

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Toya S. Freeman
SSN XXX-XX-9032

CASE NO. 04-43579 NCD

CHAPTER 13 CASE

Debtor.

NOTICE OF OBJECTION TO CONFIRMATION OF PLAN

TO: Debtor and other entities specified in Local Rule 3015-3.

1. Aurora Loan Services, successor in interest to Wilshire Credit Corp. (hereinafter "Secured Creditor") moves the Court for the relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this objection at 10:00 a.m. on September 2, 2004, before the Honorable Nancy C. Dreher in Courtroom 7 West at U.S. Courthouse, 300 South 4th Street, Minneapolis, Minnesota.
3. Any reply to this objection must be filed and delivered not later than 10:00 a.m. on September 1, 2004, which is 24 hours before the time set for the hearing, or filed and served by mail not later than August 30, 2004, which is three days before the time set for the hearing. **UNLESS A REPLY OPPOSING THE OBJECTION IS TIMELY FILED, THE COURT MAY SUSTAIN THE OBJECTION WITHOUT A HEARING.**
4. This Court has jurisdiction over this objection pursuant to 28 U.S.C. §§ 157 and 1334, Federal Rule of Bankruptcy Procedure 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 13 case was filed June 25, 2004. The case is now pending before this Court.
5. This objection arises under 11 U.S.C. § 1322 and Local Rule 3007-1.
6. Debtor is indebted to Secured Creditor in the principal amount of \$37,000.00, as

evidenced by that certain Promissory Note dated May 20, 2003, a copy of which is attached hereto as Exhibit "A", together with interest thereon.

7. Debtor's indebtedness is secured by a mortgage on real estate in which Debtor has an interest as evidenced by that certain Mortgage Deed dated May 20, 2003, executed by Darin Cathey and Toya S. Freeman, both single, a copy of which is attached hereto as Exhibit "B". The name and address of the original creditor is contained in the attached Exhibit "B".

8. Said plan is objected to on the basis that it is not feasible and that Debtor will not be able to make all payments under the plan and to comply with the plan as contemplated by 11 U.S.C. § 1325(a)(6).

9. Said plan is also objected to on the basis that Debtor is delinquent in her pre-petition monthly mortgage payments to Secured Creditor for the months of April, 2004 through June, 2004, in the total amount of \$1,396.45, including late charges and that said delinquency existing in Debtor's mortgage loan cannot be cured within a reasonable time as required by 11 U.S.C. § 1322(b)(5). In In re Newton, 161 B.R. 207 (Bkrtcy.D.Minn. 1993), this Court reaffirmed its previous finding that more than 12 months is ordinarily not a reasonable time to cure a default in pre-petition homestead mortgage payments under 11 U.S.C. § 1322(b)(5). The plan, as proposed by Debtor, would require approximately 26 months to complete based on the Proof of Claim filed by Secured Creditor. Therefore, the plan does not comply with the provision of Chapter 13 of the Bankruptcy Code, as contemplated by 11 U.S.C. § 1325(a)(1).

10. The value of the property as scheduled by Debtor is \$190,000.00 subject to Secured Creditor's mortgage in excess of \$38,221.14. The property is also subject to another Secured Creditor's mortgage in favor of Chase Home Mortgage in excess of \$146,827.00 as scheduled by Debtor.

11. The plan, as proposed, is not made in good faith by Debtor.

12. Therefore, it is requested that the Court deny confirmation of Debtor's plan.

Dated this 25th day of August, 2004.

WILFORD & GESKE

By /e/ James A. Geske

James A. Geske
Attorneys for Secured Creditor
7650 Currell Blvd., Suite 300
Woodbury, Minnesota 55125
651-209-3300
Attorney Reg. No. 14969X

THIS COMMUNICATION IS FROM A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

NOTE

May 20, 2003
[Date]

Irvine
[City]

California
[State]

1879 Lachman Avenue Northeast, SAINT MICHAEL, MN 55376
[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 37,000.00 (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is Aames Funding Corporation DBA Aames Home Loan

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of principal has been paid. I will pay interest at a yearly rate of 11.990 %.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making payments every month.

I will make my monthly payments on the 1st day of each month beginning on July 1st 2003. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. My monthly payments will be applied to interest before principal. If, on June 1, 2023, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 350 South Grand Avenue, 47th Floor, Los Angeles, CA 90071 or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$ 407.15

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of principal at any time before they are due. A payment of principal only is known as a "prepayment." When I make a prepayment, I will tell the Note Holder in writing that I am doing so.

