

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

DAVID A. OPALINSKI
NORMA J. OPALINSKI

BKY Case No. 04-50915 RJK
Chapter 13

Debtor(s).

**NOTICE OF HEARING AND
MOTION FOR DISMISSAL**

Michael J. Farrell, Chapter 13 Trustee, hereby moves to dismiss the above-entitled Chapter 13 case.

1. The Court will hold a hearing on this motion at 10:00 a.m. on November 29, 2004 in Courtroom 2 – 4th Floor, 515 West 1st Street, Duluth, Minnesota, 55802.
2. Any response to this motion must be filed and delivered not later than 10:00 a.m. on November 23, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than November 17, 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.**
3. The Debtor commenced this case by filing a voluntary Chapter 13 petition on August 11, 2004. This case is pending before this Court.
4. The Court has jurisdiction pursuant to 28 U.S.C. § § 157 and 1334. This motion is brought pursuant to 11 U.S.C. §1307, Bankruptcy Rule 1017 and Local Rule 1017.
5. The Debtor has failed to make payments to the Trustee as outlined in the proposed Plan. To date, the Debtor has made no payments to the Trustee. The Debtor is currently one month in default totaling \$1885.80. This amount does not include any payments that may come due between now and the time of the hearing.
6. The Debtor filed bankruptcy on August 11, 2004. The 341 meeting was scheduled for October 13, 2004. The Debtor failed to appear at the appointed time and place. To date, no 341 investigation has been held.

WHEREFORE, the Trustee requests an order as follows:

- (A) Dismissing the above entitled Chapter 13 case; and
- (B) Granting any other relief the Court deems just and proper.

Dated: October 21, 2004

/s/ Michael J. Farrell

Michael J. Farrell, Standing Trustee

PO Box 519

Barnesville, MN 56514

(218) 354-7356

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

DAVID A. OPALINSKI
NORMA J. OPALINSKI

BKY Case No. 04-50915 RJK
Chapter 13

Debtor(s).

The undersigned, being an employee of the standing Chapter 13 Trustee, declares that on the date indicated below, I served the following:

Notice of Hearing and Trustee's Motion to Dismiss
and Unsworn Declaration of 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 Barnesville, Minnesota, addressed to each of them as follows:

Debtor(s):

David A. Opalinski
Norma J. Opalinski
230 SE 2nd St.
Crosby, MN 56441

Debtor's Attorney:

Stephen L. Heller
Heller Law Firm
606 25th Ave. S., Suite 110
St. Cloud, MN 56301

Additional Copy(s) addressed to:

Buchalter, Nemer, Fields & Younger
Adam J. Bass
18400 Von Karman Ave., Suite 800
Irvine, CA 92612

United States Trustee
1015 U.S. Courthouse
300 W. 4th St.
Minneapolis, MN 55415

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

Dated: October 21, 2004

/s/ Belinda D. Kurtz
Belinda D. Kurtz
Chapter 13 Office

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

DAVID A. OPALINSKI
NORMA J. OPALINSKI

BKY Case No. 04-50915 RJK
Chapter 13

Debtor(s).

This matter came before the Court on November 29, 2004 at 10:00 a.m., or as soon thereafter as could be heard, on a motion by the Chapter 13 Trustee to dismiss this case. The appearances are as noted on the record. The court made its findings and conclusion on the record. Based on the Local and Federal Rules of Bankruptcy Procedure, it is

HEREBY ORDERED:

That this Chapter 13 Case is dismissed.

Dated: _____

Judge Robert J. Kressel
U.S. Bankruptcy Judge