

SEALED

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CLERK US DISTRICT COURT  
NORTHERN DIST. OF TX  
FILED

2012 NOV 20 AM 10:29

DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

KENNETH J. HENRY, individually,  
and d/b/a HENRY'S TURKEY  
SERVICE, and HILL COUNTRY  
FARMS, INC. d/b/a HENRY'S  
TURKEY SERVICE,

Defendants,

and

FIRST NATIONAL BANK, MILLS  
COUNTY STATE BANK, RUSTY  
ROBERSON, AND SOUTHWESTERN  
FARMS & CATTLE CO., INC.,

Garnishees.

**8-12CV-4737P**

No. \_\_\_\_\_

APPLICATION FOR WRITS OF GARNISHMENT

The United States of America (United States) applies under 28 U.S.C. §§ 3002, 3014, 3202, and 3205 for issuance of Writs of Garnishment for substantial nonexempt property belonging to or due Defendants Kenneth J. Henry, individually, and d/b/a Henry's Turkey Service (Henry), and/or Hill Country Farms, Inc. d/b/a Henry's Turkey Service (Hill Country) (collectively Defendants), who are judgment debtors of the United States, and/or Henry's spouse, Gay Henry, individually, and d/b/a Henry's Turkey

Service. These writs are sought in connection with a judgment from the United States District Court for the Southern District of Iowa dated July 20, 2011 in favor of the United States against the Defendants. On October 11, 2011, this judgment was registered in the United States District Court for the Northern District of Texas under civil case number 4:11-MC-015.

Computation of the debt as of November 15, 2012 is:

\$1,761,554.34	Judgment amount
\$ 3,737.85	Interest (.16%)
<u>(\$ 4,335.20)</u>	Credits applied to judgment
\$1,760,956.99	Debt balance

The judgment debtors' full names are Kenneth J. Henry, his social security number is \*\*\*-\*\*-5369<sup>1</sup>, and Hill Country Farms, Inc. d/b/a Henry's Turkey Service, tax identification number, \*\*-\*\*\*3951<sup>1</sup>, their last known addresses are 1451 Hwy 1476, Proctor, TX 76468 and U.S. 511 Hwy. 84W, Goldthwaite, TX 76844, respectively. Not less than 30 days has elapsed since demand on the debtors for payment of the debt was made, and Henry and Hill Country have not paid the amount due.

The names and addresses of the garnishees and their authorized agents are:

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<sup>1</sup>Pursuant to the Privacy Act, 5 U.S.C. § 552a and the E-Government Act of 2002, Pub. L. 107-347, the social security number and tax identification number are redacted to the last four digits to prevent public disclosure. Upon request of the court, the full social security number and tax identification number will be provided *in camera*.

First National Bank and its affiliates, successors, or assigns  
Pat Demetruk, Vice President and Cashier  
825 N. Patrick Street  
Dublin, TX 76446-1125

Mills County State Bank and its affiliates, successors, or assigns  
Mindy Hopper, Cashier  
1017 Parker Street  
Goldthwaite, TX 76844-2379

Rusty Roberson and his affiliates, successors, or assigns  
Route 2  
Dublin, TX 76446

Southwestern Farms & Cattle, Co., Inc. and its affiliates, successors, or assigns  
Glenda Luscher, Registered Agent  
2901 FM 1476  
Proctor, TX 76468

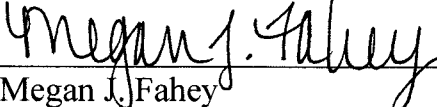
The United States believes the garnishees and their affiliates, successors, or assigns have possession, custody, or control of substantial nonexempt property belonging to or due Defendants and/or Henry's spouse.

If Defendants and/or Henry's spouse file a claim for exemption to this garnishment, the United States requests this Court to order that a statement be filed under oath naming and describing the exemptions, including for each item of property for which an exemption is claimed, the value, the basis for such valuation, and the nature of the ownership interest.

The United States is entitled to a surcharge of 10% of the debt to cover the costs of collecting the debt. *See* 28 U.S.C. § 3011(a).

Respectfully submitted,

SARAH R. SALDAÑA  
UNITED STATES ATTORNEY

  
Megan J. Fahey

Assistant United States Attorney  
Texas State Bar No. 04652300  
Burnett Plaza, Suite 1700  
801 Cherry Street, Unit 4  
Fort Worth, TX 76102-6882  
Telephone: 817.252.5200  
Facsimile: 817.252.5459  
Megan.Fahey@usdoj.gov

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

United States of America

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)  
Megan J. Fahey, AUSA 817.252.5200  
Burnett Plaza Suite 1700, 801 Cherry Street Unit 4  
Fort Worth, TX 76102-6882

**DEFENDANTS**

Kenneth J. Henry, individually, and d/b/a Henry's Turkey Service  
and Hill Country Farms, Inc. d/b/a Henry's Turkey Service

County of Residence of First Listed Defendant Comanche County, TX  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)  
Attorney for David Scieszinski  
both Defendants. 108 E. 4th Street  
563.732.2002 Wilton, IA 52778

NOV 20 2012

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 3205—Garnishment

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 1,760,956.99

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

**VIII. RELATED CASE(S) (See instructions)**

PENDING OR CLOSED:

JUDGE John McBryde

DOCKET NUMBER 4:11-MC-015

DATE 11/16/12

SIGNATURE OF ATTORNEY OF RECORD  
Megan J. Fahey

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

KENNETH J. HENRY, individually,  
and d/b/a HENRY'S TURKEY  
SERVICE, and HILL COUNTRY  
FARMS, INC. d/b/a HENRY'S  
TURKEY SERVICE,

Defendants,

and

FIRST NATIONAL BANK,

Garnishee.

**8-12CV-4737P**  
No. \_\_\_\_\_

WRIT OF GARNISHMENT

To: First National Bank and its affiliates, successors, or assigns  
Pat Demetruk, Vice President and Cashier  
825 N. Patrick Street  
Dublin, TX 76446-1125

An Application for Writs of Garnishment seeking property belonging to or due  
Defendants Kenneth J. Henry, individually, and d/b/a Henry's Turkey Service (Henry),  
and Hill Country Farms, Inc. d/b/a Henry's Turkey Service (Hill Country) (collectively  
Defendants), who are judgment debtors of the United States of America (United States),  
and/or Henry's spouse, Gay Henry, individually, and d/b/a Henry's Turkey Service, was

filed with this Court.

Computation of the debt as of November 15, 2012 is:

\$1,761,554.34	Judgment amount
\$ 3,737.85	Interest (.16%)
<u>(\$ 4,335.20)</u>	Credits applied to judgment
\$1,760,956.99	Debt balance

Pending further order of this Court, you shall withhold and retain all property in which Defendants and/or Henry's spouse have a substantial nonexempt interest and for which you are or may become indebted to Defendants and/or Henry's spouse. *See* 28 U.S.C. § 3205(c)(2)(F). Do not deliver the property to the United States at this time. Instead, withhold and retain the property until the Court orders its distribution. *Id.*

You are required by law to file an answer within ten days of your receipt of this writ advising the Court whether you hold as of the date you were served with this writ or will hold substantial nonexempt property for Defendants and/or Henry's spouse, and mail or deliver the original answer to the United States District Clerk, 1100 Commerce Street, Room 1452, Dallas, TX 75242; and mail copies to Kenneth J. Henry, individually, and d/b/a Henry's Turkey Service, and Hill Country Farms, Inc. d/b/a Henry's Turkey Service, through their attorney David Scieszinski, 108 E. 4<sup>th</sup> Street, Wilton, IA 52778; Gay Henry, individually, and d/b/a Henry's Turkey Service, 1451 Hwy. 1476, Proctor, TX 76468; Robin Aaberg, 603 Grand Oaks Court, Alvord, TX 76225-6020; Thomas Aaberg,

603 Grand Oaks Court, Alvord, TX 76225-6020; and Megan J. Fahey, Assistant United States Attorney, Burnett Plaza, Suite 1700, 801 Cherry Street, Unit 4, Fort Worth, TX 76102-6882. *See* 28 U.S.C. § 3205(c). Additional information is included in the attached Plaintiff's Instructions to Garnishee.

If you fail to answer this writ or withhold property in accordance with this writ, the United States may petition this Court for an order requiring you to appear before this Court to answer this writ and withhold property before the appearance date. *See* 28 U.S.C. § 3205(c)(6). If you fail to answer, or appear and fail to show good cause why you failed to comply with this writ, the Court shall enter a judgment against you for the value of Defendants' and/or Henry's spouse's substantial nonexempt property. *Id.* The Court may award a reasonable attorney's fee to the United States and against you if this writ is not answered by the time specified by law and a petition is filed requiring you to appear. *Id.*

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

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UNITED STATES DISTRICT CLERK  
NORTHERN DISTRICT OF TEXAS



Clerk's Notice of Post-Judgment Garnishment to Defendants – Page 1

\$ 3,737.85 Interest (.16%)

(\$ 4,335.20) Credits applied to judgment

\$1,760,956.99 Debt balance

Exemptions may protect the property from being taken by the United States if you can show exemptions apply. *See* 28 U.S.C. § 3014(a). The attached Claim for Exemptions, Request for Hearing, and/or Request for Transfer contains a summary of the major exemptions that apply.

You have a right to ask the Court to return your property if you think that you do not owe the debt to the government, or if you think the property the government seeks qualifies under an exemption(s). For each item that you claim is exempt from garnishment, you shall file a statement under oath naming and describing the exemption(s), including, for each item of property for which you claim an exemption, the value, the basis for such valuation, and the nature of your interest.

