

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re: GRAHAM, JEFFREY SCOT

Chapter 7  
Bky Case No. 02-94284

Debtor

**NOTICE OF HEARING AND OBJECTION**  
**TO PROOF OF CLAIM NO. 6**

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TO: Debtor, Debtor's Attorney, G. Martin Johnson, Esq., U.S. Trustee, Claimant, the Estate of Roger Schimke, as set forth on the attached service list and interested parties:

I.

Patti J. Sullivan, the duly appointed and qualified Trustee of the captioned bankruptcy estate, objects to the above proof of claim and gives notice of hearing herewith.

II.

The Court will hold a hearing on this objection on September 20, 2004, at 3:30 P.M., or as soon thereafter as counsel may be heard, in Courtroom No. 228B, at the United States Court House, 316 N Robert St., St. Paul, Minnesota 55101.

III.

Any response to this motion must be filed and delivered not later than September 9, 2004, which is seven days before the time set for the hearing, or filed and served by mail not later than September 6, 2004, which is ten 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.**

IV.

This Court has jurisdiction in this matter pursuant to 28 U.S.C. Section 157 and 1334 and amendments thereto. This objection arises under 11 U.S.C. Section 502. Local Rule 3007-1 is applicable. This is a core proceeding under 28 U.S.C. §157(b)(2)(B).



## VERIFICATION

I, Patti J. Sullivan, Trustee of the captioned bankruptcy estate, certify under penalty of perjury that the foregoing Objection to Proof of Claim and the information contained therein is true and correct according to the best of my knowledge, information and belief.

Dated this 18<sup>th</sup> day of August, 2004.

\_\_\_\_\_  
/e/ Patti J. Sullivan  
Patti J. Sullivan, Trustee

<b>UNITED STATES BANKRUPTCY COURT DISTRICT OF MINNESOTA</b>		<b>PROOF OF CLAIM</b>
Name of Debtor: <i>American Truck Finance Inc./owner Jeffrey Graham</i>		Case Number: <i>#02-94284</i>
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor: (The person or entity to whom the debtor owes money or property) <i>Roger Schimke Estate - Verneil Knigge Personal Rep.</i>		 <p style="text-align: center;">THIS SPACE IS FOR COURT USE ONLY</p>
Name and address where notices should be sent: <i>Verneil Knigge 337 21st St SE, Apt. 1, Huron, S.D. 57350 Telephone number: 605353-1836</i>		
Account or other number by which creditor identifies debtor:	Check here <input type="checkbox"/> replaces a previously filed court claim, dated: _____ if this claim: <input type="checkbox"/> amends	
<b>1. Basis for Claim:</b> <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input checked="" type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input type="checkbox"/> Other _____		<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensations (Fill out below) Your SS# _____ Unpaid compensations for services performed from _____ to _____ (date)
<b>2. Date debt was incurred:</b> <i>07-05-01</i>		<b>3. If court judgment, date obtained:</b> <i>01-14-04</i>
<b>4. Total Amount of Claim at Time Case Filed:</b> If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below. <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.		<i>\$ 50,000.00</i>
<b>5. Secured Claim</b> <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____  Value of Collateral: \$ _____  Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____		<b>6. Unsecured Priority Claim</b> <input checked="" type="checkbox"/> Check this box if you have an unsecured priority claim. Amount entitled to priority claim \$ <i>50,000.00</i> Specify the priority of the claim: <input type="checkbox"/> Wages, salaries, or commissions (up to \$4,300*), earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier — 11 U.S.C. § 507(a)(3) <input type="checkbox"/> Contributions to an employee benefit plan — 11 U.S.C. § 507(a)(4) <input type="checkbox"/> Up to \$1,950* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use — 11 U.S.C. § 507(a)(6) <input type="checkbox"/> Alimony, maintenance, or support owed to a spouse, former spouse, or child — 11 U.S.C. § 507(a)(7) <input type="checkbox"/> Taxes or other penalties of governmental units — 11 U.S.C. § 507(a)(8) <input checked="" type="checkbox"/> Other — Specify applicable paragraph of 11 U.S.C. § 507(a) _____ <small>*Amounts are subject to adjustment on 4/1/98 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>
<b>7. Credits:</b> The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. <b>8. Supporting Documents:</b> Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary. <b>9. Date-Stamped Copy:</b> To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.		<b>SEND CLAIMS TO:</b>  <b>U.S. BANKRUPTCY COURT</b> 200 U.S. COURTHOUSE 316 NORTH ROBERT STREET ST. PAUL, MN 55101
Date: <i>03-18-04</i>	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): <i>Roger Schimke Estate - Verneil Knigge - Personal Rep.</i>	

