UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

In re: Bky Case No. 04-34621

Peter L. Juers and Annette K. Juers, Chapter 13

Debtors.

NOTICE OF HEARING AND MOTION FOR RELIEF FROM STAY

TO: The Debtor(s) and other entities specified in Local Rule 9006-1

1. PACCAR FINANCIAL CORP. ("PFC"), by its undersigned attorneys, moves the Court for the relief requested below and give notice of hearing herewith.

2. The court will hold a hearing on this motion at *9:30 a.m. on October 25, 2004*, or as soon thereafter as counsel can be heard, in Courtroom 228A at the U.S. Bankruptcy Court, 200 U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota 55101.

3. Any response to this motion must be filed and delivered not later than October 20, 2004, which is three (3) days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than October 14, 2004, which is seven (7) 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, Fed. R. Bankr. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The

petition commencing this Chapter 13 case was filed on August 9, 2004. The case is now pending in this court.

5. This motion arises under 11 U.S.C. § 362. This motion is filed under Bankruptcy Rule 9014 and Local Rule 9006-1. Movant requests relief from the stay.

6. PFC has a security interest in the following property:

Semi-Truck - 1998 Peterbilt Model 379-119 Semi-tractor, 1XP5DB9XXWD446095

7. PFC is entitled to possession of all the property under Retail Installment Contract dated August 11, 2003 ("Contract").

8. The Debtors have not made payments pursuant to their Chapter 13 plan. The payments of $947.65 per month were supposed to be outside the plan. The Debtors have not made the August and September payments. The Debtors also owe $189.52 for both months plus attorneys' fees.

9. The collateral is worth less than the debt and is depreciating.

10. The Debtors have not offered any adequate protection under 11 U.S.C. § 362(d).

11. PFC is entitled to relief from the stay to repossess the collateral and sell it in accordance with applicable state law.

WHEREFORE, PFC moves the court for an order granting relief from the stay to repossess the vehicle and such other relief as may be just and equitable.

Dated: October 11, 2004

Respectfully submitted,

GRAY, PLANT, MOOTY,
MOOTY & BENNETT, P.A.

By _____
William J. Fisher, #167137
3400 Multifoods Tower
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Attorneys for Paccar Financial Corp.

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VERIFICATION

I, Laurie Smith, Litigation Administrator of PACCAR Financial Corp., 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: October 11, 2004 Signed: Laurie Smith

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UNITED STATES BANKRUPTCY COURT
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MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR RELIEF FROM STAY

PACCAR FINANCIAL CORP. ("PFC"), by its undersigned counsel hereby submits this Memorandum in Support of its Motion for Relief From The Stay.

FACTS

PFC has a security interest in the following property:

Semi-Truck - 1998 Peterbilt Model 379-119 Semi-tractor, 1XP5DB9XXWD446095

PFC is entitled to possession of all the property under Retail Installment Contract dated August 11, 2004 ("Contract"). The Debtor (Peter Juers) has defaulted under the Chapter 13 Plan. The Debtor has missed two $947.65 payments. The collateral is worth less than the debt and is depreciating.

PFC is entitled to relief from the stay to repossess the collateral and sell it in accordance with applicable state law.

DISCUSSION

PFC has moved for relief from the automatic stay pursuant to 11 U.S.C. § 362(d), which states:

> On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay (1) for cause, including the lack of adequate protection of an interest in property of such party in interest; or (2) with respect to a stay of an act against property under subsection (a) of this section, if (A) the debtor does

not have an equity in such property; and (B) such property is not necessary to an effective reorganization.

In this case, there is "cause" since the Debtors have not complied with their Chapter 13 Plan.

CONCLUSION

For the above reasons, PFC is entitled to relief from the stay.

Dated: October 11, 2004

Respectfully submitted,

GRAY, PLANT, MOOTY,
MOOTY & BENNETT, P.A.

By _____
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

In re:	Bky Case No. 04-34621
Peter L. Juers and Annette K. Juers,	Chapter 13
Debtors.	

UNSWORN CERTIFICATE OF SERVICE

I, Cheryl Moline, employed by Gray, Plant, Mooty, Mooty & Bennett, P.A., attorneys licensed to practice law in this Court, with office address at 500 IDS Center, 80 South 8th Street, Minneapolis, Minnesota, 55402, declare under penalty of perjury that on **October 11, 2004**, I caused to be served true and correct copies of the following:

1. *Notice Of Hearing And Motion For Relief From Stay*;
2. *Memorandum Of Law In Support Of Motion For Relief From The Stay; and*
3. Proposed *Order For Relief From Stay*

upon those parties on the attached Service List, by depositing a true and correct copy thereof in the United States Mail, postage prepaid, in Minneapolis, Minnesota, and/or by faxing a true and correct copy thereof at the fax number(s) referenced thereon.

Executed on: October 11, 2004 Signed: Cheryl Moline
Cheryl Moline

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SERVICE LIST

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

In re: Bky Case No. 04-34621

Peter L. Juers and Annette K. Juers, Chapter 13

Debtors.

ORDER

The above-entitled matter came on for hearing before the Court upon the affidavit of William J. Fisher filed by PACCAR FINANCIAL CORP. ("PFC") pursuant to the Order dated October 25, 2004. Based on the affidavit, all of the files and records in this case, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED:

1. PFC is granted relief from the stay as to the Debtors, the Estate, and the Trustee to repossess and sell its collateral generally described as a *1998 Peterbilt Model 379-119, VIN 1XP5DB9XXWD446095* under applicable law and take any actions necessary consistent with state law; and

2. Any such Order entered shall take effect immediately and no stay of the Order shall be in place under Federal Rule of Bankruptcy Procedure 4001.

Dated:_____ **BY THE COURT**

_____
UNITED STATES BANKRUPTCY JUDGE

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