

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Candelario Ponce Ramirez
SSN XXX-XX-3025
Saran Ros Ramirez
Sara Ros
SSN XXX-XX-9217

CHAPTER 7 CASE

CASE NO. 04-34160 DDO

Debtor.

NOTICE OF HEARING AND MOTION FOR RELIEF FROM STAY

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

1. ABN AMRO Mortgage Group, Inc. (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 September 27, 2004, at 9:30 a.m., or as soon thereafter as counsel can be heard, before the Honorable Dennis D. O'Brien in Courtroom 228A 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 September 22, 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 September 16, 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 July 16, 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 \$131,378.00, as evidenced by that certain Promissory Note dated November 1, 2002, 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 1, 2002, executed by Saran Ros Ramirez, and Candelario Ramirez, wife and husband, recorded April 12, 2004, as Document No. 651671, 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 Scott County, Minnesota and is legally described as follows to-wit:

Unit 4, CIC 1060, Rainer Estates, Scott 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 September 2, 2004, Debtor is delinquent in the making of monthly payments as required for the months of April, 2004 through September, 2004, inclusive, in the amount of \$873.12 each; accruing late charges and attorneys fees and costs of \$700.00. 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 \$125,000.00 subject to Secured Creditor's mortgage in excess of \$132,468.42.

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 2nd day of September, 2004.

WILFORD & GESKE

By /e/ James A. Geske
James A. Geske
Attorneys for Secured Creditor
7650 Currell Blvd., Suite 300
Woodbury, MN 55125
651-209-3300
Attorney Reg. No. 14969X

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

LOAN #: 625325428

FHA Case No.
2718823265-729

ADJUSTABLE RATE NOTE

Multistate

NOVEMBER 1, 2002
[Date]

SPRING LAKE PARK,
[City]

MINNESOTA
[State]

412 LADY SLIPPER NE, NEW PRAGUE, MN 56071
[Property Address]

1. PARTIES

"Borrower" means each person signing at the end of this Note, and the person's successors and assigns. "Lender" means ABN AMRO MORTGAGE GROUP, INC., A DELAWARE CORPORATION

and its successors and assigns.

2. BORROWER'S PROMISE TO PAY; INTEREST

In return for a loan received from Lender, Borrower promises to pay the principal sum of *ONE HUNDRED THIRTY ONE THOUSAND THREE HUNDRED SEVENTY EIGHT AND NO/100***** Dollars (U.S. \$131,378.00), plus interest, to the order of Lender. Interest will be charged on unpaid principal, from the date of disbursement of the loan proceeds by Lender, at a rate of FOUR AND THREE-FOURTHS percent (4.750%) per year until the full amount of principal has been paid. The interest rate may change in accordance with Paragraph 5(C) of this Note.

3. PROMISE TO PAY SECURED

Borrower's promise to pay is secured by a mortgage, deed of trust or similar security instrument that is dated the same date as this Note and called the "Security Instrument." That Security Instrument protects the Lender from losses which might result if Borrower defaults under this Note.

4. MANNER OF PAYMENT

(A) Time

Borrower shall make a payment of principal and interest to Lender on the first day of each month beginning on DECEMBER, 2002. Any principal and interest remaining on the first day of NOVEMBER, 2032 will be due on that date, which is called the "Maturity Date."

(B) Place

Payment shall be made at
4242 N. HARLEM AVE.
NORRIDGE, IL 60706
ATTN: CASHIERING

or at such other place as Lender may designate in writing by notice to Borrower

(C) Amount

Initially, each monthly payment of principal and interest will be in the amount of U.S. \$685.33. This amount will be part of a larger monthly payment required by the Security Instrument that shall be applied to principal, interest and other items in the order described in the Security Instrument. This amount may change in accordance with Paragraph 5(E) of this Note.

5. INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Date

The interest rate may change on the first day of JANUARY, 2004 and on that day of each succeeding year. "Change Date" means each date on which the interest rate could change.

(B) The Index

Beginning with the first Change Date, the interest rate will be based on an Index. "Index" means the weekly average yield on United States Treasury Securities adjusted to a constant maturity of one year, as made available by the Federal Reserve Board. "Current Index" means the most recent Index figure available 30 days before the Change Date. If the Index (as defined above) is no longer available, Lender will use as a new Index any index prescribed by the Secretary (as defined in Paragraph 7(B)). Lender will give Borrower notice of the new Index.

(C) Calculation of Interest Rate Changes

Before each Change Date, Lender will calculate a new interest rate by adding a margin of THREE percentage point(s) (3.000%) to the Current Index and rounding the sum to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Paragraph 5(D) of this Note, this rounded amount will be the new interest rate until the next Change Date.

