

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re: Teresa Gail Willis
 Wendell Roy Willis

Case No. Bky 04-35174-GFK
Chapter 7 Case

Debtor(s).

NOTICE OF HEARING AND MOTION FOR RELIEF FROM STAY

TO: Teresa Gail Willis, 13338 Huntington Drive, Apple Valley, MN 55124, Wendell Roy Willis, 13338 Huntington Drive, Apple Valley, Minnesota 55124, Debtor and their attorney, Jessica N. McKinney, 2469 University Ave W, Ste 140 E, Saint Paul, MN 55114, and other entities specified in Local Rule 9013-3.

1. Affinity Plus, of 2730 Snelling Ave N, Saint Paul, MN 55113, by its undersigned attorney, moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this matter at 10:30 a.m., on Tuesday, October 19, 2004 in Courtroom No. 228 B, at the United States Courthouse, at 316 N. Robert St., in St. Paul, MN 55101.

3. Any response to this motion must be filed and delivered not later than Thursday, October 14, 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 Thursday, October 7, 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, Fed. R. Bankr. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this chapter 7 case was filed on September 17, 2004. The case is now pending in this court.

5. 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 9013-1 through 9013-3 and 9006-1. Movant requests relief with respect to: 2000 Honda S2000 Roadster, Serial #JHMAP1142YT009072.

6. Movant has a valid and perfected first security interest in the following collateral to secure the purchase price thereof: 2000 Honda S2000 Roadster, Serial #JHMAP1142YT009072.

7. A copy of the Retail Installment Contract whereby Debtor granted Movant a security interest in the aforesaid collateral is attached hereto as Exhibit A.

8. Movant has duly perfected its security interest in the aforesaid collateral as reflected on the Confirmation of Lien Perfection, a true and correct copy of which is attached hereto as Exhibit B.

9. The NADA retail value of the collateral at the time of the filing of the petition was \$20,600.00 while the amount of Movant's claim was \$24,543.99. The debtor is delinquent Two Hundred Eighteen and 83/100 Dollars, (\$218.83) for the monthly installments due on July 20, 2004 through September 20, 2004 .

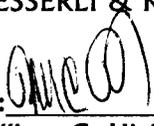
10. Movant does not have, and has not been offered, adequate protection of its interest in the above collateral, Debtor has no equity in the collateral, and the above collateral is not necessary for an effective reorganization.

11. A separate memorandum of facts and law is submitted with the motion.

WHEREFORE, Affinity Plus by its undersigned attorney, moves the Court for an order or judgment that the automatic stay provided by 11 U.S.C. §362(a) be modified so as to permit Affinity Plus to foreclose its security interest in the above collateral, and for such other relief as may be just and equitable.

Dated: September 29, 2004

MESSERLI & KRAMER, P.A.

By: 

William C. Hicks, #142505
Derrick N. Weber, #241623
Atty for Affinity Plus
3033 Campus Drive
Suite 250
Plymouth, Minnesota 55441
Telephone (763) 548-7900

VERIFICATION

I, Jodi Schramel, corporate representative of the moving party 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: 9/27/04



Jodi Schramel

Local Rule Reference: 9013-2

b7.fm

931751LS

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
DRIVER & VEHICLE SERVICES DIVISION
445 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

HERRIOTT-WILLIS TERESA GAIL
13338 HUNTINGTON DRV
APPLE VALLEY MN 55124

FKJ557

1ST SECURED PAR

Year 00	Make HOND	Model CVS20	Title NR. Z3140M563
VIN JHMAP1142YT009072		Security Date 09/11/00	Rebuilt NO

LIEN HOLD

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

AFFINITY PLUS FEDERAL
175 W LAFAYETTE RD
SAINT PAUL MN 55107-1

AFFINITY PLUS FEDERAL C U
 175 W LAFAYETTE RD
 ST PAUL MN 55107

**CLOSED-END NOTE, DISCLOSURE,
 LOAN AND SECURITY AGREEMENTS**

DATE OF LOAN 09/11/00	LOAN MATURITY DATE 09/20/07	LOAN OFFICER AD
LOAN NUMBER	DEBTOR'S SOCIAL SECURITY NO.	
DEBTOR'S ACCOUNT NUMBER 931751	DEBTOR'S DATE OF BIRTH 12/27/50	
OTHER DEBTOR'S ACCOUNT NUMBER	OTHER DEBTOR'S DATE OF BIRTH	

