF OF SERVICE

The undersigned, being an employee of Hedback, Arendt & Carlson, PLLC, attorneys licensed to practice law in this Court, with offices located at Suite 201 Anthony Place, 2855 Anthony Lane South, St. Anthony, Minnesota, declares that on the date indicated below, I served the following:

1. Notice of Hearing and Objection to Claimed Exempt Property;
2. Proposed Order; and
3. Unsworn Declaration for Proof of Service

upon each of the entities named below by mail (unless otherwise indicated below) by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid, and depositing same in the post office at St. Anthony, Minnesota, addressed to each of them as follows:

Devin and Beth Hoag
118 South 67th Avenue W
Duluth, MN 55807

Walter W. Vasil
200 Board of Trade Building
Duluth, MN 55802

Office of United States Trustee
1015 US Courthouse
300 South Fourth Street
Minneapolis, MN 55415

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: August 27, 2004

_____/e/ John A. Hedback_____

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

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Devin K. and Beth A. Hoag,

ORDER

Debtor.

This bankruptcy case came before the Court on objection by the Trustee to certain claim(s) of exempt property by the Debtor(s). Appearances were noted on the record. Based on the objection, argument of counsel and the files, records and proceedings herein,

IT IS HEREBY ORDERED: that the Trustee's Objection to Claimed Exempt Property is sustained. Debtor's interest in the following property is not exempt:

- a. Real property legally described as the Southeast Quarter of Southwest Quarter, Section 8, Township 50, Range 18, St. Louis County, Minnesota.
- b. Checking account at Wells Fargo Bank, Duluth, valued at \$20.

BY THE COURT

Dated: _____

U.S. Bankruptcy Judge

