

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Nathan Aasness

NOTICE OF HEARING AND
MOTION FOR RELIEF FROM
AUTOMATIC STAY

Debtor

Chapter 13, Case No. 03-36935

TO: Nathan Aasness, INCLUDING TRUSTEE AND OTHER INTERESTED PARTIES

1. Mortgage Electronic Registration Systems, Inc., (*Movant*), a corporation, by its undersigned attorneys, 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 9:30 am on September 9, 2004, in Courtroom 228A, 316 North Robert Street, St. Paul, MN 55101 or as soon thereafter as counsel can be heard.

3. Any response to this motion must be filed and delivered not later than on September 2, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than August 27, 2004, which is seven days before the time set for the hearing (excluding 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, Federal Rules of Bankruptcy Procedure 5005 and Local Rule 1070-1, and is a core

proceeding. The petition commencing this Chapter 13 case was filed on October 10, 2003. The case is now pending in this court.

5. This motion arises under 11 U.S.C. § 362 and Federal Rules of Bankruptcy Procedure 4001. This motion is filed under Federal Rules of Bankruptcy Procedure 9014 and Local Rules 1201-1215. Movant requests relief with respect to a mortgage lien encumbering real property of Debtor.

6. Debtor above-named are the owner of certain real property located at 605 East Roselawn Avenue, Maplewood, MN 55117, legally described as follows, to-wit:

Lot Four (4), Block One (1), Kortus Addition, Ramsey County, Minnesota

7. The indebtedness of Nathan Aasness is evidenced by a Promissory Note and Mortgage dated October 3, 2001, filed of record in the Ramsey County Recorder's office on December 11, 2001, and recorded as Document No. 3449169. A true and correct copy of the front page of the recorded mortgage is attached as Exhibit A. Said mortgage was subsequently assigned to Movant.

8. The Debtor was current on his mortgage obligation to Movant at the time of the bankruptcy filing. Movant has not filed a Proof of Claim nor receiving payments from the Trustee.

9. Pursuant to said Plan, the Debtor was to maintain monthly payments due and payable pursuant to the indebtedness to Movant outside the Plan.

10. The Debtor has failed to pay the monthly payments on the indebtedness, outside the Plan for the months of July 1, 2004 to the present date and as of the hearing date September 1, 2004 will be due for a total delinquency of \$3,755.40 together with reasonable attorneys fees and costs incurred pursuant to the terms of the note and mortgage.

11. By reason of the foregoing, Debtor is in default on payments under the note, mortgage and the Chapter 13 Plan. Movant is inadequately secured and entitled to have the automatic stay lifted and vacated so it can commence foreclosure against the property under the mortgage pursuant to Minnesota Statutes.

WHEREFORE, Movant by its undersigned attorney, moves the Court for an Order that the automatic stay provided by 11 U.S.C. Section 362 (A) be terminated to permit Movant to foreclose its mortgage on the subject property, and for such other and further relief as may be just and equitable.

Dated: August 19, 2004

USSET & WEINGARDEN P.L.L.P

By: /E/ Paul A. Weingarden/Brian H. Liebo
Paul A. Weingarden, #115356
Brian H. Liebo #277654
Attorney for Movant
4500 Park Glen Road, #120
Minneapolis, MN 55416
(952) 925-6888

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Nathan Laasness

AFFIDAVIT OF PETITIONER

Debtor

Chapter 13, Case No. 03-36935

STATE OF CALIFORNIA)

COUNTY OF SAN DIEGO)

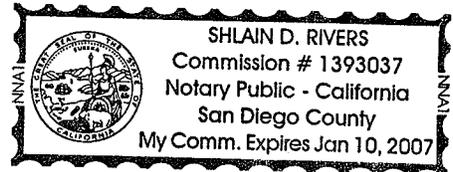
CANDICE HOBBS, being first duly sworn, deposes and states on oath that she/he is employed by Mortgage Electronic Registration Systems, Inc., the movant in this action, that she/he has read the annexed Notice of Hearing and Motion for Relief From Automatic Stay, and that it is true of her/his knowledge to the best of her/his information.