DEBTOR
TERESA GAIL HERRIOTT-WILLIS
13338 HUNTINGTON DRIVE APPLE VALLEY MN 55124

OTHER DEBTOR

ANNUAL PERCENTAGE RATE: The cost of your credit as a yearly rate. 6.85	FINANCE CHARGE: The dollar amount the credit will cost you. 1264.27	Amount Financed: The amount of credit provided for you or on your behalf. \$ 36353.45	Total of Payments: The amount you will have paid after you have made all payments as scheduled. \$ 48999.72	Total Sale Price: The total cost of your purchase on credit, including your down payment. \$ 36353.45
Your payment schedule will be:				
NUMBER OF PAYMENTS 83	AMOUNT OF PAYMENTS \$ 589.33	WHEN PAYMENTS ARE DUE 10/20/00 MONTHLY		
1 FINAL \$ 589.33				
Security: You are giving a security interest in the goods or property being purchased. Collateral for other loans will also secure this loan.		<input type="checkbox"/> Other: Describe: _____		
Late Charges: <input checked="" type="checkbox"/> Yes, if you are more than 10 days past due, you will be charged a late charge of \$10. <input type="checkbox"/> No. We do not assess late charges.		Pinny Fee: 5.00		
Property Insurance: You may obtain property insurance from anyone one want that is acceptable to the credit union. If you do not obtain property insurance the credit union will provide it for you. If insurance is provided through the credit union: Total Cost: N/A Terris: N/A		Required Deposit Balance: The Annual Percentage Rate does not take into account your required deposit balance.		
Prepayment: If you pay off early, you will not have a penalty.		See your contract documents for the complete terms and conditions of this agreement in full before signing.		

ITEMIZATION OF AMOUNT FINANCED OF	\$ 36353.45	Amount Paid to others on your behalf (Describe)			
AMOUNT PAID TO YOU DIRECTLY	\$ N/A				
AMOUNT PAID ON YOUR ACCOUNT	\$ 36353.45				
PREPAID FINANCE CHARGE	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A

SECURITY INFORMATION					
MOTOR VEHICLES:	YEAR 2000	MAKE HONDA	MODEL S2000	BODY TYPE 2DR VTEC CONV	SERIAL NUMBER JHMAP1142YT009072
SHARES PLEDGED:	ACCOUNT NUMBER	AMOUNT \$ N/A	ACCOUNT NUMBER	AMOUNT \$ N/A	

NOTICE: Any holder of this consumer contract is subject to all claims and defenses which the debtor could assert against the seller of goods or services obtained pursuant hereto or with the proceeds hereof. Recovery hereunder by the debtor shall not exceed amounts paid by the debtor hereunder.

I (we) understand some or all of the above property is normally protected by law from the claims of creditors, and I as the debtor or other owner voluntarily give up my right to that protection for the above-listed property with respect to claims arising out of this loan.

I agree that the terms and conditions in the disclosure statement and the loan and security agreements located on the reverse side of this document shall apply to this loan. If there is more than one borrower, we agree that all the conditions of the loan and security agreements governing this loan shall apply to both jointly and severally. I acknowledge that I have received a copy of the loan and security agreements and disclosure statement.

DEBTOR'S SIGNATURE X <i>Teresa Willis</i>	DATE 09/11/00
<input type="checkbox"/> CO-MAKER	<input type="checkbox"/> OTHER OWNER
<input checked="" type="checkbox"/> GUARANTOR	DATE

WITNESS X <i>Debbie Katz</i>	DATE
WITNESS X	DATE

*OTHER OWNER: Any person who has a property interest (other than as a renter or lessor) in the above described collateral signs here. The other owner, unless also a co-maker, is not obligated to pay the debt, but understands that the credit union has a security interest in the collateral as explained in the Security Agreement. **GUARANTOR: Upon default, the credit union may seek immediate payment from the guarantor of any and all sums due on the loan. The guarantor waives all notices to which he or she would otherwise be entitled by law.

