

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK**

In Re: John Doe,

Debtor(s)

**CHAPTER 13
BK NO: 11-20000**

**NOTICE OF MOTION TO
VALUE SECURITY INTEREST**

PLEASE TAKE NOTICE that the Chapter 13 Trustee, George M. Reiber, will move this Court for an order pursuant to 11 USC §506 valuing the secured arrearage claim of Duh Mortgage, Inc., in real property at 00 Lost World Dr, Walworth, NY 14568. Said motion will be heard before the Honorable John C. Ninfo, II, U.S. Bankruptcy Judge, at United States Bankruptcy Court, 100 State Street, Rochester, New York, 14614, on November 2, 2011, at 11:00 a.m. Said motion requests that: 1) The arrearage claim be allowed for payment at \$13,400.00, without interest through plan payments because no proof of claim was filed with this Court; 2) This Court conclusively establishes Debtors' prepetition arrearages; 3) This Court precludes Duh Mortgage, Inc., from assessing any other fees, costs, payments, or any other charge alleged to have been incurred prior to filing, or traceable to prior to that time; 4) **IF DUH MORTGAGE, INC., ATTEMPTS TO ASSESS PREPETITION ARREARAGES, DIRECTLY OR INDIRECTLY, WITHOUT FURTHER ORDER OF THIS COURT, IT WILL BE VIEWED AS A VIOLATION OF THIS COURT'S ORDER**; 5) This Court's order is binding on Duh Mortgage, Inc.'s successors, assignees, and servicers; together with such other and further relief as the Court deems just and proper.

Dated: 09/16/11
Rochester, New York

/s/ _____
George M. Reiber
Chapter 13 Trustee

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK**

In Re: John Doe,

Debtor(s)

**CHAPTER 13
BK NO: 11-20773**

ALLEGATIONS IN SUPPORT OF MOTION TO VALUE SECURITY INTEREST

George M. Reiber, Chapter 13 Trustee in the above entitled matter, moves this Court for an order valuing the secured arrearage claim of Duh Mortgage, Inc., in real property at 00 Lost World Dr. , Walworth, NY 14568, pursuant to 11 USC §506, by stating as follows:

1. The Debtor(s) filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code on February 29, 2011.
2. The Chapter 13 plan was filed on April 20, 2011 and proposed to pay, as a secured claim, mortgage arrears of \$13,400.00 to Duh Mortgage, Inc., with 0% interest.
3. No proof of claim was filed by Duh Mortgage, Inc., before the bar date of August 22, 2011.
4. The Trustee's staff confirmed with the debtor's attorney's staff that the debtor estimated his arrearage by a disclosure statement received from Duh Mortgage, the amount of mortgage payments missed and added estimated attorney fees.
5. No other proof of the value of the secured arrearage claim has been presented to the Trustee.
6. Under Bankruptcy Rule 3001(c), creditors must file adequate proof of debt with the proof of claim. This was not done here.
7. The Trustee is concerned that the mortgagee will try to charge any disallowed costs back to debtor after the bankruptcy case is concluded. Thus, the Trustee requests that the Court also issue a protective order.

Wherefore, the Trustee asks the Court for an order that: 1) The arrearage claim be allowed for payment at \$13,400.00, without interest through plan payments because no proof of claim was filed with this Court; 2) This Court conclusively establishes Debtors' prepetition arrearages; 3) This Court precludes Duh Mortgage, Inc., from assessing any other fees, costs, payments, or any other charge alleged to have been incurred prior to filing, or traceable to prior to that time; 4) **IF DUH MORTGAGE, INC., ATTEMPTS TO ASSESS PREPETITION ARREARAGES, DIRECTLY OR INDIRECTLY, WITHOUT FURTHER ORDER OF THIS COURT, IT WILL BE VIEWED AS A VIOLATION OF THIS COURT'S ORDER;** 5) This Court's

order is binding on Duh Mortgage, Inc.'s successors, assignees, and servicers; together with such other and further relief as the Court deems just and proper.

Dated: 09/16/11
Rochester, NY

/s/ _____
George M. Reiber

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK**

In Re: John Doe,

Debtor(s)

**CHAPTER 13
BK NO:11-20773**

ORDER

Upon Trustee's motion to value the security interest of Duh Mortgage, Inc., in real property at 00 Lost World Dr., Walworth, NY 14568, the matter having duly come before this Court on November 2, 2011, at 11:00 a.m., after adequate notice to all parties in interest; and no party appearing in opposition thereto, and the Court having considered the Trustee's motion, finds that it is

ORDERED, ADJUDGED AND DECREED that:

- 1) The arrearage claim is allowed for payment at \$13,400.00, without interest through plan payments because no proof of claim was filed with this Court;
- 2) This order conclusively establishes Debtors' prepetition arrearages;
- 3) Duh Mortgage, Inc., is precluded from assessing any other fees, costs, payments, or any other charge alleged to have been incurred prior to filing, or traceable to prior to that time;
- 4) **IF DUH MORTGAGE, INC., ATTEMPTS TO ASSESS PREPETITION ARREARAGES, DIRECTLY OR INDIRECTLY, WITHOUT FURTHER ORDER OF THIS COURT, IT WILL BE VIEWED AS A VIOLATION OF THIS COURT'S ORDER;** and
- 5) This order is binding on Duh Mortgage, Inc.'s successors, assignees, and servicers.

Dated:

Honorable John C. Ninfo, II
Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK**

In Re: John Doe,

**CHAPTER 13
BK NO: 11-20773**

Debtors

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF MONROE) SS.:

I, Efficient Assistant, being duly sworn, depose and say:

That deponent is not a party to this action, and is over 18 years of age and resides in the County of Monroe and State of New York.

That on _____ deponent served the within Notice Of Motion to Value, Allegations in Support of Motion to Value & Proposed Order on the following persons or persons authorized to accept service of process, at their respective addresses:

- U.S TRUSTEE, 100 STATE STREET., ROCHESTER, NEW YORK 14614
- JOHN DOE, 00 LOST WORLD DR., WALWORTH, NEW YORK 14568
- HOWDY DOODY ESQ., 70 NORTH MAIN STREET, WHODUNIT, NEW YORK 00000
- DUH MORTGAGE COMPANY, OFFICE OF THE PRESIDENT, 000 WALL ST., NEW YORK, NY 11111
- DUH MORTGAGE, PO BOX 183040, RED APPLE, OHIO 22222
- DUH MORTGAGE, PO BOX 660065, LAS VEGAS, TEXAS 33333

The above addresses being the address designated by said person for that purpose by depositing a true copy of same enclosed in a post paid properly addressed wrapper, in a post office depository under the exclusive care and custody of the United States Postal Service within New York State.

/S/ _____
Efficient Assistant

Sworn to before me this
19th day of September, 2011

/S/ _____
Rev. Gotcha Now, Notary