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Washington, D.C.

November 30, 1984

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

RECORDATION NO. 14490 Filed 1425

NOV 30 1984 2:00 AM

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Attention: Honorable James H. Bayne

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 14490 Filed 1425

NOV 30 1984 2:00 AM

INTERSTATE COMMERCE COMMISSION

Re: Helm Financial Corporation/The Philadelphia National Bank/Edward A. Garvey

Gentlemen:

I have enclosed the primary document and secondary document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code and the regulations promulgated thereunder.

Enclosed is an original and two (2) certified copies of a Security Agreement (the "Security Agreement"), a primary document, dated as of November 30, 1984. The names and addresses of the parties to the Security Agreement are as follows:

Mortgagor: Helm Financial Corporation, as
Agent for Edward A. Garvey
One Embarcadero Center
San Francisco, CA 94111

Mortgagee: The Philadelphia National Bank
Broad & Chestnut Streets
P.O. Box 13867
Philadelphia, PA 19101

A description of the equipment covered by the Security Agreement is as follows:

Six (6) 70-ton 50-foot General Purpose Railroad
Boxcars. Road Numbers: B&O 401141, 401142,
401143, 401145, 401146, 401147.

Please cross-index this document with the Memorandum of Lease of Railroad Equipment dated as of October 4, 1984 between Helm Financial Corporation and the Baltimore and Ohio Railroad Company filed on October 10, 1984 under Recordation No. 14441.

C. A. Kasper

In addition, please cross-index this document with the Partial Loan Termination Agreement, dated July 27, 1984, by and among FIRST NATIONAL BANK AND TRUST COMPANY, FIRST PEOPLES BANK OF NEW JERSEY, FIRST STATE BANK, HAZELTON NATIONAL BANK, and GIRARD LEASING CORPORATION, Recordation No. 9605-R, Unconditional Release dated August 1, 1984 by FIRST NATIONAL BANK AND TRUST COMPANY, FIRST PEOPLES BANK OF NEW JERSEY, FIRST STATE BANK and HAZELTON NATIONAL BANK, Recordation No. 9605-S, and Bill of Sale dated August 1, 1984 from GIRARD LEASING CORPORATION to HELM FINANCIAL CORPORATION, Recordation No. 9605-T, all of which were recorded on August 2, 1984 and which covered the Equipment as it was previously marked. *

Finally, please cross-index this document with the Memorandum of Security Agreement, dated as of August 10, 1984, for the benefit of WELLS FARGO BANK, N.A., by HELM FINANCIAL CORPORATION, ROBERT L. HOVERSON, RICHARD C. KIRCHNER, DAVID R. ECKLES, WILLIAM M. PETERSON, BRIAN D. STUCKER, EDWARD A. GARVEY, and BRAD WIND, Recordation No. 14440, recorded on October 5, 1984 and the Partial Termination of Security Agreement, dated as of November 27, 1984, by WELLS FARGO BANK, N.A., for the benefit of HELM FINANCIAL CORPORATION, ROBERT L. HOVERSON, RICHARD C. KIRCHNER, DAVID R. ECKLES, WILLIAM M. PETERSON, BRIAN D. STUCKER, EDWARD A. GARVEY, and BRADLEY S. WIND, Recordation No. 14440-C, filed simultaneously herewith, which also covers the equipment as it was previously marked.

Also enclosed is an original and two (2) executed counterparts of an Agency and Management Agreement (the "Agency Agreement"), a secondary document connected to the enclosed Security Agreement filed simultaneously herewith under Recordation No. 14440. The date of the Agency Agreement is November 1, 1984. The parties to the Agency Agreement are as follows:

Grantor: Edward A. Garvey
1115 Wiget Lane
Walnut Creek, CA 94598

Grantee: Helm Financial Corporation (the Agent)
One Embarcadero Center
San Francisco, CA 94111

The equipment covered by the Agency Agreement is that equipment covered by the enclosed Security Agreement.

* In addition please cross-index this document with the Release dated as of August 27, 1982 executed by Girard Bank, Recordation Number 10679-F; and the Bill of Sale dated August 27, 1982 executed by Lease Financing Corporation in favor of Girard Bank, Recordation Number 13780, both of which were recorded on August 27, 1982 and covered the Equipment as it was previously marked.

