

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:

Chapter 7  
Case No. 04-44743 RJK

Hak Sok and  
Pharo euth Chhea,

Debtors.

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NOTICE OF HEARING AND  
MOTION FOR RELIEF FROM STAY

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1. GreenPoint Credit LLC ("Movant"), a secured creditor of the Debtors herein, by its undersigned attorney, moves the Court for the relief requested below, and gives notice of hearing herewith.

2. The Court will hold a hearing on this motion at 2:00 o'clock p.m., on November 4, 2004, before the Honorable Robert J. Kressel, in Courtroom No. 8 West, at United States Courthouse, 300 South Fourth Street, Minneapolis, Minnesota, or as soon thereafter as counsel may be heard.

3. Any response to this motion must be filed and delivered not later than October 28, 2004, which is seven days before the time set for the hearing (including Saturdays, Sundays and holidays), or filed and served by mail not later than October 25, 2004, which is ten days before the date set for the hearing (including Saturdays, Sundays and holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.

4. This motion is filed pursuant to Bankruptcy Rule 4001 and Local Rules 9013-2 and 4001-1 and Movant requests relief from the automatic stay of 11 U.S.C. § 362(a) with respect to certain personal property subject to Movant's valid security interest.

5. This case was filed as a voluntary case under Chapter 7 of the United States Bankruptcy Code, and the case is now pending in this Court. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 1334 and 157(a), Local Rule 1070-1, Fed. R. Bankr. P. 5005 and applicable rules. This is a core proceeding.

6. Movant holds a valid, perfected security interest in a 1999 Palm Harbor Homes Model 464 Manufactured Home, S/N PH203277A (the "Vehicle").

7. Copies of Movant's Installment Sale Contract (the "Contract") and Oregon Vehicle Certificate of Title, respectively evidencing creation and perfection of Movant's security interest, are attached hereto as Exhibits A and B and incorporated herein by reference.

8. Payments due under the terms of the Contract have not been made by the Debtors. The balance due under the Contract is \$81,222.48 as of the date of filing this case, and on information and belief, the fair market value of the Vehicle is approximately \$37,178.00. Debtors are delinquent under the terms of the Contract in the total amount of \$1,688.79, plus late charges, accruing interest, fees and costs. Debtors have not made the payments due for June 2004 through September, 2004.

9. Debtors indicated in their bankruptcy schedules their intent to surrender the Vehicle to Movant. Movant seeks relief from the automatic stay in order to take possession of the Vehicle.

10. Movant's security is depreciating in that the Vehicle is continuing to be utilized by the Debtors, subjecting the same to wear, while failing to make payments. Movant does not

have, and has not been offered, adequate protection of its interest in the Vehicle. There is no equity in the Vehicle and, in view of the fact that this is a Chapter 7 liquidation proceeding, the Vehicle is not necessary to an effective reorganization.

11. The failure of the Debtors to make payments or otherwise provide Movant with adequate protection of its interest in the Vehicle constitutes cause, within the meaning of 11 U.S.C. § 362(d)(1), entitling Movant to relief from the stay.

12. If testimony is necessary as to any facts relevant to this motion, Stephanie Spurlock of Movant, 1100 Circle 75 Parkway, Suite 1000, Atlanta, GA 30339, will testify on behalf of Movant.

WHEREFORE, Movant, respectfully moves the Court for an order modifying the automatic stay of section 362(a) of the Bankruptcy Code and authorizing Movant to foreclose its security interest in the Vehicle and for such other relief as may be just and equitable.

Date: October 12, 2004.

FOLEY & MANSFIELD, P.L.L.P.

By /s/ Thomas J. Lallier  
Thomas J. Lallier (#163041)  
Ruth E. Honkanen (#175924)  
Attorneys for Movant  
250 Marquette Avenue, Suite 1200  
Minneapolis, MN 55401  
(612) 338-8788

UNITED STATES BANKRUPTCY COURT  
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MEMORANDUM IN SUPPORT  
OF MOTION

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GreenPoint Credit LLC, ("Movant") submits this memorandum of law in support of its motion for relief from the stay in the above-entitled matter.

FACTS

Movant holds a perfected security interest in 1999 Palm Harbor Homes Model 464 Manufactured Home, S/N PH203277A (the "Vehicle"). The vehicle subject to Movant's security interest is depreciating with use. Debtors are delinquent with respect to payments due under the contract with Movant. Debtors indicated in their bankruptcy schedules their intent to surrender the Vehicle to Movant. Movant seeks relief from the automatic stay in order to take possession of the Vehicle.

ARGUMENT

Pursuant to Section 362(d)(1) of the Bankruptcy Code, relief from the automatic stay shall be granted upon request of a creditor "for cause, including the lack of adequate protection of an interest in property of such [creditor]." 11 U.S.C. Section 362(d)(1). Payments have not been made as required by the contract and Movant has not been provided with adequate protection of its interest in the Vehicle. Such failure constitutes cause, within the meaning of Section

362(d)(1), entitling Movant to relief from the stay. United Savings Assn. of Texas v. Timbers of Inwood Forest Assoc., Ltd. (In re Timbers of Inwood Assoc., Ltd.), 484 U.S. 365, 108 S.Ct. 626, 98 L.Ed.2d 740 (1988).