If you want a hearing, you must notify the Court within 20 days after you receive this notice. Your request must be in writing, and you may use the attached form to request the hearing. You must mail or deliver the original to the United States District Clerk, 1100 Commerce Street, Room 1452, Dallas, TX 75242. You must also mail a copy to Megan J. Fahey, Assistant United States Attorney, Burnett Plaza, Suite 1700, 801 Cherry Street, Unit 4, Fort Worth, TX 76102-6882, so the government will know you want a hearing.

If you are entitled to a hearing, the hearing will take place within five days after the United States District Clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible. The Court will issue an order advising you of the time, place, and date of any hearing scheduled.

At the hearing, you may explain to the judge why you believe the property the government seeks is exempt or why you think you do not owe the debt to the government. The Court shall determine the extent, if any, to which your exemption claims apply. *See* 28 U.S.C. § 3014(b)(2). Unless it is reasonably evident that the exemptions apply, you shall bear the burden of persuasion. *Id.* If you do not request a hearing, your property may be delivered to the United States and applied to the debt you owe.

If you think you live outside the federal judicial district where this Court is located, you may request, not later than 20 days after you receive this notice, that this proceeding be transferred by this Court to the federal judicial district where you reside. You must make your request in writing, and mail or deliver the original to the United States District Clerk, 1100 Commerce Street, Room 1452, Dallas, TX 75242. You must also mail a copy of the request to Megan J. Fahey, Assistant United States Attorney, Burnett Plaza, Suite 1700, 801 Cherry Street, Unit 4, Fort Worth, TX 76102-6882, so the government will know you want the proceeding to be transferred. You may use the attached form to request a transfer.

Be sure to keep a copy of this notice for your records. If you have any questions

about your rights or this procedure, you should contact a lawyer, an office of public legal assistance, or the United States District Clerk. The United States District Clerk is not permitted to give legal advice, but may refer you to other sources of information.

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UNITED STATES DISTRICT CLERK  
NORTHERN DISTRICT OF TEXAS

Date \_\_\_\_\_

**Claim for Exemptions, Request for Hearing, and/or Request for Transfer – Page 1**

are summarized below. You may claim property exempt under 11 U.S.C. § 522(d) of the United States Bankruptcy Code, or property exempt under federal law - other than exemptions under the bankruptcy code, or property exempt under Texas state law. *See* 28 U.S.C. § 3014(a). You cannot claim exemptions under the bankruptcy code, federal law, and state law. To claim state exemptions, you must have been a resident of Texas at least 180 days immediately preceding the date the attached application was filed. *Id.*

#### SUMMARY OF UNITED STATES BANKRUPTCY CODE EXEMPTIONS

- \_\_\_\_\_ (1) The debtor's aggregate interest not to exceed \$15,000 in real or personal property that the debtor or dependent uses as a residence or in a burial plot.
- \_\_\_\_\_ (2) The debtor's interest not to exceed \$2,400 in one motor vehicle.
- \_\_\_\_\_ (3) The debtor's interest not to exceed \$400 in any particular item or \$8,000 in aggregate value in household furnishings, wearing apparel, animals, or crops held primarily for personal use of the debtor or dependent.
- \_\_\_\_\_ (4) The debtor's aggregate interest not to exceed \$1,000 in jewelry held primarily for personal use of the debtor or dependent.
- \_\_\_\_\_ (5) The debtor's aggregate interest in any property not to exceed \$800 plus up to \$7,500 of any unused amount of the exemption provided in (1) of this subsection.
- \_\_\_\_\_ (6) The debtor's aggregate interest not to exceed \$1,500 in professional books or tools of the trade of the debtor or dependent.
- \_\_\_\_\_ (7) Any unmaturred life insurance contract owned by the debtor, other than a credit life insurance contract.
- \_\_\_\_\_ (8) The debtor's aggregate interest not to exceed \$8,000 less any amount of property transferred under section 542(d) of this title, in any accrued dividend or interest under, or loan value of, any unmaturred life insurance contract owned by the debtor under which the insured is the debtor or an

individual of whom the debtor is a dependent.

\_\_\_\_ (9) Professionally prescribed health aids for the debtor or dependent.

(10) The debtor's right to receive:

\_\_\_\_ (A) social security, unemployment, or local public assistance benefits

\_\_\_\_ (B) veterans' benefits

\_\_\_\_ (C) disability, illness, or unemployment benefits

\_\_\_\_ (D) alimony, support, or separate maintenance for the reasonable support of the debtor and dependents

\_\_\_\_ (E) payment under a stock bonus, pension, profitsharing, or annuity plan on account of illness, disability, death, age, or length of service, to reasonably support the debtor and dependants, with exceptions outlined in 11 U.S.C. § 522(d)(10)(E).

(11) The debtor's right to receive, or property traceable to:

\_\_\_\_ (A) an award under a crime victim's reparation law

\_\_\_\_ (B) payment for the wrongful death of an individual of whom debtor was a dependent to reasonably support the debtor and dependants

\_\_\_\_ (C) payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of death to reasonably support the debtor and dependants

\_\_\_\_ (D) payment not to exceed \$15,000 for personal bodily injury of the debtor or an individual of whom the debtor is a dependent, with exceptions outlined in 11 U.S.C. § 522(d)(11)(D)

\_\_\_\_ (E) payment for loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent to reasonably support the debtor and dependents.

\_\_\_\_ (12) Retirement funds in an account exempt under sections 401, 403, 408, 408A,

414, 457, or 501(a) of the Internal Revenue Code of 1986. *See* 11 U.S.C. § 522(d).

#### SUMMARY OF MAJOR FEDERAL EXEMPTIONS

- \_\_\_\_\_ 1. Federal Old-Age, Survivors, and Disability Insurance benefits. 42 U.S.C. § 407.
- \_\_\_\_\_ 2. Veterans' benefits. 38 U.S.C. § 5301.
- \_\_\_\_\_ 3. Annuities of retired servicemen. 10 U.S.C. § 1440.
- \_\_\_\_\_ 4. Federal civil service retirement benefits. 5 U.S.C. § 8346, and 22 U.S.C. § 4060(c).
- \_\_\_\_\_ 5. Annuities to survivors of federal judicial officials. 28 U.S.C. § 376(n).
- \_\_\_\_\_ 6. Longshore and harbor workers compensation. 33 U.S.C. § 916.
- \_\_\_\_\_ 7. Black lung benefits. 30 U.S.C. §§ 931(b)(2)(F), 932(a)).
- \_\_\_\_\_ 8. Master and seaman's wages. 46 U.S.C. §§ 11108-11109.
- \_\_\_\_\_ 9. Railroad employees retirement and unemployment benefits. 45 U.S.C. §§ 231m(a), 352(e).

#### SUMMARY OF MAJOR TEXAS STATE EXEMPTIONS

§ 41.001, Texas Property Code. Interests in Land Exempt from Seizure.

- \_\_\_\_\_ (a) A homestead and one or more lots used for a place of burial are exempt from seizure for the claims of creditors except for encumbrances properly fixed on homestead property.

§ 42.001, Texas Property Code. Personal Property Exemption.

- (a) Personal property, as described in Section 42.002, is exempt from garnishment or execution if:



- \_\_\_\_\_ (1) the property is provided for a family and has an aggregate fair market value of not more than \$60,000, exclusive of any encumbrances; or
- \_\_\_\_\_ (2) the property is owned by a single adult and has an aggregate fair market value of not more than \$30,000, exclusive of any encumbrances.

(b) The following personal property is exempt and is not included in the aggregate limitations prescribed by Subsection (a):

- \_\_\_\_\_ (1) current wages for personal services, except for the enforcement of court-ordered child support payments
- \_\_\_\_\_ (2) professionally prescribed health aids of a debtor or dependent
- \_\_\_\_\_ (3) alimony, support, or separate maintenance received or to be received by the debtor for the support of the debtor or dependent
- \_\_\_\_\_ (4) a religious bible or book containing sacred writings of a religion

(c) Except as provided by Subsection (b)(4), this section does not prevent seizure by a secured creditor.

\_\_\_\_\_ (d) Unpaid commissions for personal services not to exceed 25% of the aggregate limitations prescribed by Subsection (a) are exempt from seizure and are included in the aggregate.

\_\_\_\_\_ (e) A religious bible or book described in Subsection (b)(4).

§ 42.002, Texas Property Code. Personal Property.

(a) The following personal property is exempt under Section 42.001(a), Texas Property Code:

- \_\_\_\_\_ (1) home furnishings
- \_\_\_\_\_ (2) provisions for consumption

- \_\_\_\_\_ (3) farming or ranching vehicles and implements
- \_\_\_\_\_ (4) tools, equipment, books, and apparatus, including boats and motor vehicles used in a trade or profession
- \_\_\_\_\_ (5) apparel
- \_\_\_\_\_ (6) jewelry not to exceed 25% of the aggregate limitations prescribed by Section 42.001(a)
- \_\_\_\_\_ (7) two firearms
- \_\_\_\_\_ (8) athletic and sporting equipment, including bicycles
- \_\_\_\_\_ (9) a two-, three-, or four-wheeled motor vehicle for each family member or single adult who holds a driver's license or who does not hold a driver's license but who relies on another person to operate the vehicle for the benefit of the nonlicensed person
- (10) the following animals and forage on hand for their consumption:
  - \_\_\_\_\_ (A) two horses, mules, or donkeys and a saddle, blanket, and bridle for each
  - \_\_\_\_\_ (B) 12 head of cattle
  - \_\_\_\_\_ (C) 60 head of other livestock
  - \_\_\_\_\_ (D) 120 fowl
- \_\_\_\_\_ (11) household pets

§ 42.0021, Texas Property Code. Additional Exemption for Certain Savings Plans.

