

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: Case No. 04-34018-GFK
Chapter 7
Lisa Vantries
Guy Vantries,

Debtor(s)

**NOTICE OF HEARING AND MOTION
FOR RELIEF FROM STAY**

TO: The Debtor(s) and other entities specified in Local Rule 9013-3(a).

1. Mortgage Electronic Registration Systems, Inc., by Midfirst Bank, its authorized servicer moves the Court for relief requested below and gives Notice of Hearing.
2. The Court will hold a Hearing on this motion at 10:30 a.m., on November 1, 2004, in Courtroom No. 228B, at the United States Courthouse, at 200 U.S. Courthouse, 316 N. Robert Street, St Paul, MN.
3. Any response to this motion must be filed and delivered no later than October 27, 2004, which is three days before the time set for the hearing(excluding Saturdays, Sundays, or holidays), or filed and served by mail no later than October 21, 2004, which is seven days before the time set for the hearing(excluding Saturdays, Sundays, or 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, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on July 12, 2004. The case is now pending in this court.
5. 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.
6. By mortgage dated September 29, 2000, in the original principal amount of \$80,497.00 (the "Mortgage"), which mortgage was subsequently assigned by Document No. 498521,

Movant acquired a first mortgagee's interest in the following real property (the "Property"), to-wit:

Lot 1, Block 1, Hanson Addition to the City of Leroy, in Outlot 26 of the SE 1/4 of Section 28, Township 101, Range 14 West, Mower County, Minnesota

The Mortgage was filed in the offices of the Recorder, for Mower County, Minnesota on October 3, 2000, as Document No. 485905. A copy of the Mortgage and assignment are attached hereto as Exhibit A.

7. The last payment received from Debtors was applied to the August 1, 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:

06 payments @ \$715.07	\$4,290.42
07 payments @ \$788.81	\$5,521.67
06 late charges @ \$24.75	\$ 148.50
06 late charges @ \$31.55	189.30
Property Inspections	\$67.50
NSF Fees	\$80.00
Attorneys fees and costs	<u>\$2,859.70</u>
TOTAL DUE	\$13,157.09

The outstanding principal balance due Movant under the terms of the note is \$78,522.96 as of July 15, 2004, and interest accrues at the rate of 8.50% per day. The amount therefore due and owing on said note is as follows:

Principal	\$78,522.96
Late charges	\$321.75
Escrow advance	\$3,603.36
Fees currently assessed	\$3,007.20
Interest to 10/1/04	\$7,786.80
Fees required with payoff funds	20.00
Attorneys Fees & Costs	<u>\$2,859.70</u>
TOTAL	\$96,121.77

The fair market value of the Property as averred by the debtor is approximately \$90,000.00.

8. 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

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: 10-12-04

Signed: /s/ 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, Lora Loncy, the Bankruptcy Admin of Mortgage Electronic Registration Systems, Inc., by Midfirst Bank, its authorized servicer, 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: 9-27-04

Signed: Lora Loncy

Mortgage Electronic Registration Systems,
Inc.,
c/o Midfirst Bank,
999 NW Grand Blvd., STE 100,
Oklahoma City, OK 7318-6077

OFFICE OF COUNTY RECORDER
MOWER COUNTY MINNESOTA
DOCUMENT NO. 485905

I hereby certify that the within instrument was filed in this
office for record on 10/13/2000 at 9 AM PM
Susan M. Davis, County Recorder

Sharon Huffman
Deputy

19122

REGISTRATION TAX HEREON OF \$ 185.15
PAID THIS 9th DAY OF DEC 2000
Bull & ... CO. TREAS.

(Space Above This Line For Recording Data)

MORTGAGE

WHEN RECORDED MAIL TO:
NORTH AMERICAN MORTGAGE COMPANY
P. O. BOX 808031
PETALUMA, CA 94975-8031
FINAL REVIEW AU 062

4395668-859
3024 G10

THIS MORTGAGE ("Security Instrument") is given on SEPTEMBER 29, 2000
The mortgagor is GUY S VANTRIES AND, LISA M VANTRIES, HUSBAND AND WIFE

("Borrower"). This Security Instrument is given to NORTH AMERICAN MORTGAGE COMPANY

which is organized and existing under the laws of DELAWARE, and whose
address is 3883 AIRWAY DRIVE, SANTA ROSA, CA 95403

("Lender"). Borrower owes Lender the principal sum of
EIGHTY THOUSAND FOUR HUNDRED NINETY SEVEN AND 00/100

Dollars (U.S. \$ 80,497.00).

This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which
provides for monthly payments, with the full debt, if not paid earlier, due and payable on
OCTOBER 01, 2030 and for interest at the yearly rate of 8.500 percent.

