

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:	BKY 03-35957 DDO	Ch. 13
Cherry Lee Hyde,	NOTICE OF HEARING	
Debtor.	AND MOTION FOR RELIEF	
	FROM THE AUTOMATIC STAY	

TO: Parties in interest pursuant to LOCAL RULE 9013-3.

1. U.S. Bank National Association ND (the "Bank"), by and through its undersigned counsel, moves the court for the relief requested below and gives notice of hearing.

2. A hearing on this motion will be held before the Honorable **Dennis D. O'Brien**, Courtroom 228A, U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota, at **9:30 a.m.** on **September 1, 2004**, or as soon thereafter as counsel may be heard.

3. Any response to this motion must be filed and delivered not later than August 25, 2004, which is seven days before the time set for hearing (including Saturdays, Sundays, and holidays), or filed and served by mail not later than August 22, 2004, which is ten days before the hearing date (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 court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, FED. R. BANKR. P. 5005, and LOCAL RULE 1070-1. The proceeding is a core proceeding. The petition commencing this chapter 13 case was filed on August 29, 2003. The case is now pending in this court.

5. This motion arises under 11 U.S.C. § 362 and FED. R. BANKR. P. 4001. This motion is filed under FED. R. BANKR. P. 9014 and LOCAL RULES 9006-1 and 9013-1 to 9013-3. Movant requests relief from the automatic stay.

6. The Debtor is indebted to the Bank pursuant to a promissory note and mortgage, each dated January 31, 2001, true and correct copies of which are attached as Exhibits A & B, respectively. Pursuant to the loan documents, the Bank holds a mortgage lien on the Debtor's real property at 729 - 20th Avenue North, So. St. Paul, Minnesota.

7. The subject property is legally described as follows:

Lot 22 except South 20 feet and South 30 feet of Lot 23, Block 3, South Park Division No. 5, Dakota County, Minnesota.

8. At all times material, the Debtor has been in default of the payments and performance obligation due to the Bank. As of the date of this motion, *the Debtor is delinquent in the making of post-petition payments due April 25, 2004 (partial) and each month thereafter in the amount of \$1,092.12. A further payment of \$363.03 will come due on August 25, 2004.*

9. If testimony is necessary as to any facts relevant to this motion, Loren Madson, a Real Estate Officer with the Bank, may be called to testify.

WHEREFORE, the Bank moves the Court for an order terminating the automatic stay with respect to the Bank's interest in the above-described real property, and for such other relief as may be just and equitable.

Dated: July 30, 2004

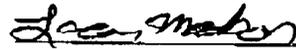
STEIN & MOORE, P.A.

/e/ Eric J. Sherburne
Eric J. Sherburne, #279389
Attorneys for Movant
332 Minnesota St., Suite W-1650
St. Paul, MN 55101
651-224-9683
651-223-5212 fax

VERIFICATION

I, Loren Madson, a Real Estate Officer with U.S. Bank National Association ND, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: July 30, 2004


Loren Madson

1810-1543



CONSUMER INSTALLMENT NOTE

66200111976980001

Creditor Name U.S. BANK NATIONAL ASSOCIATION ND
Address 4325 - 17TH AVENUE SW
PARCO, ND 58103

Note Date January 31, 2001

8600

Borrower(s) CHERRY L. HYDE 587-32-1752

THIS IS A CONSUMER CREDIT TRANSACTION

The words "I", "ME" and "MY" refer to each borrower who signs below. The words "YOU" and "YOUR" refer to the Creditor. This is the agreement that governs my loan with you. I understand that each borrower who signs it is legally responsible for repaying the entire loan.

PROMISE TO PAY. To repay my loan, I promise to pay you Twenty Five Thousand Nine Hundred Twenty Eight AND 84/100 dollars. (\$25,928.84) [the principal] plus interest on the principal at the rate shown below, credit insurance charges disclosed below, if any, and Late Charges and other charges disclosed below.

Table with 4 columns: ANNUAL PERCENTAGE RATE (11.47%), FINANCE CHARGE (\$17,634.76), Amount Financed (\$25,928.84), Total of Payments (\$43,563.60)

PAYMENT SCHEDULE table with columns: Number of Payments (120), Amount of Payments (\$363.03), When payments are due (MONTHLY beginning 02/25/01)

DEMAND FEATURE: This loan has a demand feature. VARIABLE RATE: Primary dwelling secured; term > 1 year My loan has a variable rate feature. SECURITY: I am giving you a security interest in the property being purchased.