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF SCOTT

FIRST JUDICIAL DISTRICT

Verneil Knigge, Personal Representative for the  
Estate of Roger Schimke,

COURT FILE No.: 2002-26843

Plaintiff,

**FILED**

vs.

FEB 27 2004 A

American Truck Finance, Inc.,

SCOTT COUNTY COURTS

FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
ORDER FOR JUDGMENT  
AND JUDGMENT

Defendant.

The above-entitled proceeding came on for trial before the Honorable William E. Macklin, Judge of the above-named Court on the 14<sup>th</sup> day of January, 2004, at the Scott County Judicial Center, 200 West Fourth Avenue, in the City of Shakopee, County of Scott, and State of Minnesota.

Plaintiff was represented by S. John Roach, Attorney. Defendant did not appear.

Based upon the files and records in this matter, and after considering all of the evidence presented by Plaintiff, and being fully advised in the premises, the Court makes the following as:

#### FINDINGS OF FACT

1. Defendant American Truck Finance, Inc. is a Corporation under the laws of the State of Minnesota, with a principal place of business located in Scott County, Minnesota.
2. Defendant American Truck Finance, Inc. was duly served in this matter by the Minnesota Secretary of State, appeared in this matter, and was notified of this trial by the Court.

STATE OF MINNESOTA, COUNTY OF SCOTT

Certified to be a true and correct copy  
of the original on file and of record  
in my office.  
GREGORY M. ESS  
Court Administrator

3-12 2004 By Audrey K. Brown

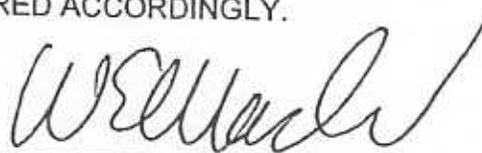
3. Defendant American Truck Finance, Inc. borrowed money from decedent and promised to repay \$50,000.00 to him pursuant to the note attached as Exhibit A to the Complaint.
4. Decedent was a resident of Jerauld County, North Dakota, at the time of his death. His estate is being probated in The Circuit Court, Probate Division, of Jerauld County, North Dakota. Verniel Knigge has duly been appointed by said Court as co-Personal Representative of the Estate of Roger E. Schimke, deceased.
5. Although demand was duly made, no amount of the note, nor any other payment, was ever repaid to Roger E. Schimke or his estate.

#### CONCLUSIONS OF LAW

1. Defendant American Truck Finance, Inc. was properly served, appeared in this matter, and is subject to the jurisdiction of this Court.
2. For value received, Defendant American Truck Finance, Inc. issued a Note to Roger E. Schimke, in which it promised to pay Roger E. Schimke the sum of \$50,000.00.
3. Roger E. Schimke died a resident of North Dakota, and his estate is being probated in the Circuit Court of Jerauld County, North Dakota.
4. Verniel Knigge is the duly appointed personal representative of the Estate of Roger E. Schimke, Decedent.
5. Defendant American Truck Finance, Inc. is indebted to the Estate of Roger E. Schimke, Decedent, in the amount of \$50,000.00.

ORDER FOR JUDGMENT

LET JUDGMENT BE ENTERED ACCORDINGLY.



Honorable William E. Macklin  
Judge of District Court

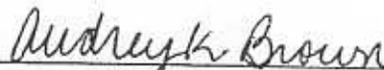
2/26/04

I certify that the above Conclusions of Law constitute the Judgment and Decree of the Court.

DECREE ENTERED AND JUDGMENT ROLL FILED THIS 27 DAY OF February, 2004.

BY THE COURT:

DISTRICT COURT ADMINISTRATOR



Deputy

July 5, 2001 **AMERICAN TRUCK FINANCE, INC.**

**Promissory Note**

This Note dated above is between Mr. Roger Schimke, (Roger) 6819 E. San Felipe, Scottsdale, Arizona 85258 and American Truck Finance, Inc (ATF) at the below address.

