

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Case No. 04-34191

Chapter 13

Susan C. Hedberg,

Debtor(s).

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

TO: Debtor(s) and Attorney for Debtor(s); Jasmine Keller, Chapter 13 Trustee; U.S. Trustee; and other parties in interest.

1. Wells Fargo Bank, N.A., a secured creditor of Debtor(s), 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 at **9:30 am on Wednesday, October 13, 2004**, before the Honorable Dennis D. O'Brien, in Courtroom No. 228A, at the U.S. Federal Courthouse, 316 North Robert Street, St. Paul, Minnesota 55101.

3. Any response to this motion must be filed and delivered not later than Friday, October 8, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than Monday, October 4, 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 motion arises under 11 U.S.C. § 362 and Fed. R. Bankr. P. 4001. This motion is filed under Fed. R. Bankr. P. 9014 and Local Rules 9006-1, 9013-1 through 9013-3. Wells Fargo Bank, N.A. seeks relief from the automatic stay of 11 U.S.C. § 362 with respect to certain personal property owned by Debtor(s).

5. The petition commencing this Chapter 13 case was filed on July 19, 2004 and the case is now pending in this Court. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 1334 and 157(a), Fed. R. Bankr. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding.

6. Wells Fargo Bank, N.A. holds a valid, perfected interest in a 2003 Wildwood, vehicle identification number 4X4TWDP243B041910 (the "Vehicle").

7. Copies of Wells Fargo Bank, N.A.'s agreement with Debtor(s) (the "Contract") and evidence of perfection of Wells Fargo Bank, N.A.'s interest in the Vehicle are attached hereto as Exhibits A and B and incorporated herein by reference.

8. The Chapter 13 Plan does not provide for payments to Wells Fargo Bank, N.A. Presently, a delinquency under the Contract exists for the months of June through September 2004 totaling at least \$1,033.08. No evidence has been provided to verify insurance coverage on the Vehicle.

9. The balance due under the Contract is \$22,035.89 as of the date hereof. On information and belief, the fair market value of the Vehicle is approximately \$21,520.00.

10. The failure of the Debtor(s) to make payments pursuant to the Chapter 13 Plan or otherwise provide Wells Fargo Bank, N.A. with adequate protection of its interest in the Vehicle and the failure of Debtor(s) to provide evidence of insurance on the Vehicle constitutes cause, within the meaning of 11 U.S.C. § 362(d)(1) and 362(d)(2), entitling Wells Fargo Bank, N.A. to relief from the stay.

11. Wells Fargo Bank, N.A. requests that any order modifying the automatic stay be effective immediately as allowed under Federal Bankruptcy Rule 4001(a)(3).

12. If testimony is necessary as to any facts relevant to this motion, C. Thompson, or some other representative of Movant, will testify on behalf of Wells Fargo Bank, N.A..

13. This notice of motion and motion also serves as notice of default as may be required by Cobb v. Midwest Recovery Bureau Co., 295 N.W.2d 232 (Minn. 1980). If the default is not cured before

the hearing, Wells Fargo Bank, N.A. will repossess the Vehicle promptly upon the Court signing the Order.

14. THIS IS AN ATTEMPT TO COLLECT A DEBT, AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

WHEREFORE, Wells Fargo Bank, N.A. respectfully moves the Court for an order: (i) modifying the automatic stay of 11 U.S.C. § 362 so as to permit Wells Fargo Bank, N.A. to foreclose its interest in the Vehicle in accordance with Minnesota law, (ii) finding that Bankruptcy Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure is not applicable, and (iii) granting such other relief as may be just and equitable.

Dated: September 16, 2004

STEWART, ZLIMEN & JUNGERS

By /e/ Bradley J. Halberstadt
Bradley J. Halberstadt (#215296)
Attorneys for Movant
430 Oak Grove Street, Ste. 200
Minneapolis, Minnesota 55403
(612) 870-4100

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Chapter 13 Case

Susan C. Hedberg,

Bky. No. 04-34191-DDO

Debtor(s).

Affidavit of Carmen Thompson

I, Carmen Thompson, of Wells Fargo Bank, N.A., declare under penalty of perjury that the following is true and correct to the best of my knowledge, information and belief:

1. Wells Fargo Bank, N.A. has a security interest in the following (the "Collateral"):
RECREATIONAL VEHICLE 03 Wildwood vin#~~4767ADN231000000~~
4X4TWDP273BD41910
2. \$22,035.89 is the outstanding balance under the contract as of September 16, 2004.
3. \$22,035.89 is the amount of the existing delinquency under the contract.
4. \$21,520.00 is the fair market value of the Collateral.
5. No Appropriate insurance has been verified.
6. is the payment default under the Chapter 13 Plan.

