RECORDATION NO. 11252 Filed 1425
DEC 27 1979 - 10 40 AM
INTERSTATE COMMERCE COMMISSION

LAW OFFICES

EVERETT, HELAL & SHARPE
2136 NORTH HARWOOD STREET
DALLAS, TEXAS 75201

MIKE T. EVERETT
RAY HELAL
DOT K. SHARPE
CHRISTOPHER W. MIMS

AREA CODE 214
651-8888

December 18, 1979

9-361A033
No.
DEC 27 1979
Date
Fee $50.00
ICC Washington, D. C.

CERTIFIED #451351
RETURN RECEIPT REQUESTED

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

To the Secretary:

Please file this Security Agreement by and between Mercantile National Bank at Dallas, P.O. Box 225415, Dallas, Texas 75265 on the one hand, and Damon P. Smith, III, 4839 Allencrest, Dallas, Texas 75234.

Said Security Agreement covers the railroad cars described as:

> One (1) open top hopper car, 100 ton capacity, 2000 cubic feet capacity, manufactured by Portec, Inc., Job Number 1931. TRAX NUMBER 2086.

Please return the file-stamped and dated copies to me.

Sincerely,

EVERETT, HeLAL & SHARPE

Chris Mims

CHRISTOPHER W. MIMS

CWM/pa
Enclosures

DEC 27 ... 35 AM '79
FEE ...

Interstate Commerce Commission

Washington, D.C. 20423

1/2/80

OFFICE OF THE SECRETARY

Christopher W. Mims
Everett,Helal & Sharpe
2136 North Harwood Street
Dallas,Texas 75201

Dear
Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act,49 U.S.C. 11303, on 12/27/79 at 10:40am, and assigned recordation number(s). 11252,11253,11254,11255,11256,11257,11258 11259,11260

Sincerely yours,

Agatha L. Mergenovich

Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

RECORDATION NO. 11252 Filed 1425
DEC 27 1979 - 10 40 AM
INTERSTATE COMMERCE COMMISSION
COPY

SECURITY AGREEMENT, CHATTEL MORTGAGE AND ASSIGNMENT OF ACCOUNTS AND CONTRACT RIGHTS

Damon P. Smith, III, 4839 Allencrest, Dallas, Texas 75234, hereinafter called "Debtor", and MERCANTILE NATIONAL BANK AT DALLAS, a national banking association located at Main and Ervay Streets, Dallas, Texas 75201, hereinafter called "Secured Party", agree as follows:

WHEREAS, the Debtor has executed and delivered to the Secured Party a commercial installment note (the "Note") dated of even date herewith, in the face amount of $31,000.00, payable in monthly installments over a five (5) year period from the date thereof, and bearing interest at the rate of 13% per annum, and having the other provisions set forth therein, said Note evidencing funds advanced by the Secured Party to Debtor to pay the purchase price owing for the Equipment (hereinafter defined); and

WHEREAS, the Debtor has agreed to grant to Secured Party a security interest in certain railroad equipment (hereinafter called the "Equipment") owned by Debtor and described in Exhibit "A" which is attached hereto & made a part hereof for all purposes, as security for payment of the Note; and

WHEREAS, Lease Investment Corporation, a Texas corporation, ("LICO") and Debtor entered into that certain Management Agreement (hereinafter called "Management Agreement") whereby LICO manages, leases and operates the Equipment on behalf of Debtor; and

WHEREAS, the Debtor has agreed to assign and grant to Secured Party all its rights, title and interests in and under said Management Agreement as Security for payment of the Note;

NOW, THEREFORE, in consideration of the advance under the above described Note and the promises contained herein, the parties hereto hereby agree as follows:

Section I. Creation of Security Interest.

Debtor hereby grants to Secured Party a security interest and chattel mortgage in the Collateral described in Section II of this Security Agreement to secure performance and payment of (i) the Note described above, and (ii) all renewals, rearrangements and/or extensions of the Note.

Section II. Collateral.

The Collateral granted by this Security Agreement is all of the right, title and interest of Debtor in and to (i) the Equipment described on Exhibit "A" hereto, (ii) the Accounts and Contract Rights arising under the Management Agreement described above between Debtor and LICO, (iii) all leases ("Lease Agreements") now or hereafter existing, including but not limited to leases between LICO as Lessor and other entities as Lessee, on the Equipment, (iv) all of Debtor's right to receive and collect all perdiem mileage payments now or hereafter to become payable to the Debtor with respect to such Equipment, and (v) the proceeds of such Collateral. Debtor will provide Secured Party with (1) quarterly reports of current leases within fifteen (15) days of the end of each calendar quarter, and (2) report of current leases upon the request of Secured Party.

Section III, Payment Obligations of Debtor.

