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DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

RETURN TO: James V. Sarcone, Jr., 666 Walnut Street Suite 2000, Des Moines, IA 50309-3989, 515-243-7100
Prepared by: James V. Sarcone, Jr., 666 Walnut Street Suite 2000, Des Moines, IA 50309-3989, 515-243-7100

STATE OF IOWA)
) ss
COUNTY OF POLK)

AFFIDAVIT

I, James V. Sarcone, Jr., being first duly sworn on oath do depose and state that I am a regular practicing attorney in the City of Des Moines, Iowa. I am familiar with the chain of title to the following described property:

> THAT PART OF THE SOUTH HALF (S 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 29, TOWNSHIP 89 NORTH, RANGE 5, WEST OF THE FIFTH P.M., AND LOT SEVENTEEN (17) OF THE SUBDIVISION OF PART OF THE NORTH HALF (N 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) AND THE SOUTH HALF (S 1/2) OF THE NORTHEAST QUARTER (NE 1/4), SECTION 29, TOWNSHIP 89 NORTH, RANGE 5 WEST OF THE FIFTH P.M., DESCRIBED AS COMMENCING AT A POINT ON THE SOUTH LINE OF CLARA AVENUE, 132 FEET WEST OF THE WEST LINE OF NEW STREET, THENCE SOUTH 100 FEET TO THE POINT OF BEGINNING, THENCE SOUTH 89 FEET, THENCE WEST 117.15 FEET, THENCE NORTH 89 FEET, THENCE EAST 117.15 FEET TO BEGINNING, SUBJECT TO EASEMENT OF RECORD. (NOTE: THE WEST 20 FEET THEREOF ARE USED FOR STREET PURPOSES.)
> BEING THE SAME PROPERTY CONVEYED TO LOWELL GARY SPITTLER AND DAWN M. SPITTLER BY DEED FROM IN THE MATTER OF THE ESTATE OF OLIVE E. RYAN RECORDED 07/10/1997 IN DEED BOOK 138 PAGE 174, IN THE RECORDER'S OFFICE OF DELAWARE COUNTY, IOWA.

The abstract of title to the above property reports a Chapter 7 bankruptcy proceeding for former titleholders, Lowell G. Spittler and Dawn M. Spittler, filed in Case #08-0036821, United States Bankruptcy Court for the Southern District of Texas. Attached hereto are certain documents with respect to this bankruptcy filing:

a. Voluntary petition showing the filing;

b. Schedule A showing the above property;

c. Schedule D showing U.S. Bank's secured claim; and

d. Motion for Relief from the Automatic Stay and Order Granting Relief.

This affidavit is given to show that the Automatic Stay in the Spittlers' bankruptcy had been lifted such that the foreclosure action could be completed.

Dated at Des Moines, Iowa, this 18th day of November, 2010.

James V. Sarcone, Jr.

Subscribed and sworn to before me this 18th day of November, 2010.

Notary Public for the State of Iowa

D:\Firstar\Spittler\affd - jvs.docx



B1 (Official Form 1)(1/08)

United States Bankruptcy Court
Southern District of Texas

Voluntary Petition

Name of Debtor (if individual, enter Last, First, Middle):	Name of Joint Debtor (Spouse) (Last, First, Middle):
Spittler, Lowell G	Spittler, Dawn M
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):	All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all) [redacted]	Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all) [redacted]
Street Address of Debtor (No. and Street, City, and State): 22606 Poppyfield Dr. Katy, TX ZIP Code 77450	Street Address of Joint Debtor (No. and Street, City, and State): 22606 Poppyfield Dr. Katy, TX ZIP Code 77450
County of Residence or of the Principal Place of Business: Harris	County of Residence or of the Principal Place of Business: Harris
Mailing Address of Debtor (if different from street address): ZIP Code	Mailing Address of Joint Debtor (if different from street address): ZIP Code
Location of Principal Assets of Business Debtor (if different from street address above):	

Type of Debtor (Form of Organization) (Check one box)

- ■ Individual (includes Joint Debtors) *See Exhibit D on page 2 of this form.*
- ☐ Corporation (includes LLC and LLP)
- ☐ Partnership
- ☐ Other (If debtor is not one of the above entities, check this box and state type of entity below.)