Candice L. Hobbs

Subscribed and sworn to before me this

9 day of August, 2004.

Shlain D. Rivers
Notary Public



0960
20
03

Certified Return
DEC. 11, 2001 AT 07:20AM

DOC# 3449169

Certified Recorded On
DEC. 11, 2001 AT 07:20AM

Signed: _____
OFFICE CO. RECORDER
RAMSEY COUNTY MN

Signed: SR
OFFICE CO. RECORDER
RAMSEY COUNTY MN

Fee Amount: \$29.00
[Barcode]

Fee Amount: \$29.00
[Barcode]

MORTGAGE

Drafted by: andy
After Recording Return To:
AMERICAN HOME FINANCE, LTD
16526 WEST 78TH STREET, #346
EDEN PRAIRIE, MINNESOTA 55346
Loan Number: 617536518

UNIVERSAL TITLE
METRO PRODUCTION
7777 WASHINGTON AVE.
EDINA, MN 55430
09-6256301
Title Specialists

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated OCTOBER 3, 2001, together with all Riders to this document.
- (B) "Borrower" is NATHAN L. AASNESS, AN UNMARRIED MAN

4406 602	* 11/02/01 14:20	
	MTG TAX	317.26
4406 602	* 11/02/01 14:21	
	C. STAMPS	5.00

Borrower is the mortgagor under this Security Instrument.
(C) "Lender" is AMERICAN HOME FINANCE, LTD

Lender is a CORPORATION organized and existing under the laws of MINNESOTA Lender's address is 16526 WEST 78TH STREET, #346, EDEN PRAIRIE, MINNESOTA 55346 Lender is the mortgagee under this Security Instrument.

(D) "Note" means the promissory note signed by Borrower and dated OCTOBER 3, 2001. The Note states that Borrower owes Lender ONE HUNDRED THIRTY EIGHT THOUSAND TWO HUNDRED AND 00/100 Dollars (U.S. \$ 138,200.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than OCTOBER 1, 2031.

(E) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(F) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(G) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

106-12

MOBILMTC

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3449169

- | | | |
|--|---|---|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider | <input type="checkbox"/> Second Home Rider |
| <input type="checkbox"/> Balloon Rider | <input type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> Other(s) [specify] |
| <input type="checkbox"/> 1-4 Family Rider | <input type="checkbox"/> Biweekly Payment Rider | |

(H) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(I) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(J) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(K) "Escrow Items" means those items that are described in Section 3.

(L) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(M) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(N) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(O) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(P) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender and Lender's successors and assigns, with power of sale, the following described property located in the

COUNTY

of RAMSEY.

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

LOT FOUR (4), BLOCK ONE (1), KORTUS ADDITION, RAMSEY COUNTY.
A.P.N. #: 17-29-22-13-0060

0270
30
PT
03

DOC# 3449170
Certified Recorded On
DEC. 11, 2001 AT 07:20AM

Signed: SE
OFFICE CO. RECORDER
RAMSEY COUNTY MN

Fee Amounts: \$28.00


CORPORATION ASSIGNMENT OF MORTGAGE

FOR VALUE RECEIVED, the undersigned ("Assignor") hereby sells, transfers and assigns to
ABN AMRO MORTGAGE GROUP, INC., 2600 WEST BIG BEAVER ROAD, TROY,
MICHIGAN 48084 ("Assignee")
all of Assignor's right, title and interest in and to that certain Mortgage dated OCTOBER 3, 2001
executed by NATHAN L. AASNESS, AN UNMARRIED MAN

to AMERICAN HOME FINANCE, LTD, A MINNESOTA CORPORATION, as mortgagor,

and recorded concurrently herewith as Document Number 3449169 (or in Book), as mortgagee,
of Page), in the Official Records of either the County
Recorder or the Registrar of Titles, as the case may be, of RAMSEY County,
MINNESOTA, describing land therein as:

LOT FOUR (4), BLOCK ONE (1), KORTUS ADDITION, RAMSEY COUNTY.
A.P.N. #: 17-29-22-13-0060

TOGETHER with the note or notes therein described or referred to, the money due and to become due
thereon with interest, and all other rights accrued or to accrue under said Mortgage.

