

IN THE UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:

Holly Lee Jensen,

Debtor.

COURT FILE NO. 04-33424/GFK  
Chapter 13

**AMENDED NOTICE OF HEARING  
AND MOTION FOR RELIEF FROM  
THE AUTOMATIC STAY**

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TO: DEBTOR HOLLY LEE JENSEN and her attorney Curtis K. Walker, Esq., 4356 Nicollet Avenue South, Minneapolis, MN 55409, Chapter 13 Trustee, U.S. Trustee, and other parties in interest.

1. Chris and Linda Troup ("Movants"), secured creditors of the Debtor, by their undersigned attorney, move the Court for the relief requested below and give notice of hearing.
2. The Court will hold a hearing on this motion on **August 30, 2004 at 10:30 A.M.** before the Honorable Gregory F. Kishel, in Courtroom No. 228 B, United States Courthouse, 316 North Robert Street, Saint Paul, Minnesota 55101.
3. Any response to this motion must be filed and served not later than August 27, 2004, which is three days before the time set for the hearing or filed and served by mail not later than August 23, 2004, which is seven days before the date set for the hearing. **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. 5004 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 13 case was filed on June 9, 2004. The case is now pending in this court.

5. This motion arises under 11 U.S.C. §362(d) and Fed. R. Bankr. P. 4001. This motion is filed under Fed. R. Bankr. P. 9014 and Local Rules 9013-1 to 9019-1.

6. Movants request relief with respect to modifying the automatic stay to permit Movants to pursue state law remedies against its collateral, namely the Property as defined below.

7. Movants are the owners and holders of a Contract for Deed for certain real property located at 3511 Norwood Court, Eagan, Scott County, MN 55123, with the following legal description: Lot 12, Block 4, The Farm 2<sup>nd</sup> Addition ("Property"). Debtor is the purchaser on the Contract for Deed. A true and correct copy of the Contract for Deed is attached hereto as Exhibit A.

8. The terms of the Contract for Deed require the Debtor to make interest-only payments in the amount of \$2,494.00 on the first day of each month for three years. Upon the successful completion of this payment schedule, the Debtor must make a balloon payment equal to the outstanding principal amount together with accrued interest in order to obtain title to the Property

9. On June 9, 2004, the Debtor filed her proposed Chapter 13 Plan. The Plan is scheduled for a hearing on confirmation on August 26, 2004.

10. The proposed Chapter 13 Plan requires the Debtor to maintain post-petition payments in the amount of \$2,494 to Movants as set forth in the Contract for Deed.

11. The Debtor has failed to pay the monthly Contract for Deed payment due on July 21, 2004.

12. The Debtor's pre-petition arrearage on her Contract for Deed is \$7,482.00. The principal amount due under the Contract for Deed is \$348,000. The total of principal, pre-petition and post-petition arrearages is \$357,976.00.

13. The Debtor does not have any equity in the Property because the balance due on the Contract for Deed exceeds the fair market value of the Property, estimated by the Debtor to be \$348,000.

14. The Movants have incurred and will continue to incur attorney's fees and costs in connection with the case and, specifically, for bringing this Motion.

15. By reason of the foregoing, "cause" exists to modify the automatic stay with respect to the Movants so that they can pursue their state law remedies with respect to the Property.

16. If the Court requires testimony at the hearing, Chris Troup will serve as a witness. Upon information and belief, Chris Troup will testify to the value of the Property and the amount of the Debtor's delinquency.

WHEREFORE, the Movants, by their undersigned attorney, move the Court for an Order modifying the automatic stay provided by 11 U.S.C. §362(a) to permit the Movants to pursue their state law remedies with respect to the Property and for such other and further relief as may be just and equitable.

Dated: August 13, 2004

By /e/ Cass S. Weil  
Cass S. Weil (#115228)  
Julia M. Dayton (#319181)  
4800 Wells Fargo Center  
90 South Seventh Street  
Minneapolis MN 55402-4129  
Telephone: (612) 347-0300  
ATTORNEYS FOR CHRIS AND LINDA  
TROUP

**VERIFICATION**

I, Chris Troup, have read the above and foregoing Notice of Hearing and Motion for Relief from the Automatic Stay and know the contents thereof to be true and correct, except for those matters stated on information and belief, and as to those matters, I believe them to be true. I so declare under penalty of perjury.

BY   
Chris Troup

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**UNSWORN DECLARATION FOR PROOF OF SERVICE**

I, Lois M. Huntley, of the law firm of Moss & Barnett, City of Minneapolis, County of Hennepin, State of Minnesota, declare under the penalty of perjury that on August 16, 2004 I mailed copies of the attached **Amended Notice of Motion and Motion of Chris and Linda Troup for Relief from the Automatic Stay** by first class mail postage prepaid to each entity named below at the address stated below for each entity:

United States Trustee  
U.S. Trustee Office  
300 South Fourth Street, Room 1015  
Minneapolis, MN 55415  
(U.S. Trustee)

Curtis K. Walker  
4356 Nicollet Avenue South  
Minneapolis, MN 55409  
(Attorney for Debtor)

Jasmine Z. Keller  
12 South Sixth Street, Suite 310  
Minneapolis, MN 55402  
(Trustee)

Holly Lee Jensen  
2618 Anna Court  
New Market, MN 55054  
(Debtor)

Bohlman Properties, LLC  
1938 Ireland Court  
Lakeville, MN 55044  
(Creditor/ Lien Claimant)

Chris and Linda Troup  
c/o Parish Marketing and Development  
3799 Briarwood Lane  
Eagan, MN 55123  
(Creditor/Lien Claimant)

Executed on: August 16, 2004.

Signed: /e/ Lois M. Huntley  
Lois M. Huntley  
Moss & Barnett  
A Professional Association  
4800 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, MN 55402-4129