Further your affiant sayeth not.

Dated: 9/16/200

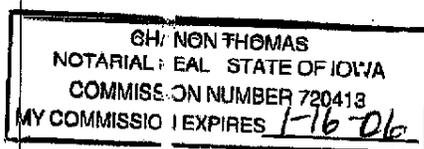
Carmen Thompson

Carmen Thompson
Bankruptcy Specialist
Wells Fargo Bank, N.A.

Subscribed and sworn to before me on
September 16, 200

Charon Thomas

Notary



WELLS FARGO **CONTRACT AND SECURITY AGREEMENT** **UNIVERSAL MARINE & RV INC.** **BUYER: SUSAN C HEDBERG**
 2850 HWY 14 WEST 452 4TH ST SE
 ROCHESTER MN 55901 MEDFORD MN 55049
 Date: 10/15/02 "We" and "us" mean the Seller above, its successors and assigns. "You" and "your" mean each Buyer above, and guarantor, jointly and individually.

SALE: You agree to purchase from us, over time, the Motor Vehicle (Vehicle) and services described below. Your purchase is subject to the terms and conditions of this contract and security agreement (Contract). The Vehicle is sold in its present condition, together with the usual accessories and attachments.

Description of Year: 2003 VIN: 4X4TWDPE2438041910
 Motor Vehicle Make: MILDWOOD Lic. No./Year
 Purchase Model: 38RLDS New Used

Description of Trade-In: 00 DUTCHMEN 47C74DN26Y6502672

SECURITY: To secure your payment and performance under the terms of this Contract, you give us a security interest in the Vehicle, all accessories, attachments, accessories, and equipment placed in or on the Vehicle, together called Property, and proceeds of the Property. You also sign to us and give us a security interest in proceeds and premium refunds of any insurance and service contracts purchased with this Contract.

PROMISE TO PAY AND PAYMENT TERMS: You promise to pay us the principal amount of \$ 29,971.75, plus finance charges according to the unpaid balance at the rate of 7.99% per year from today's date until paid in full. Finance charges accrue on a daily basis. You agree to pay this Contract according to the payment schedule and late charge provisions shown in the TRUTH IN LENDING DISCLOSURES. You also agree to pay any additional amounts according to the terms and conditions of this Contract.

LOAN ADMINISTRATION FEE: You agree to pay an additional, nonrefundable loan administration fee of \$25.00 that will be paid in cash. Paid pro rata over the contract term. Withheld from the proceeds (if this fee is withheld from the proceeds, the amount is included in the principal sum).

DOWN PAYMENT: You also agree to pay, or apply to the Cash Price, on or before today's date, any cash, rebate and net trade-in value described in the ITEMIZATION OF AMOUNT FINANCED. You agree to make deferred payments as part of the cash down payment as reflected in your Payment Schedule.

TRUTH IN LENDING DISCLOSURES

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	AMOUNT FINANCED The amount of credit provided to you or on your behalf.	TOTAL OF PAYMENTS The amount you will have paid when you have made all scheduled payments.	TOTAL SALE PRICE The total cost of your purchase on credit, including your down payment of cash.
7.99%	\$ 19,319.19	\$ 29,971.75	\$ 37,190.60	\$ 41,298.89

Payment Schedule: Your payment schedule will be

Number of Payments	Amount of Payments	When Payments Are Due
144	258.27	Monthly Beginning: 11/19/2002 Final Payment Due on: 10/14/2014

Security: You are giving a security interest in the Motor Vehicle purchased.
 Late Charge: If a payment is more than 10 days late, you will be charged 5% of the unpaid balance or \$5.00 whichever is greater. This amount may increase so as to always be the highest amount allowed by law under Minn. Stat. § 47.59.

Prepayment: If you pay off this Contract early, you will not have to pay a penalty.
 If you pay off this Contract early, you will not be entitled to a refund of part of the loan administration fee.

Contract Provisions: You can see the terms of this Contract for any additional information about nonpayment, default, any required repayment, before the scheduled date, and prepayment refunds and penalties.

CREDIT INSURANCE: Credit life, credit disability (accident and health), and any other insurance coverage quoted below, are not required to obtain credit and we will not provide them unless you sign and agree to pay the additional premium. If you want such insurance, we will obtain it for you (if you qualify for coverage). We are quoting below ONLY the coverages you have chosen to purchase.

