

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Christine L. Erickson
Chrisinte L. Isabel
SSN XXX-XX-2446

CHAPTER 7 CASE

CASE NO. 04-34918 GFK

Debtor.

NOTICE OF HEARING AND MOTION FOR RELIEF FROM STAY

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

1. JP Morgan Chase Bank, as Trustee for certificateholders of Bear Stearns Asset Backed Securities, Inc. Asset Backed Certificates, Series 2003-1, through its servicing agent, EMC 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 November 1, 2004, at 10:30 a.m., or as soon thereafter as counsel can be heard, before the Honorable Gregory F. Kishel in Courtroom 228B 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 October 27, 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 October 21, 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 20, 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 \$126,400.00, as evidenced by that certain Promissory Note dated June 6, 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 June 6, 2002, executed by Christine Leigh Erickson f/k/a Christine Leigh Isabel, an unmarried woman, 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 Dakota County, Minnesota and is legally described as follows to-wit:

CIC 185, Itokah Valley Townhomes, Unit 119, Dakota County, Minnesota.

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 October 13, 2004, Debtor is delinquent in the making of monthly payments as required for the months of August, 2004 through October, 2004, inclusive, in the amount of \$1,177.78 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 \$138,100.00 subject to Secured Creditor's mortgage in excess of \$132,835.29.

Considering selling costs of 10%, Debtor has no real equity in the property. 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 13th day of October, 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.

EMC

9/20/2004 8:00

PAGE 2/16

RightFax

CERTIFIED
TRUE & CORRECT COPY
CW

000042200

[Space Above This Line For Recording Date]

MORTGAGE

Return To:
BARBARA LIDON
FREMONT INVESTMENT & LOAN
P.O. BOX 14242
ORANGE, CA 92663

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 9, 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 June 6, 2002 together with all Riders to this document.

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

Form 8034 1/01

4(MN) 00001.01

Page 1 of 18

Initials

BAE

VMS MORTGAGE FORMS - (800)801-7501



EMC
IMAGED

EXHIBIT B

(B) "Borrower" is CHRISTINE LEIGH ERICKSON, P/K/A CHRISTINE LEIGH ISABEL, AN UNMARRIED WOMAN

Borrower is the mortgagor under this Security Instrument.
(C) "Lender" is FREMONT INVESTMENT & LOAN

Lender is a CORPORATION organized and existing under the laws of CALIFORNIA
Lender's address is 176 N. RIVERVIEW DRIVE, ANAHEIM CA 92805

Lender is the mortgagee under this Security Instrument.
(D) "Note" means the promissory note signed by Borrower and dated JUNE 8, 2002
The Note states that Borrower owes Lender One Hundred Twenty-Six Thousand, Four Hundred and No/100 Dollars (U.S. \$ 126,400.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than July 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 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):

- Adjustable Rate Rider
- Balloon Rider
- VA Rider
- Condominium Rider
- Planned Unit Development Rider
- Biweekly Payment Rider
- Second Home Rider
- 1-4 Family Rider
- 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" means 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 3) 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. Section 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 DAKOTA

[Name of Recording Jurisdiction]:

SEE ATTACHED.

Parcel ID Number: 020742011002
1847 RIVERWOOD DR
BURNSVILLE
("Property Address"):

which currently has the address of
[Street]
(City), Minnesota 55337 [Zip Code]

In State 

EMC

9/20/2004 8:00

PAGE 15/16

RightFax

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Witness:

Christine L. Erickson (Seal)
CHRISTINE L. ERICKSON -Borrower

1

_____ (Seal)
-Borrower

STATE OF MINNESOTA,

HENNEPIN County of:

On this 6th day of MAY 2002, before me appeared

CHRISTINE LEIGH BRICKSON, F/K/A CHRISTINE LEIGH ISABEL, AN UNMARRIED WOMAN

is 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/hers/their free act and deed.

David J. Brunner
Notary Public
My Commission Expires 1/31/06



This instrument was drafted by:
FREMONT INVESTMENT & LOAN
PO BOX 14242
ORANGE, CA 92663

Tax statements for the real property described in this instrument should be sent to:

EMC

9/30/2004 8:17

PAGE 2/2

RightFax

RightFAX

5/8/02

1:15: PAGE 5/5

RightFAX

EXHIBIT A

**CIC 188, ITOKAH VALLEY TOWNSHIPS, UNIT 119, DAKOTA COUNTY,
MINNESOTA.**

ABSTRACT PROPERTY.