COLORADO BORROWERS: Balloon Payment Disclosure (Scheduled payment more than twice as large as the average of all other payments). Check if applicable (not applicable if loan is primarily secured by an interest in land used for residential purposes).

You and I agree that each provision on any page of this note for which a box is checked is part of this note.

LATE PAYMENT. I understand I may be charged a fee for late payment as described on the first page of this note, except as prohibited by law. I agree that if my payment coupon or statement shows a payment due date that is a Saturday, Sunday, or holiday, I will get my payment to you by 12:00 noon of the previous business day.

PREPAYMENT. If I prepay this loan in full at any time, I agree to pay at least the minimum finance charge referred to above. Also, if this loan is secured by a mortgage or deed of trust, I will pay a \$250 prepayment fee if I prepay this loan in full within 24 months after the Note Date.

CREDIT INSURANCE REFUNDS. If credit insurance is cancelled for any reason, the amount of the premium refund will be calculated as directed by the insurance company. All premium refunds will be applied to the loan if any balance is outstanding. But, applying a premium refund to my loan will not cure any default.

NEGATIVE AMORTIZATION-VARIABLE RATE LOAN. Following an interest rate increase, my regular payment amount could be less than the amount of the interest I owed for the first full payment period following the interest rate change. If so, you have the option of (1) subtracting the amount of my regular payment from the interest I owe and adding the difference to my unpaid principal balance for each payment period that the interest owing exceeds my regular payment amount, which may cause a larger final payment; or (2) increasing the amount of my regular payment to an amount adequate to fully amortize the outstanding principal balance of the loan over the remaining term of my loan. If you decide to change the amount of my payment, you will give me at least 30 days written notification of the effective date of the change and the new payment amount.

ABILITY TO PAY. I will not intentionally do anything or allow anything to happen that materially reduces my ability to pay this note when due. Such events may include, among other things, that I (Nevada and Wisconsin only - my spouse) or any co-maker or guarantor of this note, die, (Nevada and Wisconsin only - change marital status or domicile), or become unemployed or insolvent.

DEFAULT
Unless I live in a state where a provision is excluded in the chart below, I will be in default if any one or more of the following events occur:

Default Provision:	Default Provision:
1. I fail to make a payment within 10 days of the time required by the agreement.	All States but WI.
2. Either (i) the interval between scheduled payments is 2 months or less, and I have outstanding an amount exceeding one full payment which has remained unpaid for more than 10 days after the due date or I fail to pay the first or last payment within 40 days after the due date; or (ii) the interval between scheduled payments is more than 2 months, and I have all or any part of one scheduled payment which has remained unpaid for more than 60 days after its due date; or (iii) there is only one scheduled payment, and I fail to pay all or any part of the payment within 40 days after its due date.	WI only.
3. I fail to observe or perform any covenant of this agreement, if the failure materially impairs the condition, value or protection of, or your rights in any collateral securing this agreement, or materially impairs my ability to pay amounts due under this agreement.	All States.
4. The prospect of payment, performance or realization of collateral is significantly impaired.	All States but IA and WI.
5. I die, I become insolvent or I fail to provide an annual financial statement if requested.	All States but IA, ID, KS and WI.

REMEDIES. If I am in default, you will give me notice of my right to cure the default if required by law. If no notice is required by law, or if I do not cure the default within the time stated in the notice, you may: (a) declare the entire balance of this note immediately due and payable without demand or notice to me; (b) require additional security or other additional parties as guarantors or co-obligors as a condition of waiving any other remedy you may have under law or this note; (c) exercise any legal remedy available to you. I also agree to pay any attorneys' fees, legal expenses, and costs of enforcing this note except as prohibited or limited by law.

I understand that if you choose to pursue one or more of these remedies you are not waiving your right to choose later any other remedy until this note is paid in full. You can delay enforcing your rights under this note without losing them and you'll still be able to recover all amounts I owe you.

RECONVEYANCE FEE. (If note is secured by a deed of trust) I agree to pay a reconveyance document fee of \$ 0.00 when the deed of trust property is reconveyed from the deed of trust after this note is paid in full. I also agree to pay whatever filing fee a county recorder or other official charges to record the reconveyance documents. The current estimate of that filing fee is \$ 0.00.