Pursuant to Section 362(d)(2) of the Bankruptcy Code, relief from the stay is also appropriate where no equity exists in the subject Vehicle and the Vehicle is not necessary to an effective reorganization. In re Albany Partners, Ltd., 749 F.2d 670 (11th Cir. 1984). The balance due under the Contract does not exceed the fair market value of the Vehicle. Finally, as this a Chapter 7 case, the Vehicle is not necessary to an effective reorganization.

#### CONCLUSION

For all the reasons set forth herein, Movant is entitled to an order terminating the automatic stay of 11 U.S.C. § 362(a) and authorizing it to take possession of and foreclose its security interest in the Vehicle.

Dated: October 12, 2004.

Respectfully submitted,

FOLEY & MANSFIELD, P.L.L.P.

By /s/ Thomas J. Lallier  
Thomas J. Lallier (#163041)  
Ruth E. Honkanen (#175924)  
Attorneys for Movant  
250 Marquette Avenue, Suite 1200  
Minneapolis, MN 55401  
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VERIFICATION

I, Stephanie Spurlock, for GreenPoint Credit Corp., declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed on:

10/11/04

Signed:

  
Stephanie Spurlock

OREGON

CONSUMER PAPER

RETAIL INSTALLMENT CONTRACT, SECURITY AGREEMENT,  
WAIVER OF TRIAL BY JURY AND AGREEMENT TO  
ARBITRATION OR REFERENCE OR TRIAL BY JUDGE ALONE  
(Contract)

MH VARIABLE RATE CONTR

	LOAN PLAN: <u>A01 01200</u>
	OFFICE NUMBER: <u>79041</u>
	LOAN SOURCE NO.: <u>41137</u>
	ACCT. NO.: <u>413074</u>
	FUNDING CODE: _____

BUYER(S): NAME: HAK SOK  
NAME: CHHEA PHAROETH  
NAME: \_\_\_\_\_

BUYER'S NAME: \_\_\_\_\_ COUNTY: JACKSON  
ADDRESS: 1274 WILMINGTON ST CITY: MEDFORD STATE: OR ZIP: 975

PHONE: (541) 734-9054 S. SEC. #(S): 469-98-1965 406-17-28

PROPOSED LOCATION OF MANUFACTURED HOME: 2552 THORN OAK DR #44, MEDFORD, OR 97501

"I," "me," "myself" or "my" mean all persons who sign this Contract as buyer or co-buyer, jointly and severally, and "you" or "your" mean the Seller and any assignee. This Contract will be submitted to the Creditor indicated below, at a local office approved, it will be assigned to that Creditor. On the date of this Contract, I buy from you on a credit sale basis the manufactured home described on page 2, together with furnishings, equipment, appliances and accessories included in the manufactured home at the time of purchase (called "Manufactured Home").

CREDITOR: GREENPOINT CREDIT, LLC

PROMISE TO PAY: I promise to pay you at such address as you may direct the Unpaid Balance shown on page 2 of this Contract (Item 5) with interest at the initial rate of 10.00 % per year. The interest rate I will pay will change in accordance with the provisions of this Contract. I will pay this amount in installments as shown in the payment schedule, or as required due to changes in the interest rate, until the Unpaid Balance is fully paid. If, on 01/22/30, I still owe any amount on this Contract, I will pay such amount in full on that date, which is called the "Maturity Date." Each monthly payment will be applied as of its scheduled due date. If no interest rate is disclosed above, the initial interest rate is the Annual Percentage Rate shown below.

INTEREST RATE: My initial interest rate may not be based on the index used to make later adjustments. My interest rate will change 11 months after my first payment is due and every 12 months thereafter based on movements in the average of interbank offered rates for one year U.S. dollar denominated deposits in the London market based upon the quotation of major banks as published in the "Money Rates" section of The Wall Street Journal on the first publication day of each month and known as the London Interbank Offered Rates (LIBOR), which is the index rate. This is called my "interest rate change date." My interest rate cannot increase or decrease by more than 2.00 % at any interest rate change or by more than 5.00 % over the term of the Contract. The interest rate will equal the index rate in effect 45 days before the interest rate change date plus a margin of 5.50 % (rounded to the NEAREST 1/8 of one percentage point) unless the interest rate caps limit the amount of change in the interest rate. If this index rate is no longer available, you may choose a new index that is based upon comparable information.

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments	Total Sale Price
The cost of my credit as a yearly rate (which is subject to change): <u>12.26 %</u>	The dollar amount the credit will cost me (which is subject to change): <u>\$ 221,002.28</u>	The amount of credit provided to me or on my behalf: <u>\$ 78,229.00</u>	The amount I will have paid after I have made all payments as scheduled (based on the current Annual Percentage Rate which is subject to change): <u>\$ 299,231.28</u>	The total cost of my purchase on credit (which is subject to change) including my down payment of: <u>\$ 4,118.00</u> <u>\$ 303,349.28</u>

See Contract terms for additional information about nonpayment, default, required repayment in full before the scheduled date, and prepayment refunds and penalties.