Credit Life Insured: N/A
 Single Joint Prem. \$ N/A term N/A term
 Credit Disability Insured: N/A
 Single Joint Prem. \$ N/A term N/A term

ITEMIZATION OF AMOUNT FINANCED

Vehicle Price (incl. sales tax of \$ 991.75)	\$ 27,986.75
Service Contract, Paid to: N/A	\$ 0.00
Cash Price	\$ 27,986.75
Manufacturer's Rebate	\$ N/A
Cash Down Payment	\$ 100.00
Deferred Down Payment	\$ N/A
a. Total Cash/Rebate Down	\$ 100.00
b. Trade-In Allowance	\$ 12,045.00
c. Less: Amount owing	\$ 8,000.00
Paid to:	
d. Net Trade-In (b. minus c.)	\$ 4,045.00
e. Net Cash/Trade-In (a. plus d.)	\$ 4,145.00
Down Payment (e.; disclose as \$0 if negative)	\$ 4,145.00
Unpaid Balance of Cash Price	\$ 23,841.75
Paid to Public Officials - Filing Fees	\$ 0.00
Insurance Premiums	\$ N/A
Amount to Finance Line e. (If e. is negative)	\$ N/A
To: N/A	\$ 0.00
To: N/A	\$ 0.00
To: DOC	\$ 30.00
Total Other Charges/Amounts Pd. to Others	\$ 30.00
Less: Prepaid Finance Charges	\$ 0.00
Amount Financed	\$ 29,971.75

*We may retain or receive a portion of this amount.

NOTICE TO BUYER

(1) Do not sign this agreement before you read it or if it contains any blank spaces. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) **IMPORTANT: THIS MAY BE A BINDING CONTRACT AND YOU MAY LOSE ANY DEPOSITS IF YOU DO NOT PERFORM ACCORDING TO ITS TERMS.**

BY SIGNING BELOW BUYER AGREES TO THE TERMS ON PAGES 1 AND 2 OF THIS CONTRACT AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS CONTRACT.

Your signature below means you want (only) the insurance coverage(s) quoted above. If none are quoted, you have declined any coverages we offered.

Buyer: d/b/a - Buyer. d/b/a

PROPERTY INSURANCE: You must insure the Property securing this Contract. You may purchase or provide the insurance through any insurance company reasonably acceptable to us. The collision coverage deductible may not exceed \$ N/A. If you get insurance from or through us you will pay \$ N/A for _____ of coverage.

This premium is calculated as follows:
 \$ 500.00 Deductible, Collision Coverage \$ N/A
 \$ N/A Deductible, Comprehensive Cov. \$ N/A
 Fire-Theft and Combined Additional Coverage \$ N/A
 \$ N/A

Liability Insurance coverage for bodily injury and motor vehicle damage caused to others is not included in this Contract unless checked and indicated.

MOTOR VEHICLE SERVICE CONTRACT: With your purchase of the Vehicle, you agree to purchase a Motor Vehicle Service Contract to cover _____

This Service Contract will be in effect for _____

ASSIGNMENT: This Contract and Security Agreement is assigned to Wells Fargo Bank Minnesota, N.A. the Assignee, phone _____ This assignment is made under the terms of a separate agreement. under the terms of the ASSIGNMENT BY SELLER on page 2. This assignment is made with recourse.
 Seller By: *[Signature]* Date: 10-15-02

MINNESOTA: 2850 HWY 14 WEST
 © 1992, 1999, 2002 UNIVERSAL MARINE & RV INC. Form WPA8500-01-0000
 1-800-554-5033

Buyer: Susan C. Hedberg 10/15/2002
 Signature Date

Signature: *[Signature]* Date

Seller By: Universal Marine & RV Inc.
 2850 Hwy 14 West
 Rochester, MN 55901
 507-268-4000
 1-800-554-5033

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
DRIVER & VEHICLE SERVICES DIVISION
445 MINNESOTA ST., ST. PAUL, MN 55101

30036186720001

First Class
U.S. Postage
PAID
Permit No. 171
St. Paul, MN

CONFIRMATION OF LIEN PERFECTION - DEBTOR NAME AND ADDRESS

HEDBERG SUSAN CHRISTINE
452 4TH ST SE
MEDFORD MN 55049

RT52473

Year 03	Make WILD	Model HSTR	Title No J3430P411
VIN 4X4TWDP243B041910		Security Date 10/15/02	NO Rebilit

1ST SECURED PARTY

LIEN HOLDER

RETAIN THIS DOCUMENT - See reverse
side of this form for removing this lien.

WELLS FARGO BANK NA
PO BOX 31557
BILLINGS MT 59107-1557



UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Case No.04-34191

Chapter 13

Susan C. Hedberg,

Debtor(s).

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

Wells Fargo Bank, N.A. submits this memorandum of law in support of its motion for relief from the stay in the above-entitled matter.

