

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In Re:

Jason Dewayne Lawson  
SSN XXX-XX-0852

**CHAPTER 7 CASE**

**CASE NO. 04-34735 GFK**

Debtor.

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

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

1. Washington Mutual (hereinafter "Secured Creditor"), by its undersigned attorney moves the Court for the relief requested below and gives notice of hearing herewith.

2. The Court will hold a hearing on this motion on November 8, 2004, at 10:30 a.m., or as soon thereafter as counsel can be heard, before the Honorable Gregory F. Kishel in Courtroom 228B of the above entitled Court located at U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.

3. Any response to this motion must be filed and delivered not later than November 3, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays and holidays), or served and filed by mail not later than October 28, 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 Rule of Bankruptcy Procedure 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this case was filed on August 12, 2004. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. § 362 and Federal Rule of Bankruptcy Procedure 4001. This motion is filed under Federal Rule of Bankruptcy Procedure 9014 and Local Rules 9013-1 - 9019-1.

Movant requests relief from the automatic stay with respect to property subject to a lien. Movant requests said relief be effective immediately notwithstanding Federal Rule of Bankruptcy Procedure 4001(a)(3).

6. Debtor is indebted to Secured Creditor in the original principal amount of \$88,000.00, as evidenced by that certain Promissory Note dated November 29, 2000, a copy of which is attached hereto as Exhibit "A", together with interest thereon.

7. Debtor's indebtedness is secured by a mortgage on real estate in which Debtor has an interest as evidenced by that certain mortgage deed dated November 29, 2000, executed by Jason Lawson, a single man, recorded June 12, 2001, as Document No. 1577395, a copy of which is attached hereto as Exhibit "B". The name and address of the original creditor is contained in the attached Exhibit "B". The property is located in Anoka County, Minnesota and is legally described as follows to-wit:

Lot 23 and the South half of Lot 24, Block 15, Roslyn Park, according to the plat thereof on file and of record in the office of the County Recorder in and for Anoka County, Minnesota.

Secured Creditor is now the holder of said mortgage and is entitled to enforce the terms thereof.

8. At all times material, Debtor was in default of the payments and performance of obligations to Secured Creditor.

9. Pursuant to 11 U.S.C. § 362(g) the burden is on Debtor to prove absence of cause and/or adequate protection. This Secured Creditor's interest in the property is not adequately protected where, as of October 20, 2004, Debtor is delinquent in the making of monthly payments as required for the months of August, 2004 through October, 2004, inclusive, in the amount of \$870.51 each; accruing late charges and attorneys fees and costs of \$675.00. Debtor has failed to make any offer of adequate protection.

10. Debtor has no equity in the property and the property is not necessary to an effective organization. The value of the property as scheduled by Debtor is \$130,000.00 subject to Secured Creditor's mortgage in excess of \$86,749.26.

The property is also subject to another mortgage in favor of Homecomings Financial in excess of \$48,775.00.

Since this is a liquidation case, no reorganization is being attempted.

11. Secured Creditor desires to protect its interest in the aforementioned property and requests the Court to vacate the stay of actions and allow foreclosure pursuant to Minnesota law.

12. Secured Creditor has incurred and will incur legal fees and costs to protect and enforce its rights in the subject property.

**WHEREFORE**, Secured Creditor, by its undersigned attorney, moves the Court for an order for judgment that the automatic stay provided by 11 U.S.C. § 362(a) be modified so to permit the movant to commence mortgage foreclosure proceedings under Minnesota law and for such other relief as may be just and equitable.

Dated this 20th day of October, 2004.

**WILFORD & GESKE**

By /e/ Lawrence A. Wilford  
Lawrence A. Wilford  
Attorneys for Secured Creditor  
7650 Currell Blvd., Suite 300  
Woodbury, MN 55125  
651-209-3300  
Attorney Reg. No. 117109

THIS COMMUNICATION IS FROM A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

NBS 10/8/2004

LOAN # 612509898

## NOTE

NOVEMBER 29, 2000

FRIDLEY,  
[City]MINNESOTA  
[State]4929 6TH ST NE, COLUMBIA HEIGHTS, MN 55421  
[Property Address]**1. BORROWER'S PROMISE TO PAY**

In return for a loan that I have received, I promise to pay U.S. \$88,000.00 (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is ABN AMRO MORTGAGE GROUP, INC., A DELAWARE CORPORATION.