Prepayment: If I pay off early, I will not have to pay a penalty, but I will not be entitled to a refund of the Prepaid Finance Charge, if any.

Month	Amount	Payment
12	\$ 713.98	Monthly, beginning FEBRUARY 22, 2004
348	\$ 835.24	Monthly, beginning FEBRUARY 22, 2004
	\$ _____	Monthly, beginning _____
	\$ _____	Monthly, beginning _____

Security: I give you a security interest in the goods or property being purchased.

Late Charge: If a payment is more than 15 days late, I will be charged 5 % of the unpaid amount of such payment, not to exceed \$ 5.00.

Variable Rate: My Contract contains a variable rate feature. Disclosures about the variable rate feature have been provided to me earlier.

Assumption: Someone buying my Manufactured Home may, under certain circumstances, be allowed to assume the remainder of the Contract on the original terms.



**Description of Manufactured Home:** TRADE NAME: PATM HARBOR HOMES MODEL: 464  
 YEAR: 1999 NEW: X USED: \_\_\_\_\_ LENGTH: 64 ft. WIDTH: 27  
 SERIAL NUMBERS: PH203277

ADDITIONAL PARK PACKAGE  
 ACCESSORIES \_\_\_\_\_  
 AND FURNISHINGS: \_\_\_\_\_

012000

**ITEMIZATION OF AMOUNT FINANCED**

- Cash Price (Including Sales Tax of \$ .00): \$ 82,325.00
- a. Cash Down Payment \$ 4,118.00
- b. Trade-In (Year, Make, Model):  
 Length \_\_\_\_\_ Width \_\_\_\_\_  
 Gross Value \$ \_\_\_\_\_ Liens \$ \_\_\_\_\_ .00  
 (Seller to pay off)  
 Net Trade-In Value \$ \_\_\_\_\_ .00
- Total Down Payment \$ 4,118.00
- Unpaid Balance of Cash Price (1 minus 2) \$ 78,207.00
- Amounts paid to others on my behalf:
  - To Insurance Companies:
    - (1) Property Insurance \$ \_\_\_\_\_ .00
    - (2) Credit Life Insurance \$ \_\_\_\_\_ .00
  - To Public Officials:
    - (1) Certificate of Title \$ \_\_\_\_\_ 22.00
    - (2) \_\_\_\_\_ \$ \_\_\_\_\_ .00
  - To Creditor:
 For: ORIG FEES \$ 3,129.16
  - To: \_\_\_\_\_  
 For: \_\_\_\_\_ \$ \_\_\_\_\_ .00
  - To: \_\_\_\_\_  
 For: \_\_\_\_\_ \$ \_\_\_\_\_ .00
- Total (a + b + c + d + e + f + g + h) \$ 3,151.16
- Unpaid Balance (3 plus 4) \$ 81,358.16
- Prepaid Finance Charge \$ 3,129.16
- Amount Financed (5 minus 6) \$ 78,229.00

**INSURANCE**

**PROPERTY INSURANCE:** Property Insurance on Manufactured Home is required for the term of Contract. I have the right to choose the person through whom it is obtained. By marking the appropriate below, I elect to buy the coverage indicated from for the term and premium shown, and I want it financed on this Contract.

Type of Insurance	Term	Premium
Physical Damage Coverage	OMOS	\$ _____ .00
BROAD FORM		\$ _____
		\$ _____

**LIABILITY INSURANCE COVERAGE FOR BOD INJURY AND PROPERTY DAMAGE CAUSED OTHERS IS NOT INCLUDED UNLESS INDICATED THE PROPERTY INSURANCE SECTION ABOVE.**

**CREDIT LIFE INSURANCE:** Credit Life Insurance not required for this Contract or a factor in its approval. If I elect Credit Life Insurance, the name(s) of proposed insured(s) are:  
 Proposed Insured \_\_\_\_\_  
 Proposed Insured \_\_\_\_\_  
 (Only spouse can be insured jointly.)