EXHIBIT A

Doc. No. A 579990

OFFICE OF THE COUNTY RECORDER
SCOTT COUNTY, MINNESOTA

Certified Filed and/or Recorded on

01-02-2003 at 11:00 Receipt: 240965

Pat Boeckman, County Recorder 01

Fee: \$ 20.00

Registration tax of \$ 302.17 paid
Treasurer's Receipt No. 240965
Conservation Fee Paid

Pat Boeckman County Auditor

7 x All State Title

20.00
11AM

(Space Above This Line For Recording Data)

State of Minnesota

**CORRECTIVE
MORTGAGE**

FHA Case No.
2718823265-729

When recorded mail to:
ABN AMRO MORTGAGE GROUP, INC.
P.O. BOX 5064
TROY, MICHIGAN 48064
ATTN: PINAL/TRAILING DOCUMENTS
LOAN # 626325428

**THIS MORTGAGE IS BEING RECORDED TO CHANGE
DATE ON ADJUSTABLE RATE RIDER IN ITEM (A).**

This instrument prepared by:
ABN AMRO MORTGAGE GROUP, INC.
P.O. BOX 5064
TROY, MI 48084

Doc. No. A 651671

OFFICE OF THE COUNTY RECORDER
SCOTT COUNTY, MINNESOTA

Certified Filed and/or Recorded on

04-12-2004 at 11:00 Receipt: 370003

Pat Boeckman, County Recorder 01

Fee: \$ 20.00



THIS MORTGAGE ("Security Instrument") is given on **NOVEMBER 1, 2002**,
SARAN ROS RAMIREZ, AND CANDELARIO RAMIREZ, WIFE AND HUSBAND

The Mortgagor is

("Borrower").

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

which is organized and

existing under the laws of **THE STATE OF DELAWARE**
and whose address is **2600 W. BIG BEAVER RD., TROY, MICHIGAN 48084**

("Lender").

Borrower owes Lender the principal sum of **ONE HUNDRED THIRTY ONE THOUSAND THREE HUNDRED SEVENTY***
EIGHT AND NO/100*******Dollars (U.S. **\$131,378.00**).
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 **NOVEMBER 1, 2032**, and for interest at the
yearly rate of **4.750** 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 the Lender, with
power of sale, the following described property located in **SCOTT** County, Minnesota:
UNIT 4, CIC 1060, RAINIER ESTATES, SCOTT COUNTY, MINNESOTA.

FID#24-0690040

EXHIBIT B

LOAN #: 625325428

by applicable law. Lender or its designee may purchase the Property at any sale. The proceeds of the sale shall be applied in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

If the Lender's interest in this Security Instrument is held by the Secretary and the Secretary requires immediate payment in full under Paragraph 9, the Secretary may invoke the nonjudicial power of sale provided in the Single Family Mortgage Foreclosure Act of 1994 ("Act") (12 U.S.C. 3751 et seq.) by requesting a foreclosure commissioner designated under the Act to commence foreclosure and to sell the Property as provided in the Act. Nothing in the preceding sentence shall deprive the Secretary of any rights otherwise available to a Lender under this Paragraph 18 or applicable law.

19. Release. Upon payment of all sums secured by this Security Instrument, Lender shall discharge this Security Instrument without charge to Borrower. Borrower shall pay any recordation costs.

20. Waiver of Homestead. Borrower waives all right of homestead exemption in the Property.

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

22. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants 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)).

- Condominium Rider
- Growing Equity Rider
- Graduated Payment Rider
- Planned Unit Development Rider
- Other [specify] **ADJUSTABLE RATE RIDER**

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

Witnesses:


 SARAN ROS RAMIREZ


 CANDELARIO RAMIREZ

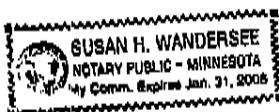
STATE OF MINNESOTA, ANOKA County ss:

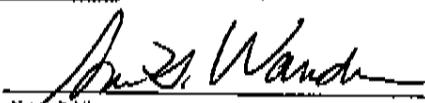
On this 1ST day of NOVEMBER, 2002, before me appeared SARAN ROS RAMIREZ AND CANDELARIO RAMIREZ, WIFE AND HUSBAND

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

My Commission Expires:

(Seal)




 Notary Public

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

CHAPTER 7 CASE

Candelario Ponce Ramirez
SSN XXX-XX-3025
Saran Ros Ramirez
Sara Ros
SSN XXX-XX-9217

CASE NO. 04-34160 DDO

Debtor.

**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 September 2, 2004, Debtor is delinquent for the monthly payments as required for the months of April, 2004 through September, 2004, in the amount of \$873.12 each; accruing late charges and attorneys fees and costs of \$700.00.