APPLICATION FOR GROUP CREDIT INSURANCE

CREDIT LIFE INSURANCE		CREDIT DISABILITY INSURANCE	
GROUP POLICY NUMBER	INSURANCE MAXIMUM \$40,000	GROUP POLICY NUMBER	MAXIMUM MONTHLY DISABILITY BENEFIT \$700
MAXIMUM LOAN REPAYMENT PERIOD 120 Months	MAX. AGGREGATE DISABILITY BENEFIT \$40,000	WAITING PERIOD 14 Days	MAXIMUM LOAN REPAYMENT PERIOD 120 Months
			RETROACTIVE BENEFIT No

I (we) are applying for the credit insurance coverage(s) selected below and agree to pay the required premium. I (we) understand that fees may be paid by the insurer in connection with this coverage to the sponsor of this plan and/or its affiliates or designates. I (we) understand that the purchase of this insurance is **voluntary and not required** in order to obtain credit, and that I (we) may terminate it at any time. I (we) also agree that: 1. I am eligible for life insurance if I am presently under age 66 and my loan is repayable within the maximum loan repayment period shown above. 2. If joint life insurance is selected, we are eligible if the older applicant is presently under age 66 and our loan is repayable within the maximum loan repayment period shown above. We must be jointly and individually liable under the loan. Co-signers or guarantors are not eligible for disability insurance if I am presently under age 66 and my loan is repayable within the maximum loan repayment period shown above. I also must be presently working outside the home for wages or profit for 30 hours or more per week and have been so working for 30 days or more immediately prior to this date. 4. A person signing this application as co-applicant is not eligible for disability insurance.

8.85 %

\$ 12646.27

\$ 36353.45

\$ 48999.72

\$ 52000.52

Your payment schedule will be:

NUMBER OF PAYMENTS	AMOUNT OF PAYMENTS	WHEN PAYMENTS ARE DUE
83	\$ 583.33	10/20/00
1 FINAL	\$ 583.33	DUE: MONTHLY

Security: You are giving a security interest in: The goods or property being purchased. Other, Describe: _____
 Collateral for other loans will also secure this loan. Your shares and/or deposits in this credit union

Late Charges: Yes, if you are more than 10 days past due, you will be charged a late charge of \$10.⁰⁰. No, We do not assess late charges.
 Filing Fees: \$ 550 N/A
 Non-Filing Insurance: \$ N/A

Property Insurance: You may obtain property insurance from anyone one want that is acceptable to the credit union. If you do not obtain property insurance the credit union will provide it for you. If insurance is provided through the credit union:
 Total Cost \$ N/A Term is N/A
 Required Deposit Balance: The Annual Percentage Rate does not take into account your required deposit balance.

Prepayment: If you pay off early, you will not have to pay a penalty. "e" means estimate. See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date and prepayment refunds and penalties.

ITEMIZATION OF AMOUNT FINANCED OF	AMOUNT PAID TO YOU DIRECTLY	AMOUNT PAID ON YOUR ACCOUNT	PREPAID FINANCE CHARGE	Amount Paid to others on your behalf (Describe)
\$ 36353.45	\$ N/A	\$ 36353.45	\$ N/A	
			\$ N/A	\$ N/A
			\$ N/A	\$ N/A

SECURITY INFORMATION

MOTOR VEHICLES:	YEAR	MAKE	MODEL	BODY TYPE	SERIAL NUMBER
	2000	HONDA	S2000	2DR VTEC CONV	JHMAP1142YT009072

SHARES PLEDGED:	ACCOUNT NUMBER	AMOUNT	ACCOUNT NUMBER	AMOUNT
		\$ N/A		\$ N/A

NOTICE: Any holder of this consumer contract is subject to all claims and defenses which the debtor could assert against the seller of goods or services obtained pursuant hereto or with the proceeds hereof. Recovery hereunder by the debtor shall not exceed amounts paid by the debtor hereunder.

I (we) understand some or all of the above property is normally protected by law from the claims of creditors, and I as the debtor or other owner voluntarily give up my right to that protection for the above-listed property with respect to claims arising out of this loan. I agree that the terms and conditions in the disclosure statement and the loan and security agreements located on the reverse side of this document shall apply to this loan. If there is more than one borrower, we agree that all the conditions of the loan and security agreements governing this loan shall apply to both jointly and severally. I acknowledge that I have received a copy of the loan and security agreements and disclosure statement.