Nature of Business (Check one box)

- ☐ Health Care Business
- ☐ Single Asset Real Estate as defined in 11 U.S.C. § 101 (51B)
- ☐ Railroad
- ☐ Stockbroker
- ☐ Commodity Broker
- ☐ Clearing Bank
- ☐ Other

Tax-Exempt Entity (Check box, if applicable)

- ☐ Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).

Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box)

- ■ Chapter 7
- ☐ Chapter 9
- ☐ Chapter 11
- ☐ Chapter 12
- ☐ Chapter 13
- ☐ Chapter 15 Petition for Recognition of a Foreign Main Proceeding
- ☐ Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding

Nature of Debts (Check one box)

- ■ Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."
- ☐ Debts are primarily business debts.

Filing Fee (Check one box)

- ■ Full Filing Fee attached
- ☐ Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A.
- ☐ Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.

Chapter 11 Debtors

Check one box:
- ☐ Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D).
- ☐ Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D).

Check if:
- ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,190,000.

Check all applicable boxes:
- ☐ A plan is being filed with this petition.
- ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).

Statistical/Administrative Information

- ☐ Debtor estimates that funds will be available for distribution to unsecured creditors.
- ■ Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.

THIS SPACE IS FOR COURT USE ONLY

Estimated Number of Creditors

☐ 1-49	☐ 50-99	■ 100-199	☐ 200-999	☐ 1,000-5,000	☐ 5,001-10,000	☐ 10,001-25,000	☐ 25,001-50,000	☐ 50,001-100,000	☐ OVER 100,000

Estimated Assets

☐ $0 to $50,000	☐ $50,001 to $100,000	■ $100,001 to $500,000	☐ $500,001 to $1 million	☐ $1,000,001 to $10 million	☐ $10,000,001 to $50 million	☐ $50,000,001 to $100 million	☐ $100,000,001 to $500 million	☐ $500,000,001 to $1 billion	☐ More than $1 billion

Estimated Liabilities

☐ $0 to $50,000	☐ $50,001 to $100,000	■ $100,001 to $500,000	☐ $500,001 to $1 million	☐ $1,000,001 to $10 million	☐ $10,000,001 to $50 million	☐ $50,000,001 to $100 million	☐ $100,000,001 to $500 million	☐ $500,000,001 to $1 billion	☐ More than $1 billion

Voluntary Petition *(This page must be completed and filed in every case)*	Name of Debtor(s): Spittler, Lowell G Spittler, Dawn M	
All Prior Bankruptcy Cases Filed Within Last 8 Years (If more than two, attach additional sheet)		
Location Where Filed: - None -	Case Number:	Date Filed:
Location Where Filed:	Case Number:	Date Filed:
Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet)		
Name of Debtor: - None -	Case Number:	Date Filed:
District:	Relationship:	Judge:

Exhibit A

(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.)

☐ Exhibit A is attached and made a part of this petition.

Exhibit B

(To be completed if debtor is an individual whose debts are primarily consumer debts.)

I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I delivered to the debtor the notice required by 11 U.S.C. §342(b).

X /s/ James T. Ferguson October 29, 2008
Signature of Attorney for Debtor(s) (Date)
James T. Ferguson 06916480

Exhibit C

Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?

☐ Yes, and Exhibit C is attached and made a part of this petition.

■ No.

Exhibit D

(To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.)

■ Exhibit D completed and signed by the debtor is attached and made a part of this petition.

If this is a joint petition:

■ Exhibit D also completed and signed by the joint debtor is attached and made a part of this petition.

Information Regarding the Debtor - Venue

(Check any applicable box)

■ Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.

☐ There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.

☐ Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.

Certification by a Debtor Who Resides as a Tenant of Residential Property

(Check all applicable boxes)

☐ Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.)

_____
(Name of landlord that obtained judgment)

_____
(Address of landlord)

☐ Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and

☐ Debtor has included in this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition.

☐ Debtor certifies that he/she has served the Landlord with this certification. (11 U.S.C. § 362(l)).

Voluntary Petition

(This page must be completed and filed in every case)

Name of Debtor(s):
Spittler, Lowell G
Spittler, Dawn M

Signatures

Signature(s) of Debtor(s) (Individual/Joint)

I declare under penalty of perjury that the information provided in this petition is true and correct.
[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.
[If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. §342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X /s/ Lowell G Spittler
Signature of Debtor Lowell G Spittler

X /s/ Dawn M Spittler
Signature of Joint Debtor Dawn M Spittler

Telephone Number (If not represented by attorney)

October 29, 2008
Date

Signature of Attorney*

X /s/ James T. Ferguson
Signature of Attorney for Debtor(s)

James T. Ferguson 06916480
Printed Name of Attorney for Debtor(s)

Macey & Aleman, LLP
Firm Name
720 North Post Oak
Suite 280
Houston, TX 77056

Address

Email: jtf@LegalHelpers.com
(713) 224-6667 Fax: (713) 812-8303
Telephone Number

October 29, 2008
Date

*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect.