- \_\_\_\_\_ (a) In addition to the exemption prescribed by Section 42.001, a person's right to the assets held in or to receive payments under any stock bonus, pension, profit-sharing, retirement plan for self-employed individuals, and annuity purchased with assets distributed from that plan, and retirement

annuity or account, described by Section 403(b) or 408A of the Internal Revenue Code of 1986, and individual retirement account, individual retirement annuity, simplified employee pension plan, and health savings account described by Section 223 of the Internal Revenue Code of 1986, is exempt from seizure for the satisfaction of debts unless the plan, contract, or account does not qualify under the Internal Revenue Code of 1986. A person's right to the assets held in or to receive payments under a government or church plan or contract is also exempt unless the plan or contract does not qualify under the federal Employee Retirement Income Security Act of 1974.

\_\_\_\_\_ (b) Contributions to an individual retirement account, other than contributions to a Roth IRA described in Section 408A, Internal Revenue Code of 1986, or annuity that exceed the amounts deductible under the Internal Revenue Code of 1986 and any accrued earnings on such contributions are not exempt under this section unless otherwise exempt by law. Amounts qualifying as nontaxable rollover contributions under Section 402(a)(5), 403(a)(4), 403(b)(8), or 408(d)(3) of the Internal Revenue Code of 1986 before January 1, 1993, are treated as exempt amounts under Subsection (a). Amounts treated as qualified rollover contributions under Section 408A, Internal Revenue Code of 1986, are treated as exempt amounts under Subsection (a). Amounts qualifying as nontaxable rollover contributions under Section 402(c), 402(e)(6), 402(f), 403(a)(4), 403(a)(5), 403(b)(8), 403(b)(10), 408(d)(3), or 408A of the Internal Revenue Code of 1986 on or after January 1, 1993, are treated as exempt amounts under Subsection (a). Amounts qualifying as nontaxable rollover contributions under Section 223(f)(5) of the Internal Revenue Code of 1986 on or after January 1, 2004, are treated as exempt amounts under Subsection (a).

\_\_\_\_\_ (c) Amounts distributed from a plan or contract entitled to the exemption under Subsection (a) are not subject to seizure for 60 days after the date of distribution if the amounts qualify as a nontaxable rollover contribution under Subsection (b).

\_\_\_\_\_ (d) A participant or beneficiary of a stock bonus, pension, profit-sharing, retirement plan, or government plan is not prohibited from granting a security interest in the participant's or beneficiary's right to the assets held in or to receive payments under the plan to secure a loan to the participant or beneficiary from the plan, and the right to the assets held in or to receive

payments from the plan is subject to seizure for the satisfaction of the security interest or lien granted by the participant or beneficiary to secure the loan.

§ 42.0022, Texas Property Code. Exemption for College Savings Plans.

(a) In addition to the exemption in Section 42.001, a person's right to the assets held in or to receive payments or benefits under any of the following is exempt:

- \_\_\_\_(1) prepaid tuition contract
- \_\_\_\_(2) savings trust account
- \_\_\_\_(3) any qualified tuition program of any state that meets the requirements under Section 529, Internal Revenue Code of 1986

List below the description of each exemption claimed, the value, the basis for such valuation, and nature of your ownership interest. Attach additional paperwork, if needed.

1. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AFFIDAVIT

The exemptions claimed above, including their descriptions, the value, the basis for such valuation, and the nature of my ownership interest in them, are made under oath and penalty of perjury.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

\_\_\_\_\_  
Notary Public Signature

My Commission expires: \_\_\_\_\_  
(Seal)

- ☐ I am requesting a hearing for the exemptions checked above.
- ☐ I am not requesting a hearing for the exemptions checked above.
- ☐ I am requesting a transfer to the federal district where I reside in the  
\_\_\_\_\_ (district) of \_\_\_\_\_ (state).

\_\_\_\_\_  
David Scieszinski, attorney for Defendants  
Kenneth J. Henry, individually, and d/b/a  
Henry's Turkey Service, and Hill Country  
Farms, Inc. d/b/a Henry's Turkey Service

Iowa Bar No. \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Email: \_\_\_\_\_

Daytime telephone: \_\_\_\_\_

Date: \_\_\_\_\_

**SEALED**

## DALLAS DIVISION

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**8-12CV-4737P**

No.

WRIT OF GARNISHMENT

Goldthwaite, TX 76844-2379

and/or Henry's spouse, Gay Henry, individually, and d/b/a Henry's Turkey Service, was

filed with this Court.

Computation of the debt as of November 15, 2012 is:

\$1,761,554.34	Judgment amount
\$ 3,737.85	Interest (.16%)
<u>(\$ 4,335.20)</u>	Credits applied to judgment
\$1,760,956.99	Debt balance

Pending further order of this Court, you shall withhold and retain all property in which Defendants and/or Henry's spouse have a substantial nonexempt interest and for which you are or may become indebted to Defendants and/or Henry's spouse. *See* 28 U.S.C. § 3205(c)(2)(F). Do not deliver the property to the United States at this time. Instead, withhold and retain the property until the Court orders its distribution. *Id.*

You are required by law to file an answer within ten days of your receipt of this writ advising the Court whether you hold as of the date you were served with this writ or will hold substantial nonexempt property for Defendants and/or Henry's spouse, and mail or deliver the original answer to the United States District Clerk, 1100 Commerce Street, Room 1452, Dallas, TX 75242; and mail copies to Kenneth J. Henry, individually, and d/b/a Henry's Turkey Service, and Hill Country Farms, Inc. d/b/a Henry's Turkey Service, through their attorney David Scieszinski, 108 E. 4<sup>th</sup> Street, Wilton, IA 52778; Gay Henry, individually, and d/b/a Henry's Turkey Service, 1451 Hwy. 1476, Proctor, TX 76468; and Megan J. Fahey, Assistant United States Attorney, Burnett Plaza, Suite 1700,



801 Cherry Street, Unit 4, Fort Worth, TX 76102-6882. *See* 28 U.S.C. § 3205(c).

Additional information is included in the attached Plaintiff's Instructions to Garnishee.

If you fail to answer this writ or withhold property in accordance with this writ, the United States may petition this Court for an order requiring you to appear before this Court to answer this writ and withhold property before the appearance date. *See* 28 U.S.C. § 3205(c)(6). If you fail to answer, or appear and fail to show good cause why you failed to comply with this writ, the Court shall enter a judgment against you for the value of Defendants' and/or Henry's spouse's substantial nonexempt property. *Id.* The Court may award a reasonable attorney's fee to the United States and against you if this writ is not answered by the time specified by law and a petition is filed requiring you to appear. *Id.*

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

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UNITED STATES DISTRICT CLERK  
NORTHERN DISTRICT OF TEXAS

**8-12CV-4737P**  
No.

\$ 3,737.85 Interest (.16%)

(\$ 4,335.20) Credits applied to judgment

\$1,760,956.99 Debt balance

Exemptions may protect the property from being taken by the United States if you can show exemptions apply. *See* 28 U.S.C. § 3014(a). The attached Claim for Exemptions, Request for Hearing, and/or Request for Transfer contains a summary of the major exemptions that apply.

You have a right to ask the Court to return your property if you think that you do not owe the debt to the government, or if you think the property the government seeks qualifies under an exemption(s). For each item that you claim is exempt from garnishment, you shall file a statement under oath naming and describing the exemption(s), including, for each item of property for which you claim an exemption, the value, the basis for such valuation, and the nature of your interest.

If you want a hearing, you must notify the Court within 20 days after you receive this notice. Your request must be in writing, and you may use the attached form to request the hearing. You must mail or deliver the original to the United States District Clerk, 1100 Commerce Street, Room 1452, Dallas, TX 75242. You must also mail a copy to Megan J. Fahey, Assistant United States Attorney, Burnett Plaza, Suite 1700, 801 Cherry Street, Unit 4, Fort Worth, TX 76102-6882, so the government will know you want a hearing.

If you are entitled to a hearing, the hearing will take place within five days after the United States District Clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible. The Court will issue an order advising you of the time, place, and date of any hearing scheduled.

At the hearing, you may explain to the judge why you believe the property the government seeks is exempt or why you think you do not owe the debt to the government. The Court shall determine the extent, if any, to which your exemption claims apply. *See* 28 U.S.C. § 3014(b)(2). Unless it is reasonably evident that the exemptions apply, you shall bear the burden of persuasion. *Id.* If you do not request a hearing, your property may be delivered to the United States and applied to the debt you owe.

If you think you live outside the federal judicial district where this Court is located, you may request, not later than 20 days after you receive this notice, that this proceeding be transferred by this Court to the federal judicial district where you reside. You must make your request in writing, and mail or deliver the original to the United States District Clerk, 1100 Commerce Street, Room 1452, Dallas, TX 75242. You must also mail a copy of the request to Megan J. Fahey, Assistant United States Attorney, Burnett Plaza, Suite 1700, 801 Cherry Street, Unit 4, Fort Worth, TX 76102-6882, so the government will know you want the proceeding to be transferred. You may use the attached form to request a transfer.