TRANSFER OF REAL PROPERTY COLLATERAL. (If note is secured by a mortgage or deed of trust.) I understand that the deed of trust or mortgage that secures my obligations under this note contains a provision that permits you, the Bank, to require me to pay all amounts owing under this note if any part of the Property (collateral) is sold or transferred. In California, the provision reads like this in Paragraph 3(f): "Beneficiary (the Bank) may, if permitted by law, require Trustor (you) immediately to pay Beneficiary all that is owing under the promissory note or Agreement described in 1 (this Note or Account) if any of the Property, or an interest in the Property, is sold or transferred."

DEPOSIT ACCOUNT SECURITY INTEREST. Unless it is prohibited by law or would make a nontaxable account taxable, I give you a security interest in any deposit account I may at any time have with you or any related bank to secure this note. If the entire balance of this loan becomes due, you may use such funds on deposit with you to pay this note and, if the deposit account is a time deposit, any early withdrawal penalty that applies. If you take any such funds or place a hold on any such funds to enforce your security interest in my deposit account(s) with you, you will give me any notice and right to cure required by law. If you give me that notice, or if no notice is required by law, I will not have a claim against you for wrongful dishonor of checks written against my account or for any other damages to me arising from your hold on, or taking of, my funds.

OTHER SECURITY. This note is also secured by collateral securing other loans I may have with you, to the extent not prohibited by law. For this note only, you waive any security interest in my principal dwelling you may have in connection with any loan to me other than this note. You also disclaim and will not enforce a security interest in my principal dwelling as security for this note, or any portion of this note, if this note is governed by the Wisconsin Consumer Act and, at the time this note is declared due and payable because of the occurrence of an event of default, the full unpaid balance (including finance charges) is less than \$1,000.

CO-BORROWERS. If I am signing this note as a co-borrower, I agree to be equally responsible with the borrower, and upon default you may sue either or both of us. You are not required to notify me that this note is unpaid. You may extend the terms of this agreement and release any security without notifying or releasing me from responsibility on this note.

WAIVER. To the extent the law permits, I waive certain rights I may have including demand, presentment, protest, notice of dishonor and notice of protest.

IMAGE PROCESSING. Any party may create an optical disk or microfilm image of this note and, as part of their normal business practice, may destroy the original after creating such an image. A reproduction of this note from such an image will for all purposes be the equivalent of the original.

GOVERNING LAW. The validity, construction and enforcement of this note are governed by the internal laws of the State of North Dakota. If I am a resident of a state where the Uniform Consumer Credit Code (UCCC), the Idaho Credit Code (ICC), or the Wisconsin Consumer Act (WCA) applies, no provision of this agreement inconsistent with the UCCC, ICC or WCA shall be valid except for any provisions relating to the charging of interest, finance charges and fees and related matters. If any provision of this note violates the law and is unenforceable, the rest of the note will remain valid. If the terms of this note and any agreement securing this note conflict, the terms of this note will control.

FINAL AGREEMENT. This agreement and any other documents evidencing or securing my loan with you constitutes a final expression of our agreement and may not be contradicted by evidence of any alleged oral agreement.

INFORMATION SHARING. You, the Bank, through your affiliates, offer your customers the full resources of your banking, insurance and investment capabilities. You share customer information within your organization so that my accounts are properly serviced and to better meet my needs. If I prefer that you not provide this information (except for information about your experiences with me) to other legal entities that are part of your corporate family, I will write you at: Customer Information (CIS), Mail Code SPPN 0803, 336 North Robert Street, St. Paul, MN 55101. You share my concerns about the privacy of my personal information and strive to maintain its confidentiality.

CREDIT BUREAU DISPUTES. If I believe you have inaccurately reported information on my credit history to a credit bureau, I will call 1-800-481-9057 or write U.S. Bank, Consumer Recovery Department, Attn.: CBR Disputes, P.O. Box 17143, Denver, CO 80217.

Variable Rate Disclosures - Wisconsin Borrowers Only

Variable Rate. If a variable rate based on an Index Rate is selected, this note permits you to increase or decrease the rate of interest from time to time. The following disclosures apply if this note is secured by a first lien real estate mortgage or equivalent security interest on a one-to-four family dwelling used as my principal place of residence. But they do not apply if the loan proceeds were used to finance or refinance the purchase of the dwelling.
Index. An increase in the Index Rate will cause a corresponding increase in the interest rate I pay.
Right to Prepay. I may prepay this note in whole or in part at any time without penalty.
Notice. Notice of any increase in the interest rate must be given to me by you.