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 8.000%.

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 JANUARY 1, 2001.

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 DECEMBER 1, 2030,

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

4242 N. HARLEM AVE.  
MORRIDGE, IL 60706  
ATTN: CASHIERING

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. \$645.72.

**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 5.000% 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 all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is delivered or mailed to me.

**(D) No Waiver by Note Holder**

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

EXHIBIT A

NBS 10/8/2004

1577395

#5300664751

12

26-30-24-24-0164  
SH

When recorded mail to:  
ABN AMRO MORTGAGE GROUP, INC.  
P.O. BOX 5064  
TROY, MICHIGAN 48064  
ATTN:PIEAL/TRAILING DOCUMENTS

LOAN #: 612509898

[Space Above This Line For Recording Date]

MORTGAGE

SIGNATURE TITLE  
OR JUDICIAL

THIS MORTGAGE ("Security Instrument") is given on **NOVEMBER 29, 2000**. The mortgagor is  
**JASON LAWSON, A SINGLE MAN**

This Security Instrument is given to **ABN AMRO MORTGAGE GROUP, INC., A DELAWARE CORPORATION** ("Borrower"),

existing under the laws of **THE STATE OF DELAWARE** which is organized and  
and whose address is **2600 W. BIG BEAVER RD., TROY, MICHIGAN 48064**

Borrower owes Lender the principal sum of **EIGHTY EIGHT THOUSAND AND NO/100**\*\*\*\*\* ("Lender").  
\*\*\*\*\*Dollars  
(U.S. **\$88,000.00**). 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  
**DECEMBER 1, 2030**, and for interest at the yearly rate of **8.000** 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  
purpose, Borrower does hereby mortgage, grant and convey to Lender, with power of sale, the following described property located  
in **ANOKA**  
County, Minnesota:

which has the address of **4929 6TH ST NE, COLUMBIA HEIGHTS** [Street, City],  
Minnesota **55421** ("Property Address");  
[Zip Code]

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and  
fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All  
of the foregoing is referred to in this Security Instrument as the "Property."

Initials:   
REVISED 706

EXHIBIT **B**

LOAN #: 612509898

24. Interest on Advances. The interest rate on advances made by Lender under paragraph 7 shall not exceed the maximum rate allowed by applicable law.

25. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument.

(Check applicable box(es))

- Adjustable Rate Rider
- Graduated Payment Rider
- Balloon Rider
- VA Rider
- Condominium Rider
- Planned Unit Development Rider
- Rate Improvement Rider
- Other(s) [specify]
- 1-4 Family Rider
- Biweekly Payment Rider
- Second Home Rider

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.  
Witnesses:

\_\_\_\_\_

  
\_\_\_\_\_  
JASON LAWSON

\_\_\_\_\_

STATE OF MINNESOTA,

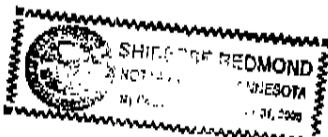
ANOKA

County is:

On this 29TH day of NOVEMBER, 2000, before me appeared

JASON LAWSON, A SINGLE MAN

to me personally known to be the person(s) described in and who executed the foregoing instrument and acknowledged that HE executed the same as HIS free act and deed.