DEBTOR'S SIGNATURE: *[Signature]* DATE: 09/11/00
 CO-MAKER OTHER OWNER GUARANTOR

WITNESS: *[Signature]* DATE: _____
 WITNESS: _____ DATE: _____

*OTHER OWNER: Any person who has a property interest (other than as a renter or lessor) in the above described collateral signs here. The other owner, unless also a co-maker, is not obligated to pay the debt, but understands that the credit union has a property interest in the collateral as explained in the Security Agreement. **GUARANTOR: Upon default, the credit union may seek immediate payment from the guarantor of any and all sums due on the loan. The guarantor waives all notices to which he or she would otherwise be entitled by law.

APPLICATION FOR GROUP CREDIT INSURANCE

CREDIT LIFE INSURANCE		CREDIT DISABILITY INSURANCE		
GROUP POLICY NUMBER	INSURANCE MAXIMUM	GROUP POLICY NUMBER	MAXIMUM MONTHLY DISABILITY BENEFIT	MAXIMUM LOAN REPAYMENT PERIOD
	\$40,000		\$700	120 Months
MAXIMUM LOAN REPAYMENT PERIOD	MAX. AGGREGATE DISABILITY BENEFIT	WAITING PERIOD	RETROACTIVE BENEFIT	
120 Months	\$40,000	14 Days	No	

I (we) are applying for the credit insurance coverage(s) selected below and agree to pay the required premium. I (we) understand that fees may be paid by the insurer in connection with this coverage to the sponsor of this plan and/or its affiliates or designates. I (we) understand that the purchase of this insurance is voluntary and not required in order to obtain credit, and that I (we) may terminate it at any time. I (we) also agree that: 1. I am eligible for life insurance if I am presently under age 66 and my loan is repayable within the maximum loan repayment period shown above. 2. If joint life insurance is selected, we are eligible if the older applicant is presently under age 66 and our loan is repayable within the maximum loan repayment period shown above. We must be jointly and individually liable under the loan. Co-signers or guarantors are not eligible for insurance. 3. I am eligible for disability insurance if I am presently under age 66 and my loan is repayable within the maximum loan repayment period shown above. I also must be presently working outside the home for wages or profit for 30 hours or more per week and have been so working for 30 days or more immediately prior to this date. 4. A person signing this application as co-applicant is not eligible for disability insurance.

The following question must be answered to determine my (our) eligibility for insurance: The applicant does not have to disclose an HIV (AIDS virus) test which was administered: (1) to a criminal offender or crime victim as a result of a crime that was reported to the police; (2) to a patient who received the services of emergency medical services personnel at a hospital or medical care facility; (3) to emergency medical personnel who were tested as a result of performing emergency medical services. The term "emergency medical personnel" includes individuals employed to provide pre-hospital emergency services; licensed police officers, firefighters, paramedics, emergency medical technicians, licensed nurses, rescue squad personnel, or other individuals who serve as security guards at the Minnesota security hospital, who experience a significant exposure to an inmate who is transported to a facility for emergency medical care; and other persons who render emergency care or assistance at the scene of an emergency, or while an injured person is being transported to receive medical care and who would qualify for immunity under the Good Samaritan Law.

APPLICANT: Yes No CO-APPLICANT: Yes No
 During the last two years, have you been advised of or treated for: cancer, heart attack or coronary artery disease, stroke, cirrhosis, AIDS, or any disorder of your immune system, or had any test showing evidence of antibodies to the AIDS virus (a positive HIV test)?
 My (our) answer to the above question is true to the best of my (our) knowledge and belief. If my co-applicant or I answer "Yes" to this question, we understand that the person answering "Yes" is not eligible for insurance and will not be insured. The effective date of my (our) insurance will be the date of this application, the date the eligible loan is disbursed, or the date the note evidencing the loan is signed, whichever date is later.

COVERAGE REQUESTED: Yes No Single Life: Total Cost \$ N/A e \$ N/A e
 Yes No Joint Life: Total Cost \$ N/A e \$ N/A e
 Yes No Credit Disability: Total Cost \$ N/A e \$ N/A e

APPLICANT'S SIGNATURE: *[Signature]* DATE: 09/11/00

CO-APPLICANT'S SIGNATURE (Joint Life Only): *[Signature]* DATE: _____

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Re: Teresa Gail Willis
Wendell Roy Willis

Case No. Bky 04-35174-GFK
Chapter 7 Case

Debtor(s).

