

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Case No. 04-34676-DDO
Chapter 7

Wayne Sidney Hansen and Susanne Marie Hansen,

Debtor(s).

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

TO: Debtor(s) and Attorney for Debtor(s); Terri A. Georgen, Chapter 7 Trustee; U.S. Trustee; and other parties in interest.

1. Wells Fargo Financial Acceptance, 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 Financial Acceptance 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 7 case was filed on August 10, 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 Financial Acceptance holds a valid, perfected interest in a 2004 Ford Ranger, vehicle identification number 1FTZR15E34PA19520 (the "Vehicle").

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

8. Payments due under the terms of the Contract for the months of July and August 2004 totaling \$974.22 plus late charges, have not been made by the Debtor(s).

9. The balance due under the Contract is \$23,935.69 as of the date hereof. On information and belief, the fair market value of the Vehicle is approximately \$19,500.00.

10. Wells Fargo Financial Acceptance's interest is depreciating, while Debtor(s) are failing to make payments. Wells Fargo Financial Acceptance does not have, and has not been offered, adequate protection of its interest in the Vehicle. There is no appreciable equity in the Vehicle and, in view of the fact that this is a Chapter 7 liquidation proceeding, the Vehicle is not necessary for an effective reorganization.

11. The failure of the Debtor(s) to make payments pursuant to the Contract or otherwise provide Wells Fargo Financial Acceptance with adequate protection of its interest in the Vehicle constitutes cause, within the meaning of 11 U.S.C. § 362(d)(1) and 362(d)(2), entitling Wells Fargo Financial Acceptance to relief from the stay.

12. Wells Fargo Financial Acceptance requests that any order modifying the automatic stay be effective immediately as allowed under Federal Bankruptcy Rule 4001(a)(3).

13. If testimony is necessary as to any facts relevant to this motion, A. Howard, or some other representative of Movant, will testify on behalf of Wells Fargo Financial Acceptance.

14. 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 Financial Acceptance will repossess the Vehicle promptly upon the Court signing the Order.

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

WHEREFORE, Wells Fargo Financial Acceptance respectfully moves the Court for an order (i) modifying the automatic stay of 11 U.S.C. §362 so as to permit Wells Fargo Financial Acceptance 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 15, 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 7 Case

Wayne S. and Susanne M. Elmsen,

Bky. No. 04-34676

Debtor(s).

Affidavit

I, Andrew J. Howard, of Wells Fargo Financial Acceptance, declare under penalty of perjury that the following is true and correct to the best of my knowledge, information and belief.

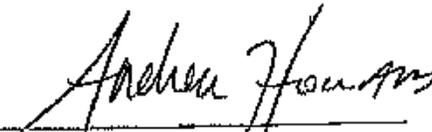
1. Wells Fargo Financial Acceptance has a security interest in the following (the "Collateral"):

2004 Ford Ranger VIN# 1FTZR15E34PA195202004 Ford Ranger VIN# 1FTZR15E34PA19520.

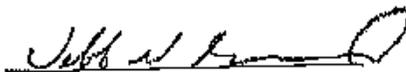
- 2. \$23,935.69 is the outstanding balance under the contract.
- 3. \$974.22 is the amount of the existing delinquency under the contract.
- 4. \$19,500.00 is the fair market value of the Collateral.
- 5. Yes appropriate insurance has been verified.

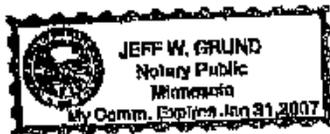
Further your affiant sayeth not.

Dated: 9/14/2004


 Andrew J. Howard
 Bankruptcy Specialist
 Wells Fargo Financial Acceptance

Subscribed and sworn to before me on
September 14, 2004


 Notary



4984112

759 cash

RETAIL INSTALLMENT CONTRACT AND SECURITY AGREEMENT No. 0000 Date APRIL 10th, 2004	Seller MONTICELLO FORD - MERCURY, TRC P.O. BOX 60 MONTICELLO MN 55368 <small>We and our lenders are not responsible for any errors, omissions and delays.</small>	Buyer MAYNE SIDNEY HANSEN SUSANNE MARIE HANSEN 1212 MAPLE LAKE PRINCETON MN 55371 <small>Your signature represents your agreement to these terms, conditions, and obligations.</small>
	<small>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.</small>	

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 2004 VIN 1FTZB3E3M19520 Other:

Motor Vehicle Make FORD Truck Use No/Year

Purchase Model RANGER New Used

Description of Vehicle: **2004 FORD TRUCK FROM LEASE/RENTAL**

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 with all proceeds of the Property. You also agree to 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 \$ 23900.07, plus finance charges according to the terms of this contract at the rate of 12.49% per year from today's date until paid in full. Finance charges accrue on charges according to the unpaid balance at the rate of 12.49% per year from today's date until paid in full. Finance charges accrue on charges according to the unpaid balance at the rate of 12.49% per year from today's date until paid in full.

