

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Bky. No. 04-50886 GFK

MICHAEL TRAVIS BARNETT,

Debtor.

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

TO: THE COURT, THE DEBTOR, THE DEBTOR'S ATTORNEY, AND THE UNITED STATES TRUSTEE

1. Robert R Kanuit, Trustee of the bankruptcy estate of the above-named debtor 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 December 8, 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 December 1, 2004, which is seven (7) days before the time set for the hearing, or filed and served by mail not later than November 28, 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 August 4, 2004. The case is now pending in this Court. Movant is entitled to object to Debtor's 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 Debtor's nonexempt property.

6. Debtor has claimed as exempt a homestead located in Aitkin County, Minnesota, at 42908 Conifer Street, Aitkin, Minnesota, and legally described as set forth in the attached Exhibit A, at a claimed value of \$560,400.00, to which movant objects.

7. Movant objects to debtor's claim of exemption because the trustee is in possession of an appraisal for the homestead dated July 26, 2004, valuing the property at \$690,000.00, which is well in excess of the value claimed.

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

Dated this 25th day of October, 2004.

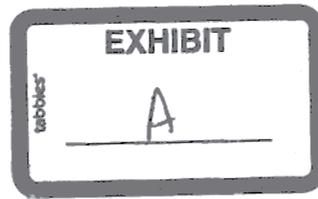
/e/ Robert R. Kanuit
Robert R. Kanuit (#0252530)
Chapter 7 Trustee
4815 W. Arrowhead Road, #230
Hermantown, MN 55811
(218) 722-7722

VERIFICATION

I, Robert R. Kanuit, movant, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated this 25th day of October, 2004.

/e/ Robert R. Kanuit
Robert R. Kanuit



The Northeast Quarter of Northeast Quarter (NE $\frac{1}{4}$ of NE $\frac{1}{4}$) of Section Thirty-three (33), Township Forty-five (45), Range Twenty-seven (27), EXCEPT that portion thereof which lies North of Minnesota Highway #18 and East of Minnesota Highway #169 and West of Aitkin County Road #37 as said roads now exist, AND EXCEPT That part of the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 33, Township 45, Range 27, to be described as follows: Beginning at a point, where the centerline of Minnesota Trunk Highway Number 18 as presently located on November 20, 2000, intersects the centerline of U.S. Trunk Highway No. 169 as presently located on November 20, 2000; thence South 57 degrees 46 minutes 00 seconds East (assuming that the centerline of said U.S. Trunk Highway No. 169 has an assigned bearing of North 32 degrees 14 minutes 00 seconds East) a distance of 590.00 feet; thence South 32 degrees 14 minutes 00 seconds West, parallel with the centerline of said U.S. Trunk Highway No. 169 a distance of 897 feet, more or less, to the South Line of said Northeast Quarter of the Northeast Quarter; thence westerly along the South Line of said Northeast Quarter of the Northeast Quarter to its Southwest corner thereof; thence northerly, along the West Line of said Northeast Quarter of the Northeast Quarter to its intersection with said centerline of U.S. Trunk Highway No. 169; thence North 32 degrees 14 minutes 00 seconds East along said centerline of U.S. Trunk Highway No. 169 to the point of beginning.

EXPRESSLY EXCEPTING and EXCLUDING all instruments of any nature (including, but without limitation, leases for a period of years) affecting the title to the minerals or mineral rights in, upon or under said premises, which are filed subsequent to the date of the filing of the deeds or other instruments wherein the minerals and mineral rights were expressly excepted and reserved, and whereby the mineral ownership was severed from the surface ownership.

In the County of Aitkin, State of Minnesota

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

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MICHAEL TRAVIS BARNETT,

Debtor.

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 **Motion Objecting to Property Claimed as Exempt and (proposed) Order** upon the persons 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:

Michael Travis Barnett
42908 Conifer Street
Aitkin, MN 56431

William I. Kampf
Henson & Efron, P.A.
220 South Sixth Street, Suite 1800
Minneapolis, MN 55402

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

Dated this 25th day of October, 2004.

/e/ Bonnie K. Vanderpool
Bonnie K. Vanderpool

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Bky. No. 04-50886 GFK

MICHAEL TRAVIS BARNETT,

Debtor.

ORDER

At Duluth, Minnesota, on December 8, 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 debtor's homestead located at 42908 Conifer Street, Aitkin, Minnesota, is not exempt.

The Honorable Gregory F. Kishel
United States Bankruptcy Judge