Roger agrees to loan ATF \$25,000.00 Twenty Five Thousand dollars in return that ATF will repay Roger a total of \$50,000.00 at the end of said term. ATF will use this money to send to Textron Financial as a discovery deposit. Textron will in turn use this as a deposit and return it upon loan application closing. According to Textron, they assure ATF that this process should not exceed 30 full days. At which time this note will become due. This amount of \$50,000.00 will be paid to coincide with the closing of the Textron transaction.

Both parties agree they are doing this in good faith and upon approval of both parties this to be construed as legal and binding.

Roger Schimke 7/8/01  
Roger Schimke date

Jeff Graham 7/5/01  
Jeff Graham date

**CERTIFICATION OF VITAL RECORD**

**STATE OF ARIZONA**

ORIGINAL STATE COPY

STATE OF ARIZONA  
DEPARTMENT OF HEALTH SERVICES - OFFICE OF VITAL RECORDS  
**CERTIFICATE OF DEATH**

DEATH NO. D 102-

1. NAME OF DECEASED: A. FIRST **ROGER**, B. MIDDLE **E.**, C. LAST **SCHIMKE**, SEX **2. MALE**, DATE OF DEATH: MONTH **NOVEMBER**, DAY **13**, YEAR **2001**

3. RACE (e.g., white, black, American Indian, (specify tribe) etc.): **WHITE**, WAS DESCENDANT OF HISPANIC ORIGIN (SPECIFY YES OR NO) **NO**, IF YES, INDICATE MEXICAN, SPANISH, PUERTO RICAN, CUBAN, ETC., WAS DECEASED EVER IN U.S. ARMED FORCES? (SPECIFY YES OR NO) **YES**

4. PLACE OF DEATH: A. COUNTY **MARICOPA**, B. TOWN OR CITY **SCOTTSDALE**, C. HOSPITAL OR INSTITUTION (IF RESIDENCE, GIVE STREET ADDRESS) **SCOTTSDALE HEALTHCARE SHEA**, D. DOA OF DEATH OR IN PATIENT

5. DATE OF BIRTH: MONTH **MAY**, DAY **22**, YEAR **1945**, AGE YEARS LAST BIRTHDAY **56**, IF UNDER 1 YEAR: MO. **56**, DAYS **56**, IF UNDER 1 DAY: HRS. **56**, MIN. **56**, MARRIED NEVER MARRIED WIDOWED DIVORCED (SPECIFY) **6. DIVORCED**, SURVIVING SPOUSE (IF WIFE, GIVE MAIDEN NAME) **7. HAZEL LABAU**

8. STATE AND CITY OF BIRTH: **11. SOUTH DAKOTA, WESSINGTON SPRINGS**, CITIZEN OF WHAT COUNTRY? SPECIFY **12. USA**, SOCIAL SECURITY NO. **13. 504-58-4133**, USUAL OCCUPATION (Give kind of work done most of working life, even if retired) **14. FARMER/RANCHER**, KIND OF BUSINESS OR INDUSTRY **15. AGRICULTURE**

9. USUAL RESIDENCE: A. STATE **16. SOUTH DAKOTA**, B. COUNTY **17. JERAULD**, C. TOWN OR CITY **18. WESSINGTON SPRINGS**, D. ZIP CODE **57382**, HOW LONG IN ARIZONA? **19. 7 MONTHS**, EDUCATION HIGHEST GRADE COMPLETED **20. 12**

11. STREET ADDRESS OF R.F.D. **37128-221ST ST.**, INSIDE CITY LIMITS? (SPECIFY Yes or No) **NO**, ON RESERVATION (SPECIFY Yes or No) **NO**, PREVIOUS STATE OF RESIDENCE **22. SOUTH DAKOTA**, ELEMENTARY-SECONDARY (0-12) **23. 12**, COLLEGE (1-4 or 5+) **24. 12**

12. FATHER'S NAME: A. FIRST **EDWIN**, B. MIDDLE **SCHIMKE**, C. LAST **SCHIMKE**, MOTHER'S MAIDEN NAME: A. FIRST **HAZEL**, B. MIDDLE **LABAU**, C. LAST **LABAU**

