

**United States Bankruptcy Court  
District of New Mexico**

**Document Verification**

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**Case Number:** 05-00001  
**Nature of Suit:**  
**Judge Code:**  
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| <b>Description:</b>   | Order Requiring Trustees to Notify the Court of Possible Exemption Limitation under 11 USC Section 522(q) |                                |                              |
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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO**

In re: COURT ADMINISTRATIVE MATTERS:

Trustee to Notify Court of Possible

Exemption Limitation Under

11 U.S.C. § 522(q)

No. MP 05-001

**ORDER REQUIRING TRUSTEES TO NOTIFY  
THE COURT OF POSSIBLE EXEMPTION LIMITATION  
UNDER 11 U.S.C. § 522(q)**

11 U.S.C. § 522(q) imposes certain limitations on an individual debtor's claim of exemption in excess of \$125,000.<sup>1</sup> To assist the Court in carrying out its duties under 11 U.S.C. § 727(a)(12), 11 U.S.C. § 1141(d)(5)(C), 11 U.S.C. § 1228(f), and 11 U.S.C. § 1328(h), the Court finds that the United States Trustee and/or the appropriate case trustee should notify the Court in any case in which an individual debtor has claimed an exemption that exceeds in the

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<sup>1</sup>That section provides:

(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of an interest in property described in paragraphs (A), (B), (C), and (D) of subsection (p)(1) which exceeds the aggregate of \$125,000 if --

(A) the court determines, after notice and a hearing, that the debtor has been convicted of a felony (as defined in section 3156 of title 18), which under the circumstances demonstrates that the filing of the case was an abuse of the provisions of this title; or  
(B) the debtor owes a debt arising from --

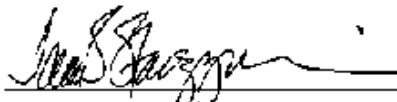
- (i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws;
- (ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933;
- (iii) any civil remedy under section 1964 of title 18; or
- (iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

(2) Paragraph (1) shall not apply to the extent the amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) is reasonably necessary for the support of the debtor and any dependent of the debtor.

11 U.S.C. § 522(q).

aggregate \$125,000.00 in value in (A) real or personal property that the debtor or a dependent of the debtor uses as a residence; (B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; (C) a burial plot for the debtor or a dependent of the debtor; or (D) real or personal property that the debtor or dependent of the debtor claims as a homestead (collectively referred to herein as a "homestead exemption"). *See* 11 U.S.C. § 522(p)(1).

IT IS THEREFORE ORDERED that in every case in which the debtor is an individual claiming a homestead exemption in excess of \$125,000.00, the case trustee, or the United States trustee if no case trustee has been appointed, shall file within thirty days of the conclusion of the meeting of creditors, or, within ten days of the debtor's filing an amendment to claim a homestead exemption in excess of \$125,000.00, a notice with the Court that 11 U.S.C. § 522(q) may apply.



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JAMES S. STARZYNSKI  
Chief United States Bankruptcy Judge



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MARK B. McFEELEY  
United States Bankruptcy Judge