(1) Debtor shall pay to Secured Party any such sum or sums due or which may become due pursuant to the Note or any other promissory note or notes now or hereafter executed by Debtor to evidence Debtor's indebtedness to Secured Party in accordance with the terms of such Note or other promissory note or notes and the terms of this Security Agreement.

(2) Debtor shall pay to Secured Party on demand all expenses and expenditures, including reasonable attorneys' fees and other 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 maximum rate of interest permitted by applicable law with respect to Debtor. It is the intention of the Debtor and the Secured Party to contract in strict compliance with the usury laws of the State of Texas from time to time in effect. In furtherance thereof, the Debtor and the Secured Party stipulate and agree that none of the terms and provisions contained in this Agreement or the Note shall ever be construed to create a contract to pay interest for the use, forbearance or detention of money at a rate in excess of the maximum interest rate permitted to be charged by applicable law from time to time in effect. In the event the Secured Party shall charge and/or collect monies which are deemed to constitute interest which would otherwise increase the effective rate on the Note to a rate in excess of that permitted to be charged by applicable law, then all such sums deemed to constitute interest in excess of the maximum rate permitted by applicable law shall be immediately returned to the Debtor upon such determination or shall be deemed applied to the principal as a prepayment, at Secured Party's election.

(3) Debtor shall pay immediately upon Secured Party's declaration and demand the entire unpaid indebtedness of Debtor to Secured Party, whether created or incurred pursuant to the Note or this Security Agreement or otherwise, upon the occurrence of an Event of Default as defined in Section V of this Security Agreement.

Section IV. Debtor's Warranties, Representations and Agreements.

(1) The Collateral will meet the following requirements continuously from the time each part of the Collateral comes into existence until the indebtedness secured hereby is paid in full:

(a) All Account(s) or Contract Right(s) will be due and payable not more than ninety (90) days from the date of the invoice or agreement evidencing the same.

(b) All Account(s) or Contract Right(s) arose or will arise from the performance of the duties and obligations of the Lease Agreements by LICO (or its agent) and the duties and obligations of the Management Agreement between LICO and Debtor, which duties and obligations have been or will be fully and satisfactorily performed by LICO or Debtor.

(c) Neither the Equipment nor the Account(s) or Contract Right(s) is subject to any prior or subsequent assignment, claim, lien or security interest other than that in favor of Secured Party.

(d) Neither the Account(s) nor the Contract Right(s) is subject to any set off, counterclaim,

defense, allowance or adjustment by the Account Debtor(s) other than discounts for prompt payment shown on the invoice.

(e) No notice of bankruptcy, insolvency, or financial embarrassment of Account Debtor(s) has been received by Debtor.

(2) Debtor's legal residence is that appearing at the beginning of this Security Agreement. Debtor will promptly notify Secured Party of any change of location of his legal residence.

(3) 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.

(4) Debtor is owner of the Collateral.

(5) The office where Debtor keeps its records concerning the Accounts and Contract Rights covered by this Security Agreement is the address shown above for Debtor.

(6) 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 on 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 upon demand, with interest thereon at the maximum rate of interest permitted by applicable law with respect to Debtor.

(7) Debtor shall notify Secured Party promptly in writing when any account(s) or Contract Right(s) constituting part of the Collateral ceases to meet any of the requirements of this Security Agreement.

(8) Debtor shall at all times keep complete and accurate books and records reflecting all facts concerning each Account and Contract Right, including those pertaining to Debtor's warranties, representations and agreements under this Security Agreement, and make or allow Secured Party to make written designation on Debtor's books and records to reflect thereon the assignment to Secured Party of each Account or Contract Right covered by this Security Agreement.

(9) Debtor shall not, voluntarily or involuntarily, subject the Collateral or its proceeds or allow the Collateral or its proceeds to be subjected to any interest of any transferee, buyer, secured party, encumbrancer or other third person, and shall not modify the contract with any Account Debtor(s) or diminish any security for an Account or Contract Right without giving Secured Party five (5) days notice in advance in writing and without first receiving written consent from Secured Party.

(10) 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 Secured Party's interests, rights and remedies created by, provided in or eminating from this Security Agreement.

(11) 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.

(12) 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, 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.

(13) Debtor or the Lessee of the Collateral shall provide a valid and enforciable inland marine insurance policy in an amount at least equal to the note at all times until the indebtedness secured by the Note is paid in full. Should any portion of the Equipment be damaged such that insurance proceeds are payable to Debtor due to such damage, Debtor shall fully utilize said insurance proceeds to either repair the Equipment or deliver the insurance proceeds in full to Secured Party for application to the Note or other notes secured hereby at the option of the Secured Party.

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. Time is of the essence.

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

(3) Debtor fails to fulfill or satisfy any warranty, representation or statement contained or referred to in this Security Agreement or in any note secured hereby.

(4) Any warranty, representation or statement contained in this Security Agreement 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 respect when made or furnished or becomes false in any respect while any indebtedness secured hereby is outstanding.