TRUTH IN LENDING DISCLOSURE: You will agree to pay any additional amounts according to the terms and conditions of this Contract. **LOAN ADMINISTRATION FEE:** You agree to pay an additional, non-refundable loan administration fee of \$95.00 that will be paid in cash. **paid pro rata over the contract term.** **withhold from the proceeds of the fee is withheld from the proceeds. The amount is included in the principal debt.**

CASH PAYMENT: You also agree to pay, or apply to the Cash Price, in full before today's date, any cash, rebate and not made in value described in the ITEMIZATION OF AMOUNT FINANCED. You agree to make deferred payments as part of the cash down payment on vehicle in your Payment Schedule.

TRUTH IN LENDING DISCLOSURES

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	AMOUNT FINANCED	TOTAL OF PAYMENTS	TOTAL SALE PRICE
The cost of your debt as a yearly rate	The dollar amount the credit will cost you.	The amount of credit provided to you or on your behalf.	The amount you will have paid when you have made all scheduled payments.	The total cost of your purchase on credit, which may vary from payment to payment.
12.49%	\$ 10356.97	\$ 23900.07	\$ 44258.04	\$ 24258.04

Payment Schedule: Your payment schedule will be:

Number of Payments	Amount of Payment	When Payments Are Due
72	\$75.00	MONTHLY BEGINNING: 06/26/2004

Security: You are giving a security interest in the Motor Vehicle purchased. **Early Charge:** If a payment is more than 10 days late, you will be charged 1.72% OR 5% INTEREST IS **late charge may be applied to the amount due on the day of the payment.**

Amount financed by less than when: \$161.57

Prepayments: If you pay off this Contract early, you will not have to pay a penalty.

Control: You can see the terms of this Contract for any additional information about employment, details, any repairs, or payments before the scheduled date, and prepayment refunds and penalties.

CREDIT INSURANCE: Credit life, credit disability (accident and health), and any other insurance coverage is not included in this contract. You may purchase or provide the insurance through any insurance company reasonably acceptable to us. If you want such insurance, we will obtain it for you if you qualify for coverage. We are quoting below ONLY the coverage you have chosen to purchase.

ITEMIZATION OF AMOUNT FINANCED

Vehicle Price (net sales tax of \$ 144.39)	\$ 21374.85
Service Contract: Paid in:	N/A
Manufacturer's rebate:	\$ 3500.00
Cash down payment:	\$ 7000.00
Initial cash down payment:	N/A
Total Cash Advance Down:	\$ 7000.00
Trade-in Allowance:	\$ 21738.37
Less: Amount of cash down:	\$ 7000.00
Trade-in Credit:	\$ 0.00
Net Trade-in (a minus c):	\$ -1738.37
Net Cash Trade-in (a plus d):	\$ 0.00
Down Payment (e, disclose as 50.00 negative):	\$ 0.00
Unpaid balance of Cash Price:	\$ 21374.85
Paid in Public Official - Filing Fee:	\$ 116.75
Insurance Premiums:	N/A
Amount to Finance (a, b, c, d, e, f, g, h, i, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y, z):	\$ 23900.07
To: MONTICELLO FORD - MERCURY, TRC:	\$ 50.00
To: N/A:	\$ N/A
To: N/A:	\$ N/A
To: N/A:	\$ N/A
Total Other Charges/Amounts Paid in Other:	\$ 2525.12
Less: Prepaid Finance Charges:	\$ N/A
Amount Financed:	\$ 23900.07

PROPERTY INSURANCE: You must have the Property securing this Contract. You may purchase or provide the insurance through any insurance company reasonably acceptable to us. If you want such insurance, we will obtain it for you if you qualify for coverage. We are quoting below ONLY the coverage you have chosen to purchase.

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 for 72 months.

This Service Contract will be in effect for N/A months.

ASSIGNMENT: This Contract and Security Agreement is assigned to **WELLS FARGO BANK, N.A.** (000177) 0000. 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. 04/10/2004

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 this 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.