Signature of Debtor (Corporation/Partnership)

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X
Signature of Authorized Individual

Printed Name of Authorized Individual

Title of Authorized Individual

Date

Signature of a Foreign Representative

I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.

(Check only one box.)

☐ I request relief in accordance with chapter 15 of title 11. United States Code. Certified copies of the documents required by 11 U.S.C. §1515 are attached.

☐ Pursuant to 11 U.S.C. §1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.

X
Signature of Foreign Representative

Printed Name of Foreign Representative

Date

Signature of Non-Attorney Bankruptcy Petition Preparer

I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); and, (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19 is attached.

Printed Name and title, if any, of Bankruptcy Petition Preparer

Social-Security number (If the bankrutpcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.)(Required by 11 U.S.C. § 110.)

Address

X
Date

Signature of Bankruptcy Petition Preparer or officer, principal, responsible person,or partner whose Social Security number is provided above.

Names and Social-Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. §110; 18 U.S.C. §156.

B6A (Official Form 6A) (12/07)

In re Lowell G Spittler, Dawn M Spittler, Debtors

Case No. _____

SCHEDULE A - REAL PROPERTY

Except as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a cotenant, community property, or in which the debtor has a life estate. Include any property in which the debtor holds rights and powers exercisable for the debtor's own benefit. If the debtor is married, state whether husband, wife, both, or the marital community own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor holds no interest in real property, write "None" under "Description and Location of Property."

Do not include interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If an entity claims to have a lien or hold a secured interest in any property, state the amount of the secured claim. See Schedule D. If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim." If the debtor is an individual or if a joint petition is filed, state the amount of any exemption claimed in the property only in Schedule C - Property Claimed as Exempt.

Description and Location of Property	Nature of Debtor's Interest in Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption	Amount of Secured Claim
107 Oak Court Manchester, IA. 52057	Fee Simple	C	97,100.00	113,622.00

Sub-Total >	97,100.00	(Total of this page)
Total >	97,100.00	

0 continuation sheets attached to the Schedule of Real Property

(Report also on Summary of Schedules)

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B6D (Official Form 6D) (12/07)

In re Lowell G Spittler,
Dawn M Spittler
Debtors

Case No. _____

SCHEDULE D - CREDITORS HOLDING SECURED CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number of all entities holding claims secured by property of the debtor as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. List creditors holding all types of secured interests such as judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests.

List creditors in alphabetical order to the extent practicable. If a minor child is a creditor, the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m). If all secured creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor" ,include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H", "W", "J", or "C" in the column labeled "Husband, Wife, Joint, or Community".

If the claim is contingent, place an "X" in the column labeled "Contingent". If the claim is unliquidated, place an "X" in the column labeled "Unliquidated". If the claim is disputed, place an "X" in the column labeled "Disputed". (You may need to place an "X" in more than one of these three columns.)

Total the columns labeled "Amount of Claim Without Deducting Value of Collateral" and "Unsecured Portion, if Any" in the boxes labeled "Total(s)" on the last sheet of the completed schedule. Report the total from the column labeled "Amount of Claim" also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report the total from the column labeled "Unsecured Portion" on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR	Husband, Wife, Joint, or Community H W J C	DATE CLAIM WAS INCURRED, NATURE OF LIEN, AND DESCRIPTION AND VALUE OF PROPERTY SUBJECT TO LIEN	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL	UNSECURED PORTION, IF ANY
Account No. [redacted] Citizens Bank 480 Jefferson Blvd Rje 135 Warwick, RI 02886		H	Opened 2/01/06 Last Active 5/20/08 2004 Chevrolet Impala; 79,000 miles Value $ 11,800.00				12,811.00	1,011.00
Account No. [redacted] First State Bank 300 E. Main St. PO Box 439 Manchester, IA 52057-0439		C	1991 Chevrolet PU; 209,000 miles Value $ 400.00				1,100.00	700.00
Account No. [redacted] Union Bank & Trust 4732 Calvert St Lincoln, NE 68506		C	Opened 11/01/07 Last Active 6/19/08 2007 Hundai Sonata; 13,000 miles Value $ 14,500.00				26,924.00	12,424.00
Account No. [redacted] Us Bank Home Mortgage Attn: Bankruptcy Dept Po Box 5229 Cincinnati, OH 45201		C	Opened 9/01/06 Last Active 5/14/08 107 Oak Court Manchester, IA. 52057 Value $ 97,100.00				113,622.00	16,522.00
0 continuation sheets attached			Subtotal (Total of this page)				154,457.00	30,657.00
			Total (Report on Summary of Schedules)				154,457.00	30,657.00