Be sure to keep a copy of this notice for your records. If you have any questions

about your rights or this procedure, you should contact a lawyer, an office of public legal assistance, or the United States District Clerk. The United States District Clerk is not permitted to give legal advice, but may refer you to other sources of information.

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UNITED STATES DISTRICT CLERK  
NORTHERN DISTRICT OF TEXAS

Date \_\_\_\_\_

**8-12CV-4737P**

**Claim for Exemptions, Request for Hearing, and/or Request for Transfer – Page 1**

are summarized below. You may claim property exempt under 11 U.S.C. § 522(d) of the United States Bankruptcy Code, or property exempt under federal law - other than exemptions under the bankruptcy code, or property exempt under Texas state law. *See* 28 U.S.C. § 3014(a). You cannot claim exemptions under the bankruptcy code, federal law, and state law. To claim state exemptions, you must have been a resident of Texas at least 180 days immediately preceding the date the attached application was filed. *Id.*

#### SUMMARY OF UNITED STATES BANKRUPTCY CODE EXEMPTIONS

- \_\_\_\_\_ (1) The debtor's aggregate interest not to exceed \$15,000 in real or personal property that the debtor or dependent uses as a residence or in a burial plot.
- \_\_\_\_\_ (2) The debtor's interest not to exceed \$2,400 in one motor vehicle.
- \_\_\_\_\_ (3) The debtor's interest not to exceed \$400 in any particular item or \$8,000 in aggregate value in household furnishings, wearing apparel, animals, or crops held primarily for personal use of the debtor or dependent.
- \_\_\_\_\_ (4) The debtor's aggregate interest not to exceed \$1,000 in jewelry held primarily for personal use of the debtor or dependent.
- \_\_\_\_\_ (5) The debtor's aggregate interest in any property not to exceed \$800 plus up to \$7,500 of any unused amount of the exemption provided in (1) of this subsection.
- \_\_\_\_\_ (6) The debtor's aggregate interest not to exceed \$1,500 in professional books or tools of the trade of the debtor or dependent.
- \_\_\_\_\_ (7) Any unmaturred life insurance contract owned by the debtor, other than a credit life insurance contract.
- \_\_\_\_\_ (8) The debtor's aggregate interest not to exceed \$8,000 less any amount of property transferred under section 542(d) of this title, in any accrued dividend or interest under, or loan value of, any unmaturred life insurance contract owned by the debtor under which the insured is the debtor or an

individual of whom the debtor is a dependent.

\_\_\_\_ (9) Professionally prescribed health aids for the debtor or dependent.

(10) The debtor's right to receive:

\_\_\_\_ (A) social security, unemployment, or local public assistance benefits

\_\_\_\_ (B) veterans' benefits

\_\_\_\_ (C) disability, illness, or unemployment benefits

\_\_\_\_ (D) alimony, support, or separate maintenance for the reasonable support of the debtor and dependents

\_\_\_\_ (E) payment under a stock bonus, pension, profitsharing, or annuity plan on account of illness, disability, death, age, or length of service, to reasonably support the debtor and dependants, with exceptions outlined in 11 U.S.C. § 522(d)(10)(E).

(11) The debtor's right to receive, or property traceable to:

\_\_\_\_ (A) an award under a crime victim's reparation law

\_\_\_\_ (B) payment for the wrongful death of an individual of whom debtor was a dependent to reasonably support the debtor and dependants

\_\_\_\_ (C) payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of death to reasonably support the debtor and dependants

\_\_\_\_ (D) payment not to exceed \$15,000 for personal bodily injury of the debtor or an individual of whom the debtor is a dependent, with exceptions outlined in 11 U.S.C. § 522(d)(11)(D)

\_\_\_\_ (E) payment for loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent to reasonably support the debtor and dependents.

\_\_\_\_ (12) Retirement funds in an account exempt under sections 401, 403, 408, 408A,



414, 457, or 501(a) of the Internal Revenue Code of 1986. *See* 11 U.S.C. § 522(d).

#### SUMMARY OF MAJOR FEDERAL EXEMPTIONS

- \_\_\_\_\_ 1. Federal Old-Age, Survivors, and Disability Insurance benefits. 42 U.S.C. § 407.
- \_\_\_\_\_ 2. Veterans' benefits. 38 U.S.C. § 5301.
- \_\_\_\_\_ 3. Annuities of retired servicemen. 10 U.S.C. § 1440.
- \_\_\_\_\_ 4. Federal civil service retirement benefits. 5 U.S.C. § 8346, and 22 U.S.C. § 4060(c).
- \_\_\_\_\_ 5. Annuities to survivors of federal judicial officials. 28 U.S.C. § 376(n).
- \_\_\_\_\_ 6. Longshore and harbor workers compensation. 33 U.S.C. § 916.
- \_\_\_\_\_ 7. Black lung benefits. 30 U.S.C. §§ 931(b)(2)(F), 932(a)).
- \_\_\_\_\_ 8. Master and seaman's wages. 46 U.S.C. §§ 11108-11109.
- \_\_\_\_\_ 9. Railroad employees retirement and unemployment benefits. 45 U.S.C. §§ 231m(a), 352(e).

#### SUMMARY OF MAJOR TEXAS STATE EXEMPTIONS

§ 41.001, Texas Property Code. Interests in Land Exempt from Seizure.

- \_\_\_\_\_ (a) A homestead and one or more lots used for a place of burial are exempt from seizure for the claims of creditors except for encumbrances properly fixed on homestead property.

§ 42.001, Texas Property Code. Personal Property Exemption.

- (a) Personal property, as described in Section 42.002, is exempt from garnishment or execution if:

\_\_\_\_\_ (1) the property is provided for a family and has an aggregate fair market value of not more than \$60,000, exclusive of any encumbrances; or

\_\_\_\_\_ (2) the property is owned by a single adult and has an aggregate fair market value of not more than \$30,000, exclusive of any encumbrances.

(b) The following personal property is exempt and is not included in the aggregate limitations prescribed by Subsection (a):

\_\_\_\_\_ (1) current wages for personal services, except for the enforcement of court-ordered child support payments

\_\_\_\_\_ (2) professionally prescribed health aids of a debtor or dependent

\_\_\_\_\_ (3) alimony, support, or separate maintenance received or to be received by the debtor for the support of the debtor or dependent

\_\_\_\_\_ (4) a religious bible or book containing sacred writings of a religion

(c) Except as provided by Subsection (b)(4), this section does not prevent seizure by a secured creditor.

\_\_\_\_\_ (d) Unpaid commissions for personal services not to exceed 25% of the aggregate limitations prescribed by Subsection (a) are exempt from seizure and are included in the aggregate.

\_\_\_\_\_ (e) A religious bible or book described in Subsection (b)(4).

§ 42.002, Texas Property Code. Personal Property.

(a) The following personal property is exempt under Section 42.001(a), Texas Property Code:

\_\_\_\_\_ (1) home furnishings

\_\_\_\_\_ (2) provisions for consumption

- \_\_\_\_\_ (3) farming or ranching vehicles and implements
- \_\_\_\_\_ (4) tools, equipment, books, and apparatus, including boats and motor vehicles used in a trade or profession
- \_\_\_\_\_ (5) apparel
- \_\_\_\_\_ (6) jewelry not to exceed 25% of the aggregate limitations prescribed by Section 42.001(a)
- \_\_\_\_\_ (7) two firearms
- \_\_\_\_\_ (8) athletic and sporting equipment, including bicycles
- \_\_\_\_\_ (9) a two-, three-, or four-wheeled motor vehicle for each family member or single adult who holds a driver's license or who does not hold a driver's license but who relies on another person to operate the vehicle for the benefit of the nonlicensed person
- (10) the following animals and forage on hand for their consumption:
  - \_\_\_\_\_ (A) two horses, mules, or donkeys and a saddle, blanket, and bridle for each
  - \_\_\_\_\_ (B) 12 head of cattle
  - \_\_\_\_\_ (C) 60 head of other livestock
  - \_\_\_\_\_ (D) 120 fowl
- \_\_\_\_\_ (11) household pets

§ 42.0021, Texas Property Code. Additional Exemption for Certain Savings Plans.

- \_\_\_\_\_ (a) In addition to the exemption prescribed by Section 42.001, a person's right to the assets held in or to receive payments under any stock bonus, pension, profit-sharing, retirement plan for self-employed individuals, and annuity purchased with assets distributed from that plan, and retirement

annuity or account, described by Section 403(b) or 408A of the Internal Revenue Code of 1986, and individual retirement account, individual retirement annuity, simplified employee pension plan, and health savings account described by Section 223 of the Internal Revenue Code of 1986, is exempt from seizure for the satisfaction of debts unless the plan, contract, or account does not qualify under the Internal Revenue Code of 1986. A person's right to the assets held in or to receive payments under a government or church plan or contract is also exempt unless the plan or contract does not qualify under the federal Employee Retirement Income Security Act of 1974.

