

The West 70.5 Feet of the North 87.42 Feet of Lot 2 in Block 10 in Southern Heights, Faribault, Rice County, Minnesota

The Mortgage was recorded in the offices of the Recorder, for Rice County, Minnesota on January 15, 1999, as Document No. 447623. A copy of the Mortgage is attached hereto as Exhibit A.

7. The last payment received from Debtors was applied to the July, 2004 payment as that was the next payment due. Debtor(s) are delinquent under the terms of the note secured by the Mortgage with respect to monthly payments due as follows:

3 payments @ \$666.83	\$2,000.49
Accrued late charges	218.79
Property Inspection	21.50
Attorneys Fees & Cost	<u>1,050.00</u>
TOTAL	\$3,290.78

The outstanding principal balance due Movant under the terms of the note is \$68,124.90 as of October 12, 2004, and interest accrues at the rate of \$12.83 per day. On information and belief, the Property is also encumbered by a second mortgage in favor of US Bank in the approximate amount of \$40,000.00. The amount therefore due and owing on said note is as follows:

Principal	\$68,124.90
Late charges	218.79
Property Inspections	21.50
Interest	1,565.26
Attorneys Fees & Costs	<u>1,050.00</u>
TOTAL	\$70,980.45

8. Movant does not have, and has not been offered, adequate protection of its interest in the Property. In view of the fact that this is a Chapter 7 liquidation proceeding, the Property is not necessary for an effective reorganization. Moreover, Debtor(s) failure to make payments to Movant when due, or otherwise provide Movant with adequate protection of its interest in the Property constitutes cause, within the meaning of 11 U.S.C. Sec. 362(d)(1), entitling Movant to relief from the automatic stay.

9. If testimony is necessary as to any facts relevant to this motion, Nancy A. Nordmeyer, 7300 Metro Boulevard #390, Edina, MN, will testify on behalf of Movant.

10. **This is an attempt to collect a debt and any information obtained will be used for that purpose.** This notice is required by the provisions of the Fair Debt Collection Practices Act and does not imply that we are attempting to collect money from anyone who has discharged the debt under the Bankruptcy Laws of the United States.

WHEREFORE, Movant, respectfully moves the Court for an Order

modifying the automatic stay of Sec. 362(a) so as to permit Movant to foreclose its Mortgage on the Property and for such other relief as may be just and equitable.

Dated: 10.15.04.

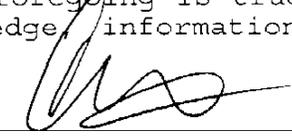
Signed: /e/ Nancy A. Nordmeyer

SHAPIRO & NORDMEYER, L.L.P.
Nancy A. Nordmeyer-121356
Lawrence P. Zielke-152559
Attorney for Movant
7300 Metro Boulevard #390
Edina, MN 55439-2306
(952) 831-4060

VERIFICATION

I, Cindy Hystad, the Asst. Secretary for Washington Mutual Bank, FA, fka North American Mortgage Company, the movant named in the foregoing notice of hearing and motion, declare under penalty of perjury, that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on: 10.14.04

Signed: 

Washington Mutual Bank, F.A.
8120 Nations Way, Bldg 100
Jacksonville, FL 32256

LCNT
HD4

6565273-050

NOTE

DECEMBER 14, 1998
(Date)

ARDEN HILLS
(City)

MINNESOTA
(State)

728 8TH STREET SOUTHWEST, FARIBAULT, MN 55021
(Property Address)

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 74,000.00 (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is NORTH AMERICAN MORTGAGE COMPANY

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

2. INTEREST

Interest will be charged on unpaid principal until the full amount of principal has been paid. I will pay interest at a yearly rate of 8.475 %.

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

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making payments every month. I will make my monthly payments on the 1st day of each month beginning on FEBRUARY 01 1999. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. My monthly payments will be applied to interest before principal. If, on JANUARY 01, 2029 I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date." I will make my monthly payments at 3883 AIRWAY DRIVE, SANTA ROSA, CA 95408

or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$ 488.13

4. BORROWER'S RIGHT TO PREPAY

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

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

5. LOAN CHARGES

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

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 6.0 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

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

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay, the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of principal which has not been paid and MULTIPLE TIMES RATE NOTE State Law/REGULATORY DISTRESS INSTRUMENT

ARM 10/1/98
VMP MORTGAGE FORMS • (1122)-6100 • 1001821-723
Page 1 of 2

JAR
Bank



UNITED STATES BANKRUPTCY COURT

DISTRICT OF MINNESOTA

In Re:

Case No. 03-38050-GFK

Chapter 7

Roy Rayburn, Jr.

Judy Rayburn,

Debtor(s)

MEMORANDUM OF LAW

Washington Mutual Bank, FA, fka North American Mortgage Company ("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 valid, duly perfected mortgage on real property owned by the Debtors. On the date this case was filed, the Debtor(s) was delinquent in respect of payments due under the note and mortgage. Since this case was filed Debtor(s) have made no payments to Movant and as of this date thereof are in arrears in the total amount of \$3,290.78.

ARGUMENT

1. Under 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. Sec. 362 (d) (1). The Debtor(s) in this case have failed to make the payments required by the note and mortgage for a period of more than 2 months. Debtor(s) have not otherwise provided Movant with adequate protection of its interest in the property. Such circumstances constitute cause, within the meaning of Section 362 (d) (1), justifying relief from the stay. In Re Video East, Inc., 41 B. R. 176 (Bkrtcy. E. D. Pa. 1984); In Re Frascatore, 33 B. R. 687 (Bkrtcy. E. D. Pa. 1983).

Accordingly, Movant is entitled to an order terminating the stay and authorizing it to foreclose its mortgage on the property.

Dated: _____

10.15.01

Respectfully submitted,
SHAPIRO & NORDMEYER, L.L.P.

By /e/ Nancy A. Nordmeyer
Nancy A. Nordmeyer-121356
Lawrence P. Zielke-152559
Attorney for Movant
7300 Metro Boulevard #390
Edina, MN 55439-2306
(952) 831-4060

03-27235
8452118840

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Case No. 03-38050-GFK

Roy Rayburn, Jr.
Judy Rayburn,

Debtor(s)

ORDER FOR RELIEF FROM STAY

The above-entitled matter came for hearing on November 1, 2004.

THIS CAUSE coming to be heard on the motion of Washington Mutual Bank, FA, fka North American Mortgage Company, a creditor in the proceeding, the Court having jurisdiction, due notice having been given, and the Court having been advised in the premises;

IT IS HEREBY ORDERED, that the automatic stay heretofore entered in this case is modified to the extent necessary to allow Washington Mutual Bank, FA, fka North American Mortgage Company, its successors and/or assigns, to foreclose, in accordance with State Law, the mortgage on the real property commonly known as:

The West 70.5 Feet of the North 87.42 Feet of Lot 2 in Block 10 in Southern Heights, Faribault, Rice County, Minnesota

NOTWITHSTANDING Federal Rule of Bankruptcy Procedure 4001 (a)(3), this order is effective immediately.

Dated: _____.

United States Bankruptcy Judge