This insurance may not pay off all of my debt, and exact amount of coverage is shown on my policy certificate. My signature indicates my election to obtain Credit Life Insurance coverage for the term premium shown:

Type of Coverage	Term	Premium
Single		\$ _____
Joint		\$ _____

\_\_\_\_\_  
 (signature) Date \_\_\_\_\_

\_\_\_\_\_  
 (signature) Date \_\_\_\_\_

\*I understand and agree that a portion of certain of these amounts

ADDITIONAL TERMS AND CONDITIONS

VARIABLE RATE: A Z P C

- a. **Monthly Payment Changes.** My monthly payment amount will change each time my interest rate is adjusted. I will pay amount of the new monthly payment beginning the first monthly payment at the interest rate change date. The monthly payment amount would fully amortize the remaining unpaid balance I am expected to owe on the interest rate change date at the adjusted interest rate in equal monthly payments over the remaining Term of this Agreement.
- b. **Notice of Interest Rate and Monthly Payment Changes.** You will send me notice of an adjustment in the interest rate monthly payment at least 25 days before the adjustment. This notice will contain information about the index rate, interest rate, payment amount and remaining unpaid balance.
- c. **Conversion to Fixed Rate.** I may choose to convert this Contract to a fixed rate Contract at any time beginning ZERO years from the date of this Contract and ending 30 years from the date of this Contract. In order to convert to a fixed rate, I must not be in default under the terms of this Contract, I must notify you in writing of my desire to convert to a fixed rate, I must execute a revision agreement and I must pay a nonrefundable conversion fee. The new fixed interest rate will be your standard fixed interest rate for a comparable Contract on the date that you receive my written notification. The new fixed rate will take effect on the "Conversion Date," which shall be my next payment due date that is at least 30 days after your timely receipt of a revision agreement signed by all Borrowers together with a nonrefundable conversion fee of \$ 200.00. The new fixed rate and the Conversion Date are subject to change if my revision agreement and fees are received after the date specified in the revision agreement. My new payment amount will be effective with the first payment following the Conversion Date.

**SECURITY INTEREST:** I grant you a security interest under the Uniform Commercial Code in (1) the Manufactured Home and all goods that are or may hereafter by operation of law become accessions to it, (2) all appliances, machinery, equipment and other goods furnished with the Manufactured Home (whether or not installed or affixed to it) including but not limited to the items listed as "Additional Accessories and Furnishings" on page 1 of this Contract, (3) any refunds of unearned insurance premiums financed in this Contract, (4) any substitutions or replacements of the foregoing, and (5) all proceeds of such Manufactured Home and accessions, and of any Additional Accessories and Furnishings. This security interest secures my performance of my obligations under this Contract, including any additional debt arising because of my failure to perform my obligations under this Contract and includes any contractual extensions, renewals or modifications. My execution of this Contract constitutes a waiver of my personal property and homestead exemption rights to the personal property herein described. I will sign and deliver to you whatever financing statements and other documents you deem necessary to allow you to perfect your security interest in any personal property and fixtures. I agree that you may file this security instrument or a reproduction thereof in the real estate records or other appropriate index as a financing statement for any of the items specified above. Any reproduction of this security instrument or any other security agreement or financing statement, and any extensions, renewals or amendments thereof, shall be sufficient to perfect a security interest with respect to such items.

**PREPAYMENT:** I MAY PREPAY THIS CONTRACT IN FULL OR IN PART AT ANY TIME WITHOUT PENALTY, BUT I WILL NOT BE ENTITLED TO A REFUND OF THE PREPAID FINANCE CHARGE, IF ANY. IF I MAKE A PARTIAL PREPAYMENT THERE WILL BE NO CHANGE IN THE DUE DATES OR AMOUNTS OF MY MONTHLY PAYMENTS, UNLESS YOU AGREE IN WRITING TO THOSE CHANGES.

**PROPERTY INSURANCE:**

- a. **Minimum Coverage.** I am required to provide physical damage insurance coverage protecting the Manufactured Home for the term of this Contract against loss by fire, hazards included within the term "extended coverage" and any other hazards including flood, for which you require insurance, in an amount equal to the lesser of the actual cash value of the Manufactured Home or the remaining unpaid balance I owe from time to time on this Contract (the "Minimum Coverage"). The insurance policy will contain a loss payable clause protecting you (as your interest may appear), and provide 10-day notice of cancellation to you. Unless you consent in writing, I shall not add any additional loss payee to the insurance policy. I have the right to choose the person through whom the property insurance policy is obtained. If my insurance coverage expires or is cancelled prior to payment in full of this Contract, I must obtain no less than the Minimum Coverage at my expense for the remaining term of this Contract. Should I fail to maintain the Minimum Coverage, you may, but are not obligated to, obtain insurance coverage. I agree that any insurance you purchase may be for the protection of only my interest in the Manufactured Home, may not fully protect me in the event of a loss, and may be for such reasonable period as you determine. If you decide, in your sole discretion, to obtain insurance, you will notify me of that fact and that the cost of such insurance at the Contract rate, will be added to my debt. I will repay such amount during the term of the policy in the manner requested by you. I understand that the insurance premiums may be higher if you must purchase the insurance than might be the case if I had purchased the insurance, and that you may purchase the insurance from an affiliated company which

**b. Assignment and Application of Insurance Proceeds.** I hereby grant and assign to you the proceeds of any ar insurance coverage on the Manufactured Home, including any optional coverage, such as earthquake insurance, whi type or amount is beyond the Minimum Coverage. In the event of a loss to the Manufactured Home, I shall give prompt r to you and the insurance carrier. If I fail to promptly notify or make proof of loss to the insurance carrier, you may do so c behalf. All physical damage insurance proceeds, including proceeds from optional coverage, shall be applied to restorati repair of the Manufactured Home, unless you and I agree otherwise in writing or unless such restoration or repair I economically practical or feasible, or your security interest would be lessened. If such restoration or repair is not practic feasible, or your security interest would be lessened, you shall apply the insurance proceeds to the remaining unpaid bal of this Contract, whether or not then due, and give me any excess. I authorize any insurer to pay you directly. I he appoint you as my limited attorney-in-fact to sign my name to any check, draft, or other document necessary to obtain insurance payments.