Interstate Commerce Commission
November 30, 1984
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A check in the amount of \$50.00 is enclosed to cover the cost of filing the Security Agreement (\$10), the Agency and Management Agreement (\$10) and cross-indexing (\$30). Please return the original Security Agreement and the Agency and Management Agreement and any extra copies not needed by the Commission for recordation to:

Manwell & Wes
425 California Street, Suite 1301
San Francisco, California 94014

Attention: Edward J. Wes, Jr., Esq.

Very truly yours,

Charles T. Kappler

43/04mn

NOV 30 1984 - 9 12 AM

AGENCY AND
MANAGEMENT AGREEMENT
INTERSTATE COMMERCE COMMISSION

THIS AGENCY AND MANAGEMENT AGREEMENT ("Agreement"), made as of this 1st day of November, 1984, by and between HELM FINANCIAL CORPORATION, a California corporation ("Manager"), and EDWARD A. GARVEY, an individual ("Owner").

RECITALS:

Manager is engaged in the business, among other things, of managing and leasing various types of equipment for others. Manager has purchased or will hereafter purchase Six (6) 50-foot, 70-ton boxcars (the "Units") and assigned all of its right, title and interest in the Units to Owner. Owner has retained Manager as its agent for the purpose of acquiring, repairing, modifying and managing the Units on Owner's behalf, collecting amounts due to Owner with respect to the Units, disbursing funds of Owner to pay costs, expenses and obligations of Owner with respect to the Units, and dealing with the Lender in connection with the financing of the Units, all on the terms and conditions set forth herein.

Manager, as the Owner's Agent, has contracted for repair and modification (the "Reconstruction") of the Units by TRANSCO RAILWAY PRODUCTS, INC. (the "Builder") pursuant to a Reconstruction Agreement. Manager, as Owner's Agent, has leased the Units to the Baltimore and Ohio Railroad Company, a Maryland corporation (the "Lessee") pursuant to a Lease of Railroad Equipment (the "Lease"). Owner will finance the purchase of the Units through The Philadelphia National Bank (the "Lender") pursuant to a Promissory Note (the "Note") and Security Agreement (the "Security Agreement").

Owner and Manager desire to memorialize their understanding and agreement concerning Manager's appointment as Owner's agent and manager of the Units.

NOW, THEREFORE, in consideration of the mutual promises made herein, Owner and Manager hereby agree as follows:

A G R E E M E N T

1. Engagement of Manager.

Subject to all of the terms and conditions set forth herein, Owner hereby appoints Manager as Owner's agent and attorney-in-fact and engages Manager to acquire, to contract for the reconstruction of, to lease, and to manage the Units, collect amounts due to Owner with respect to the Units, disburse funds of Owner to pay costs, expenses and obligations of Owner with respect to the Units, and deal with the Lender on behalf of Owner in connection with the financing of the Units, all on the terms and conditions set forth herein, and Manager accepts such engagement and agrees to act for Owner and perform such duties in accordance with the terms and conditions hereof.

2. Term.

The term of this Agreement shall commence as of the date of this Agreement and, except as otherwise provided herein, shall continue until January 31, 1991. The Lender shall receive thirty (30) days prior written notice of any sooner termination of this Agreement.

3. Duties of Manager.

In consideration of the compensation to be paid to Manager by Owner pursuant to this Agreement, Manager shall provide and perform on behalf of Owner the services set forth below, which services shall be provided and performed during the term of this Agreement in a manner which, so far as within Manager's control hereunder, will enable Owner to comply with the Note, the Security Agreement, and the Lease, and otherwise at a level or standard of care no less than Manager would use with respect to other railroad cars it owns, leases, or manages.

(a) Enter into the Reconstruction Agreement as agent for Owner, perform all duties of the Owner's Agent under the Reconstruction Agreement, negotiate the rectification of any noncompliance with the Builder and the Lessee, and, when satisfied the Units are in acceptable condition, accept delivery of the Units as agent for Owner, take possession of the Units for the purpose of managing the Units as herein provided, and execute any document, including, without limitation, certificates of acceptance as required by the Builder, as may be necessary or appropriate in connection with the performance of its obligations hereunder, subject, in all cases, to the limitations on Manager's authority hereunder.

(b) Enter into the Lease as agent for Owner, and use its best efforts to take such steps as may be required to insure that all obligations and duties arising under the Lease, whether of Owner or Lessee or Manager, are performed or complied with in an orderly and timely fashion.

(c) Receive or collect from Lessee in accordance with the terms of the Lease and Security Agreement, all rental payments and all other amounts due to Owner with respect to the Units and account for and remit those sums to Owner or the Lender, as appropriate.

