

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

CHAPTER 7 CASE

William Elmer Passe
SSN XXX-XX-3220
Mary Anna Elizabeth Passe
SSN XXX-XX-3286

CASE NO. 04-34479 DDO

Debtor.

NOTICE OF HEARING AND MOTION FOR RELIEF FROM STAY

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

1. GMAC Mortgage Corporation (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 8, 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 2, 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 August 27, 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 2, 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 \$91,800.00, as evidenced by that certain Promissory Note dated March 21, 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 March 21, 2002, executed by William E. Passe AND Mary Anna E. Passe, husband and wife, as joint tenants, recorded March 27, 2004, as Document No. 247765, 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 Wabasha County, Minnesota and is legally described as follows to-wit:

Lot 3, Block 2 of Milligan's Addition to the City of Wabasha.

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 August 19, 2004, Debtor is delinquent in the making of monthly payments as required for the months of September, 2003 through August, 2004, inclusive, in the amount of \$871.64 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 \$108,000.00 subject to Secured Creditor's mortgage in excess of \$104,952.07.

The property is also subject to another mortgage in favor of CitiFinancial in excess of \$10,551.51.

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 19th day of August, 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.

08/09/04 19:57:46

->

Page 015

LOAN NO. 20203040C

600296897

NOTE

MARCH 21 2002
(Date)

Rochester
(City)

MN
(State)

318 East 2nd Street
Wabasha, MN 55981
(Property Address)

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 91,800.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is USA FUNDING CORP,

I will make all payments under this Note in the form of cash, check or money order.

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 8.875 %.

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 a payment every month.

I will make my monthly payment on the 1ST day of each month beginning on MAY 1, 2002.

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. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on APRIL 1, 2032, 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

17035 W. Wisconsin Avenue, Brookfield, WI 53005

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. \$ 730.41

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 not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the 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: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) 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.

WABASHA COUNTY
 MORTGAGE REGISTRATION TAX
 No. 1177 Date 3/27/02
\$211.14 Dollars Paid
 JERRY LEISEN
 County Auditor/Treasurer
 By [Signature]
 Deputy

247765
 STATE OF MINNESOTA
 County of Wabasha
 Office of County Recorder
 This is to certify that the within
 instrument was filed for record
 in this office at Wabasha, on the
17th day of March A.D. 2002
 at 2:00 o'clock P. m. and
 that the same was duly recorded
 in Wabasha County Records.
 JEFFERY R. AITKEN
 County Recorder
 By [Signature]

Gmac 600296897
 Prepared by and When Recorded Return To:
Missy Dallaire
USA Funding Corp
17035 W. Wisconsin Avenue
Brookfield, WI 53005
PARCEL NO. 27-00909-00

Jeffery R Aitken Wabasha Co Recorder
 Date Received 3/27/02
 Amount Paid Cash Ck None
 "Cert" Certificate Amt. Pd 20.00
 Return To 401 + Title
Rec# 52314

-----[Space Above This Line For Recording Data]-----

LOAN NO. 20203040C

MORTGAGE

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated **MARCH 21, 2002**, together with all Riders to this document.

(B) "Borrower" is **William E. Passe AND Mary Anna E. Passe, husband and wife, as joint tenants**

Borrower is the mortgagor under this Security Instrument.

(C) "Lender" is

USA FUNDING CORP

Lender is a **corporation** organized and existing under the laws of

State of Wisconsin. Lender's address is

17035 W. WISCONSIN AVE

BROOKFIELD, WI 53005

Lender is the mortgagee under this Security Instrument.

(D) "Note" means the promissory note signed by Borrower and dated **MARCH 21, 2002**

The Note states that Borrower owes Lender

NINETY-ONE THOUSAND EIGHT HUNDRED AND 00/100

Dollars (U.S. \$ **91,800.00**) plus interest. Borrower has promised to pay this debt in regular Periodic

Payments and to pay the debt in full not later than **APRIL 1, 2032**

(E) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(F) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due

EXHIBIT B

08/09/04 19:51:55

->

Page 002

under the Note, and all sums due under this Security Instrument, plus interest.

(G) "Riders" means all riders to this Security Instrument that are executed by Borrower. The following riders are to be executed by Borrower [check box as applicable]:

- | | | |
|--|---|---|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider | <input type="checkbox"/> Planned Unit Development Rider |
| <input type="checkbox"/> 1-4 Family Rider | <input type="checkbox"/> Second Home Rider | <input type="checkbox"/> Biweekly Payment Rider |
| <input type="checkbox"/> Balloon Rider | <input type="checkbox"/> Other(s) [specify] | |

(H) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(I) "Community Association Dues, Fees and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(J) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(K) "Escrow Items" mean those items that are described in Section 3.

(L) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(M) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(N) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(O) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(P) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) 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 and Lender's successors and assigns, with power of sale, the following described property located in the County of Wabasha [Type of Recording Jurisdiction]

of Wabasha
(Name of Recording Jurisdiction)

08/09/04 19:52:24

->

Page 003

The land referred to is situated in the State of Minnesota, County of Wabasha, and is described as follows:
 Lot 3, Block 2 of Milligan's Addition to the City of Wabasha.

which currently has the address of 318 East 2nd Street, Wabasha

(Street)

(City)

Minnesota

55981

(Zip Code)

("Property Address"):

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."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment(s) or partial payment(s) if the payment(s) or partial payments are insufficient to bring the Loan current. Lender may accept any payment(s) or partial payment(s) insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment(s) or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment(s) to bring the Loan current. If Borrower

MINNESOTA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

Form 3024 (01/01)

Page 3 of 13

08/09/2004 08:58PM

and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees.