CREDIT INSURANCE. I understand I don't have to purchase credit life insurance or disability insurance to qualify for this loan. But if I'm in good health and under 66 years of age, I may apply for insurance at the premium shown below. I want:

Single Credit Life \$ 928.84 Date 01/31/01 Signature Chang Lee Kye Birthdate 01/01/53

Joint Credit Life \$ _____ Date _____ Signature _____ Birthdate _____

Credit Disability \$ _____ Date _____ One Borrower Only _____ Birthdate _____

I do not want credit insurance. 1st Borrower's initials _____ 2nd Borrower's initials _____

Property Insurance: Property insurance is is not required to obtain this loan. If required I can obtain insurance from anyone I want that is acceptable to you.

Bank Use Only

BRANCH 00723

ACCT 66200111976980091

DIV/OFF /MPB16

UNLESS THE LAW PROVIDES OTHERWISE, THIS PROMISSORY NOTE MAY BE THE BASIS FOR A PERSONAL ACTION AGAINST ME IN ADDITION TO OTHER REMEDIES ALLOWED BY LAW.

NOTICE: THE MOTOR VEHICLE IN THIS TRANSACTION, IF ANY, MAY BE SUBJECT TO REPOSSESSION. IF IT IS REPOSSESSED AND SOLD TO SOMEONE ELSE, AND ALL AMOUNTS DUE TO THE CREDITOR ARE NOT RECEIVED IN THAT SALE, I MAY HAVE TO PAY THE DIFFERENCE.

NOTICE TO CUSTOMER (a) I SHOULD NOT SIGN THIS BEFORE I READ THE WRITING ON ALL PAGES, EVEN IF OTHERWISE ADVISED.
 (b) I SHOULD NOT SIGN THIS IF IT CONTAINS ANY BLANK SPACES.
 (c) I, THE BORROWER, AM ENTITLED TO AN EXACT COPY OF ANY AGREEMENT I SIGN.
 (d) I HAVE THE RIGHT AT ANY TIME TO PAY IN ADVANCE THE UNPAID BALANCE DUE UNDER THIS AGREEMENT AND I MAY BE ENTITLED TO A PARTIAL REFUND OF THE FINANCE CHARGE OR I MAY HAVE TO PAY A MINIMUM FINANCE CHARGE OR PREPAYMENT FEE.

Signature Chang Lee Kye Date 01/31/01 Address 729 20TH AVE N, SOUTH ST PAUL, MN 550751307

For California, Idaho, Nevada, Washington and Wisconsin residents only:
 I am married unmarried legally separated. If I am a married Wisconsin resident and my spouse is not signing above, the name of my spouse is _____
 and my spouse resides at the address shown above _____
 The obligations to you evidenced by this note are being incurred in the interest of my marriage or family and are for a community benefit.

1793342

OFFICE OF THE COUNTY RECORDER
DAKOTA COUNTY, MINNESOTA
CERTIFIED THAT THE WITHIN INSTRUMENT
WAS RECORDED IN THIS OFFICE ON AND AT

2001 JUL 17 A 10:1

1793342

DOC. NO. 1793342
JOEL T. BECKMAN, COUNTY RECORDER
BY: [Signature] Deputy

FEE: [Signature] SURCHARGE 1.50
CASH CHECK ESCROW

WELL CHARGE
CHARGE TO: _____
O/R _____

DO NOT REMOVE

US RECORDINGS, INC.