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	CASE NO. 08-36821-H1-7
	§	
LOWELL G SPITTLER and DAWN M SPITTLER,	§	
Debtor	§	CHAPTER 7
	§	
U.S. BANK N.A. ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST,	§	
Movant	§	HEARING DATE: 05/15/2009
	§	
v.	§	TIME: 09:00 AM
	§	
LOWELL G SPITTLER and DAWN M SPITTLER; and JANET S. CASCIATO-NORTHRUP, Trustee	§	
Respondents	§	JUDGE MARVIN ISGUR

MOTION FOR RELIEF FROM THE STAY REGARDING EXEMPT PROPERTY AND REQUEST FOR VARIANCE

THIS IS A MOTION FOR RELIEF FROM THE AUTOMATIC STAY. IF YOU OBJECT TO THE GRANTING OF RELIEF FROM THE AUTOMATIC STAY, YOU SHOULD CONTACT THE MOVANT IMMEDIATELY TO TRY TO REACH AN AGREEMENT. IF YOU CANNOT REACH AN AGREEMENT, YOU MUST FILE A WRITTEN RESPONSE AND SEND A COPY TO MOVANT NOT LATER THAN MAY 10, 2009 AND YOU MUST ATTEND THE HEARING.

THE COPY SENT TO THE MOVANT MUST BE DELIVERED BY HAND OR ELECTRONIC DELIVERY IF IT IS SENT LESS THAN FIVE BUSINESS DAYS PRIOR TO THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE HEARING MAY BE AN EVIDENTIARY HEARING AND THE COURT MAY GRANT OR DENY RELIEF FROM THE STAY BASED ON THE EVIDENCE PRESENTED AT THIS HEARING. IF A TIMELY OBJECTION IS FILED, THE COURT WILL CONDUCT A HEARING ON THIS MOTION ON MAY 15, 2009 AT 9:00 AM IN COURTROOM 404, 515 RUSK AVENUE, 4TH FLOOR, HOUSTON, TX 77002.

1. The pay history attached to and filed with this motion does not begin with the inception of the loan. As a result of the transfer of the loan or the servicing function, a pay history from inception cannot be produced. A pay history from at least as far back as the date the debtor was last current is, however, attached to this motion and that pay history reflects the payments and their application for the period of the alleged default. Movant therefore requests that a variance from the requirement that a pay history from inception be filed because it is impossible to comply with that requirement and the pay history included with the motion begins with the date the loan was last current and is dispositive of the alleged default.

2. This Motion requests an order from the Bankruptcy Court authorizing the person filing this motion to foreclose on or to repossess the property that is identified in paragraph 4.

3. Movant: U.S. BANK N.A. ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST

4. Movant, directly or as agent for the holder, holds a security interest in

107 OAK COURT
MANCHESTER, IA 52057

THE FOLLOWING DESCRIBED REAL ESTATE IN DELAWARE COUNTY, IOWA:

THAT PART OF THE SOUTH HALF (W1/2) OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 29, TOWNSHIP 99 NORTH, RANGE 5, WEST OF THE FIFTH P.M., AND LOT SEVENTEEN (17) OF THE SUBDIVISION OF PART OF THE NORTH HALF (N1/2) OF THE SOUTHEAST QUARTER (SE1/4) AND THE SOUTH HALF (S1/2) OF THE NORTHEAST QUARTER (NE1/4), SECTION 29, TOWNSHIP 89 NORTH, RANGE 5 WEST OF THE FIFTH P.M., DESCRIBED AS COMMENCING AT A POINT ON THE SOUTH LINE OF CLARA AVENUE, 132 FEET WEST OF THE WEST LINE OF NEW STREET, THENCE SOUTH 100 FEET TO THE POINT OF BEGINNING, THENCE SOUTH 89 FEET, THENCE WEST 117.15 FEET, THENCE NORTE 89 FEET, THENCE EAST 117.15 FEET TO BEGINNING, SUBJECT TO EASEMENT OF RECORD. (NOTE: THE WEST 20 FEET THEREOF ARE USED FOR STREET PURPOSES.)