MEMORANDUM IN SUPPORT OF MOTION FOR RELIEF FROM STAY

Affinity Plus moves the Court for an order modifying the automatic stay to permit Affinity Plus to take possession of a 2000 Honda S2000 Roadster presently in Debtor's possession. Movant has a security interest in the collateral pursuant to a Retail Installment Contract dated September 11, 2000, between Debtor and Affinity Plus. Movant's perfected security interest in the collateral is evidenced on the Confirmation of Lien Perfection for the vehicle.

The NADA retail value of the collateral at the time of the filing of the petition was \$20,600.00 while the amount of Movant's claim was \$24,543.99. The Debtor is delinquent Two Hundred Eighteen and 83/100 Dollars, (\$218.83) to the Movant.

Pursuant to 11 U.S.C. {362(d)(1)}, 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 collateral of such creditor." Debtor has defaulted on payments due under the Retail Installment Contract. Debtor has failed to provide Affinity Plus with adequate protection for its interest in the collateral. This failure constitutes cause within the meaning of 11 U.S.C. §362(d)(1), entitling Movant to relief from the stay.

In addition, pursuant to 11 U.S.C. §362(d)(2), relief from the automatic stay is also appropriate where debtors have no equity in the collateral and the collateral is not necessary for an effective reorganization. In this case, the balance due Affinity Plus exceeds the estimated value

of the collateral, and therefore, no equity exists in the collateral. Debtors do not need this collateral for an effective reorganization.

In conclusion, Affinity Plus is entitled to an Order modifying the automatic stay and allowing it to pursue its state court remedies for cause, as defined under 11 U.S.C. §362(d), and due to the lack of equity in the collateral and the fact that the collateral is not necessary for Debtor's effective reorganization. Movant does not have adequate protection for its security interest and none has been offered.

Affinity Plus respectfully requests that the above-named Court modify the automatic stay to allow Movant to pursue its remedies pursuant to state law in regard to this collateral to protect its interest in the collateral.

Notwithstanding Federal Rule of Bankruptcy Procedure 4001 (a)(3), Affinity Plus requests that this Order shall be effective immediately.

Dated: September 29, 2004

MESSERLI & KRAMER, P.A.

By: 

William C. Hicks, #142505
Derrick N. Weber, #241623
3033 Campus Drive
Suite 250
Plymouth, Minnesota 55441
Telephone (763) 548-7900

04-58518-0

AFFIDAVIT OF SERVICE BY MAIL

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Ryan Leddy, of the City of Minneapolis, County of Hennepin, in the State of Minnesota, declares under penalty of perjury that on 9/29/04, he served by U.S. mail the following documents:

1. Notice of Hearing and Motion for Relief from Stay;
2. Memorandum in Support of Motion for Relief from Stay; and
3. proposed Order to:

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

Mary Jo A Jensen-Carter, Trustee
1339 E Cnty Rd D
Vadnais Heights, MN 55109

Jessica N. McKinney
2469 University Ave W
Ste 140 E
Saint Paul, MN 55114

Teresa Gail Willis
13338 Huntington Drive
Apple Valley, Minnesota 55124

Wendell Roy Willis
13338 Huntington Drive
Apple Valley, Minnesota 55124

by depositing and mailing to them true and correct copies.



Ryan Leddy

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: Teresa Gail Willis
Wendell Roy Willis

Case No. Bky 04-35174-GFK
Chapter 7 Case

Debtor(s).

ORDER

This matter is before the Court on Affinity Plus's Motion for Relief from Stay. The Motion came on for hearing on Tuesday, October 19, 2004 at 10:30 a.m., at St. Paul, MN. Appearances are as noted in the record.

Affinity Plus requested relief from the automatic stay to foreclose its security interest in a 2000 Honda S2000 Roadster, Serial #JHMAP1142YT009072. Movant holds a duly perfected security interest in the collateral. The Court being advised fully in the Premises, and upon the Affidavit and all files and records herein,

NOW ORDERS:

That the Automatic Stay provided by 11 U.S.C. §362(a) be modified so as to permit Affinity Plus to foreclose its security interest in the above collateral, in accordance with state law. Notwithstanding Federal Rule of Bankruptcy Procedure 4001 (a)(3), this Order is effective immediately.

Dated: _____

BY THE COURT:

United States Bankruptcy Judge