DAKOTA COUNTY TREASURER-AUDITOR
86/86/2001 12:28:17 515672
REGISTRATION TAX
COUNTY CONSERVATION FEE
RECEIPT NUMBER 47198

1793342



STATUTORY MORTGAGE

MINNESOTA

ABSTRACT

00723/31/MPB16

THIS STATUTORY MORTGAGE (the "Mortgage"), made this 31st day of January, 2001, between
CHERRY L. HYDE - A SINGLE PERSON

with an address at 729 20TH AVE N, SOUTH SAINT PAUL, MN 55075 06823672
(collectively the "Mortgagor"), and U.S. BANK NATIONAL ASSOCIATION ND Recording Requested by &
having its office at 4325 - 17TH AVENUE SW, FARGO, ND 58103 When Recorded Return to:
(the "Mortgagee"); US Recordings, Inc.
2925 Country Drive Ste 201
St. Paul, MN 55117

WITNESSETH

To secure the payment of Twenty Five Thousand Nine Hundred Twenty Eight AND 84/100
Dollars, (\$ 25,928.84 payable on 01/25/11 under the terms of that certain note dated
January 31, 2001 from CHERRY L. HYDE (collectively the "Borrower")

to Mortgagee in the amount of Twenty Five Thousand Nine Hundred Twenty Eight AND 84/100
Dollars, (\$ 25,928.84) and all renewals and modifications of that note (the "Note"), together with interest thereon.
If the principal amount secured by this Mortgage is less than the principal amount of the Note, then this Mortgage secures the principal
balance of the Note outstanding at anytime only to the extent that the principal balance does not exceed that lesser amount secured.

The Note secured hereunder is (check one):

- A promissory note, the proceeds of which may not be readvanced following payment; or
- A revolving credit note or agreement under which advances, payments and readvances may be made from time to time, provided that the maximum principal amount which at any one time may be outstanding on the Note and may be secured by the Mortgage is \$ _____. The Mortgagee shall not be obligated to satisfy the Mortgage until all amounts outstanding on the Note have been repaid and the Mortgagor's right, if any, to obtain additional advances under the Note has been permanently terminated.

Mortgage. Mortgagor hereby mortgages to Mortgagee the tract of land lying in the County of DAKOTA State of Minnesota, legally described as follows, to wit:

SEE ATTACHMENT (S) A FOR LEGAL DESCRIPTION

PROPERTY COMMONLY KNOWN AS: DAKOTA COUNTY 729 20TH AVE N
SOUTH SAINT PAUL, MN 55075

together with all tenements, easements, hereditaments, privileges, minerals and mineral rights, water and water rights, buildings, fixtures and improvements now or hereafter erected or located on the above-described land (hereinafter referred to as the "Mortgaged Premises").

1. Statutory Covenants. Mortgagor makes and includes in this Mortgage the Statutory Covenants and other provisions set forth in Minnesota Statutes Section 507.15 or any future Minnesota Statute providing for a statutory form of real estate mortgage and the Mortgagor covenants with the Mortgagee the following Statutory Covenants:

- (a) To warrant title to the Mortgaged Premises, subject only to LIENS AND ENCUMBRANCES OF RECORD
- (b) To pay the indebtedness as herein provided, if the Mortgagor is the Borrower.
- (c) To pay all taxes.
- (d) To keep all buildings insured against fire for an amount not less than the full replacement cost but in any event not less than the unpaid amount of the Note secured by this Mortgage and all prior mortgages (if any) and against other hazards for the amounts specified by Mortgagee for the protection of the Mortgagee, including, but not limited to, lightning, hazards under the usual extended coverage endorsement, and all other hazards and risks of direct physical loss occasioned by any cause whatsoever, subject only to the exceptions and exclusions, if any, agreed to by Mortgagee. All such policies shall name Mortgagee as loss payee under the so-called standard mortgagee clause, contain no pro rata reduction provisions and provide for not less than thirty (30) days' notice to Mortgagee of cancellation of said policy.
- (e) That the Mortgaged Premises shall be kept in repair and no waste shall be committed.
- (f) That the whole of the principal sum shall become due after default in the payment of any installment of principal or interest, or of any tax, or in the performance of any any other covenant, at the option of the Mortgagee.



REC'D

JUN 18 2001

DAKOTA COUNTY

Account 66200111976980001

2. **Additional Covenants and Agreements of Mortgagor.** The Mortgagor makes the following additional covenants and agreements with the Mortgagee:

