

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re:

**Pamela J. Fifield,
Debtor.**

**Chapter 7 Case
04-10867**

Appearances: *John Canney, Esq.*
 Rutland, VT
 Trustee, Pro Se

Grant Rees, Esq.
Burlington, VT
Attorney for Creditor

ORDER
DENYING TRUSTEE'S MOTION TO SELL
TO THE EXTENT TRUSTEE PROPOSES TO PAY MORTGAGE AS AN UNSECURED CLAIM AND
DECLARING MORTGAGE TO BE VALID AND AMENDED STATE STATUTE TO BE CONSTITUTIONAL

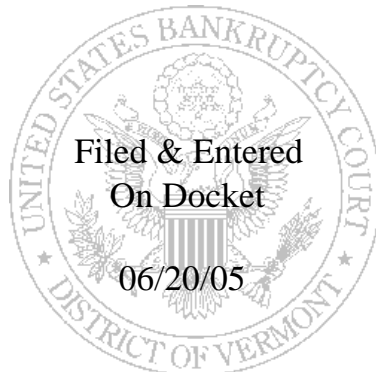
For the reasons set forth in the memorandum of decision of even date, the Court finds as follows:


- (1) The retroactive application of 27 V.S.A. § 341 is constitutional.
- (2) Countrywide did not waive its status as a secured creditor.
- (3) Countrywide's mortgage deed is valid under 27 V.S.A. § 341, as amended.
- (4) Countrywide held a valid mortgage lien on the subject property as of the date of sale.
- (5) The subject mortgage is not subject to avoidance by the Trustee.
- (6) The Trustee is required to distribute sale proceeds to Countrywide in its capacity as the holder of a valid mortgage against the subject property.

THEREFORE, IT IS HEREBY ORDERED that the Trustee pay Countrywide its portion of the sale proceeds, in its capacity as mortgagee and treat Countrywide as a secured creditor in this case.

SO ORDERED.

June 20, 2005
Rutland, Vermont





Colleen A. Brown
United States Bankruptcy Judge