**LATE CHARGE:** I agree to pay a late charge for late payment as set forth on the front of this Contract. Only one late charg be made on any delinquent installment regardless of the period for which that installment remains in default. After this Cor matures, whether by acceleration or otherwise, I will not be charged a late charge.

**RETURNED CHECK CHARGES:** I will pay you a reasonable handling and collection fee if any check given to you is honored because of insufficient funds or because no such account exists.

**EVENTS OF DEFAULT:** I will be in default under this Contract if: (a) I fail to make any payment when due; (b) I fail to ti make rental payments, or to pay other charges and assessments, relating to the real property and/or facility on which Manufactured Home is located; (c) I violate restrictive covenants, rules or regulations relating to the real property and/or fe where the Manufactured Home is located; (d) I fail to keep the Manufactured Home in good repair and condition, as you reasonably determine; (e) I remove the Manufactured Home from the address shown on this Contract unless I notify y advance and receive your written consent; (f) I sell or attempt to sell or to transfer any beneficial interest in the Manufact Home without first obtaining your written consent; (g) I allow the Manufactured Home to become part of any real estate wi first obtaining your written consent; (h) I encumber or abandon the Manufactured Home or use it for hire or illegally; (i) I f promptly pay any taxes and other liens and encumbrances on the Manufactured Home or on the real property on which located, if this is my responsibility; and/or (j) I fail to do anything else which I have promised to do under this Contract.

**NOTICE OF DEFAULT:** If any of the above specified Events of Default have occurred, you may do whatever is necessa correct my default. You will, except as set forth below, first give me a Notice of Default and Right to Cure Default before accelerate payment of the remaining unpaid balance I owe you or repossess or foreclose on any property which secures Contract. The Notice will tell me what my default is and how I can cure it. Except as required by applicable law, you are required to send me this Notice when (1) you have already sent a Notice twice within the preceding one-year period, (2) I abandoned or voluntarily surrendered the Manufactured Home, or (3) other extreme circumstances exist.

**REMEDIES UPON DEFAULT:** If I do not cure the default, you may do either or both of the following at the end of the n period, as allowed by applicable law: (a) you can require me to immediately pay you the entire remaining unpaid balance under this Contract plus accrued interest or (b) you can repossess the Manufactured Home pursuant to the security inter give you under this Contract. If you are not required to send me the Notice of Default and Right to Cure Default, you will I these rights immediately upon my default. Once you get possession of the Manufactured Home you will sell it. If the amount the sale, after expenses, is less than what I owe you, I will pay you the difference except as otherwise provided by law remedies are cumulative and you may enforce them separately or together in any order you deem necessary to protect security.

**ARBITRATION OF DISPUTES AND WAIVER OF JURY TRIAL:**

**a. Dispute Resolution.** Any controversy or claim between or among you and me or our assignees arising out of or relatir this Contract or any agreements or instruments relating to or delivered in connection with this Contract, including any c based on or arising from an alleged tort, shall, if requested by either you or me, be determined by arbitration, referenc trial by a judge as provided below. A controversy involving only a single claimant, or claimants who are related or asse claims arising from a single transaction, shall be determined by arbitration as described below. Any other controversy sha determined by judicial reference of the controversy to a referee appointed by the court or, if the court where the contro is venued lacks the power to appoint a referee, by trial by a judge without a jury, as described below. **YOU AND I AGI AND UNDERSTAND THAT WE ARE GIVING UP THE RIGHT TO TRIAL BY JURY, AND THERE SHALL BE NO JI WHETHER THE CONTROVERSY OR CLAIM IS DECIDED BY ARBITRATION, BY JUDICIAL REFERENCE, OR TRIAL BY A JUDGE.**

law provision in this Contract. The Commercial Rules of the American Arbitration Association ("AAA") also shall apply. The arbitrator(s) shall follow the law and shall give effect to statutes of limitation in determining any claim. Any contro concerning whether an issue is arbitrable shall be determined by the arbitrator(s). The award of the arbitrator(s) shall writing and include a statement of reasons for the award. The award shall be final. Judgment upon the award may be er in any court having jurisdiction, and no challenge to entry of judgment upon the award shall be entertained exce provided by Section 10 of the United States Arbitration Act or upon a finding of manifest injustice.