\_\_\_\_\_ (b) Contributions to an individual retirement account, other than contributions to a Roth IRA described in Section 408A, Internal Revenue Code of 1986, or annuity that exceed the amounts deductible under the Internal Revenue Code of 1986 and any accrued earnings on such contributions are not exempt under this section unless otherwise exempt by law. Amounts qualifying as nontaxable rollover contributions under Section 402(a)(5), 403(a)(4), 403(b)(8), or 408(d)(3) of the Internal Revenue Code of 1986 before January 1, 1993, are treated as exempt amounts under Subsection (a). Amounts treated as qualified rollover contributions under Section 408A, Internal Revenue Code of 1986, are treated as exempt amounts under Subsection (a). Amounts qualifying as nontaxable rollover contributions under Section 402(c), 402(e)(6), 402(f), 403(a)(4), 403(a)(5), 403(b)(8), 403(b)(10), 408(d)(3), or 408A of the Internal Revenue Code of 1986 on or after January 1, 1993, are treated as exempt amounts under Subsection (a). Amounts qualifying as nontaxable rollover contributions under Section 223(f)(5) of the Internal Revenue Code of 1986 on or after January 1, 2004, are treated as exempt amounts under Subsection (a).

\_\_\_\_\_ (c) Amounts distributed from a plan or contract entitled to the exemption under Subsection (a) are not subject to seizure for 60 days after the date of distribution if the amounts qualify as a nontaxable rollover contribution under Subsection (b).

\_\_\_\_\_ (d) A participant or beneficiary of a stock bonus, pension, profit-sharing, retirement plan, or government plan is not prohibited from granting a security interest in the participant's or beneficiary's right to the assets held in or to receive payments under the plan to secure a loan to the participant or beneficiary from the plan, and the right to the assets held in or to receive

payments from the plan is subject to seizure for the satisfaction of the security interest or lien granted by the participant or beneficiary to secure the loan.

§ 42.0022, Texas Property Code. Exemption for College Savings Plans.

(a) In addition to the exemption in Section 42.001, a person's right to the assets held in or to receive payments or benefits under any of the following is exempt:

- \_\_\_\_(1) prepaid tuition contract
- \_\_\_\_(2) savings trust account
- \_\_\_\_(3) any qualified tuition program of any state that meets the requirements under Section 529, Internal Revenue Code of 1986

List below the description of each exemption claimed, the value, the basis for such valuation, and nature of your ownership interest. Attach additional paperwork, if needed.

1. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AFFIDAVIT

The exemptions claimed above, including their descriptions, the value, the basis for such valuation, and the nature of my ownership interest in them, are made under oath and penalty of perjury.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

\_\_\_\_\_  
Notary Public Signature

My Commission expires: \_\_\_\_\_  
(Seal)

- ☐ I am requesting a hearing for the exemptions checked above.
- ☐ I am not requesting a hearing for the exemptions checked above.
- ☐ I am requesting a transfer to the federal district where I reside in the  
\_\_\_\_\_ (district) of \_\_\_\_\_ (state).

\_\_\_\_\_  
David Scieszinski, attorney for Defendants  
Kenneth J. Henry, individually, and d/b/a  
Henry's Turkey Service, and Hill Country  
Farms, Inc. d/b/a Henry's Turkey Service

\_\_\_\_\_  
Iowa Bar No.

Address: \_\_\_\_\_  
\_\_\_\_\_

Email: \_\_\_\_\_

Daytime telephone: \_\_\_\_\_

Date: \_\_\_\_\_

Writ of Garnishment – Page 1



filed with this Court.

Computation of the debt as of November 15, 2012 is:

\$1,761,554.34	Judgment amount
\$ 3,737.85	Interest (.16%)
<u>(\$ 4,335.20)</u>	Credits applied to judgment
\$1,760,956.99	Debt balance

Pending further order of this Court, you shall withhold and retain all property in which Defendants and/or Henry's spouse have a substantial nonexempt interest and for which you are or may become indebted to Defendants and/or Henry's spouse. *See* 28 U.S.C. § 3205(c)(2)(F). Do not deliver the property to the United States at this time. Instead, withhold and retain the property until the Court orders its distribution. *Id.*

You are required by law to file an answer within ten days of your receipt of this writ advising the Court whether you hold as of the date you were served with this writ or will hold substantial nonexempt property for Defendants and/or Henry's spouse, and mail or deliver the original answer to the United States District Clerk, 1100 Commerce Street, Room 1452, Dallas, TX 75242; and mail copies to Kenneth J. Henry, individually, and d/b/a Henry's Turkey Service, and Hill Country Farms, Inc. d/b/a Henry's Turkey Service, through their attorney David Scieszinski, 108 E. 4<sup>th</sup> Street, Wilton, IA 52778; Gay Henry, individually, and d/b/a Henry's Turkey Service, 1451 Hwy. 1476, Proctor, TX 76468; and Megan J. Fahey, Assistant United States Attorney, Burnett Plaza, Suite 1700,

801 Cherry Street, Unit 4, Fort Worth, TX 76102-6882. *See* 28 U.S.C. § 3205(c).

Additional information is included in the attached Plaintiff's Instructions to Garnishee.

If you fail to answer this writ or withhold property in accordance with this writ, the United States may petition this Court for an order requiring you to appear before this Court to answer this writ and withhold property before the appearance date. *See* 28 U.S.C. § 3205(c)(6). If you fail to answer, or appear and fail to show good cause why you failed to comply with this writ, the Court shall enter a judgment against you for the value of Defendants' and/or Henry's spouse's substantial nonexempt property. *Id.* The Court may award a reasonable attorney's fee to the United States and against you if this writ is not answered by the time specified by law and a petition is filed requiring you to appear. *Id.*

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

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UNITED STATES DISTRICT CLERK  
NORTHERN DISTRICT OF TEXAS

**Clerk's Notice of Post-Judgment Garnishment to Defendants – Page 1**

\$ 3,737.85 Interest (.16%)

(\$ 4,335.20) Credits applied to judgment

\$1,760,956.99 Debt balance

Exemptions may protect the property from being taken by the United States if you can show exemptions apply. *See* 28 U.S.C. § 3014(a). The attached Claim for Exemptions, Request for Hearing, and/or Request for Transfer contains a summary of the major exemptions that apply.

You have a right to ask the Court to return your property if you think that you do not owe the debt to the government, or if you think the property the government seeks qualifies under an exemption(s). For each item that you claim is exempt from garnishment, you shall file a statement under oath naming and describing the exemption(s), including, for each item of property for which you claim an exemption, the value, the basis for such valuation, and the nature of your interest.

If you want a hearing, you must notify the Court within 20 days after you receive this notice. Your request must be in writing, and you may use the attached form to request the hearing. You must mail or deliver the original to the United States District Clerk, 1100 Commerce Street, Room 1452, Dallas, TX 75242. You must also mail a copy to Megan J. Fahey, Assistant United States Attorney, Burnett Plaza, Suite 1700, 801 Cherry Street, Unit 4, Fort Worth, TX 76102-6882, so the government will know you want a hearing.

If you are entitled to a hearing, the hearing will take place within five days after the United States District Clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible. The Court will issue an order advising you of the time, place, and date of any hearing scheduled.

At the hearing, you may explain to the judge why you believe the property the government seeks is exempt or why you think you do not owe the debt to the government. The Court shall determine the extent, if any, to which your exemption claims apply. *See* 28 U.S.C. § 3014(b)(2). Unless it is reasonably evident that the exemptions apply, you shall bear the burden of persuasion. *Id.* If you do not request a hearing, your property may be delivered to the United States and applied to the debt you owe.

If you think you live outside the federal judicial district where this Court is located, you may request, not later than 20 days after you receive this notice, that this proceeding be transferred by this Court to the federal judicial district where you reside. You must make your request in writing, and mail or deliver the original to the United States District Clerk, 1100 Commerce Street, Room 1452, Dallas, TX 75242. You must also mail a copy of the request to Megan J. Fahey, Assistant United States Attorney, Burnett Plaza, Suite 1700, 801 Cherry Street, Unit 4, Fort Worth, TX 76102-6882, so the government will know you want the proceeding to be transferred. You may use the attached form to request a transfer.

Be sure to keep a copy of this notice for your records. If you have any questions

about your rights or this procedure, you should contact a lawyer, an office of public legal assistance, or the United States District Clerk. The United States District Clerk is not permitted to give legal advice, but may refer you to other sources of information.

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UNITED STATES DISTRICT CLERK  
NORTHERN DISTRICT OF TEXAS

Date \_\_\_\_\_

UNITED STATES OF AMERICA,

**8-12CV-4737P**

No.

Defendants,

RUSTY ROBERSON,

Garnishee.

To complete this form, check the adjacent space(s) to an exemption(s) you are claiming, check the box below to request a hearing, and/or check the box below to request a transfer to another federal judicial district. You must mail or deliver the original of this form to the United States District Clerk and mail a copy to the United States of America, as explained in the attached Clerk's Notice of Post-Judgment Garnishment to Defendants. *See* 28 U.S.C. §§ 3014(b)(1), and 3202(b).