If Lender invokes the power of sale, Lender shall cause a copy of a notice of sale to be served upon any person in possession of the Property. Lender shall publish a notice of sale, and the Property shall be sold at public auction in the manner prescribed 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.

- 23. Release. Upon payment of all sums secured by this Security Instrument, Lender shall discharge this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.
- 24. Waiver of Homestead. Borrower waives all right of homestead exemption in the Property.
- 25. Interest on Advances. The interest rate on advances made by Lender under this Security Instrument shall not exceed the maximum rate allowed by Applicable Law.

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:

_____ William E. Passe (Seal)
 _____ William E. Passe - Borrower

Social Security Number 477-48-3220

_____ Mary Anne E. Passe (Seal)
 _____ Mary Anne E. Passe - Borrower

Social Security Number 318-38-3286

_____ (Seal)
 _____ - Borrower

Social Security Number _____

_____ (Seal)
 _____ - Borrower

Social Security Number _____

08/09/04 19:57:27

->

Page 013

.....[Space Below This Line For Acknowledgment].....

STATE OF Minnesota)
) SS:
COUNTY OF Olmsted)

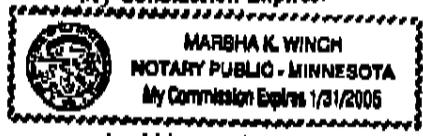
On this 21st day of March, 2002, before me appeared
William E. Passe AND Mary Anne E. Passe, husband and wife, as
joint tenants

to me personally known to be the person(s) described in and who executed the foregoing instrument and
acknowledged that he/she/they executed the same as his/her/their free act and deed.



Notary Public
My Commission Expires:

This instrument was drafted by:
Missy Dallaire



Tax statements for the real property described in this instrument should be sent to:
USA FUNDING CORP
17035 W. WISCONSIN AVE
BROOKFIELD, WI 53005

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

CHAPTER 7 CASE

William Elmer Passe
SSN XXX-XX-3220
Mary Anna Elizabeth Passe
SSN XXX-XX-3286

CASE NO. 04-34479 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 August 19, 2004, Debtor is delinquent for the monthly payments as required for the months of September, 2003 through August, 2004, in the amount of \$871.64 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 \$108,000.00 subject to Secured Creditor's mortgage in excess of \$104,952.07.

The property is also subject to another mortgage in favor of CitiFinancial in excess of \$10,551.51.

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 19th day of August, 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. 04-34479 DDO

William Elmer Passe
SSN XXX-XX-3220
Mary Anna Elizabeth Passe
SSN XXX-XX-3286

**AFFIDAVIT OF
HELEN LUTSENKO**

Debtor.

Helen Lutsenko, being first duly sworn on oath, deposes and states:

1. That she is the Bankruptcy Specialist of GMAC Mortgage Corporation.

2. GMAC Mortgage Corporation, 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 March 21, 2002, executed by William E. Passe AND Mary Anna E Passe, husband and wife, as joint tenants, recorded March 27, 2004, as Document No. 247765. The property is located in Wabasha County, Minnesota and is legally described as follows, to-wit:

Lot 3, Block 2 of Milligan's Addition to the City of Wabasha.

3. That she has reviewed the account records relating to the Passe's mortgage loan, account no. 0600296897.

4. That as of August 13, 2004, the following amounts were owing on this account:

Unpaid Principal:	\$90,915.77
Interest through August 13, 2004	8,356.07
Attorney's Fees:	700.00
Late Charges:	479.38
Non-Escrow Advances:	1,694.76
Escrow Balance:	2,806.09
TOTAL:	\$104,952.07

5. That the mortgage loan is delinquent for monthly mortgage payments for the months of September, 2003 through August, 2004 in the amount of \$871.64 each.

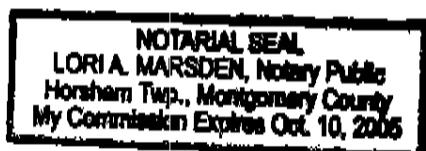
6. This affidavit is given in support of the motion of GMAC Mortgage Corporation for relief from the automatic stay.

GMAC MORTGAGE CORPORATION

By Helen Lutsenko
Its Bankruptcy Specialist

Subscribed and sworn to before me
this 13 day of August, 2004.

Loria Marsden
Notary Public



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

CHAPTER 7 CASE

William Elmer Passe
SSN XXX-XX-3220
Mary Anna Elizabeth Passe
SSN XXX-XX-3286

CASE NO. 04-34479 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 August 19, 2004, I served the annexed Notice of Hearing and Motion for Relief from Stay, Memorandum in Support of Motion for Relief, Affidavit of Helen Lutsenko, 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:

William E. Passe
Mary Anna E. Passe
829 7th St W
Wabasha, MN 55981

Michael S. Dietz
505 Marquette Bldg
PO Box 549
Rochester, MN 55903

Steven E. Rolsch
Rolsch Law Offices
PO Box 189
Rochester, MN 55903

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

CitiFinancial
PO Box 6673
Rochester, MN 55903

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

Dated this 19th day of August, 2004.

/e/ Diana Waletzko
Diana Waletzko

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

William Elmer Passe
SSN XXX-XX-3220
Mary Anna Elizabeth Passe
SSN XXX-XX-3286

CHAPTER 7 CASE

CASE NO. 04-34479 DDO

Debtor.

ORDER

The above entitled matter came on for hearing upon motion of GMAC Mortgage Corporation (hereinafter "Secured Creditor"), pursuant to 11 U.S.C. § 362 on September 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 March 21, 2002, executed by William E. Passe AND Mary Anna E. Passe, husband and wife, as joint tenants, recorded March 27, 2004, as Document No. 247765 covering real estate located in Wabasha County, Minnesota, legally described as follows, to-wit:

Lot 3, Block 2 of Milligan's Addition to the City of Wabasha

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