

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:

Case No. 04-34783-GFK

Chapter 7

Mai Hang,

Debtor(s).

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

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TO: Debtor(s) and Attorney for Debtor(s); Nauni J. Manty, Chapter 7 Trustee; U.S. Trustee; and other parties in interest.

1. Countrywide Home Loans, Inc., 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 on , before the Honorable Gregory F. Kishel, in Courtroom No. 228B, 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 , 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 , 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. Countrywide Home Loans, Inc. 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 16, 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. Debtor(s) (whether one or more) executed a promissory note in favor of Countrywide Home Loans, Inc. in consideration for a real estate loan (the "Note"). To secure repayment of the Note, Debtor(s) granted to Countrywide Home Loans, Inc. a mortgage dated on the following real property (the "Property"):

Lot One Hundred Eighty (180), Second Addition to Terrace Park, in the town of Windsor, Dane County, Wisconsin

A copy of the first page of the Mortgage is attached hereto.

7. Payments due under the terms of the Mortgage for the months of December 2003 through September 2004 totaling \$11,762.07 plus late charges, have not been made by the Debtor(s).

8. The balance due under the Mortgage is \$143,501.13 as of the date hereof. On information and belief, the fair market value of the Property is approximately \$160,000.00 less other applicable mortgages. After consideration of the applicable liens, there is no appreciable equity in the Property.

9. Countrywide Home Loans, Inc.'s interest is depreciating, while Debtor(s) are failing to make payments. Countrywide Home Loans, Inc. does not have, and has not been offered, adequate protection of its interest in the Property. There is no appreciable equity in the Property and, in view of the fact that this is a Chapter 7 liquidation proceeding, the Property is not necessary for an effective reorganization.

10. The failure of the Debtor(s) to make payments pursuant to the Mortgage or otherwise provide Countrywide Home Loans, Inc. with adequate protection of its interest in the Property constitutes

cause, within the meaning of 11 U.S.C. § 362(d)(1) and 362(d)(2), entitling Countrywide Home Loans, Inc. to relief from the stay.

11. Countrywide Home Loans, Inc. 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, G. Levine, or some other representative of Movant, will testify on behalf of Countrywide Home Loans, Inc..

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

WHEREFORE, Countrywide Home Loans, Inc. respectfully moves the Court for an order (i) modifying the automatic stay of 11 U.S.C. §362 so as to permit Countrywide Home Loans, Inc. to foreclose its interest in the Mortgage in accordance with applicable state 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 24, 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



C. As of September 8, 2004, the total indebtedness was \$143,501.13. Debtor is in default on 10 contractual payments (December 2003 through and including September 2004 payments). The amount of the current monthly mortgage installment payment is \$1,124.15, and the monthly late charge is \$42.98.

5. By failing to make the regular monthly installment payments due pursuant to the Note, Debtor has not provided adequate protection to Fannie Mae.

6. Fannie Mae has had to retain counsel to represent it before this Court and is incurring legal expenses and attorneys' fees for which it is entitled to reimbursement under the terms of its Note.

The foregoing facts are of my own personal knowledge and belief, and if called upon to appear as a witness, I could, and would, testify competently thereto. I declare under penalty of perjury that to the best of my knowledge the foregoing facts are true and correct.

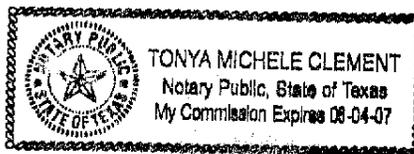
**Countrywide Home Loans, Inc.**

By: Sandra Boranian  
Sandra Boranian  
Bankruptcy Representative

DATED: 9-10-2004

SUBSCRIBED AND SWORN TO BEFORE ME on September 10<sup>th</sup>, 2004.

Tonya Michele Clement  
Notary Public in and for the State of Texas



8917954

MORTGAGE

We certify this to be  
a true and correct copy  
of the original  
Preferred Title

DOCUMENT NUMBER

NAME & RETURN ADDRESS  
M&I Mortgage Corp.  
ATTN: Final Documentation Dept.  
P.O. Box 478  
Milwaukee, WI 53201-0478

PARCEL IDENTIFIER NUMBER  
068-0910-273-3490-4

[Space Above This Line For Recording Data]

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 December 12 2001 together with all Riders to this document.
- (B) "Borrower" is

See Yang and Mai Hang husband and wife

Borrower is the mortgagor under this Security Instrument.  
(C) "Lender" is M&I Marshall and Ilsley Bank

Lender is a Corporation organized and existing under the laws of the State of Wisconsin

3050.FRM (11/00)

8347577

YANG, S

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

Form 3050 1/01

61616 -S(WI) 100081

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Initials: SYM H Z V

VMP MORTGAGE FORMS - (000821 727)



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:

Case No.04-34783-GFK  
Chapter 7

Mai Hang,

Debtor(s).

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

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Countrywide Home Loans, Inc. submits this memorandum of law in support of its motion for relief from the stay in the above-entitled matter.

FACTS

Countrywide Home Loans, Inc. holds a perfected interest in the following real property owned by Debtor(s) (the "Property"): Lot One Hundred Eighty (180), Second Addition to Terrace Park, in the town of Windsor, Dane County, Wisconsin. Payments due under the terms of the Mortgage for the months of December 2003 through September 2004 totaling \$11,762.07 plus late charges, have not been made by the Debtor(s). The balance due under the Mortgage is \$143,501.13 as of the date hereof. On information and belief, the fair market value of the Property is approximately \$160,000.00, less applicable mortgages. After applicable mortgages and costs of foreclosure, there is no appreciable equity in the Property.

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 Mortgage between the Debtor(s) and Countrywide Home Loans, Inc. has otherwise not been provided with adequate protection of interest in the Property. Such failure constitutes cause, within the meaning of Section 362(d)(1), entitling Countrywide Home Loans, Inc. 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 \$143,501.13 as of the date hereof. The fair market value of the Property is approximately \$160,000.00. After applicable mortgages and costs of foreclosure, there is no appreciable equity in the Property. Finally, as this a Chapter 7 case, the Vehicle is not necessary to an effective reorganization.

#### CONCLUSION

For all the reasons set forth herein, Countrywide Home Loans, Inc. 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 24, 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:

Mai Hang

Debtor(s).

UNSWORN DECLARATION

FOR PROOF OF SERVICE

Bky. No. 04-34783-GFK

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:

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

(Attorney for Debtor(s))  
Robert J. Hoglund  
PO Box 130938  
Roseville, MN 55113

(Trustee)  
Nauni J. Manty  
Rider Bennett LLP  
333 S 7th St Ste 2000  
Minneapolis, MN 55402

(Debtor(s))  
Mai Hang  
1191 East Minnehaha Avenue  
St. Paul, MN 55106

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

Date: September 24, 2004

Signed: /e/ Bradley J. Halberstadt

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In re:

Case No. 04-34783-GFK  
Chapter 7

Mai Hang,

Debtor(s).

**ORDER GRANTING  
MOTION FOR RELIEF FROM STAY**

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The above-entitled matter came before the Court for hearing on the motion of Countrywide Home Loans, Inc. 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 Countrywide Home Loans, Inc. 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 Countrywide Home Loans, Inc., and Countrywide Home Loans, Inc., and/or its successors and assigns, is authorized to foreclose its interest in the subject Lot One Hundred Eighty (180), Second Addition to Terrace Park, in the town of Windsor, Dane County, Wisconsin, in accordance with applicable state law. Notwithstanding Fed R. Bankr. P. 4001(a)(3), this order is effective immediately.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Gregory F. Kishel  
United States Bankruptcy Judge