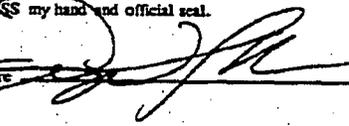
DATE OCTOBER 3, 2001
STATE OF MINNESOTA
COUNTY OF RAMSEY

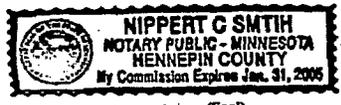
On OCTOBER 3, 2001 before me,
Nippert Smith Notary Public, personally appeared

Lori Sanden
V.P.

personally known to me (or proved to me on the basis of satisfactory
evidence) to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity
upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature 



(Seal)

AMERICAN HOME FINANCE, LTD, A
MINNESOTA CORPORATION

Lori Sanden

Lori Sanden
V.P.

UNIVERSAL TITLE
METRO PRODUCTION
777 WASHINGTON AVE.
EDINA, MN 55439
09-62563 0M
Title Specialists

DRAWN AND PREPARED BY:
WHEN RECORDED MAIL TO:
AMERICAN HOME FINANCE, LTD
16526 WEST 78TH STREET, #346
EDEN PRAIRIE, MINNESOTA 55346

03

1081

DOC# 3581985

Certified Recorded On
JAN. 28, 2003 AT 01:00PM

Signed: _____
OFFICE CO. RECORDER
RAMSEY COUNTY MN

Fee Amount: \$25.00



ASSIGNMENT of MORTGAGE

PREPARED BY: SMI

RECORDING REQUESTED BY
/AFTER RECORDING RETURN TO:

Stewart Mortgage Information
Attn. Sherry Doza
P.O. Box 540817
Houston, Texas 77254-0817
Tel. (800) 795-5263

Pool: 0
Loan Number: 0617536518
Other Loan Number: 1692851790
Investor Number: 0719879106

This Instrument was drafted by:
Stewart Mortgage Information Co
Sherry Doza
3910 Kirby Drive, Suite 300
Houston, Texas 77098

405_2249

STATE OF MINNESOTA
COUNTY OF RAMSEY

KNOW ALL MEN BY THESE PRESENTS:

That ABN AMRO MORTGAGE GROUP, INC. ('Assignor'), acting herein by and through a duly authorized officer, the owner and holder of one certain promissory note executed by NATHAN L. AASNESS ('Borrower(s)') secured by a Mortgage therewith executed by Borrower(s) for the benefit of the holder of the said note, which Mortgage was recorded on the lot(s), or parcel(s) of land described therein situated and recorded in the County of Ramsey, State of Minnesota:

Recording Ref: Instrument/Document No. 3449169, Date of Mortgage N/A

Loan Amount: N/A

Property Address: N/A

For and in consideration of the sum of Ten and No/100 dollars (\$10.00), and other good valuable and sufficient consideration paid, the receipt of which is hereby acknowledged, does hereby transfer and assign, set over and deliver unto MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. (Assignee), all beneficial interest in and to title to said Mortgage, together with the note and all other liens against said property securing the payment thereof, and all title held by the undersigned in and to said land.

TO HAVE AND TO HOLD unto said Assignee said above described Mortgage and note, together with all and singular the liens, rights, equities, title and estate in said real estate therein described securing the payment thereof, or otherwise.

Executed this the 29th day of October A.D. 2002. /s/ ABN AMRO MORTGAGE GROUP, INC.

