8-297A105

No.
Date OCT 24 1978
Fee $60.00
ICC Washington, D. C.

TEXAS COMMERCE BANK

NATIONAL ASSOCIATION

RECORDATION NO. 9794-A Filed 1425
OCT 24 1978 2 22 PM
INTERSTATE COMMERCE COMMISSION

ROBERT W. PHILLIPS
Vice President

P. O. Box 2558
Houston, Texas 77001

October 18, 1978

RECORDATION NO. 9794 Filed 1425
OCT 24 1978 2 22 PM
INTERSTATE COMMERCE COMMISSION

Secretary of Interstate
Commerce Commission
Washington, D.C. 20423

Gentlemen:

In accordance with the provisions of Section 20c of the Interstate Commerce Act and Section 1116 of Title 49 of the Code of Federal Regulations, there is submitted herewith for filing and recordation a Security Agreement, and a Bill of Sale of the railroad tank cars used or intended for use in connection with interstate commerce as follows:

1. Three (3) executed counterparts of a Security Agreement dated October 16, 1978, by and between Texas Commerce Bank National Association and Charles A. Bernheim; and

2. Three (3) executed counterparts of a Bill of Sale dated October 17, 1978, between Richmond Tank Car Company and Charles A. Bernheim.

Also enclosed is our check in the amount of $60.00 for payment of the recordation fee.

The address of the mortgagor, Charles A. Bernheim, is 120 Broadway, New York, New York 10005, and the address of the mortgagee, Texas Commerce Bank National Association, is 712 Main Street, Houston, Texas 77002.

Please return an original counterpart of each of the enclosed instruments, with filing data noted thereon, to the undersigned officer in care of Texas Commerce Bank National Association at the above address. If you need additional information with regard to these instruments or this transaction, please contact the undersigned. Thank you kindly for your attention to this matter.

Very truly yours,

TEXAS COMMERCE BANK

Robert W. Phillips

Robert W. Phillips

RECEIVED
OCT 24 2 22 PM '78
I.C.C.
FEE OPERATION BR.

RWP:sm
Enclosures

Texas Commerce Bank

Interstate Commerce Commission

Washington, D.C. 20423

10/27/78

OFFICE OF THE SECRETARY

Robert W. Phillips
Texas Commerce Bank
712 Main Street
Houston, Texas 77002

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 10/24/78 at 2:25pm, and assigned recordation number(s) 9794 & 9794-A

Sincerely yours,

H.G. Homme, Jr.,
Acting Secretary

Enclosure(s)

SE-30-T
(2/78)

RECORDATION NO. 9794 Filed 1425

OCT 24 1978 2 55 PM

INTERSTATE COMMERCE COMMISSION

TEXAS COMMERCE BANK
NATIONAL ASSOCIATION

SECURITY AGREEMENT

Charles A. Bernheim, 120 Broadway, New York, New York (hereinafter called "Debtor"), and Texas Commerce Bank National Association, a national banking association having its principal office at 712 Main Street, Houston, Harris County, Texas (hereinafter called "Secured Party"), agree as follows:

SECTION I. CREATION OF SECURITY INTEREST.

Debtor hereby grants to Secured Party a security interest in the Collateral described in Section II of this Security Agreement to secure performance and payment of all obligations of Debtor to Secured Party including without limitation, that certain note of Debtor dated October 16, 1978, in the original principal amount of ONE HUNDRED EIGHTY-FIVE THOUSAND ONE HUNDRED FIFTY-FIVE AND NO/100THS DOLLARS ($185,155.00) and all renewals, extensions, refundings and modifications thereof (hereinafter called the "Indebtedness").

SECTION II. COLLATERAL

The collateral of this Security Agreement shall hereby be referred to as Equipment ("Equipment") as defined in this Section II or as the Collateral ("Collateral"):

Equipment shall mean five (5) 23,500 gallon nominal capacity tank cars, DOT 111A100W3, exterior coiled and insulated, 100-ton roller bearing trucks bearing the following registration numbers: RTMX 12629, 12484, 12485, 12486 and 12618. The Collateral shall include the Equipment and all additions and accessions thereto, and all right to receive and collect all rentals, liquidated damages, proceeds of sale, all per diem mileage or other payments now or hereafter to become payable under leases permitted hereby or with respect to such Equipment and all accounts, chattel paper, and general intangibles with respect thereto including, without limitation, all right title and interest of Debtor in and to that certain management agreement between Debtor and Richmond Leasing Company dated 6-5-78 ("Management Agreement"). The inclusion of proceeds in this Security Agreement does not authorize Debtor to sell, dispose of or otherwise use the Equipment in any manner not specifically authorized by this agreement.