Buyer: Wayne & Susanne Hansen 04/10/2004

Signed by: MAYNE SIDNEY HANSEN Date: 04/10/2004

Signed by: SUSANNE MARIE HANSEN Date: 04/10/2004

Signed by: Tommy John Pardo Lopez Date: 04/10/2004

Seller: **WELLS FARGO BANK, N.A.** (000177) 0000

WELLS FARGO BANK, N.A. (000177) 0000

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
 DRIVER & VEHICLE SERVICES DIVISION
 443 MINNESOTA ST., ST. PAUL, MN 55101
 CONFIRMATION OF LIEN PERFECTION - DEBTOR NAME AND ADDRESS

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

HANSEN WAYNE SIDNEY OR
 HANSEN SUSANNE MARIE
 1212 MAPLE LANE
 PRINCETON MN 55371

LZX876

1ST SECURED PARTY

LIEN HOLDER

04 Year	FORD Make	PSRNG Model	K1670S166 Title No.
1FTZR15E34PA19520 VIN		04/10/04 Security Date	NO Redull

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

7596140

WELLS FARGO BANK NA
 PO BOX 53439
 PHOENIX AZ 85072-3439

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Case No.04-34676-DDO
Chapter 7

Wayne Sidney Hansen and Susanne Marie Hansen,
Debtor(s).

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

Wells Fargo Financial Acceptance submits this memorandum of law in support of its motion for relief from the stay in the above-entitled matter.

FACTS

Wells Fargo Financial Acceptance holds a perfected interest in a 2004 Ford Ranger with a vehicle identification number 1FTZR15E34PA19520 (the "Vehicle"). Payments due under the terms of the Contract for the months of July and August 2004 totaling \$974.22 plus late charges, have not been made by the Debtor(s). The balance due under the Contract is \$23,935.69 as of the date hereof. On information and belief, the fair market value of the Vehicle is approximately \$19,500.00.

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. Section 362(d)(1). No payments have been made as required by the Contract between the Debtor(s) and Wells Fargo Financial Acceptance has otherwise not been provided with adequate protection of interest in the Vehicle. Such failure constitutes cause, within the meaning of Section 362(d)(1), entitling Wells Fargo Financial Acceptance to relief from the stay. United Savings Assn. of Texas v. Timbers of Inwood Forest Assoc., Ltd. (In re Timbers of Inwood Assoc., Ltd.), 484 U.S. 365, 108 S.Ct. 626, 98 L.Ed.2d 740 (1988).

Pursuant to Section 362(d)(2) of the Bankruptcy Code, relief from the stay is also appropriate where no equity exists and the property is not necessary to an effective reorganization. In re Albany Partners, Ltd., 749 F.2d 670 (11th Cir. 1984). The balance due under the Contract is \$23,935.69 as of the date hereof. The fair market value of the Vehicle is approximately \$19,500.00. Clearly, no appreciable equity exists in the Vehicle. Finally, as this a Chapter 7 case, the Vehicle is not necessary to an effective reorganization.

CONCLUSION

For all the reasons set forth herein, Wells Fargo Financial Acceptance 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.

Dated: September 15, 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:

Wayne Sidney Hansen and Susanne Marie Hansen

Debtor(s).

UNSWORN DECLARATION

FOR PROOF OF SERVICE

Bky. No. 04-34676-DDO

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))
Stephen L. Heller
606 25th Ave. S. - Suite 203
St. Cloud, MN 56301

(Trustee)
Terri A. Georgen
PO Box 16355
St Paul, MN 55116

(Debtor(s))
Wayne Sidney Hansen
1212 Maple Lane
Princeton, MN 55371

Susanne Marie Hansen
1212 Maple Lane
Princeton, MN 55371

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

Date: September 15, 2004

Signed: /e/ Bradley J. Halberstadt

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Case No. 04-34676-DDO
Chapter 7

Wayne Sidney Hansen and Susanne Marie Hansen,

Debtor(s).

**ORDER GRANTING
MOTION FOR RELIEF FROM STAY**

The above-entitled matter came before the Court for hearing on Wednesday, October 13, 2004 on the motion of Wells Fargo Financial Acceptance 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 Financial Acceptance 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 Financial Acceptance, and Wells Fargo Financial Acceptance is authorized to foreclose its interest in the subject 2004 Ford Ranger, vehicle identification number 1FTZR15E34PA19520 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