- c. **Judicial Reference or Trial by a Judge.** If requested by either you or me, any controversy or claim under subparagraph that is not submitted to arbitration as provided in subparagraph (b) shall be determined by reference to a referee appc by the court who, sitting alone and without jury, shall decide all questions of law and fact. You and I shall designate t court a referee selected under the auspices of the AAA in the same manner as arbitrators are selected in AAA-spon proceedings. The referee shall be an active attorney or retired judge. If the court where the controversy is venued lack power to appoint a referee, the controversy instead shall be decided by trial by a judge without a jury.
- d. **Self-Help, Foreclosure, and Provisional Remedies.** The provisions of this paragraph shall not limit any rights that yo may have to exercise self-help remedies such as set-off or repossession, to foreclose by power of sale or judicially egal sell any collateral or security, or to obtain any provisional or ancillary remedies from a court of competent jurisdiction be after or during the pendency of any arbitration under subparagraph (b) above. Neither the obtaining nor the exercise o such remedy shall serve as a waiver of the right of either you or me to demand that the related or any other dispu controversy be determined by arbitration as provided above.

**ATTORNEY FEES:** If I prevail in any legal action or arbitration proceeding which is commenced in connection with enforcement of this Contract or any instrument or agreement required under this Contract, or in connection with any dis relating to this Contract, you will pay my reasonable attorney fees, court costs and necessary disbursements incurr connection with such action or proceeding, as determined by the court, the referee, or the arbitrator(s) in accordance wit law. If you prevail in any such action or proceeding, or in the exercise of any self-help remedy as described above, I will pay reasonable fees imposed on you by an attorney who is not your salaried employee, together with court costs and neces disbursements to the full extent permitted by law.

**OTHER TERMS AND CONDITIONS:** I agree; (a) to pay with my monthly installments, if requested by you to do so estimated amount necessary to pay yearly taxes, assessments and insurance premiums that will become due within next twelve-month period; (b) to pay you a transfer fee if I sell the Manufactured Home, unless such fee is prohibited by law to pay interest at the Contract rate on the remaining unpaid balance plus accrued interest, from the date of maturity until pe full; (d) to reimburse you, immediately upon your demand, with interest at the Contract rate, the amount of funds you ad advance on my behalf to correct my default; and (e) that if I am married, and residing in a community property state, bot community property and separate property will be liable for all payments due under this Contract.

**ASSIGNMENT:** You may assign this Contract to any person or entity. All rights granted to you under this Contract shall app any assignee of this Contract.

**CREDIT INFORMATION:** You may investigate my credit history and credit capacity in connection with opening and colle my account and share information about me and my account with credit reporting agencies. You may sell or otherwise fu information about me, including insurance information, to all others who may lawfully receive such information. You may fu specific information about the Manufactured Home and any insurance policies on the Manufactured Home to any insur agent to enable such agent to quote premiums to me and solicit my insurance business.

**WAIVER:** Waiver of any default shall not constitute a waiver of any other default. No term of this Contract shall be chal unless in writing and signed by one of your officers. This Contract is the entire agreement between us and I agree that no or implied representations have been made to induce me to enter into this Contract.

**VALIDITY:** Wherever possible each provision of this Contract shall be interpreted in such manner as to be effective and under applicable law, but if any provision of this Contract shall be prohibited by or invalid under applicable law, such prov shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision o remaining provisions of this Contract. This Contract shall be of no effect until and unless signed by me and you. In no event any charge under this Contract exceed the highest amount allowed by applicable law. If any excess charge is received, excess shall be refunded or applied to the amount due.

**GOVERNING LAW:** Each provision of this Contract shall be construed in accordance with and governed by the laws of the s

**NOTICE**  
ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

YOU AND I HAVE READ AND FULLY UNDERSTAND THIS CONTRACT, INCLUDING THE PARAGRAPH CALLING RESOLVING DISPUTES BY ARBITRATION, REFERENCE, OR TRIAL BY A JUDGE, AND NOT BY JURY TRIAL, AGREE THAT THIS CONTRACT SETS FORTH OUR ENTIRE AGREEMENT AND THAT NO OTHER PROMISES HAVE BEEN MADE.

**NOTICE TO THE BUYER:**

1. DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT OR IF IT CONTAINS ANY BLANK SPACE, EXCEPT THE DELIVERY OF THE MANUFACTURED HOME IS TO BE MADE TO YOU AFTER THE CONTRACT IS SIGNED, THE SERIAL NUMBER OR OTHER IDENTIFYING INFORMATION AND THE DUE DATE OF THE FIRST INSTALLMENT MAY BE FILL IN AT THE TIME OF DELIVERY. 2. YOU ARE ENTITLED TO A COPY OF THIS CONTRACT. 3. YOU HAVE THE RIGHT TO PAY OFF IN ADVANCE THE FULL AMOUNT DUE AND IF YOU DO SO YOU MAY SAVE A PORTION OF THE FINANCIAL CHARGE.

**NOTICE:** The Seller intends to sell this Contract to GreenPoint Credit Corp., P.O. Box 1310, Vancouver, Washington 98666 which, if it buys the Contract becomes the owner of the Contract and your creditor. After the sale of this Contract, all questions concerning terms of the Contract or payments should be directed to the Buyer of the Contract at the address indicated above.