By: _____
SHERRY DOZA
VICE PRESIDENT

THE STATE OF TEXAS
COUNTY OF HARRIS

On this the 29th day of October A.D. 2002, before me, a Notary Public, appeared SHERRY DOZA to me personally known, who being by me duly sworn, did say that (s)he is the VICE PRESIDENT of ABN AMRO MORTGAGE GROUP, INC., and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and said SHERRY DOZA acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Cynthia A. Sp...

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Nathan Aasness

MEMORANDUM OF LAW

Debtor

Chapter 13, Case No. 03-36935

11 U.S.C. Section 362(d) provides that on request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under section (a) of this section for cause, including lack of adequate protection of an interest in property of such party in interest. Failure of a Chapter 13 debtor to make postconfirmation payments to a mortgagee is sufficient cause for relief from the automatic stay. Reinbold vs. Dewey County Bank, 942 F.2d 1304 (8th Cir. 1991). Following the debtor's filing of the petition on October 10, 2003 no payment has been made to movant for the month(s) of July 1, 2004 to the present and as of the hearing date September 1, 2004 will be due. Accordingly, cause exists for the granting of relief from the automatic stay.

WHEREFORE, Mortgage Electronic Registration Systems, Inc. respectfully requests this Court to grant movant relief from the automatic stay of 11 U.S.C. Section 362(a).

Dated: August 19, 2004. USSET & WEINGARDEN P.L.L.P

By: /E/ Paul A. Weingarden/Brian H. Liebo
Paul A. Weingarden, #115356
Brian H. Liebo #277654
Attorney for Movant
4500 Park Glen Road, #120
Minneapolis, MN 55416
(952) 925-6888

U.S. BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Nathan Aasness

Debtor

UNSWORN DECLARATION
FOR PROOF OF SERVICE

Chapter 13, Case No. 03-36935

Erin Kay Buss, employed on this date by USSET & WEINGARDEN, attorney(s) licensed to practice law in this court, with office address of Suite 120, 4500 Park Glen Road, Minneapolis, Minnesota 55416, upon penalty of perjury, declares that on August 19, 2004, I served the annexed Notice of Hearing and Motion for Relief from Automatic Stay upon each of the entities named below by mailing to them a copy thereof by enclosing same in an envelope with first class mail postage prepaid and depositing same in the post office at Minneapolis, Minnesota, addressed to each of them as follows:

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

Jasmine Z. Keller
Chapter 13 Trustee
310 Plymouth Building
12 South 6th Street
Minneapolis, MN 55402

Ian Traquair Ball
Attorney at Law
12 S. 6th Street, Suite 326
Minneapolis, MN 55402

Nathan Aasness
605 East Roselawn Avenue
Maplewood, MN 55117

/E/ Erin Kay Buss
Erin Kay Buss

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Nathan Aasness

ORDER

Debtor.

Chapter 13, Case No. 03-36935

The above entitled matter came on for hearing upon motion of Mortgage Electronic Registration Systems, Inc., (*Movant*) pursuant to 11 U.S.C. Section 362 on September 1, 2004 at the U.S. Bankruptcy Court, St. Paul, Minnesota. Appearances were as noted in the record. Based upon the evidence adduced at said hearing, the arguments of counsel, and the Court being fully advised of the premises,

IT IS HEREBY ORDERED THAT:

The automatic stay imposed by 11 U.S.C. §362 is hereby terminated as to the real property over which the Movant, its successors or assigns, has an interest, said property legally described as:

Lot Four (4), Block One (1), Kortus Addition, Ramsey County, Minnesota

Movant may proceed to foreclose its mortgage in accordance with Minnesota Statutes. Movant's request for attorneys fees and costs shall not be considered as this is governed by state law. Notwithstanding Federal Rules of Bankruptcy Procedure 4001(a)(3), this order is effective immediately.

Dated this __ day of _____, 2004.

Judge of the Bankruptcy Court