FACTS

Wells Fargo Bank, N.A. holds a perfected interest in a 2003 Wildwood with a vehicle identification number 4X4TWDP243B041910 (the "Vehicle"). There is no provision for payment under the terms of the Chapter 13 Plan and a default exists under the Contract totaling \$1,033.08. The balance due under the Contract is \$22,035.89 as of the date hereof. On information and belief, the fair market value of the Vehicle is approximately \$21,520.00. No evidence has been provided to verify insurance coverage on the Vehicle.

ARGUMENT

Pursuant to 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. § 362(d)(1). Here, the payments have not been proposed by the Debtor(s) under the Chapter 13 Plan and no evidence has been provided to verify insurance coverage on the Vehicle.

Wells Fargo Bank, N.A. does not have, and has not been offered, adequate protection of its interest in the Vehicle. The Plan of the Debtor(s) fails to provide Wells Fargo Bank, N.A. with the indubitable equivalent of its claim. Such circumstances constitute cause, within the meaning of

Section 362(d)(1), entitling Wells Fargo Bank, N.A. to relief from the stay. See Reinbold v. Dewey County Bank, 942 F.2d 1304, 1306-07 (8th Cir. 1991) (debtor's failure to comply with plan supports bankruptcy court's decision to grant relief from the automatic stay for cause); In re Wieseler, 934 F.2d 965, 967 (8th Cir. 1991) (debtor's failure to comply with stipulation provided cause for dissolving automatic stay). See also First Federal Savings and Loan Ass'n. of Minneapolis vs. Whitebread (In re Whitebread), 18 B.R. 192 (Bankr. D. Minn. 1982); In re Quinlan, 12 B.R. 516 (Bankr. W.D. Wis. 1981); In re Caulk, 9 B.R. 242 (Bankr. E.D. Penn. 1981).

CONCLUSION

For all the reasons set forth herein, Wells Fargo Bank, N.A. is entitled to an order terminating the automatic stay of 11 U.S.C. § 362 and authorizing it to foreclose its interest in the Vehicle in accordance with Minnesota law.

Respectfully Submitted,

Dated: September 16, 2004

STEWART, ZLIMEN & JUNGERS

By /e/ Bradley J. Halberstadt
Bradley J. Halberstadt (#215296)
Attorneys for Movant
430 Oak Grove Street, Ste. 200
Minneapolis, Minnesota 55403
(612) 870-4100

U.S. BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Susan C. Hedberg

Debtor(s).

UNSWORN DECLARATION

FOR PROOF OF SERVICE

Bky. No. 04-34191

Bradley J. Halberstadt, an agent of Stewart, Zlimen & Jungers, attorney(s) licensed to practice law in this court, with office address of 430 Oak Grove Street, Ste. 200, Minneapolis, Minnesota 55403, declares that on the date set forth below, I served the annexed **Notice of Hearing and Motion For Relief From Stay** upon each of the entities named below by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid and depositing same in the post office at Minneapolis, Minnesota addressed to each of them as follows:

United States Trustee
Suite 1015
300 South 4th Street
Minneapolis, MN 55415

(Attorney for Debtor(s))
Richard J. Pearson
PO Box 120088
New Brighton, MN 55112

(Trustee)
Jasmine Keller
12 S 6th Street Suite 310
Minneapolis, MN 55402

(Co-Obligor)

(Debtor(s))
Susan C. Hedberg
623 36th St. NE
Owatonna, MN 55060

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

Dated: September 16, 2004

Signed: /e/ Bradley J. Halberstadt

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Case No. 04-34191

Chapter 13

Susan C. Hedberg,

Debtor(s).

**ORDER GRANTING
MOTION FOR RELIEF FROM STAY**

The above-entitled matter came before the Court for hearing on Wednesday, October 13, 2004 at the motion of Wells Fargo Bank, N.A. seeking relief from the automatic stay of 11 U.S.C. § 362.

Appearances were noted in the Court's record. Based upon the proceedings on said date, the statements of counsel, and all of the files and records herein, the Court now finds that cause exists entitling Wells Fargo Bank, N.A. to the relief requested.

NOW, THEREFORE, IT IS HEREBY ORDERED that the automatic stay of 11 U.S.C. § 362 is immediately terminated as to Wells Fargo Bank, N.A., and Wells Fargo Bank, N.A. is authorized to foreclose its interest in the subject 2003 Wildwood, vehicle identification number 4X4TWDP243B041910 in accordance with Minnesota law. Notwithstanding Fed R. Bankr. P. 4001(a)(3), this order is effective immediately.

Dated: _____

Dennis D. O'Brien
United States Bankruptcy Judge