25. INFORMANT'S SIGNATURE **TERRY SCHIMKE** (by Nancy Simms), RELATIONSHIP TO DECEASED **26. BROTHER**, ADDRESS: STREET NO. **23081-383RD AVE.**, CITY AND STATE **WESSINGTON SPRINGS, SOUTH DAKOTA**, ZIP CODE **57382**

27. BURIAL CREMATION REMOVAL (Specify) **BURIAL**, DATE **28. 11-14-01**, CEMETERY OR CREMATORY - NAME AND LOCATION **PROSPECT HILL CEMETERY WESSINGTON SPRINGS, SD**, EMBALMER'S SIGNATURE **29. [Signature]**, CERT. NO. **811**

FUNERAL HOME: NAME **FAMILY BURIAL & CREMATION CENTER**, STREET ADDRESS **237 S. SIRRINE.**, CITY AND STATE **MESA, AZ**, FUNERAL DIRECTOR OR PERSON ACTING AS SUCH (SIGNATURE) **30. [Signature]**, CERT. NO. **407-A**

31. TO THE BEST OF MY KNOWLEDGE, DEATH OCCURRED AT THE TIME, DATE AND PLACE AND DUE TO THE CAUSE(S) STATED. 32. SIGNATURE AND TITLE **[Signature]**, DATE SIGNED (Mo., Day, Year) **33. 11/14/01**, HOUR OF DEATH **34. 0950**, NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or print) **35. [Signature]**

36. NAME AND ADDRESS OF CERTIFIER, PHYSICIAN, MEDICAL EXAMINER OR TRIBAL LAW ENFORCEMENT AUTHORITY **MITCH GUINIA, MD. 9003 E. SHEA BLVD. SCOTTSDALE, AZ**, AUTHORIZED FOR CREMATION (SPECIFY)  YES  NO **40. NO**, MEDICAL EXAMINER'S SIGNATURE **41. [Signature]**

42. DATE REGISTERED **NOV 15 2001**, REG. NO. **36234**, REGISTRAR'S SIGNATURE **[Signature]**, REG. DISTRICT **43. 0705**, DATE RECD. IN STATE OFFICE **44. [Blank]**

45. A. IMMEDIATE CAUSE (FINAL DISEASE OR CONDITION RESULTING IN DEATH) (ENTER ONLY ONE CAUSE ON EACH LINE) **Respiratory Arrest**, B. DUE TO OR AS A CONSEQUENCE OF: **pulmonary insufficiency**, C. DUE TO OR AS A CONSEQUENCE OF: **Lung Cancer**

PART II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I. AUTOPSY (Specify Yes or No) **49. NO**, WAS CASE REFERRED TO MEDICAL EXAMINER (Specify Yes or No) **50. NO**

48. MANNER OF DEATH:  NATURAL CAUSES,  ACCIDENT,  SUICIDE,  HOMICIDE,  FENDING INVESTIGATION,  UNDETERMINED, DATE OF INJURY: MO. **52. [Blank]**, DAY **53. [Blank]**, YR. **54. [Blank]**, HOUR **55. [Blank]**, INJURY AT WORK? (Specify Yes or No) **56. [Blank]**, DESCRIBE HOW INJURY OCCURRED **57. [Blank]**, PLACE OF INJURY (At home, farm, street, factory, office building, etc.) SPECIFY **58. [Blank]**, WHERE LOCATED? **59. [Blank]**, STREET ADDRESS **60. [Blank]**, CITY OR TOWN **61. [Blank]**, STATE **62. [Blank]**

**FOR GOVERNMENT USE ONLY**

STATE OF ARIZONA  
COUNTY OF MARICOPA  
DATE ISSUED  
December 4, 2001  
This is a true and exact reproduction of the document officially registered and placed on file in the VITAL RECORDS SECTION, DEPARTMENT OF HEALTH SERVICES, PHOENIX, ARIZONA issued under the authority of A.R.S. 36-341, and by direction of:  
**[Signature]**  
County Registrar  
Director, Maricopa County Department of Public Health Services



This copy not valid unless prepared on engraved border displaying county seal in color and any alteration or erasure voids this certificate