BEING THE SAME PROPERTY CONVEYED TO LOWELL GARY SPITTLER AND DAWN N. SPITTLER BY DEED FROM IN THE MATTER OF THE ESTATE OF OLIVE E. RYAN RECORDED 7/10/1997 IN DEED BOOK 138 PAGE 174, IN THE RECORDER'S OFFICE OF DELAWARE COUNTY, IOWA.

5. Movant has reviewed the schedules filed in this case. The property described in paragraph 4 is claimed as exempt by the debtor. Movant does not contest the claimed exemption.

6. Type of collateral: Real Estate.

7. Debtor's scheduled value of property: $97,100.00.

8. Movant's estimated value of property: $115,710.00.

9. Total amount owed to movant: $123,401.59.

10. Estimated equity (paragraph 8 minus paragraph 9): $-7,691.59.

11. Total pre and post-petition arrearages: $8,373.41.

12. Total post-petition arrearages: $5,604.02.

13. Amount of unpaid, past due property taxes, if applicable: Unknown.

14. Expiration date on insurance policy, if applicable: Unknown.

15. ___X___ Movant seeks relief based on the debtor(s)' failure to make payments. Debtor(s)' payment history is attached as exhibit "A". Movant represents that the attached payment history is a current payment history reflecting all payments, advances, charges and credits dating as far back as the Movant was able to obtain records for the loan and that the loan was current at the time the pay history begins or became current sometime thereafter and this fact is reflected on the payment history. Movant further represents that the payment history is self explanatory or can be interpreted by application of coding information that is also attached. Movant acknowledges that the Court may prohibit the use of parol evidence to interpret a payment history that does not satisfy these representations.

16. _____ Movant seeks relief based on the debtor(s)' failure to provide a certificate of insurance reflecting insurance coverage as required by the debtor's pre-petition contracts.

17. Name of Co-Debtor: Not Applicable

18. Based on the foregoing, movant seeks termination of the automatic stay to allow movant to foreclose or repossess the debtor(s)' property and seeks to recover its costs and attorneys' fees in an amount not to exceed the amount listed in paragraph 10.

19. Movant certifies that prior to filing this motion an attempt was made to confer with the Debtor(s)' counsel (or with Debtor(s), if *pro se*) either by telephone, by email or by facsimile, by the following person on the following date and time:

Damian Abreo called James Ferguson, but was unable to leave a message. He then emailed Mr. Ferguson at jtf@legalhelpers.com. Ms. Northrup filed her report of no distribution on November 24, 2008, so no call was placed to the Trustee.

March 26, 2009 at 1:00 p.m.

An agreement could not be reached. If requested by debtor and debtor's counsel, a payment history in the form attached to this motion was provided at least two business days before this motion was filed.

Date: 04/23/2009

/s/ DAMIAN ABREO

DAMIAN ABREO
TX NO. 24006728
S.D. TX NO. 24846
1900 ST. JAMES PLACE SUITE 500
HOUSTON, TX 77056
Telephone: (713) 621-8673
Facsimile: (713) 621-8583
E-mail: SDECF@BBWCDF.COM
ATTORNEY FOR MOVANT

Certificate of Service and Certificate of Compliance with BLR 4001

A copy of this motion was served on the persons shown on exhibit "1" at the addresses reflected on that exhibit on April 23, 2009 via electronic means as listed on the Court's ECF Noticing System or by prepaid United States first class mail. Movant certifies that movant has complied with Bankruptcy Local Rule 4001.