SECTION III. PAYMENT OBLIGATIONS OF DEBTOR.

(1) Debtor shall pay to Secured Party the Indebtedness in accordance with the terms of the promissory note evidencing the Indebtedness and in accordance with the terms of this Security Agreement.

(2) All proceeds in the form of cash and negotiable instruments for the payment of money received by Debtor in payment of any of the lease rentals on the Equipment will be held in trust for Secured Party and will promptly be paid over to Secured Party for application upon the indebtedness of Debtor to Secured Party, the order and method of application to be in the sole discretion of Secured Party.

(3) Debtor shall account fully and faithfully to Secured Party for proceeds from disposition of the Collateral in any manner and shall, upon request, pay or turn over promptly in cash, negotiable instruments, drafts, assigned accounts or chattel paper or lease rentals, all the proceeds from any such disposition to be applied to Debtor's Indebtedness to Secured Party, subject, if other than cash, to final payment or collection.

(4) Debtor shall pay to Secured Party on demand all expenses and expenditures, including reasonable attorneys' fees and other legal expenses incurred or paid by Secured Party in exercising or protecting its interests, rights and remedies under this Security Agreement, plus interest thereon at the rate of ten per cent (10%) per annum.

(5) Debtor shall pay immediately, without notice, the entire unpaid Indebtedness of Debtor to Secured Party, whether created or incurred pursuant to this Security Agreement or otherwise, upon Debtor's default under Section V of this Security Agreement.

SECTION IV. DEBTOR'S WARRANTIES, REPRESENTATIONS AND AGREEMENTS

Debtor warrants, represents and agrees that:

(1) All information supplied and statements made by Debtor in any financial, credit or accounting statement

or application for credit prior to, contemporaneously with or subsequent to the execution of this Security Agreement are and shall be true, correct, complete, valid and genuine in all material respects.

(2) No Interstate Commerce Commission filing or financing statement or other filing covering the collateral or its proceeds is on file in any public office. Except for the security interest granted in this Security Agreement, there is no lien, security interest or encumbrance in or on the Collateral; and Debtor is the owner of the Collateral.

(3) Debtor's location is 120 Broadway, New York, New York 10005. Debtor's location is: (a) Debtor's place of business if it has only one; (b) Debtor's principal place of business if it has more than one place of business; or (c) Debtor's residence if it has no place of business.

(4) Debtor will promptly notify Secured Party in writing of any addition, change and/or discontinuance of (i) his address as shown at the beginning of the Security Agreement; (ii) his location as set forth in this Security Agreement; and/or (iii) his name or his identity.

(5) Debtor shall pay prior to delinquency all taxes, charges, liens and assessments against the Collateral, and upon Debtor's failure to do so, Secured Party at its option may pay any of them and shall be the sole judge of the legality or validity thereof and the amount necessary to discharge the same. Such payment shall become part of the Indebtedness secured by this Security Agreement and shall be paid to Secured Party by Debtor immediately and without demand, with interest thereon at the rate of ten per cent (10%) per annum.

(6) Debtor will have and maintain or cause to be maintained insurance at all times with respect to all Equipment and such risks as Secured Party may require. Such insurance policies shall be in amounts, contain such terms, be in a form, be for a period and be written by companies satisfactory to Secured Party. Such insurance policies shall also contain a standard mortgagee's endorsement providing for payment of any loss to Secured Party. All policies of insurance shall provide for ten days written minimum cancellation notice to Secured Party. All drafts or instruments of any kind evidencing payment under any such

insurance policies which come into the possession of Debtor shall be immediately delivered to Secured Party. No such policies shall be payable to any party other than Secured Party and Debtor. Debtor shall furnish Secured Party with certificates or other evidence satisfactory to Secured Party of compliance with the foregoing insurance provisions. Secured Party may act as attorney for Debtor in obtaining, adjusting, setting and cancelling such insurance and endorsing any drafts drawn by insurers of the Collateral and may apply any proceeds of such insurance which may be received by it in payment on account of the obligations secured hereby, whether due or not.

(7) The Equipment.

(a) The Equipment will be used primarily for business use and for leasing to responsible and credit-worthy third parties unless Secured Party consents in writing to another use.

(b) The Equipment will not be misused or abused, wasted or allowed to deteriorate, except for the ordinary wear and tear of its intended primary use, and will not be used in violation of any statute or ordinance or as part of a unit-train.

(c) The Equipment will not be sold, transferred or disposed of by Debtor or be subjected to any unpaid charge, including rent and taxes, or to any subsequent interest of a third person created or suffered by Debtor voluntarily, except the Management Agreement referred to in Section II above and leases to responsible and credit-worthy third parties unless Secured Party consents in advance in writing to such sale, transfer, disposition, charge, or subsequent interest.