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 \$125,000.00 subject to Secured Creditor's mortgage in excess of \$132,468.42.

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 2nd day of September, 2004.

WILFORD & GESKE

By /e/ James A. Geske
James A. Geske
Attorneys for Secured Creditor
7650 Currell Blvd., Suite 300
Woodbury, MN 55125
651-209-3300
Attorney Reg. No. 14969X

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

CHAPTER 7 CASE

CASE NO. 04-34160 DDO

Candelario Ponce Ramirez
SSN XXX-XX-3025
Saran Ros Ramirez
Saran Ros
SSN XXX-XX-9217

**AFFIDAVIT OF
SHAWANNA DORSEY**

Debtor.

Shawanna Dorsey, being first duly sworn on oath, deposes and states:

1. That she is the Bankruptcy Specialist of ABN AMRO Mortgage Group, Inc.
2. ABN AMRO Mortgage Group, Inc., is now the holder of a mortgage on real property in which the debtor has an interest. The debtor's indebtedness is evidenced by that certain mortgage deed dated November 1, 2002, executed by Saran Ros Ramirez, and Candelario Ramirez, wife and husband, recorded April 12, 2004 as Document No. 651671. The property is located in Scott County, Minnesota and is legally described as follows, to-wit:

Unit 4, CIC 1060, Rainer Estates, Scott County, Minnesota.

3. That she has reviewed the account records relating to the Ramirez's mortgage loan, account no. 625325428.
4. That as of August 12, 2004, the following amounts were owing on this account:

Unpaid Principal:	\$128,653.36
Interest through August 12, 2004	2,745.85
Attorney's Fees:	700.00
Late Charges:	186.19
Property Inspection(s):	45.00
Pro Rated MIP:	52.70
Escrow Advance Balance:	65.82
Recording Fees:	19.50
TOTAL:	\$132,468.42

5. That the mortgage loan is delinquent for monthly mortgage payments for the months of April, 2004 in the amount of \$910.81 and May, 2004 through August, 2004 in the amount of \$873.12 each.

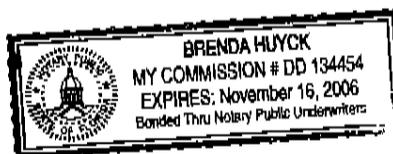
6. This affidavit is given in support of the motion of ABN AMRO Mortgage Group, Inc. for relief from the automatic stay.

ABN AMRO MORTGAGE GROUP, INC.

By Shawanna Dorsey
Its Bankruptcy Specialist

Subscribed and sworn to before me
this 20 day of Aug, 2004.

Brenda Huyck
Notary Public



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

CHAPTER 7 CASE

Candelario Ponce Ramirez
SSN XXX-XX-3025
Saran Ros Ramirez
Sara Ros
SSN XXX-XX-9217

CASE NO. 04-34160 DDO

Debtor.

**UNSWORN DECLARATION
FOR PROOF OF SERVICE**

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 September 2, 2004, I served the annexed Notice of Hearing and Motion for Relief from Stay, Memorandum in Support of Motion for Relief, Affidavit of Shawanna Dorsey, 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:

Candelario Ponce Ramirez
Saran Ros Ramirez
Saran Ros
13150 Harriet Avenue S 181
Burnsville, MN 55337

Nauni Jo Manty
Rider Bennett LLP
333 S 7th St Ste 2000
Minneapolis, MN 55402

Malin D. Greenberg
600 S Hwy 169 Ste 1525
St. Louis Park, MN 55426

U.S. Trustee
1015 U.S. Courthouse
300 South 4th Street
Minneapolis, MN 55415

Ford Motor Credit Company
c/o Stewart, Zlimen & Jungers, LTD.
430 Oak Grove Street, #200
Minneapolis, MN 55403

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

Dated this 2nd day of September, 2004.

/e/ Diana Waletzko
Diana Waletzko

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

CHAPTER 7 CASE

Candelario Ponce Ramirez
SSN XXX-XX-3025
Saran Ros Ramirez
Sara Ros
SSN XXX-XX-9217

CASE NO. 04-34160 DDO

Debtor.

ORDER

The above entitled matter came on for hearing upon motion of ABN AMRO Mortgage Group, Inc. (hereinafter "Secured Creditor"), pursuant to 11 U.S.C. § 362 on September 27, 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 1, 2002, executed by Saran Ros Ramirez, and Candelario Ramirez, wife and husband, recorded April 12, 2004, as Document No. 651671 covering real estate located in Scott County, Minnesota, legally described as follows, to-wit:

Unit 4, CIC 1060, Rainer Estates, Scott 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