- (a) Any award of damages under condemnation or payment in lieu thereof for injury to or the taking of all or any part of the Mortgaged Premises are hereby assigned to the Mortgagee with authority to apply the proceeds to the amounts outstanding on the Note. All such proceeds shall be applied first to accrued interest, if any, and then to the principal amount outstanding on the Note, and if the principal amount is payable in installments, said proceeds, after payment of accrued interest, shall be applied to said installments in the inverse order of their maturity.
- (b) Any proceeds of any insurance payable by reason of loss or damage to the Mortgaged Premises are hereby assigned and shall be paid to the Mortgagee with authority to apply the proceeds to the amounts outstanding on the Note. All such proceeds shall be applied first to interest, if any, and then to the principal amount outstanding, and if the principal amount is payable in installments, said proceeds after payment of accrued interest, shall be applied to said installments in the inverse order of their maturity.
- (c) Mortgagor will hold Mortgagee harmless from all costs and expenses in connection with establishing the priority of this Mortgage and if the Mortgagee becomes a party to any mechanics lien suit or other proceeding relating to the Mortgaged Premises or to this Mortgage, the Mortgagor will reimburse the Mortgagee for the Mortgagee's reasonable attorney's fee, costs and expenses in connection with said suit or proceeding.
- (d) Mortgagor will not sell, convey, mortgage, pledge, grant a security interest in, or otherwise transfer or encumber all or any part of the Mortgaged Premises or any interest therein without the prior written consent of the Mortgagee.
- (e) Mortgagor will pay the principal and interest, when due, on prior mortgages and other similar encumbrances, if any.
- (f) Mortgagor will promptly pay when due all charges for utilities or other services to the Mortgaged Premises including, but not limited to, electricity, water, gas, telephone, sanitary sewer and trash and garbage removal supplied and will, upon request of Mortgagee, provide evidence of such payment.
- (g) The insurance carrier providing the insurance described in paragraph 1 (d) above shall be subject to the approval by Mortgagee, which approval shall not be unreasonably withheld.
- (h) Mortgagee or its agent may inspect the Mortgaged Premises at any reasonable time with reasonable notice to the Mortgagor specifying reasonable causes for the inspection.
- (i) Mortgagor agrees upon Mortgagee's request to obtain and deliver at Mortgagor's expense an updated appraisal of the Mortgaged Premises in form and content and by an appraiser acceptable to Mortgagee at any time that either (a) an Event of Default shall have occurred hereunder, or (b) Mortgagee determines in its sole opinion that the security for the loan evidenced by the Note has been materially impaired in any manner, including without limitation by a change in market conditions or a change in the physical condition of the Mortgaged Premises.

3. **Payment by Mortgagee.** In case of failure by Mortgagor to pay taxes and assessments, prior liens or encumbrances, expenses and attorneys' fees as above specified, or to insure said buildings, improvements, and fixtures and deliver the policies as aforesaid, the Mortgagee may pay such taxes, assessments, prior liens, expenses and attorneys' fees and interest thereon, or obtain such insurance, and the sums so paid shall bear interest from the date of such payment at the same rate set forth in the Note, and shall be impressed as an additional lien upon the Mortgaged Premises and be immediately due and payable from the Mortgagor to the Mortgagee, and this Mortgage shall from date thereof secure the repayment of such advances with interest.

4. **Event of Default/Acceleration of Maturity.** Mortgagor agrees that at the option of the Mortgagee and in addition to Mortgagee's right to accelerate the maturity of the indebtedness secured hereby as set forth above in the Statutory Covenants, the entire remaining principal balance plus accrued interest shall become due and payable in full upon the occurrence of any of the following (each of which is herein referred to as an "Event of Default"):

- (i) A default by Mortgagor under the terms of the Note; or
- (ii) The default by Mortgagor in the performance of any other terms or covenants contained herein or in the Note or contained in any other agreement between Mortgagor and Mortgagee.

5. **Covenants and Agreements of Mortgagee.** If, and only if, this Mortgage secures the repayment of a "conventional loan" within the meaning of Minnesota Statutes, Section 47.20, then Mortgagee, in consideration of the execution and delivery of this Mortgage, hereby covenants and agrees:

- (a) To furnish Mortgagor with a conformed copy of this Mortgage and the Note, at a time no later than a reasonable time after recordation of this Mortgage;
- (b) That if Mortgagee intends to foreclose this Mortgage, it will give the Mortgagor written notice of the occurrence of an Event of Default (unless the default shall consist of the Mortgagor selling, conveying, or otherwise transferring all or any part of the Mortgaged Premises without the written consent of the Mortgagee, in which case no notice shall be required) under the terms or conditions of the Note or this Mortgage by sending the notice by certified mail to the address of the Mortgaged Premises, or the address of the Mortgagor indicated above, or such other address as the Mortgagor may subsequently designate to Mortgagee. Such notice shall contain the following provisions:
 - (i) The nature of the default by the Mortgagor;
 - (ii) The action required to cure the default;
 - (iii) A date, not less than 30 days from the date the notice is mailed, by which the default must be cured;
 - (iv) That failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by the Mortgage and sale of the Mortgaged Premises;
 - (v) That the Mortgagor has the right to reinstate this Mortgage after acceleration; and
 - (vi) That the Mortgagor has the right to bring a court action to assert the nonexistence of a default or any other defense of the Mortgage to acceleration and sale.