(5) Loss, theft, substantial damage, destruction, sale or encumbrance of or to any of the Collateral, or the making of any levy, seizure or attachment thereof or thereon.

(6) Debtor's insolvency; or the appointment of a receiver of all or any part of the property of Debtor; or an assignment for the benefit of creditors by Debtor; or 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.

(7) Any statement of the financial condition of Debtor to Secured Party submitted to Secured Party proves to be false.

(8) A default or breach under that certain letter agreement

of even date herewith addressed to Secured Party and executed by Debtor and LICO concerning the Management Agreement.

Section VI. Secured Party's Rights and Remedies.

A. Rights Exclusive of Default.

(1) This Security Agreement, Secured Party's rights hereunder or the indebtedness hereby secured may be assigned in whole or in part, by secured party 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) Upon written notice to Debtor, Secured Party may notify or require Debtor to notify Account Debtors obligated on any or all of Debtor's Accounts or Contract Rights to make payment directly to Secured Party, and Secured Party may take possession of all proceeds of any Accounts or Contract Rights in Debtor's possession.

(3) Upon the occurrence of an Event of Default or at any time thereafter, Secured Party may take any steps which Secured Party deems necessary or advisable to collect any or all Accounts, Contract Rights, Proceeds or other Collateral, or to sell, transfer, compromise, discharge or extend the whole or any part of the Accounts, Contract Rights, Proceeds or other Collateral, and apply the proceeds thereof to Debtor's indebtedness to Secured Party in accordance with this Security Agreement.

(4) In protecting, exercising or assuring its interests, rights and remedies under this Security Agreement, Secured Party may sign and endorse negotiable and other instruments for the payment of money, documents 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.

(5) Secured Party may call at Debtor's 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.

(6) Secured Party may make any demand upon or give any notice to Debtor by its deposit in the mails or with a telegraph company, addressed to Debtor at Debtor's residence at the beginning of this Security Agreement, or to the change of such address of which Debtor has last notified Secured Party in writing.

(7) 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 such payment made or any expense incurred by Secured Party pursuant to the foregoing authorization, plus interest thereon at the maximum rate of interest permitted by applicable law with respect to Debtor.

(8) Secured Party may render and send to Debtor a statement of account showing loans made, all other charges, expenses and items chargeable to Debtor, payment made by Debtor against the

loans, proceeds collected and applied to the loans, other appropriate debits and credits, and the total of Debtor's indebtedness on the loans as of the date of the statement of account, and the statement of account shall be considered correct in all respects and accepted by and conclusively binding upon Debtor, except for specified objections which Debtor makes in writing to Secured Party within fifteen (15) days from the date upon which the statement of account is sent.

B. Remedies in the Event of Default.

(1) Upon the occurrence of an Event of Default and at any time thereafter, Secured Party may declare all indebtedness secured hereby immediately due and payable, and shall have the rights and remedies of a Secured Party under the Uniform Commercial Code of Texas, including without limitation thereto, 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 on 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 (5) days before the time of the sale or disposition. Expenses of retaking, holding, preparing for sale, selling or the like shall include Secured Party's reasonable attorneys' fees and expenses, and Debtor agrees to pay such fees and expenses, plus interest thereon at the maximum rate of interest permitted by applicable law with respect to Debtor. 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) "Secured Party" and "Debtor" as used in this instrument include the heirs, executors or administrators, successors, representatives, receivers, trustees and assigns of those parties.

(2) The action 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 Uniform Commercial Code of Texas are used with the meanings as therein defined.

(3) The law governing this secured transaction shall be that of the State of Texas in force as of the date of this instrument. This Security Agreement shall be performable in Dallas, Dallas County, Texas.

EXECUTED AND EFFECTIVE THIS _____ day of _____

_____, 1979.

DEBTOR:

Damon P. Smith, III

SECURED PARTY:

MERCANTILE NATIONAL BANK
AT DALLAS

By _____
Michael S. Handler,
Banking Officer

STATE OF TEXAS)
)
COUNTY OF DALLAS)

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Damon P. Smith, III, known to me to be the person whose name is subscribed to foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 18th day of DECEMBER, 1979.

Kathleen R. Stenger
Notary Public

My Commission Expires:

10-13-80

STATE OF TEXAS)
)
COUNTY OF DALLAS)

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Michael S. Handler known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said MERCANTILE NATIONAL BANK AT DALLAS, a national banking institution, and that he executed the same as the act of such bank for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 19 day of December, 1979.

Shelley K Baker
Notary Public in and for
Dallas County, Texas

My Commission Expires:

6-27-81

E X H I B I T "A"

EQUIPMENT

One (1) open top hopper car, 100 ton capacity, 2000 cubic feet capacity, manufactured by Portec, Inc., Job Number 1931.

TRAX NUMBER 2086.