(8) Debtor shall, at its expense, do, make, procure, execute and deliver all acts, things, writings and assurances as Secured Party may at any time require to protect, assure or enforce its interests, rights and remedies created by, provided in or emanating from this Security Agreement.

(9) Debtor shall sign and execute alone or with Secured Party any Financing Statement or other document or procure any document, and pay all connected costs, necessary to protect the security interest under this Security Agreement against the rights or interests of third persons.

(10) Debtor will not lend, rent, lease or otherwise dispose of the Collateral or any interest therein except as authorized in this Security Agreement or in writing by Secured Party, and Debtor shall keep the Collateral, including the proceeds from any disposition thereof, free from unpaid charges, including taxes, and from liens, encumbrances, and security interests other than that of Secured Party.

(11) If Secured Party should at any time be of the opinion that the Collateral is not sufficient or has declined or may decline in value or should deem payment of Debtor's obligations to Secured Party to be insecure, then Secured Party may call for additional Collateral satisfactory to Secured Party, and Debtor promises to furnish such additional security forthwith. The call for additional security may be oral or by telegram or by United States mail addressed to the address of Debtor shown at the beginning of this agreement.

SECTION V. EVENTS OF DEFAULT.

Debtor shall be in default under this Security Agreement upon the happening of any of the following events or conditions (herein called an "Event of Default"):

(1) Debtor's failure to pay when due any Indebtedness secured by this Security Agreement, either principal or interest.

(2) Default by Debtor in the punctual performance of any of the obligations, covenants, terms or provisions contained in or referred to in this Security Agreement or in any note secured hereby.

(3) Any warranty, representation, or statement contained in this Security Agreement, or made or furnished to Secured Party by or on behalf of Debtor in connection with this Security Agreement or to induce Secured Party to

make a loan to Debtor proves to have been false in any material respect when made or furnished.

(4) Loss, theft, substantial damage, destruction, sale (except as authorized in this Security Agreement) or encumbrance to or of any material part of the Collateral, or the making of any levy, seizure or attachment thereof.

(5) Debtor's death, dissolution, termination of existence, insolvency or business failure; the appointment of a receiver of all or any part of the property of Debtor; an assignment for the benefit of creditors by Debtor; the calling of a meeting of creditors of Debtor; or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Debtor or any guarantor, surety or endorser for Debtor.

(6) Any statement of the financial condition of Debtor or of any guarantor, surety or endorser of any liability of Debtor to secured Party submitted to Secured Party by Debtor or any such guarantor, surety or endorser proves to be false in any material respect.

(7) The Collateral becomes, in the judgment of Secured Party, unsatisfactory or insufficient in character or value.

(8) Any guarantor, surety or endorser for Debtor defaults in any obligation or liability to Secured Party.

SECTION VI. SECURED PARTY'S RIGHTS AND REMEDIES.

A. Rights Exclusive of an Event of Default.

(1) This Security Agreement, Secured Party's rights hereunder or the Indebtedness hereby secured may be assigned from time to time, and in any such case the Assignee shall be entitled to all of the rights, privileges and remedies granted in this Security Agreement to Secured Party, and Debtor will assert no claims or defenses he may have against Secured Party against the Assignee except those granted in this Security Agreement.

(2) Secured Party may inspect the Collateral and Debtor's books and records pertaining to the Collateral from

time to time, and Debtor shall assist Secured Party in making any such inspection.

(3) Secured Party may call at Debtor's location or place or places of business at intervals to be determined by Secured Party and, without hindrance or delay, inspect, audit, check and make extracts from the books, records, journals, orders, receipts, correspondence and other data relating to the Collateral or to any transaction between Debtor and Secured Party, and Debtor shall assist Secured Party in making any such inspection.

(4) At its option, Secured Party may discharge taxes, liens or security interests or other encumbrances at any time levied or placed on the Collateral, may pay for insurance on the Collateral and may pay for the maintenance and preservation of the Collateral. Debtor agrees to reimburse Secured Party on demand for any payment made, or any expense incurred by Secured Party pursuant to the foregoing authorization, plus interest thereon at the rate of ten per cent (10%) per annum.

(5) Secured Party may execute, sign, endorse, transfer or deliver in the name of Debtor notes, checks, drafts or other instruments for the payment of money and receipts, certificates of origin, applications for certificates of title or any other documents necessary to evidence, perfect or realize upon the security interest and obligations created by this Security Agreement.