**ACCEPTED:** The foregoing Contract is hereby assigned under the terms of the Assignment below.

**SELLER:** PALM HARBOR VILLAGE  
**SELLER'S ADDRESS:** 2891 NEWBURY HIGHWAY  
WOODBURN, OR 970710000  
**SELLER'S SIGNATURE:** [Signature]  
**SELLER'S TITLE:** GIM

I AGREE TO ALL THE TERMS ON ALL PAGES OF THIS RETAIL INSTALLMENT CONTRACT AND ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THIS RETAIL INSTALLMENT CONTRACT.

**BUYER(S) SIGNATURE(S):**  
X [Signature]  
HAK SOK  
X [Signature]  
CHREA PHAROEUTH

**DATE OF THIS CONTRACT:** 1/20/2000

**ASSIGNMENT BY SELLER**

**TO CREDITOR INDICATED ON PAGE 1 ("Creditor")**

With respect to this retail installment contract ("Contract") signed by one or more buyers ("Buyer"), SELLER represents and warrants that: (1) Buyer's credit statement submitted herewith is completely accurate unless otherwise specified; (2) Seller was legally competent to contract at the time of Buyer's execution of this Contract; (3) this Contract arose from the bona fide sale of the merchandise described in this Contract; (4) the down payment was made by Buyer in cash unless otherwise specified and no part thereof was loaned directly or indirectly by Seller to Buyer; (5) any trade-in, or other consideration, received as part of the down payment is accurately described on page 2 and has been valued at its bona fide value, and any amount due on such trade-in or other property is accurately described on page 2 and has been paid off by Seller prior to or contemporaneously with the assignment of this Contract to Creditor; (6) there is now owing on this Contract the amount set forth herein; (7) this Contract and any guaranty submitted in connection herewith is in all respects legally enforceable against the purported signatory thereof; (8) Seller has the right to assign this Contract and thereby to convey good title to it; (9) in the event of any claim or defense asserted by any Buyer, or any heir or assignee of Buyer, with respect to the Manufactured Home or other property or consideration transferred pursuant to this retail installment contract, Seller agrees that it will indemnify and hold Creditor harmless from all claims, damages, and expenses of the Creditor in connection with the enforcement of this Contract.

For value received, Seller hereby assigns to Creditor all its rights, title and interest in this Contract and the property which is the subject matter hereof and authorizes Creditor to do everything necessary to collect and discharge same. A copy of any existing written agreements between Seller and Creditor governing the purchase of Contracts are made a part hereof by reference, it being understood that Creditor relies upon the above warranties and upon said agreements in purchasing the same.

7600 NE 41st Street  
Suite 201  
Vancouver, WA 98662  
Tel. (360) 253-4343

Date 1-31-00

Hal Sub  
Chhea Phacoeuth



Re: Account # \_\_\_\_\_

Dear Hal & Chhea

During an internal review of our files, we discovered that we failed to disclose or inaccurately disclose the items listed below on your contract. To correct the error(s), we are making the following disclosures as they are applicable for your contract.

**Failure to Disclose**

The \_\_\_\_\_ was not disclosed to you. It should have been disclosed as \_\_\_\_\_.

The \_\_\_\_\_ was not disclosed to you. It should have been disclosed as \_\_\_\_\_.

The \_\_\_\_\_ was not disclosed to you. It should have been Disclosed as \_\_\_\_\_.

**Inaccurate Disclosure**

The Payment Dates were ~~\_\_\_\_\_~~ was incorrectly disclosed to you as 2-22-00/2-22-01.  
It should have been disclosed as 3-1-00 / 3-1-01.

The Maturity Date was incorrectly disclosed to you as 1-22-30.  
It should have been disclosed as 2-1-30.

The Year was incorrectly disclosed to you as 2000.  
It should have been disclosed as 1999.

Should you have any questions please contact us at the telephone number listed below.

Sincerely,

John Jenkins  
GreenPoint Credit  
1-800-421-4990

SEP. 29. 2004 9:42AM

GREENPOINT

NO. 401

P.

10

# OREGON VEHICLE CERTIFICATE OF TITLE

OREGON DRIVER AND MOTOR VEHICLE SERVICES CERTIFIES THE PARTY IS LISTED AS OWNER OF THE DESCRIBED VEHICLE. DOCUMENTS FILED WITH DMV SHOW THE VEHICLE IS SUBJECT TO THE OWNERSHIP INTERESTS SPECIFIED.

