

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re: Chapter 7 Case
Cathie L. Mireault, Bky. No. 04-50850-RJK
Debtor.

**NOTICE OF HEARING AND MOTION FOR OBJECTION TO
CLAIMED EXEMPT PROPERTY AND MEMORANDUM OF LAW**

TO: THE DEBTOR AND OTHER ENTITIES SPECIFIED IN LOCAL RULE 9013-3:

1. Nauni Jo Manty, Trustee of the bankruptcy estate of the above-named Debtor (“Trustee”), moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at **10:30 a.m. on October 25, 2004**, before The Honorable Robert J. Kressel, Judge of the Bankruptcy Court, in Courtroom No. 200, at the U.S. Courthouse, 515 West First Street, Duluth, Minnesota, or as soon thereafter as counsel can be heard.

3. Any response to this motion must be filed and delivered not later than October 20, 2004, which three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than October 14, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays and holidays). **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, Fed. R. Bankr. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition was filed under Chapter 7 on July 27, 2004. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. § 522, Minn. Stat. §550.37, Fed. R. Bankr. P. 4003, and Local Rule 4003-3. This motion is filed under Fed. R. Bankr. P. 9014 and Local Rules 9001-1 to 9006-1 and 9013-1 to 9013-5. The Trustee requests relief with respect to the Debtor's claimed exempt property.

6. The Debtor has scheduled real property legally described as Aspenwood Condos 3rd Supplement Plat Living Unit 30A, Garage 30A and an undivided interest in the Common Areas, St. Louis County, Minnesota with a current market value of \$97,000.00, which is her homestead in Duluth, Minnesota (hereinafter the "Homestead"). The Debtor has exempted \$16,061.00 of the Homestead under 11 U.S.C. § 522(d)(1). Attached as Exhibit A hereto is the St. Louis County 2004 Assessor's Market Value disclosing that the value of the Homestead is \$116,400.00. The Debtor testified at the 341 Meeting of Creditors that she does not dispute the valuation of \$116,400.00 for the Homestead. The Debtor testified that she owes \$82,000.00 on her Homestead. As such, the Debtor may have as much as \$34,400.00 in equity in the Homestead.

7. 11 U.S.C. § 522(d)(1) allows the Debtor to exempt her Homestead. 11 U.S.C. § 522(d)(1) limits the exemption to \$18,450.00 in value. Because the equity in the Debtor's Homestead is greater than \$18,450.00, the Trustee requests that the Debtor's Homestead exemption be limited to \$18,450.00 in value.

WHEREFORE, the Trustee moves the Court for an order sustaining Trustee's objection to claimed exempt property to the extent that the Debtor's Homestead exemption exceeds \$18,450.00.

Dated this 22nd day of September, 2004.

/e/ Nauri Jo Manty
Nauri Jo Manty
Trustee in Bankruptcy

Attorney ID No. 230352
Rider Bennett, LLP
333 South 7th Street, Suite 2000
Minneapolis, MN 55402
(612) 340-7900



Auditor's Office
Property Taxes

Parcel Information System

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Data Current As Of: May 1, 2004

2004 Assessor's Market Values For Taxes Payable In 2005

Record Details Parcel Number: 010-0153-00050

Owner MIREAULT-GUST
of CATHARINE L
Record 809 HAMILTON DR
DULUTH MN 55803

Plat Name: ASPENWOOD CONDOS 3RD
1st Line of Legal SUPPLEMENTAL PLAT
Desc: LIVING UNIT 30A GARAGE 30A AND
Deeded Acres: AN
Sec-Twp-Rng: 0
Lake (# / Name): 0 - .0 - 0

This parcel has 1 property tax classification(s). Valuations are provided below for each classification.

Class Code 201 RES 1 UNIT		010-0153-00050 Click Here To See The Current Year Tax Record For This Parcel
Land Value:	\$800	
Building Value:	\$115,600	
Total Class Value:	\$116,400	

Total Land Value = \$800.00
Total Building Value = \$115,600.00
Grand Total Value = \$116,400.00

Data Current As Of: May 1, 2004

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VERIFICATION

I, Nauri Jo Manty, the movant named in the foregoing Notice of Hearing and Motion for Objection to Claimed Exempt Property, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated this 22nd day of September, 2004.

/e/ Nauri Jo Manty
Nauri Jo Manty, Trustee

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re: Chapter 7 Case
Cathie L. Mireault, Bky. No. 04-50850-RJK
Debtor.

I, Donna M. Voth, declare under penalty of perjury that on September 22, 2004, I served copies of the attached **Notice of Hearing and Motion for Objection to Claimed Exempt Property and Memorandum of Law and Unsworn Certificate of Service** by first class U.S. mail, to the following parties:

Cathie Mireault 809 Hamilton Drive Duluth, MN 55811	United States Trustee 1015 U.S. Courthouse 300 So. Fourth St. Minneapolis, MN 55415
Arthur M. Albertson 101 West 2 nd Street, Suite 107 Duluth, MN 55802	

Executed on: September 22, 2004.

/e/Donna M. Voth
Donna M. Voth
Legal Administrative Assistant
Rider Bennett LLP
333 South Seventh Street
Suite 2000
Minneapolis, MN 55402

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re: Chapter 7 Case
Cathie L. Mireault, Bky No. 04-50850-RJK
Debtor.

ORDER

This matter came before the Court on the motion by Nauri Jo Manty, the Trustee for the Bankruptcy case of Cathie L. Mireault (the "Trustee") for Objection to Claimed Exempt Property legally described as: Aspenwood Condos 3rd Supplement Plat Living Unit 30A, Garage 30A and an undivided interest in the Common Areas, St. Louis County, Minnesota (the "Homestead"). Appearances were noted in the record at the time of the hearing. Based upon the files and records, the Court makes this Order pursuant to the Rules of Bankruptcy Procedure.

IT IS ORDERED: The Trustee's objection to the Homestead to the extent it exceeds \$18,450.00 is sustained.

Dated: _____

Robert J. Kressel
United States Bankruptcy Judge