Notary Public

My Commission Expires:

This instrument was prepared by  
ABN AMRO MORTGAGE GROUP, INC.  
PO BOX 5064  
TROY, MI 48064

Shireese Redmond  
expires 1/31/05

of

06/250989-8

**FILE: 00-2496A**

**SCHEDULE "A"**

**Lot 23 and the South half of Lot 24, Block 15, Roslyn Park, according to the plat thereof on file and of record in the office of the County Recorder in and for Anoka County, Minnesota.**

### ABSTRACT

Receipt # <u>49475/226.90</u>	<input type="checkbox"/> Certified Copy Date Mailed _____
Date/Time: <u>6/12 11:15</u>	<input type="checkbox"/> Tax Liens / Releases
Doc. Order <u>5</u> of <u>5</u>	<input type="checkbox"/> Multi-Co Doc Tax Pd
✓ by: Pins: <u>SN</u>	<input type="checkbox"/> Transfer <input type="checkbox"/> New Desc.
Recordability / Delgs: <u>SN</u>	<input type="checkbox"/> Division <input type="checkbox"/> GAC
Filing Fees: <u>19.50</u>	<input type="checkbox"/> Status <input type="checkbox"/> Def. Spec
Well Certificate Received this Date: Anoka County Recorder	<input type="checkbox"/> Other <input checked="" type="checkbox"/> No Change
Notes:	

DOCUMENT NO. 1577395.0 ABSTRACT

### ANOKA COUNTY MINNESOTA

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE  
 FOR RECORD ON **JUN 12 2001**  
 AT **11:15 AM** AND WAS DULY RECORDED.  
 FEES AND TAXES IN THE AMOUNT OF **\$226.90** PAID.

RECEIPT NO. 2001049475  
~~MAUREEN J. DEVINE~~ MAUREEN J. DEVINE

ANOKA COUNTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

BY SMH  
 DEPUTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In Re:

Jason Dewayne Lawson  
SSN XXX-XX-0852

Debtor.

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**CHAPTER 7 CASE**

**CASE NO. 04-34735 GFK**

**MEMORANDUM IN SUPPORT OF  
MOTION FOR RELIEF FROM STAY**

**ARGUMENT**

I. CAUSE EXISTS FOR THE GRANTING OF RELIEF FROM THE AUTOMATIC STAY PURSUANT TO 11 U.S.C. § 362(d)(1) WHERE THE INTEREST OF THIS SECURED CREDITOR IS NOT ADEQUATELY PROTECTED.

Pursuant to 11 U.S.C. § 362(g) the burden is on Debtor to prove absence of cause and/or adequate protection. Secured Creditor's interest in the property is not adequately protected where:

1. As of October 20, 2004, Debtor is delinquent for the monthly payments as required for the months of August, 2004 through October, 2004, in the amount of \$870.51 each; accruing late charges and attorneys fees and costs of \$675.00.

2. Debtor has failed to make any offer of adequate protection.

II. THE AUTOMATIC STAY SHOULD BE MODIFIED PURSUANT TO 11 U.S.C. § 362(d)(2) WHERE (1) DEBTOR DOES NOT HAVE ANY EQUITY IN THE PROPERTY, AND (2) THE PROPERTY IS NOT NECESSARY TO AN EFFECTIVE REORGANIZATION.

The first requirement under § 362(d)(2) is met where the total of all the encumbrances against the property is in excess of the value of the property. The value of the property as scheduled by Debtor is \$130,000.00 subject to Secured Creditor's mortgage in excess of \$86,749.26.

The property is also subject to another mortgage in favor of Homecomings Financial in excess of \$48,775.00.

Since this is a liquidation case, no reorganization is being attempted.

### **CONCLUSION**

Secured Creditor is entitled to relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) for cause, and where its interest in the secured property is not adequately protected. Secured Creditor is also entitled to relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(2) where Debtor has no equity in the property, and where the property is not necessary to an effective reorganization.

Secured Creditor respectfully requests an Order of this Court modifying the automatic stay consistent with the attached proposed Order.

Dated this 20th day of October, 2004.

### **WILFORD & GESKE**

By /e/ Lawrence A. Wilford  
Lawrence A. Wilford  
Attorneys for Secured Creditor  
7650 Currell Blvd., Suite 300  
Woodbury, MN 55125  
651-209-3300  
Attorney Reg. No. 117109



to ABN AMRO MORTGAGE GROUP, INC.. Said Note was subsequently assigned to Fannie Mae through Assignment of Note.