CONTROL NUMBER  
**9788899**

PLATE NUMBER <b>X252130</b>	TITLE NUMBER <b>0004790345</b>	PROCESS DATE <b>021600</b>	SURVIVOR <b>Y/N</b>	REFERENCE NUMBER
--------------------------------	-----------------------------------	-------------------------------	------------------------	------------------

YEAR <b>1999</b>	MAKE <b>PALMH</b>	STYLE <b>2U</b>	MODEL	VEHICLE IDENTIFICATION NUMBER <b>PH203277A</b>	EQUIPMENT NO.
---------------------	----------------------	--------------------	-------	---	---------------

OWNER/LESSEE  
**MANUFACTURED STRUCTURE  
MANUFACTURED DWELLING**

**41307458**

**SOK, HAK  
CHHEA, PHARDEUTH  
2552 THORN OAK DR UNIT 44  
MEDFORD OR 97501**

ODOMETER READING

ODOMETER DATE

ODOMETER MESSAGE

TITLE BRANDS

If a "brand" appears in this box, it indicates this vehicle was previously damaged, or otherwise "reconstructed" or rebuilt. If a state is listed, the damage occurred prior to issuance of an Oregon title.

USE THIS SECTION WHEN THE ONLY CHANGE IS TO REMOVE A SECURITY INTEREST. FOR ANY OTHER CHANGES, SEE INSTRUCTIONS ON REVERSE.

If there is no change in owners as shown above AND all security interest holders have released interest, one registered owner must sign and date here, if not completing a separate application for title. In addition, if your address has changed, cross out the old address and write the new address and county of residence on the front of the title. Mail the title and the fee to: DMV, 1905 Lana Ave NE, Salem, OR 97314.

SIGNATURE (DOES NOT RELEASE INTEREST) DATE

X

To release interest in the vehicle, complete the first reassignment on back of the title.

SECURITY INTEREST HOLDER/LESSOR

**GREENPOINT CREDIT LLC  
7600 NE 41ST ST #201  
PO BOX 1310  
VANCOUVER WA 98666**

WA

SIGNATURE AND COUNTERSIGNATURE OF SECURITY INTEREST HOLDER OR LESSOR RELEASING ALL INTEREST

DATE

SIGNATURE AND COUNTERSIGNATURE OF SECURITY INTEREST HOLDER OR LESSOR RELEASING ALL INTEREST

DATE

Oregon law requires that an application for transfer of title be made to DMV within 90 days after you buy a vehicle. Failure to do so within 90 days may result in a late title transfer fee of up to \$50. SEE REVERSE OF TITLE FOR APPLICATION INSTRUCTIONS.

THIS TITLE IS THE OWNERSHIP DOCUMENT FOR YOUR VEHICLE. KEEP IT IN A SAFE PLACE. DO NOT LEND IT TO ANYONE ELSE. ANY ASSIGNMENT OR REASSIGNMENT OF THIS TITLE IS VOID.

735-410 (11-99)

**X252130 PH203277A**

**0004790345**

**X**

**\$212 070 11 VW T2 03 S7 M6 P5 E0 M0 15 15**



**Unsworn Affidavit of Service**

**STATE OF MINNESOTA )**  
**) ss.**  
**COUNTY OF HENNEPIN )**

I, Jacquelyn J. LaVaque, declare under penalty of perjury that on October 12, 2004, I mailed copies of the attached **Notice of Hearing and Motion for Relief From Stay, Memorandum of Law in Support of Motion, and proposed Order** by first class mail, postage prepaid, to each entity named below at the address stated below for each entity:

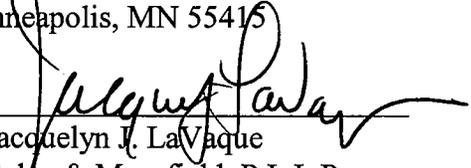
Hak Sok  
Pharo euth Chhea  
411 37<sup>th</sup> Avenue N.  
Minneapolis, MN 55412

David E. Flowers, Esq.  
413 Wacouta Street Suite 550  
St. Paul, MN 55101

Randall L. Seaver  
12400 Portland Avenue S. Suite 132  
Burnsville, MN 55337

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

Executed on: October 12, 2004

Signed:   
Jacquelyn J. LaVaque  
Foley & Mansfield, P.L.L.P.  
250 Marquette Avenue  
Suite 1200  
Minneapolis, MN 55401

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:

Chapter 7  
Case No. 04-44743 RJK

Hak Sok and  
Pharo euth Chhea,

Debtors.

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ORDER FOR RELIEF  
FROM STAY

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The above-entitled matter came before the Court for hearing on the motion of GreenPoint Credit LLC, ("Movant") seeking relief from the automatic stay of 11 U.S.C. 362(a) of the Bankruptcy Code. Appearances were noted in the Court's record. Based upon the proceedings had on said date, the statements of counsel, and all of the files and records herein, the Court now finds that cause exists entitling Movant to the relief requested.

NOW, THEREFORE, IT IS HEREBY ORDERED that the automatic stay of 11 U.S.C. 362(a) of the Bankruptcy Code is immediately terminated as to Movant, and Movant is [authorized to enforce its security interest as provided by contract and state law in the subject:](#)

1999 Palm Harbor Homes Model 464 Manufactured Home, S/N PH203277A

Notwithstanding Fed. R. Bankr. 4001(a)(3), this order is effective immediately.

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

\_\_\_\_\_  
Robert J. Kressel  
United States Bankruptcy Judge