BRIDGMAN & ADEL

Attorneys at Law  
106 EAST MAIN  
P.O. BOX R

WESSINGTON SPRINGS, SOUTH DAKOTA 57382  
TELEPHONE (605) 539-1066 FAX (605) 539-1067

Casey N. Bridgman  
Jeffrey S. Adel

Office  
Kendra Brandenburg  
Gladys Kieser

February 8, 2002

Terry Schimke  
23081 383rd Ave.  
Wessington Springs, SD 57382

Verneil Knigge  
677 2nd St. SW  
Huron, SD 57350

Re: Roger E. Schimke estate

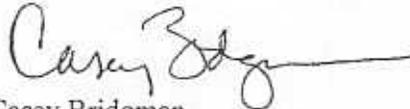
Dear Terry and Verneil:

I am still trying to collect the \$50,000.00 from the American Truck Finance, Inc. note dated July 8, 2001. As yet, however, I have not had any success in getting them to pay.

I will continue to make efforts to collect this debt, however, I would, at this time, ask that \$11,380.00 be paid toward my attorney fees and costs. This was outlined in my letter dated January 17, 2002. My final bill will be determined once we inventory the estate.

Hopefully, this won't create too much of a cash flow problem with the estate.

Sincerely,



Casey Bridgman

CB/kdb  
schimke2.let

March 18, 2004

To- U.S. Bankruptcy Court  
Re- \$50,000.<sup>00</sup> debt- from American Truck Finance, Inc.  
Jeffrey Graham - Owner  
From- Verneil Knigge

Enclosed is a copy of U.S. Bankruptcy  
Claim Form.

We have never received any notices from  
Jeffrey S. Graham or the Bankruptcy Court that  
Mr. Graham filed for bankruptcy.

During February 2004 I accidentally found  
out that Mr. Graham filed for bankruptcy. I  
found this out from one of his other creditors.

I am enclosing copies of promissory note,  
judgment against American Truck Finance Inc.  
for \$50,000.<sup>00</sup>, and other documents. Our  
attorney has the originals in his safe.

Please contact me if you have questions.  
This letter is a request for payment of \$50,000.<sup>00</sup>

Thanks-

Sincerely,

Verneil I. Knigge  
337 21st St SE, Apt. 1  
Huron, South Dakota 57350

Telephone 605 353 1836

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In the Matter of:

GRAHAM, JEFFREY SCOT

Bky No. 02-94284

Debtor.

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**UNSWORN CERTIFICATE OF SERVICE**

I, Joeline Kissinger, declare under penalty of perjury that on the 18<sup>th</sup> day of August, 2004, I mailed a copy of the attached **Notice of Hearing and Objection to Proof of Claim No. 6 and Proposed Order** by first class mail postage prepaid to each entity named below or on the statement attached at the address stated below or in said attachment for each entity:

G. Martin Johnson, Esq.  
3800 W. Old Shakopee Road  
Bloomington, MN 55431

Jeffrey Scot Graham  
926 Dakota St. S.  
Shakopee, MN 55379-2563

Shapiro and Nordmeyer, LLP  
7300 Metro Blvd.  
Suite 390  
Edina, MN 55439-2306

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

Verneil Knigge,  
Personal Representative of  
Roger Schimke Estate  
337 21<sup>st</sup> St. SE, Apt. 1  
Huron, SD 57350

Executed on this 18<sup>th</sup> day of August, 2004.

  
Joeline Kissinger

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re: GRAHAM, JEFFREY SCOT

Chapter 7  
BKY CASE NO. 02-94284

Debtor

**ORDER DISALLOWING**  
**CLAIM NO. 6**

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The above-entitled matter came on for hearing before the undersigned Bankruptcy Judge, upon the Trustee's Objection to allowance of Claim No. 6 filed by the Estate of Roger Schimke.

Appearances were noted on the record.

Upon said objection, and all the files, records and proceedings herein,  
IT IS HEREBY ORDERED:

That claim No. 6 filed by Verneil Knigge, Personal Representative of the Roger Schimke Estate in the amount of \$50,000.00 is disallowed.

Dated: \_\_\_\_\_

By the Court

\_\_\_\_\_  
GREGORY F. KISHEL  
CHIEF JUDGE OF U.S. BANKRUPTCY COURT