I may make a full prepayment or partial prepayments without paying any prepayment charge. The Note Holder will use all of my prepayments to reduce the amount of principal that I owe under this Note. If I make a partial prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

5. LOAN CHARGES

This Note shall be governed by the laws of the State of Minnesota. If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe under this Note or by making a direct payment to me. If a refund reduces principal, the reduction will be treated as a partial prepayment.

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of Ten calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

MINNESOTA FIXED RATE NOTE - Single Family
DOC #: 505051 APPL #: 0005655404

AX6RMN (8108).04

ELECTRONIC LASER FORMS, INC. (800)327-0545

Initials: *[Signature]* / OC

EXHIBIT *[Signature]*

I CERTIFY THIS TO BE A TRUE AND CORRECT COPY OF THE ORIGINAL

MORTGAGE

THIS MORTGAGE is made this 20th day of May 2003 between the Mortgagor, Darin Cathey and Toya S. Freeman, both single

Aames Funding Corporation DBA Aames Home Loan (herein "Borrower"), and the Mortgagee,

existing under the laws of The State of California, a corporation organized and 350 South Grand Avenue, 42nd Floor, Los Angeles, CA 90071, whose address is

WHEREAS, Borrower is indebted to Lender in the principal sum of U.S.:\$ 37,000.00 (herein "Lender"), which indebtedness is evidenced by Borrower's note dated May 20, 2003, and extensions and renewals thereof (herein "Note"), providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on June 1, 2023

TO SECURE to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon; the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby

MINNESOTA - SECOND MORTGAGE - 1/80 - FNMA/FHLMC UNIFORM INSTRUMENT

78(MN) (8603).01 UM31 9803 03 Form 3824 DOC #:022301 APPL #:0005655404 Page 1 of 8 Initials: DC TF VMP MORTGAGE FORMS - (800)621-7291

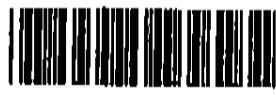


EXHIBIT B

IN WITNESS WHEREOF, Borrower has executed this Mortgage.

Darin Cathey (Seal)
Darin Cathey -Borrower

Toya S Freeman (Seal)
Toya S Freeman -Borrower

____ (Seal)
____ -Borrower

(Sign Original Only)

STATE OF MINNESOTA,

Winnepi

County ss:

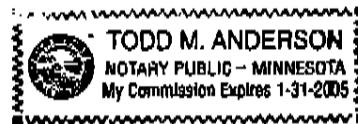
On this 20th day of May, 2003, before me appeared Darin Cathey, Toya S Freeman, both single

personally known to be the person(s) described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed, to me

My Commission Expires:

Todd M. Anderson
Notary Public

This instrument was drafted by
Sharon Lewis
2644 S. Sherwood Forest
Baton Rouge, LA 70816



Tax statements for the real property described in this instrument should be sent to:
Aarnes Funding Corporation DBA Aarnes Home Loan
350 South Grand Avenue
47th Floor
Los Angeles, CA 90071

DOC #:022306

APPL #:0005655404

Exhibit "A"

Lot 4, Block 3, Forest Oaks Second Addition.

Abstract Property

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Toya S. Freeman
SSN XXX-XX-9032

CHAPTER 13 CASE

CASE NO. 04-43579 NCD

Debtor.

**UNSWORN DECLARATION
FOR PROOF OF SERVICE**

Diana Waletzko, employed by Wilford & Geske, attorneys licensed to practice law in this Court, with office address at 7650 Currell Blvd., Suite 300, Woodbury, Minnesota, declares that on August 25, 2004, I served the annexed Notice of Objection to Confirmation of Plan and proposed Order Denying Confirmation of Plan to each person referenced below, a copy thereof by enclosing the same in an envelope with first class mail postage prepaid and depositing the same in the post office at Woodbury, Minnesota addressed to each of them as follows:

Toya S. Freeman
1879 Lachman Avenue NE
Saint Michael, MN 55376

Michael J. Farrell
PO Box 519
Barnesville, MN 56514

Robert J. Hoglund
PO Box 130938
Roseville, MN 55113

U.S. Trustee
1015 U.S. Courthouse
300 South 4th Street
Minneapolis, MN 55415

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

Dated this 25th day of August, 2004.

/e/ Diana Waletzko
Diana Waletzko

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

**ORDER DENYING CONFIRMATION
OF PLAN**

Toya S. Freeman
SSN XXX-XX-9032

Debtor.

CASE NO. 04-43579 NCD

This Chapter 13 Case came on before the Court on September 2, 2004, for hearing on Debtor's plan of debt adjustment. Appearances were as noted in the record. Upon the record made at hearing, and all other files and records in this case,

IT IS HEREBY ORDERED that confirmation of Debtor's plan of debt adjustment, as filed June 25, 2004, is denied.

Dated: _____

Judge of Bankruptcy Court