6. Statutory Power of Sale, Waiver and Agreement. At maturity, whether at the stated time or prior thereto by the acceleration of maturity pursuant hereto, Mortgagee (in addition to any other remedies provided for herein or which it may have at law or equity) shall have the statutory power of sale, and on foreclosure may retain statutory costs and attorneys' fees.

MORTGAGOR HEREBY: EXPRESSLY CONSENTS TO THE FORECLOSURE AND SALE OF THE MORTGAGED PREMISES BY ACTION PURSUANT TO MINNESOTA STATUTES CHAPTER 581 OR, AT THE OPTION OF MORTGAGEE, BY ADVERTISEMENT PURSUANT TO MINNESOTA STATUTES CHAPTER 580, WHICH PROVIDES FOR SALE AFTER SERVICE OF NOTICE THEREOF UPON THE OCCUPANT OF THE MORTGAGED PREMISES AND PUBLICATION OF SAID NOTICE AS REQUIRED BY LAW IN THE COUNTY IN MINNESOTA WHERE THE MORTGAGED PREMISES IS SITUATED; ACKNOWLEDGES THAT SERVICE NEED NOT BE MADE UPON MORTGAGOR PERSONALLY (UNLESS MORTGAGOR IS AN OCCUPANT) AND THAT NO HEARING OF ANY TYPE IS REQUIRED IN CONNECTION WITH THE SALE; AND EXCEPT AS MAY BE PROVIDED IN SAID STATUTES, EXPRESSLY WAIVES ANY AND ALL RIGHT TO PRIOR NOTICE OF SALE OF THE MORTGAGED PREMISES AND ANY AND ALL RIGHTS TO A PRIOR HEARING OF ANY TYPE IN CONNECTION WITH THE SALE OF THE MORTGAGED PREMISES.

7. Miscellaneous. This Mortgage shall be governed by and construed in accordance with the laws of the State of Minnesota. All covenants and agreements by Mortgagor in this Mortgage shall bind Mortgagor and Mortgagor's heirs, successors and assigns and shall inure to the benefit of Mortgagee and its successors and assigns, whether so expressed or not. Any forbearance by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Mortgagee shall not be a waiver of Mortgagee's right to accelerate the maturity of the indebtedness secured by the Mortgage. In the event any provision hereof is determined to be unenforceable or invalid, such provision or such part thereof as may be unenforceable or invalid shall be deemed severed from this Mortgage and the remaining provisions carried out with the same force and effect as if the severed provisions or part thereof had not been made a part hereof.

MORTGAGOR(S)

Cherry L. Hyde 1-31-01
CHERRY L. HYDE Date

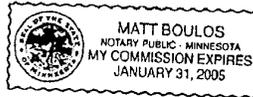
_____ Date

_____ Date

STATE OF Minnesota }
COUNTY OF Ramsey } SS.

The foregoing instrument was acknowledged before me this 31 day of January 2001
by CHERRY L. HYDE, A SINGLE PERSON

Matt Boulos
Notary Public



This Instrument was Drafted
U.S. Bank
P.O. Box 2687
Fargo, ND 58108-2687

~~Return recorded document
U.S. Bank
Attn: Lien Perfection Dept.
P.O. Box 2687
Fargo, ND 58108-2687~~

CHERRY L. HYDE
66200111976980001

ATTACHMENT A
Property Description

LOT 22, EXCEPT SOUTH 20 FEET AND SOUTH 30 FEET OF LOT 23,
BLOCK 3, SOUTH PARK DIVISION NO. 5, DAKOTA COUNTY, MINNESOTA

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ATTCHA (HP) Rev. 10/97

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

BKY 03-35957 DDO

Ch. 13

Cherry Lee Hyde,

Debtor.