**THE ABOVE PROPERTY IS SITUATED IN DAKOTA COUNTY, STATE OF
MINNESOTA.**

ADDRESS: 1647 RIVERWOOD DRIVE; BURNSVILLE, MN 55337

TAX MAP OR PARCEL ID NO.: 02 37429 119 02

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Christine L. Erickson
Chrisinte L. Isabel
SSN XXX-XX-2446

CHAPTER 7 CASE

CASE NO. 04-34918 GFK

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 October 13, 2004, Debtor is delinquent for the monthly payments as required for the months of August, 2004 through October, 2004, in the amount of \$1,177.78 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 \$138,100.00 subject to Secured Creditor's mortgage in excess of \$132,835.29.

Considering selling costs of 10%, Debtor has no real equity in the property. 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 13th day of October, 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. 04-34918 GFK

Christine L. Erickson
Christine L. Isabel
SSN XXX-XX-2446

**AFFIDAVIT OF
SHANJALA L. FRAZIER**

Debtor.

Shanjala L. Frazier, being first duly sworn on oath, deposes and states:

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

2. JP Morgan Chase Bank, as Trustee for certificateholders of Bear Stearns Asset Backed Securities, Inc. Asset Backed Certificates, Series 2003-1, through its servicing agent, EMC 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 June 6, 2002, executed by Christine Leigh Erickson, f/k/a Christine Leigh Isabel, an unmarried woman. The property is located in Dakota County, Minnesota and is legally described as follows, to-wit:

CIC 185, Itokah Valley Townhomes, Unit 119, Dakota County, Minnesota.

3. That she has reviewed the account records relating to the Erickson mortgage loan, account no. 2717064.

4. That as of October 7, 2004, the following amounts were owing on this account:

Unpaid Principal:	\$124,688.65
Interest through October 6, 2004	6,960.68
Attorney's Fees:	700.00
Late Charges:	589.54
Non-Escrow Advances:	94.80
Escrow Balance (-):	(198.38)
TOTAL:	\$132,835.29

5. That the mortgage loan is delinquent for monthly mortgage payments for the months of August, 2004 through October, 2004 in the amount of \$1,177.78 each.

6. This affidavit is given in support of the motion of JP Morgan Chase Bank, as Trustee for certificateholders of Bear Stearns Asset Backed Securities, Inc. Asset Backed Certificates, Series 2003-1, through its servicing agent, EMC Mortgage Corporation for relief from the automatic stay.

EMC MORTGAGE CORPORATION

By

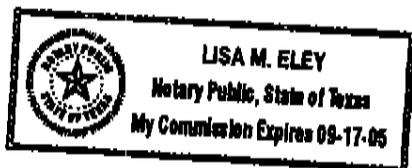
Shanjala Frazier

Its Bankruptcy Specialist

Subscribed and sworn to before me
this 7 day of October, 2004.

Lisa M. Eley

Notary Public



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Christine L. Erickson
Chrisinte L. Isabel
SSN XXX-XX-2446

CHAPTER 7 CASE

CASE NO. 04-34918 GFK

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 October 13, 2004, I served the annexed Notice of Hearing and Motion for Relief from Stay, Memorandum in Support of Motion for Relief, Affidavit of Shanjala L. Frazier, 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:

Christine L. Erickson
1647 Riverwood Drive
Burnsville, MN 55337

Patti J. Sullivan
PO Box 16406
St. Paul, MN 55116

David D. Kingsbury
Kingsbury & Associates, LTD
14827 Energy Way
Apple Valley, MN 55124

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

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

Dated this 13th day of October, 2004.

/e/ Diana Waletzko
Diana Waletzko

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Christine L. Erickson
Chrisinte L. Isabel
SSN XXX-XX-2446

CHAPTER 7 CASE

CASE NO. 04-34918 GFK

Debtor.

ORDER

The above entitled matter came on for hearing upon motion of JP Morgan Chase Bank, as Trustee for certificateholders of Bear Stearns Asset Backed Securities, Inc. Asset Backed Certificates, Series 2003-1, through its servicing agent, EMC Mortgage Corporation (hereinafter "Secured Creditor"), pursuant to 11 U.S.C. § 362 on November 1, 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 June 6, 2002, executed by Christine Leigh Erickson f/k/a Christine Leigh Isabel, an unmarried woman, covering real estate located in Dakota County, Minnesota, legally described as follows, to-wit:

CIC 185, Itokah Valley Townhomes, Unit 119, Dakota County, Minnesota

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