- B. Debtor is in default on his obligations to Fannie Mae in that Debtor has failed to make his installment payments when due and owing pursuant to the terms of the above-described Note.
- C. As of October 12, 2004, the total indebtedness was \$86,749.26. Debtor is in default on 3 contractual payments (August 2004 through and including October 2004 payments). The amount of the current monthly mortgage installment payment is \$870.51, and the monthly late charge is \$32.29.
- D. It is Debtor's intention to surrender the collateral.

- 5. By failing to make the regular monthly installment payments due pursuant to the Note, Debtor has not provided adequate protection to Fannie Mae.
- 6. Further, according to the Debtor's Schedules, the estimated value of the subject property is \$130,000.00. Thus, after full satisfaction of the indebtedness due to Fannie Mac under the terms of the Note and Deed of Trust, including its costs of collection, Debtor has no equity in the property which serves as collateral.
- 7. Fannie Mae has had to retain counsel to represent it before this Court and is incurring legal expenses and attorneys' fees for which it is entitled to reimbursement under the terms of its Note.

The foregoing facts are of my own personal knowledge and belief, and if called upon to appear as a witness, I could, and would, testify competently thereto. I declare under penalty of perjury that to the best of my knowledge the foregoing facts are true and correct.

**Washington Mutual**

By: [Signature]  
Dan Ahonen  
Asst. Vice President (title)

DATED: 10-14-04

SUBSCRIBED AND SWORN TO BEFORE ME on 10-14-, 2004.



Carmela D. Lagarile  
Notary Public in and for the State of MINN

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

---

In Re:

Jason Dewayne Lawson  
SSN XXX-XX-0852

Debtor.

**CHAPTER 7 CASE**

**CASE NO. 04-34735 GFK**

**UNSWORN DECLARATION  
FOR PROOF OF SERVICE**

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Diana Waletzko, employed by Wilford & Geske, attorneys licensed to practice law in this Court, with office address at 7650 Currell Blvd., Suite 300, Woodbury, Minnesota, declares that on October 20, 2004, I served the annexed Notice of Hearing and Motion for Relief from Stay, Memorandum in Support of Motion for Relief, Affidavit of Dan Arntsen, and proposed Order to each person referenced below, a copy thereof by enclosing the same in an envelope with first class mail postage prepaid and depositing the same in the post office at Woodbury, Minnesota addressed to each of them as follows:

Jason D. Lawson  
1213 Walnut Street  
Farmington, MN 55024

David G. Keller  
Grannis & Hauge PA  
1260 Yankee Doodle Rd Ste 200  
Eagan, MN 55121

Homecomings Financial  
P O Box 650515  
Dallas, TX 75265-0515

Nauni Jo Manty  
Rider Bennett LLP  
333 South 7<sup>th</sup> St Ste 2000  
Minneapolis, MN 55402

U.S. Trustee  
1015 U.S. Courthouse  
300 South 4<sup>th</sup> Street  
Minneapolis, MN 55415

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated this 20th day of October, 2004.

/e/ Diana Waletzko  
Diana Waletzko

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

---

In Re:

Jason Dewayne Lawson  
SSN XXX-XX-0852

Debtor.

---

**CHAPTER 7 CASE**

**CASE NO. 04-34735 GFK**

**ORDER**

The above entitled matter came on for hearing upon motion of Washington Mutual (hereinafter "Secured Creditor"), pursuant to 11 U.S.C. § 362 on November 8, 2004, at U.S. Courthouse, 316 North Robert Street, 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 Secured Creditor, its assignees and/or successors in interest, is granted relief from the stay of actions imposed by 11 U.S.C. § 362 with regard to that certain mortgage deed dated November 29, 2000, executed by Jason Lawson, a single man, recorded June 12, 2001, as Document No. 1577395 covering real estate located in Anoka County, Minnesota, legally described as follows, to-wit:

Lot 23 and the South half of Lot 24, Block 15, Roslyn Park, according to the plat thereof on file and of record in the office of the County Recorder in and for Anoka County, Minnesota

and may pursue its remedies under state law in connection with the subject note and mortgage deed.

Notwithstanding Federal Rules of Bankruptcy Procedure 4001(a)(3),

this Order is effective immediately.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of Bankruptcy Court