/s/ DAMIAN ABREO

DAMIAN ABREO
TX NO. 24006728
S.D. TX NO. 24846
1900 ST. JAMES PLACE SUITE 500
HOUSTON, TX 77056
Telephone: (713) 621-8673
Facsimile: (713) 621-8583
E-mail: SDECF@BBWCDF.COM
ATTORNEY FOR MOVANT

EXHIBIT 1

DEBTORS:
LOWELL G SPITTLER
107 OAK COURT
MANCHESTER, IA 52057

DAWN M SPITTLER
22606 POPPYFIELD DR.
KATY, TX 77450

DAWN M SPITTLER
107 OAK COURT
MANCHESTER, IA 52057

LOWELL G SPITTLER
22606 POPPYFIELD DR.
KATY, TX 77450

TRUSTEE:
JANET S. CASCIATO-NORTHRUP
333 CLAY 29TH FLOOR
SUITE
HOUSTON, TX 77002

US TRUSTEE:
515 RUSK, STE 3516
HOUSTON, TX 77002

DEBTOR'S ATTORNEY:
JAMES T FERGUSON
720 NORTH POST OAK
HOUSTON, TX 77056

PARTIES IN INTEREST:
None

PARTIES REQUESTING NOTICE:
None

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	CASE NO. 08-36821-H1-7
	§	
LOWELL G SPITTLER and DAWN M	§	
SPITTLER,	§	
Debtor	§	CHAPTER 7
	§	
U.S. BANK N.A. ITS ASSIGNS	§	
AND/OR SUCCESSORS IN	§	
INTEREST,	§	
Movant	§	HEARING DATE: 05/15/2009
	§	
v.	§	TIME: 09:00 AM
	§	
LOWELL G SPITTLER and DAWN M	§	
SPITTLER; and JANET S.	§	
CASCIATO-NORTHRUP, Trustee	§	
Respondents	§	JUDGE MARVIN ISGUR

ORDER GRANTING RELIEF FROM AUTOMATIC STAY AFTER HEARING
(This Order Resolves Docket #)

U.S. BANK N.A. ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST ("Movant") filed a motion for relief from the automatic stay against

107 OAK COURT
MANCHESTER, IA 52057

THE FOLLOWING DESCRIBED REAL ESTATE IN DELAWARE COUNTY, IOWA:

THAT PART OF THE SOUTH HALF (W1/2) OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 29, TOWNSHIP 99 NORTH, RANGE 5, WEST OF THE FIFTH P.M., AND LOT SEVENTEEN (17) OF THE SUBDIVISION OF PART OF THE NORTH HALF (N1/2) OF THE SOUTHEAST QUARTER (SE1/4) AND THE SOUTH HALF (S1/2) OF THE NORTHEAST QUARTER (NE1/4), SECTION 29, TOWNSHIP 89 NORTH, RANGE 5 WEST OF THE FIFTH P.M., DESCRIBED AS COMMENCING AT A POINT ON THE SOUTH LINE OF CLARA AVENUE, 132 FEET WEST OF THE WEST LINE OF NEW STREET, THENCE SOUTH 100 FEET TO THE POINT OF BEGINNING, THENCE SOUTH 89 FEET, THENCE WEST 117.15 FEET, THENCE NORTE 89 FEET, THENCE EAST 117.15 FEET TO BEGINNING, SUBJECT TO EASEMENT OF RECORD. (NOTE: THE WEST 20 FEET THEREOF ARE USED FOR STREET PURPOSES.)

BEING THE SAME PROPERTY CONVEYED TO LOWELL GARY SPITTLER AND DAWN N. SPITTLER BY DEED FROM IN THE MATTER OF THE ESTATE OF OLIVE E. RYAN RECORDED 7/10/1997 IN DEED BOOK 138 PAGE 174, IN THE RECORDER'S OFFICE OF DELAWARE COUNTY, IOWA.

(the "Property"). Movant represented to the Court that it had served the motion in accordance with all applicable rules and provided notice of the hearing.

_____ Although a response opposing the motion was filed, the respondent did not appear at the hearing. Therefore, the response is overruled for want of prosecution and the motion is granted.

_____ The debtor filed a response that the debtor was not opposed to the requested relief and no other party opposed the requested relief.

_____ The debtor filed a response that the debtor was unable to admit or deny the allegations, the debtor failed to appear at the hearing, and no other party opposed the requested relief.

_____ After hearing, and for the reasons stated on the record, relief from the stay is granted.

_____ No timely response was filed. Accordingly, the motion is granted by default.

_____ As shown by Debtor(s)' counsel signature below, Debtor(s) have agreed to the requested relief.

Accordingly, it is ordered that Movant is granted relief from the automatic stay to pursue its state law remedies against the Property, including foreclosure, repossession and/or eviction.

Additional rulings:

_____ Movant is awarded attorneys fees in the amount of $_____.

_____ The stay imposed by Bankruptcy Rule 4001(a)(3) does not apply for the reasons stated on the record.

ReservedForJudgeSignature