**Claim for Exemptions, Request for Hearing, and/or Request for Transfer – Page 1**

are summarized below. You may claim property exempt under 11 U.S.C. § 522(d) of the United States Bankruptcy Code, or property exempt under federal law - other than exemptions under the bankruptcy code, or property exempt under Texas state law. *See* 28 U.S.C. § 3014(a). You cannot claim exemptions under the bankruptcy code, federal law, and state law. To claim state exemptions, you must have been a resident of Texas at least 180 days immediately preceding the date the attached application was filed. *Id.*

#### SUMMARY OF UNITED STATES BANKRUPTCY CODE EXEMPTIONS

- \_\_\_\_\_ (1) The debtor's aggregate interest not to exceed \$15,000 in real or personal property that the debtor or dependent uses as a residence or in a burial plot.
- \_\_\_\_\_ (2) The debtor's interest not to exceed \$2,400 in one motor vehicle.
- \_\_\_\_\_ (3) The debtor's interest not to exceed \$400 in any particular item or \$8,000 in aggregate value in household furnishings, wearing apparel, animals, or crops held primarily for personal use of the debtor or dependent.
- \_\_\_\_\_ (4) The debtor's aggregate interest not to exceed \$1,000 in jewelry held primarily for personal use of the debtor or dependent.
- \_\_\_\_\_ (5) The debtor's aggregate interest in any property not to exceed \$800 plus up to \$7,500 of any unused amount of the exemption provided in (1) of this subsection.
- \_\_\_\_\_ (6) The debtor's aggregate interest not to exceed \$1,500 in professional books or tools of the trade of the debtor or dependent.
- \_\_\_\_\_ (7) Any unmaturred life insurance contract owned by the debtor, other than a credit life insurance contract.
- \_\_\_\_\_ (8) The debtor's aggregate interest not to exceed \$8,000 less any amount of property transferred under section 542(d) of this title, in any accrued dividend or interest under, or loan value of, any unmaturred life insurance contract owned by the debtor under which the insured is the debtor or an



individual of whom the debtor is a dependent.

\_\_\_\_ (9) Professionally prescribed health aids for the debtor or dependent.

(10) The debtor's right to receive:

\_\_\_\_ (A) social security, unemployment, or local public assistance benefits

\_\_\_\_ (B) veterans' benefits

\_\_\_\_ (C) disability, illness, or unemployment benefits

\_\_\_\_ (D) alimony, support, or separate maintenance for the reasonable support of the debtor and dependents

\_\_\_\_ (E) payment under a stock bonus, pension, profitsharing, or annuity plan on account of illness, disability, death, age, or length of service, to reasonably support the debtor and dependants, with exceptions outlined in 11 U.S.C. § 522(d)(10)(E).

(11) The debtor's right to receive, or property traceable to:

\_\_\_\_ (A) an award under a crime victim's reparation law

\_\_\_\_ (B) payment for the wrongful death of an individual of whom debtor was a dependent to reasonably support the debtor and dependants

\_\_\_\_ (C) payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of death to reasonably support the debtor and dependants

\_\_\_\_ (D) payment not to exceed \$15,000 for personal bodily injury of the debtor or an individual of whom the debtor is a dependent, with exceptions outlined in 11 U.S.C. § 522(d)(11)(D)

\_\_\_\_ (E) payment for loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent to reasonably support the debtor and dependents.

\_\_\_\_ (12) Retirement funds in an account exempt under sections 401, 403, 408, 408A,

414, 457, or 501(a) of the Internal Revenue Code of 1986. *See* 11 U.S.C. § 522(d).

#### SUMMARY OF MAJOR FEDERAL EXEMPTIONS

- \_\_\_\_\_ 1. Federal Old-Age, Survivors, and Disability Insurance benefits. 42 U.S.C. § 407.
- \_\_\_\_\_ 2. Veterans' benefits. 38 U.S.C. § 5301.
- \_\_\_\_\_ 3. Annuities of retired servicemen. 10 U.S.C. § 1440.
- \_\_\_\_\_ 4. Federal civil service retirement benefits. 5 U.S.C. § 8346, and 22 U.S.C. § 4060(c).
- \_\_\_\_\_ 5. Annuities to survivors of federal judicial officials. 28 U.S.C. § 376(n).
- \_\_\_\_\_ 6. Longshore and harbor workers compensation. 33 U.S.C. § 916.
- \_\_\_\_\_ 7. Black lung benefits. 30 U.S.C. §§ 931(b)(2)(F), 932(a)).
- \_\_\_\_\_ 8. Master and seaman's wages. 46 U.S.C. §§ 11108-11109.
- \_\_\_\_\_ 9. Railroad employees retirement and unemployment benefits. 45 U.S.C. §§ 231m(a), 352(e).

#### SUMMARY OF MAJOR TEXAS STATE EXEMPTIONS

§ 41.001, Texas Property Code. Interests in Land Exempt from Seizure.

- \_\_\_\_\_ (a) A homestead and one or more lots used for a place of burial are exempt from seizure for the claims of creditors except for encumbrances properly fixed on homestead property.

§ 42.001, Texas Property Code. Personal Property Exemption.

- (a) Personal property, as described in Section 42.002, is exempt from garnishment or execution if:

\_\_\_\_\_ (1) the property is provided for a family and has an aggregate fair market value of not more than \$60,000, exclusive of any encumbrances; or

\_\_\_\_\_ (2) the property is owned by a single adult and has an aggregate fair market value of not more than \$30,000, exclusive of any encumbrances.

(b) The following personal property is exempt and is not included in the aggregate limitations prescribed by Subsection (a):

\_\_\_\_\_ (1) current wages for personal services, except for the enforcement of court-ordered child support payments

\_\_\_\_\_ (2) professionally prescribed health aids of a debtor or dependent

\_\_\_\_\_ (3) alimony, support, or separate maintenance received or to be received by the debtor for the support of the debtor or dependent

\_\_\_\_\_ (4) a religious bible or book containing sacred writings of a religion

(c) Except as provided by Subsection (b)(4), this section does not prevent seizure by a secured creditor.

\_\_\_\_\_ (d) Unpaid commissions for personal services not to exceed 25% of the aggregate limitations prescribed by Subsection (a) are exempt from seizure and are included in the aggregate.

\_\_\_\_\_ (e) A religious bible or book described in Subsection (b)(4).

§ 42.002, Texas Property Code. Personal Property.

(a) The following personal property is exempt under Section 42.001(a), Texas Property Code:

\_\_\_\_\_ (1) home furnishings

\_\_\_\_\_ (2) provisions for consumption

- \_\_\_\_\_ (3) farming or ranching vehicles and implements
- \_\_\_\_\_ (4) tools, equipment, books, and apparatus, including boats and motor vehicles used in a trade or profession
- \_\_\_\_\_ (5) apparel
- \_\_\_\_\_ (6) jewelry not to exceed 25% of the aggregate limitations prescribed by Section 42.001(a)
- \_\_\_\_\_ (7) two firearms
- \_\_\_\_\_ (8) athletic and sporting equipment, including bicycles
- \_\_\_\_\_ (9) a two-, three-, or four-wheeled motor vehicle for each family member or single adult who holds a driver's license or who does not hold a driver's license but who relies on another person to operate the vehicle for the benefit of the nonlicensed person
- (10) the following animals and forage on hand for their consumption:
  - \_\_\_\_\_ (A) two horses, mules, or donkeys and a saddle, blanket, and bridle for each
  - \_\_\_\_\_ (B) 12 head of cattle
  - \_\_\_\_\_ (C) 60 head of other livestock
  - \_\_\_\_\_ (D) 120 fowl
- \_\_\_\_\_ (11) household pets

§ 42.0021, Texas Property Code. Additional Exemption for Certain Savings Plans.

- \_\_\_\_\_ (a) In addition to the exemption prescribed by Section 42.001, a person's right to the assets held in or to receive payments under any stock bonus, pension, profit-sharing, retirement plan for self-employed individuals, and annuity purchased with assets distributed from that plan, and retirement

annuity or account, described by Section 403(b) or 408A of the Internal Revenue Code of 1986, and individual retirement account, individual retirement annuity, simplified employee pension plan, and health savings account described by Section 223 of the Internal Revenue Code of 1986, is exempt from seizure for the satisfaction of debts unless the plan, contract, or account does not qualify under the Internal Revenue Code of 1986. A person's right to the assets held in or to receive payments under a government or church plan or contract is also exempt unless the plan or contract does not qualify under the federal Employee Retirement Income Security Act of 1974.

\_\_\_\_\_ (b) Contributions to an individual retirement account, other than contributions to a Roth IRA described in Section 408A, Internal Revenue Code of 1986, or annuity that exceed the amounts deductible under the Internal Revenue Code of 1986 and any accrued earnings on such contributions are not exempt under this section unless otherwise exempt by law. Amounts qualifying as nontaxable rollover contributions under Section 402(a)(5), 403(a)(4), 403(b)(8), or 408(d)(3) of the Internal Revenue Code of 1986 before January 1, 1993, are treated as exempt amounts under Subsection (a). Amounts treated as qualified rollover contributions under Section 408A, Internal Revenue Code of 1986, are treated as exempt amounts under Subsection (a). Amounts qualifying as nontaxable rollover contributions under Section 402(c), 402(e)(6), 402(f), 403(a)(4), 403(a)(5), 403(b)(8), 403(b)(10), 408(d)(3), or 408A of the Internal Revenue Code of 1986 on or after January 1, 1993, are treated as exempt amounts under Subsection (a). Amounts qualifying as nontaxable rollover contributions under Section 223(f)(5) of the Internal Revenue Code of 1986 on or after January 1, 2004, are treated as exempt amounts under Subsection (a).

\_\_\_\_\_ (c) Amounts distributed from a plan or contract entitled to the exemption under Subsection (a) are not subject to seizure for 60 days after the date of distribution if the amounts qualify as a nontaxable rollover contribution under Subsection (b).

\_\_\_\_\_ (d) A participant or beneficiary of a stock bonus, pension, profit-sharing, retirement plan, or government plan is not prohibited from granting a security interest in the participant's or beneficiary's right to the assets held in or to receive payments under the plan to secure a loan to the participant or beneficiary from the plan, and the right to the assets held in or to receive

payments from the plan is subject to seizure for the satisfaction of the security interest or lien granted by the participant or beneficiary to secure the loan.