(6) In protecting, exercising or assuring its interests, rights and remedies under this Security Agreement Secured Party may receive, open and dispose of mail addressed to Debtor and execute, sign and endorse notes, checks, drafts and other instruments for the payment of money, certificates of title or other evidences of payment, shipment or storage for any form of Collateral or proceeds on behalf of and in the name of Debtor, or any other documents necessary to evidence, perfect or realize upon the security interest and obligations created by this Security Agreement.

(7) Secured Party may notify the account debtors or obligors of any accounts, chattel paper, negotiable instruments or other evidences of indebtedness remitted by

Debtor to Secured Party as proceeds to pay Secured Party directly.

(8) Secured Party may at any time demand, sue for, collect or make any compromise or settlement with reference to the Collateral as Secured Party, in its sole discretion, chooses.

B. Remedies in the Event of Default.

(1) Upon the occurrence of an Event of Default, or if Secured Party deems payment of Debtor's obligations to Secured Party to be insecure, and at any time thereafter, Secured Party may declare all obligations secured hereby immediately due and payable and shall have the rights and remedies of a Secured Party under the Uniform Commercial Code of Texas, and as otherwise permitted by law, and in addition thereto and cumulative thereof, the following rights: the right to sell, lease, or otherwise dispose of any or all of the Collateral and the right to take possession of the Collateral, and for that purpose Secured Party may enter upon any premises on which the Collateral or any part thereof may be situated and remove the same therefrom; Secured Party may require Debtor to assemble the Collateral and make it available to Secured Party at a place to be designated by Secured Party which is reasonably convenient to both parties. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold in a recognized market, Secured Party will send Debtor reasonable notice of the time and place of any public sale thereof or of the time after which any private sale or other disposition thereof is to be made. The requirement of sending reasonable notice shall be met if such notice is mailed, postage prepaid, to Debtor at the address designated at the beginning of this Security Agreement at least five days before the time of sale or disposition. Expenses of retaking, holding, preparing for sale, selling or the like shall include Secured Party's reasonable attorneys' fees and legal expenses, and Debtor agrees to pay such expenses, plus interest thereon, at the rate of ten percent (10%) per annum. Debtor shall remain liable for any deficiency.

(2) Secured Party may remedy any default and may waive any default without waiving the default remedied or without waiving any other prior or subsequent default.

(3) The remedies of Secured Party hereunder are cumulative, and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any of the other remedies of Secured Party.

SECTION VII. ADDITIONAL AGREEMENTS.

(1) The term "Debtor" as used in this instrument shall be construed as singular or plural to correspond with the number of persons executing this instrument as Debtor. The pronouns used in this instrument are in the neuter gender but shall be construed as feminine or masculine as occasion may require. "Secured Party" and "Debtor" as used in this instrument include the heirs, executors and administrators, successors, representatives, receivers, trustees and assigns of those parties.

(2) If more than one person executes this instrument as Debtor, their obligations under this instrument shall be joint and several.

(3) The section headings appearing in this instrument have been inserted for convenience only and shall be given no substantive meaning or significance whatever in construing the terms and provisions of this instrument. Terms used in this instrument which are defined in the Texas Uniform Commercial Code are used with the meanings as therein defined.

(4) The law governing this secured transaction shall be that of the State of Texas in force at the date of this instrument.

EXECUTED this 16 day of October, 1978.

DEBTOR:

Charles A. Bernheim

Charles A. Bernheim

SECURED PARTY:

TEXAS COMMERCE BANK NATIONAL ASSOCIATION

By Robert W. Phillips

Robert W. Phillips

STATE OF TEXAS §
§ ss.:
COUNTY OF _____ §

On this 17th day of October, 1978, before me, the undersigned authority, personally appeared Charles A. Bernheim, to me known to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the foregoing instrument for the purposes and consideration therein expressed.

RACHELLE LOIS MILLER
Notary Public in and for Harris County, Texas
My Commission Expires June 28, 1980

Rachelle Lois Miller
Notary Public in and for
Harris County, Texas

[Seal]

My commission expires June 28, 1980

STATE OF TEXAS §
§ ss.:
COUNTY OF _____ §

On this 17th day of October, 1978, before me personally appeared Robert W. Phillips, to me personally known, who being by me duly sworn, says that he is a Vice President of Texas Commerce Bank National Association, that the foregoing instrument was signed by him on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was for the purposes and consideration therein expressed and was the free act and deed of said corporation.

RACHELLE LOIS MILLER
Notary Public in and for Harris County, Texas
My Commission Expires June 28, 1980

Rachelle Lois Miller
Notary Public in and for
Harris County, Texas

[Seal]

My commission expires June 28, 1980