

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Case No.: 03-38495

Melissa Lee Klubertanz and Jack William Klubertanz,
Debtors.

Chapter 13 Case

NOTICE OF MOTION AND MOTION TO LIFT THE AUTOMATIC STAY

Peter and Linda Larson move the Court for relief requested below and gives Notice of Hearing.

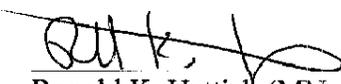
1. The Court will hold a hearing on this motion at 9:30 a.m. on September 22, 2004, in Federal Building, Courtroom 228A, 316 North Roberts Street, St. Paul, Minnesota.
2. Any response to this motion must be filed and served not later than September 13, 2004, at 9:30 a.m., which is seven days before the time set for the hearing (excluding Saturdays, Sundays, and legal holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.
3. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 13 case was filed on December 19, 2003.
4. This motion arises under 11 U.S.C. § 362 and Bankruptcy Rule 4001. This motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1 - 9019-1(d). Movant requests relief with respect to exempt property of the debtor subject to a lien.
5. On December 19, 2003, the debtors filed a voluntary petition under Chapter 13 of the Bankruptcy Code.

6. Peter and Linda Larson are the holders of a secured claim based on a contract for deed with the debtors. At the time of the filing of their bankruptcy petition, Debtors were indebted to the movants in the sum of \$126,900.00, pursuant to the contract for deed executed on September 11, 2003, which contract was in the principal sum of \$127,900.00. The total sum currently due on this obligation is \$125,941.68. This obligation continues to accrue interest at the rate of 7% per annum. The debtors have made no payments for principal and/or interest since June 2004. This obligation is secured by a contract held by Peter and Linda Larson on the Debtors' real property. A true and accurate copy of the Contract for Deed is annexed hereto as Exhibit "A".
7. The property is described as the following:

Lot Three (3), in Block One (1) of Thompson's Addition to the City of Redwood Falls, according to the recorded plat thereof on file and of record in the office of the Register of Deeds in and for said county and State.
8. Pursuant to the plan dated February 11, 2004, the Debtors were to make payments directly to the Movants outside of the plan.
9. The Debtors have failed to offer any adequate protection of Peter and Linda Larson's interest in the property and have proposed no alternatives to retain the property.

Wherefore, Peter and Linda Larson hereby request that this Court grant its motion to lift the automatic stay pursuant to 11 U.S.C. § 362, and for such other and further relief as the Court may deem just and equitable.

Dated: 9/1/04



Ronald K. Hettich (MN Atty Lic.#0325867)
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ATTORNEY FOR MOVANTS

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MEMORANDUM OF LAW

Peter and Linda Larson submit this memorandum of law in support of their Motion to Lift Automatic Stay in the above-entitled matter.

FACIS

On September 11, 2003, Debtors signed a contract for deed to purchase real property from Movants. Debtors are delinquent in payments due under the contract for deed. Debtors have not made a payment since June 2004.

ARGUMENT

Under Section 362(d)(1) of the Bankruptcy Code, relief from automatic stay should 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. § 362 (d)(1). The Debtors in this case have failed to make the payments required by the contract for deed. Debtors have not otherwise provided Movants with adequate protection of its interest in the property. These circumstances constitute cause, within the meaning of Section 362(d)(1), justifying the lift of the automatic 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).

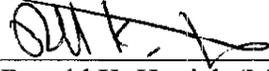
CONCLUSION

Pursuant to the above, Movants should be entitled to an Order Lifting the Automatic Stay to

pursue any and all legal and equitable remedies against the debtors, Jack and Melissa Klubertanz.

Dated: 9/1/04

Respectfully submitted,



Ronald K. Hettich (MN Atty Lic. #0325867)

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ATTORNEY FOR MOVANTS

VERIFICATION

We, Peter and Linda Larson, declare under the penalty of perjury that the foregoing Notice of Hearing and Motion are true and correct according to the best of our knowledge, information and belief.

DATE: 9/1/04

By: Peter Larson
Linda Larson

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ORDER FOR RELIEF FROM STAY

The Court, having read and considered the Motion to Lift Automatic Stay and being fully advised in the matter, now makes and files the following Order:

IT IS HEREBY ORDERED that the automatic stay heretofore entered in this case is modified to the extent necessary to allow Peter and Linda Larson to secure and take back the real property commonly known as:

Lot Three (3), in Block One (1) of Thompson's Addition to the City of Redwood Falls, according to the recorded plat thereof on file and of record in the office of the Register of Deeds in and for said county and State.

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

Dated this _____, day of _____, 2004.

United States Bankruptcy Judge