§ 42.0022, Texas Property Code. Exemption for College Savings Plans.

(a) In addition to the exemption in Section 42.001, a person's right to the assets held in or to receive payments or benefits under any of the following is exempt:

- \_\_\_\_(1) prepaid tuition contract
- \_\_\_\_(2) savings trust account
- \_\_\_\_(3) any qualified tuition program of any state that meets the requirements under Section 529, Internal Revenue Code of 1986

List below the description of each exemption claimed, the value, the basis for such valuation, and nature of your ownership interest. Attach additional paperwork, if needed.

1. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AFFIDAVIT

The exemptions claimed above, including their descriptions, the value, the basis for such valuation, and the nature of my ownership interest in them, are made under oath and penalty of perjury.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

\_\_\_\_\_  
Notary Public Signature

My Commission expires: \_\_\_\_\_  
(Seal)

- ☐ I am requesting a hearing for the exemptions checked above.
- ☐ I am not requesting a hearing for the exemptions checked above.
- ☐ I am requesting a transfer to the federal district where I reside in the  
\_\_\_\_\_ (district) of \_\_\_\_\_ (state).

\_\_\_\_\_  
David Scieszinski, attorney for Defendants  
Kenneth J. Henry, individually, and d/b/a  
Henry's Turkey Service, and Hill Country  
Farms, Inc. d/b/a Henry's Turkey Service

\_\_\_\_\_  
Iowa Bar No.

Address: \_\_\_\_\_  
\_\_\_\_\_

Email: \_\_\_\_\_

Daytime telephone: \_\_\_\_\_

Date: \_\_\_\_\_



UNITED STATES OF AMERICA,

Plaintiff,

V.

KENNETH J. HENRY, individually,  
and d/b/a HENRY'S TURKEY  
SERVICE, and HILL COUNTRY  
FARMS, INC. d/b/a HENRY'S  
TURKEY SERVICE,

Defendants,

and

SOUTHWESTERN FARMS &  
CATTLE CO., INC.,

Garnishee.

[illegible]

**8-12CV-4737P**

No. \_\_\_\_\_

To: Southwestern Farms & Cattle, Co., Inc. and its affiliates, successors, or assigns  
Glenda Luscher, Registered Agent  
2901 FM 1476  
Proctor, TX 76468

An Application for Writs of Garnishment seeking property belonging to or due Defendants Kenneth J. Henry, individually, and d/b/a Henry's Turkey Service (Henry), and Hill Country Farms, Inc. d/b/a Henry's Turkey Service (Hill Country) (collectively Defendants), who are judgment debtors of the United States of America (United States),

and/or Henry's spouse, Gay Henry, individually, and d/b/a Henry's Turkey Service, was filed with this Court.

Computation of the debt as of November 15, 2012 is:

\$1,761,554.34	Judgment amount
\$ 3,737.85	Interest (.16%)
<u>(\$ 4,335.20)</u>	Credits applied to judgment
\$1,760,956.99	Debt balance

Pending further order of this Court, you shall withhold and retain all property in which Defendants and/or Henry's spouse have a substantial nonexempt interest and for which you are or may become indebted to Defendants and/or Henry's spouse. *See* 28 U.S.C. § 3205(c)(2)(F). Do not deliver the property to the United States at this time. Instead, withhold and retain the property until the Court orders its distribution. *Id.*

You are required by law to file an answer within ten days of your receipt of this writ advising the Court whether you hold as of the date you were served with this writ or will hold substantial nonexempt property for Defendants and/or Henry's spouse, and mail or deliver the original answer to the United States District Clerk, 1100 Commerce Street, Room 1452, Dallas, TX 75242; and mail copies to Kenneth J. Henry, individually, and d/b/a Henry's Turkey Service, and Hill Country Farms, Inc. d/b/a Henry's Turkey Service, through their attorney David Scieszinski, 108 E. 4<sup>th</sup> Street, Wilton, IA 52778; Gay Henry, individually, and d/b/a Henry's Turkey Service, 1451 Hwy. 1476, Proctor, TX

76468; and Megan J. Fahey, Assistant United States Attorney, Burnett Plaza, Suite 1700, 801 Cherry Street, Unit 4, Fort Worth, TX 76102-6882. *See* 28 U.S.C. § 3205(c).

Additional information is included in the attached Plaintiff's Instructions to Garnishee.

If you fail to answer this writ or withhold property in accordance with this writ, the United States may petition this Court for an order requiring you to appear before this Court to answer this writ and withhold property before the appearance date. *See* 28 U.S.C. § 3205(c)(6). If you fail to answer, or appear and fail to show good cause why you failed to comply with this writ, the Court shall enter a judgment against you for the value of Defendants' and/or Henry's spouse's substantial nonexempt property. *Id.* The Court may award a reasonable attorney's fee to the United States and against you if this writ is not answered by the time specified by law and a petition is filed requiring you to appear. *Id.*


Signed this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

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UNITED STATES DISTRICT CLERK  
NORTHERN DISTRICT OF TEXAS


SEAL

## ORIGINAL



**8-12CV-4737P**

No. \_\_\_\_\_

[illegible]

§ 102-21-102. (a) The following shall constitute the official seal of the State of Connecticut:

§ 100.00

2

**CLERK'S NOTICE OF POST-JUDGMENT GARNISHMENT TO DEFENDANTS**

You are notified, pursuant to 28 U.S.C. § 3202, that your property is being sought by the United States of America (United States), which holds a judgment from the United States District Court for the Southern District of Iowa against you dated July 20, 2011. On October 11, 2011, this judgment was registered in the United States District Court for the Northern District of Texas under civil case number 4:11-MC-015.

Computation of the debt as of November 15, 2012 is:

\$1,761,554.34	Judgment amount
----------------	-----------------

\$ 3,737.85 Interest (.16%)

(\$ 4,335.20) Credits applied to judgment

\$1,760,956.99 Debt balance

Exemptions may protect the property from being taken by the United States if you can show exemptions apply. *See* 28 U.S.C. § 3014(a). The attached Claim for Exemptions, Request for Hearing, and/or Request for Transfer contains a summary of the major exemptions that apply.

You have a right to ask the Court to return your property if you think that you do not owe the debt to the government, or if you think the property the government seeks qualifies under an exemption(s). For each item that you claim is exempt from garnishment, you shall file a statement under oath naming and describing the exemption(s), including, for each item of property for which you claim an exemption, the value, the basis for such valuation, and the nature of your interest.

If you want a hearing, you must notify the Court within 20 days after you receive this notice. Your request must be in writing, and you may use the attached form to request the hearing. You must mail or deliver the original to the United States District Clerk, 1100 Commerce Street, Room 1452, Dallas, TX 75242. You must also mail a copy to Megan J. Fahey, Assistant United States Attorney, Burnett Plaza, Suite 1700, 801 Cherry Street, Unit 4, Fort Worth, TX 76102-6882, so the government will know you want a hearing.

If you are entitled to a hearing, the hearing will take place within five days after the United States District Clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible. The Court will issue an order advising you of the time, place, and date of any hearing scheduled.

At the hearing, you may explain to the judge why you believe the property the government seeks is exempt or why you think you do not owe the debt to the government. The Court shall determine the extent, if any, to which your exemption claims apply. *See* 28 U.S.C. § 3014(b)(2). Unless it is reasonably evident that the exemptions apply, you shall bear the burden of persuasion. *Id.* If you do not request a hearing, your property may be delivered to the United States and applied to the debt you owe.

If you think you live outside the federal judicial district where this Court is located, you may request, not later than 20 days after you receive this notice, that this proceeding be transferred by this Court to the federal judicial district where you reside. You must make your request in writing, and mail or deliver the original to the United States District Clerk, 1100 Commerce Street, Room 1452, Dallas, TX 75242. You must also mail a copy of the request to Megan J. Fahey, Assistant United States Attorney, Burnett Plaza, Suite 1700, 801 Cherry Street, Unit 4, Fort Worth, TX 76102-6882, so the government will know you want the proceeding to be transferred. You may use the attached form to request a transfer.

Be sure to keep a copy of this notice for your records. If you have any questions

about your rights or this procedure, you should contact a lawyer, an office of public legal assistance, or the United States District Clerk. The United States District Clerk is not permitted to give legal advice, but may refer you to other sources of information.

---

UNITED STATES DISTRICT CLERK  
NORTHERN DISTRICT OF TEXAS

Date \_\_\_\_\_

UNITED STATES OF AMERICA,

Plaintiff,

V.

KENNETH J. HENRY, individually,  
and d/b/a HENRY'S TURKEY  
SERVICE, and HILL COUNTRY  
FARMS, INC. d/b/a HENRY'S  
TURKEY SERVICE,

Defendants,

and

SOUTHWESTERN FARMS &  
CATTLE CO., INC.,

Garnishee.



**8-12CV-4737P**  
No.

To complete this form, check the adjacent space(s) to an exemption(s) you are claiming, check the box below to request a hearing, and/or check the box below to request a transfer to another federal judicial district. You must mail or deliver the original of this form to the United States District Clerk and mail a copy to the United States of America, as explained in the attached Clerk's Notice of Post-Judgment Garnishment to Defendants.

*See* 28 U.S.C. §§ 3014(b)(1), and 3202(b).