MEMORANDUM IN SUPPORT
OF MOTION FOR RELIEF
FROM THE AUTOMATIC STAY

U.S. Bank National Association ND (the “Bank”) submits the memorandum in support of its Motion for Relief from the Automatic Stay.

ARGUMENT

Section 362(d) of the Bankruptcy Code provides, in relevant part, as follows:

On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—

- (1) for cause, including the lack of adequate protection of an interest in property of such party in interest; [or]
- (2) with respect to a stay of an act against property under subsection (a) of this section, if—
 - (A) The debtor does not have an equity in such property; and
 - (B) such property is not necessary to an effective reorganization.

11 U.S.C. § 362. The Bankruptcy Code provides an opportunity for relief from the automatic stay for cause, including lack of adequate protection. 11 U.S.C. § 362(d)(1). The Bankruptcy Code also provides an opportunity for relief from the automatic stay with respect to property in which a debtor has no equity and which is not necessary to the debtor’s reorganization. 11 U.S.C. § 362(d)(2).

Cause exists for relief from the automatic stay under 11 U.S.C. § 362(d)(1). The interests of the Bank are not adequately protected. The standards for adequate protection in the Eighth Circuit are set forth in *In Re Martin*, 761 F.2d 472 (8th Cir. 1985). Continued use of the collateral and the

passage of time result in depreciation of value. The Bank is not being compensated for this depreciation. Nor is the Bank being compensated for interest as it continues to accrue on the subject loans.

Pursuant to 11 U.S.C. § 362(g), the burden is on the debtor to prove the absence of cause or the existence of adequate protection.

Debtor is in default on the loans. The Bank has not been offered nor received adequate protection of its interest in the property. Such circumstances constitute cause justifying relief from the stay. *United Savings Assn. of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365 (1988).

WHEREFORE, the Bank requests the relief set forth in the accompanying verified motion.

Dated: July 30, 2004

STEIN & MOORE, P.A.

/e/ Eric J. Sherburne
Eric J. Sherburne, #279389
Attorneys for Movant
332 Minnesota St., Suite W-1650
St. Paul, MN 55101
651-224-9683
651-223-5212 fax

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

BKY 03-35957 DDO

Ch. 13

Cherry Lee Hyde,

UNSWORN DECLARATION
FOR PROOF OF SERVICE

Debtor.

The undersigned, an employee of Stein & Moore, P.A., declares that on July 30, 2004, she served the following:

1. Notice of Hearing and Motion for Relief from the Automatic Stay;
2. Memorandum in Support of Motion for Relief from the Automatic Stay; and
3. Proposed order

on each of the entities named below, by U.S. mail (unless otherwise indicated) by mailing to each of them a copy thereof by enclosing the same in an envelope with first class postage prepaid and depositing the same in the post office at St. Paul, Minnesota, addressed to each of them as follows:

Cherry Lee Hyde
729 - 20th Avenue North
So. St. Paul, MN 55075

Curtis K. Walker
4356 Nicollet Avenue South
Minneapolis, MN 55409

Jasmine Z. Keller, Trustee
Suite 310
12 S. 6th Street
Minneapolis, MN 55402

Wells Fargo Bank, N.A.
c/o Stewart, Zlimen & Jungers, Ltd.
430 Oak Grove Street, #200
Minneapolis, MN 55403

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

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

Dated: July 30, 2004

/e/ Christy L. Lattimore
Christy L. Lattimore

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:	BKY 03-35957 DDO	Ch. 13
Cherry Lee Hyde,	ORDER	
Debtor.	FOR RELIEF FROM THE AUTOMATIC STAY	

At St. Paul, Minnesota this ____ day of August, 2004.

This matter came before the Court on a motion by U.S. Bank National Association ND for an order for relief from the automatic stay. Appearances, if any, were noted on the record. Based on the motion, file, records, and proceedings herein,

IT IS ORDERED:

1. U.S. Bank National Association ND is granted relief from the automatic stay of 11 U.S.C. § 362 with respect to real property described as follows:

**Lot 22 except South 20 feet and South 30 feet of Lot 23, Block 3, South Park
Division No. 5, Dakota County, Minnesota.**

2. Notwithstanding FED. R. BANKR. P. 4001(a)(3), this Order is effective immediately.

Honorable Dennis D. O'Brien
United States Bankruptcy Judge