This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with
interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with
interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the
performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this

MINNESOTA - Single Family - FIMA/FILMC UNIFORM INSTRUMENT

SHMNI (80003)

Form 3024 8/90

Amended 12/93

Page 1 of 8

Initials: *SMV*

VMP MORTGAGE FORMS - (800)521-7281



OLWS

OFFICE OF COUNTY RECORDER
MOWER COUNTY MINNESOTA

DOCUMENT NO. 498521

I hereby certify that the within instrument was filed in this office for record on 12-4-2001 at 1 AM PM
Susan M. Davis, County Recorder

Jess Cordes
Deputy

DATE: November 20, 2001
4395668 - 859 G10

ASSIGNMENT OF MORTGAGE

13993863

783

POOL #: 511784

FOR VALUE CONSIDERATION, NORTH AMERICAN MORTGAGE COMPANY

under the laws of Assignor (whether one or more), hereby sells assigns and transfers to its successors and assigns, as nominee for
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC. its successors and assigns,
HOMESIDE LENDING, INC. its successors and assigns,

P.O. BOX 2026, FLINT, MI 48501-2026

Assignee (whether one or more), the Assignor's interest in the Mortgage dated September 29, 2000, executed by
VANTRIES, GUY S VANTRIES, LISA M

as Mortgagor, to NORTH AMERICAN MORTGAGE COMPANY- as Mortgagee, filed for record
October 3, 2000, as Document Number 485905, Book
Page in the office of the County MOWER County Recorder/Registrar of Titles of

Minnesota, together with all right in the note and obligations therein specified and the debt thereby secured. Assignor covenants with Assign
its successors and assigns, that there is still due and unpaid by the Mortgagee sum of \$80,497.00 DOLLARS,

with interest thereon from September 29, 2000, and that Assignor has good right to sell, assign and transfer the same.

LOT 1, BLOCK 1, HANSON ADDITION TO THE CITY OF LEROY, IN OUTLOT 26 OF THE SE 1/4 OF SECTION 28, TOWNSHIP 181, RANGE 14 WEST,
MOWER COUNTY, MINNESOTA.

Property Address: 109 NORTH COUNTRY RD 56, LEROY, MN 55435

BY: *[Signature]* NORTH AMERICAN MORTGAGE COMPANY

P. LEACH

ITS: ASSISTANT SECRETARY

BY: *[Signature]*

K. TEMPLEMAN

ITS: ASSISTANT VICE PRESIDENT

STATE OF CALIFORNIA

COUNTY OF SONOMA

On November 20, 2001, before me P. ISERMANN, a Notary Public,

personally appeared K. TEMPLEMAN as ASSISTANT VICE PRESIDENT

and P. LEACH as Assistant Secretary,

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.

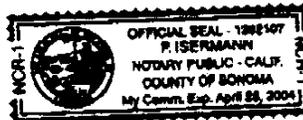
WITNESS my hand and official seal

Signature *[Signature]*

Notarial Stamp or Seal (or
other Title or Rank)

WHEN RECORDED RETURN TO:
NORTH AMERICAN MORTGAGE COMPANY
P.O. BOX 808005
PETALUMA, CA 94975
ATTN: PATTY LEACH - AU8008 - AMAT

THIS INSTRUMENT PREPARED BY:
NORTH AMERICAN MORTGAGE COMPANY
3883 AIRWAY DRIVE
SANTA ROSA, CA 95403



MN2 HSL01A

MIN 100010980006891435

MERS PHONE: 1-888-679-6377

Page: 1

UNITED STATES BANKRUPTCY COURT

DISTRICT OF MINNESOTA

In Re:

Case Number BKY 04-34018-GFK
Chapter 7

Lisa Vantries
Guy Vantries

Debtor(s)

MEMORANDUM OF LAW

Mortgage Electronic Registration Systems, Inc., by Midfirst Bank, its authorized servicer ("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) were delinquent in respect of payments due under the note and mortgage. Since this case was filed, Debtor(s) are in arrears in the total amount of \$13,157.09.

ARGUMENT

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 11 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 (Bkrcty. E. D. Pa. 1984); In Re Frascatore, 33 B. R. 687 (Bkrcty. E. D. Pa. 1983).

In the present case the balance due Movant on the note and mortgage is \$96,121.77 .

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

Dated: 10-12-01.

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

Signed: /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

04-28341
48073246

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Case Number BKY 04-34018-GFK

Lisa Vantries
Guy Vantries
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 Mortgage Electronic Registration Systems, Inc., by Midfirst Bank, its authorized servicer, 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 Mortgage Electronic Registration Systems, Inc., by Midfirst Bank, its authorized servicer, its successors and/or assigns, to foreclose the mortgage on the real property commonly known as:

Lot 1, Block 1, Hanson Addition to the City of Leroy, in Outlot 26 of the SE 1/4 of Section 28, Township 101, Range 14 West, Mower County, Minnesota

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

Dated: _____

BY THE COURT:

Judge of Bankruptcy Court