Major exemptions that you may claim as property exempt from this garnishment are summarized below. You may claim property exempt under 11 U.S.C. § 522(d) of the United States Bankruptcy Code, or property exempt under federal law - other than exemptions under the bankruptcy code, or property exempt under Texas state law. *See* 28 U.S.C. § 3014(a). You cannot claim exemptions under the bankruptcy code, federal law, and state law. To claim state exemptions, you must have been a resident of Texas at least 180 days immediately preceding the date the attached application was filed. *Id.*

#### SUMMARY OF UNITED STATES BANKRUPTCY CODE EXEMPTIONS

- \_\_\_\_\_ (1) The debtor's aggregate interest not to exceed \$15,000 in real or personal property that the debtor or dependent uses as a residence or in a burial plot.
- \_\_\_\_\_ (2) The debtor's interest not to exceed \$2,400 in one motor vehicle.
- \_\_\_\_\_ (3) The debtor's interest not to exceed \$400 in any particular item or \$8,000 in aggregate value in household furnishings, wearing apparel, animals, or crops held primarily for personal use of the debtor or dependent.
- \_\_\_\_\_ (4) The debtor's aggregate interest not to exceed \$1,000 in jewelry held primarily for personal use of the debtor or dependent.
- \_\_\_\_\_ (5) The debtor's aggregate interest in any property not to exceed \$800 plus up to \$7,500 of any unused amount of the exemption provided in (1) of this subsection.
- \_\_\_\_\_ (6) The debtor's aggregate interest not to exceed \$1,500 in professional books or tools of the trade of the debtor or dependent.
- \_\_\_\_\_ (7) Any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract.
- \_\_\_\_\_ (8) The debtor's aggregate interest not to exceed \$8,000 less any amount of property transferred under section 542(d) of this title, in any accrued

dividend or interest under, or loan value of, any unmaturred life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent.

\_\_\_\_ (9) Professionally prescribed health aids for the debtor or dependent.

(10) The debtor's right to receive:

\_\_\_\_ (A) social security, unemployment, or local public assistance benefits

\_\_\_\_ (B) veterans' benefits

\_\_\_\_ (C) disability, illness, or unemployment benefits

\_\_\_\_ (D) alimony, support, or separate maintenance for the reasonable support of the debtor and dependents

\_\_\_\_ (E) payment under a stock bonus, pension, profitsharing, or annuity plan on account of illness, disability, death, age, or length of service, to reasonably support the debtor and dependants, with exceptions outlined in 11 U.S.C. § 522(d)(10)(E).

(11) The debtor's right to receive, or property traceable to:

\_\_\_\_ (A) an award under a crime victim's reparation law

\_\_\_\_ (B) payment for the wrongful death of an individual of whom debtor was a dependent to reasonably support the debtor and dependants

\_\_\_\_ (C) payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of death to reasonably support the debtor and dependants

\_\_\_\_ (D) payment not to exceed \$15,000 for personal bodily injury of the debtor or an individual of whom the debtor is a dependent, with exceptions outlined in 11 U.S.C. § 522(d)(11)(D)

\_\_\_\_ (E) payment for loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent to reasonably support the debtor and dependents.

- \_\_\_\_ (12) Retirement funds in an account exempt under sections 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986. *See* 11 U.S.C. § 522(d).

#### SUMMARY OF MAJOR FEDERAL EXEMPTIONS

- \_\_\_\_ 1. Federal Old-Age, Survivors, and Disability Insurance benefits. 42 U.S.C. § 407.
- \_\_\_\_ 2. Veterans' benefits. 38 U.S.C. § 5301.
- \_\_\_\_ 3. Annuities of retired servicemen. 10 U.S.C. § 1440.
- \_\_\_\_ 4. Federal civil service retirement benefits. 5 U.S.C. § 8346, and 22 U.S.C. § 4060(c).
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- \_\_\_\_ 6. Longshore and harbor workers compensation. 33 U.S.C. § 916.
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\_\_\_\_\_ (2) the property is owned by a single adult and has an aggregate fair market value of not more than \$30,000, exclusive of any encumbrances.

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\_\_\_\_\_ (2) professionally prescribed health aids of a debtor or dependent

\_\_\_\_\_ (3) alimony, support, or separate maintenance received or to be received by the debtor for the support of the debtor or dependent

\_\_\_\_\_ (4) a religious bible or book containing sacred writings of a religion

(c) Except as provided by Subsection (b)(4), this section does not prevent seizure by a secured creditor.

\_\_\_\_\_ (d) Unpaid commissions for personal services not to exceed 25% of the aggregate limitations prescribed by Subsection (a) are exempt from seizure and are included in the aggregate.

\_\_\_\_\_ (e) A religious bible or book described in Subsection (b)(4).

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(a) The following personal property is exempt under Section 42.001(a), Texas Property Code:

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\_\_\_\_\_ (2) provisions for consumption

- \_\_\_\_\_ (3) farming or ranching vehicles and implements
- \_\_\_\_\_ (4) tools, equipment, books, and apparatus, including boats and motor vehicles used in a trade or profession
- \_\_\_\_\_ (5) apparel
- \_\_\_\_\_ (6) jewelry not to exceed 25% of the aggregate limitations prescribed by Section 42.001(a)
- \_\_\_\_\_ (7) two firearms
- \_\_\_\_\_ (8) athletic and sporting equipment, including bicycles
- \_\_\_\_\_ (9) a two-, three-, or four-wheeled motor vehicle for each family member or single adult who holds a driver's license or who does not hold a driver's license but who relies on another person to operate the vehicle for the benefit of the nonlicensed person
- (10) the following animals and forage on hand for their consumption:
  - \_\_\_\_\_ (A) two horses, mules, or donkeys and a saddle, blanket, and bridle for each
  - \_\_\_\_\_ (B) 12 head of cattle
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annuity or account, described by Section 403(b) or 408A of the Internal Revenue Code of 1986, and individual retirement account, individual retirement annuity, simplified employee pension plan, and health savings account described by Section 223 of the Internal Revenue Code of 1986, is exempt from seizure for the satisfaction of debts unless the plan, contract, or account does not qualify under the Internal Revenue Code of 1986. A person's right to the assets held in or to receive payments under a government or church plan or contract is also exempt unless the plan or contract does not qualify under the federal Employee Retirement Income Security Act of 1974.

\_\_\_\_\_ (b) Contributions to an individual retirement account, other than contributions to a Roth IRA described in Section 408A, Internal Revenue Code of 1986, or annuity that exceed the amounts deductible under the Internal Revenue Code of 1986 and any accrued earnings on such contributions are not exempt under this section unless otherwise exempt by law. Amounts qualifying as nontaxable rollover contributions under Section 402(a)(5), 403(a)(4), 403(b)(8), or 408(d)(3) of the Internal Revenue Code of 1986 before January 1, 1993, are treated as exempt amounts under Subsection (a). Amounts treated as qualified rollover contributions under Section 408A, Internal Revenue Code of 1986, are treated as exempt amounts under Subsection (a). Amounts qualifying as nontaxable rollover contributions under Section 402(c), 402(e)(6), 402(f), 403(a)(4), 403(a)(5), 403(b)(8), 403(b)(10), 408(d)(3), or 408A of the Internal Revenue Code of 1986 on or after January 1, 1993, are treated as exempt amounts under Subsection (a). Amounts qualifying as nontaxable rollover contributions under Section 223(f)(5) of the Internal Revenue Code of 1986 on or after January 1, 2004, are treated as exempt amounts under Subsection (a).

\_\_\_\_\_ (c) Amounts distributed from a plan or contract entitled to the exemption under Subsection (a) are not subject to seizure for 60 days after the date of distribution if the amounts qualify as a nontaxable rollover contribution under Subsection (b).

\_\_\_\_\_ (d) A participant or beneficiary of a stock bonus, pension, profit-sharing, retirement plan, or government plan is not prohibited from granting a security interest in the participant's or beneficiary's right to the assets held in or to receive payments under the plan to secure a loan to the participant or beneficiary from the plan, and the right to the assets held in or to receive

payments from the plan is subject to seizure for the satisfaction of the security interest or lien granted by the participant or beneficiary to secure the loan.

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(a) In addition to the exemption in Section 42.001, a person's right to the assets held in or to receive payments or benefits under any of the following is exempt:

- \_\_\_\_\_ (1) prepaid tuition contract
- \_\_\_\_\_ (2) savings trust account
- \_\_\_\_\_ (3) any qualified tuition program of any state that meets the requirements under Section 529, Internal Revenue Code of 1986

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1. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AFFIDAVIT

The exemptions claimed above, including their descriptions, the value, the basis for such valuation, and the nature of my ownership interest in them, are made under oath and penalty of perjury.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

\_\_\_\_\_  
Notary Public Signature

My Commission expires: \_\_\_\_\_  
(Seal)

- ☐ I am requesting a hearing for the exemptions checked above.
- ☐ I am not requesting a hearing for the exemptions checked above.
- ☐ I am requesting a transfer to the federal district where I reside in the  
\_\_\_\_\_ (district) of \_\_\_\_\_ (state).

\_\_\_\_\_  
David Scieszinski, attorney for Defendants  
Kenneth J. Henry, individually, and d/b/a  
Henry's Turkey Service, and Hill Country  
Farms, Inc. d/b/a Henry's Turkey Service



\_\_\_\_\_  
Iowa Bar No.

Address: \_\_\_\_\_  
\_\_\_\_\_

Email: \_\_\_\_\_

Daytime telephone: \_\_\_\_\_

Date: \_\_\_\_\_