(d) Terminate the Lease and recover possession of the Units and enforce all rights of Owner with respect thereto, including the payment of all amounts owing with respect to such Units, institute and prosecute legal proceedings in the name of Owner as permitted by applicable laws in order to terminate such Lease and/or recover possession of such Units and settle,

compromise and/or release such proceedings or reinstate such Lease.

(e) If so directed by Owner, place in Owner's name such insurance as shall be reasonably available to protect the interest of Owner in the Units, including, without limitation, insurance against (i) personal liability, including property damage and personal injury, and (ii) loss of or damage to the Units; provided, however, that if Manager effects such insurance under a blanket insurance policy covering the Units and other units or an insurance policy covering the Units, such insurance need not be placed in Owner's name so long as Owner is named as additional insured.

(f) Pay all charges, assessments, or levies imposed upon or against the Units other than charges, assessments or levies payable by and chargeable to the Lessee under the Lease or otherwise, of whatever kind or nature and, in Manager's discretion, defend against any such charges and seek revision or appeal from any assessment or charge deemed improper, all such actions to be in the name of Owner.

(g) Monitor and record the status of the Units and maintain complete and accurate books and records of transactions relating to the Units and retain such books and records for a period of no less than seven (7) years and make such books and records available for inspection by Owner or its representative during reasonable business hours and allow Owner to make photocopies thereof at Owner's expense; provided, however, that Owner shall not use any information concerning Manager or Units in a way that would unreasonably interfere with the business or affairs of Manager unless required by law.

(h) Enter into the Security Agreement and related documents, including the Lease Assignment, as agent for Owner.

(i) Prepare, give, or receive, as appropriate, communications, correspondence, notices, consents, waivers, and releases from or to Lender on behalf of Owner, exercise and enforce any of the rights, powers, or remedies of Owner under the Security Agreement, and take other actions to be taken by Owner (other than the payment of money) pursuant to the Security Agreement.

(j) Provide such advice and perform such services incidental to the management and financing of the Units as may from time to time be reasonably requested in writing by Owner.

4. Manager's Right to Assurance of Repayment or Indemnification. No provision of this Agreement shall require Manager to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

5. Power of Attorney; Agent for Service of Process. Owner irrevocably constitutes and appoints Manager as its true and lawful attorney-in-fact for the term of this Agreement to represent Owner under and in connection with the Reconstruction Agreement, the Lease, and the Note and Security Agreement, and to do any and all acts necessary or appropriate so to represent Owner, including the execution and delivery of such documents as are necessary or appropriate in connection with such agreements and the compromise of any

disputes that may arise in connection with such agreements. Owner further appoints Manager as its agent for service of process in connection with the Note, the Security Agreement, and the Assignment of Lease.

6. Authority of Manager. Any actions taken by Manager on behalf of Owner will be taken as agent for such Owner, severally and individually, either naming such Owner or naming Manager as agent for undisclosed several and individual principals. The parties hereto expressly recognize and acknowledge that this Agreement is not intended to create a partnership, joint venture or other entity among Owner and/or Manager, and is intended only to provide a sharing of specified income and expenses attributable to Owner's leasing of their railroad cars.

7. Compensation and Reimbursement of Manager.

(a) As payment for general and administrative functions to be performed by Manager hereunder, Manager shall receive a fee calculated in accordance with Schedule A attached hereto, payable at commencement of the Lease.

(b) Owner shall reimburse Manager for all reasonable expenses, disbursements, and advances ("Reimbursable Expenses") incurred or made by Manager in accordance with any provision of this Agreement (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

8. Owner Account; Remittance to Owner; Payment of Reimbursable Expenses.

(a) All cash receipts received with respect to the Units during the term of this Agreement to which Owner is entitled (net of any payments then due the Lender) shall immediately upon receipt be deposited in an account (the "Owner Account") for the benefit of Owner in a bank acceptable to Owner and upon terms and conditions reasonably satisfactory to Owner. Such account shall be denominated as designated by Manager. It is specifically understood that Manager is acting as agent for collection and is not authorized to and shall not collect or accept payment of cash receipts with respect to the Units for its own account.

(b) Within fifteen (15) days after each rental payment date under the Lease during the term of this Agreement, Manager shall furnish to Owner a calculation of income and Reimbursable Expenses with respect to the Units. Manager shall have the right, in its discretion, to withdraw any sums in the Owner Account to reimburse itself for Reimbursable Expenses, if any. The balance of any funds in the Owner Account shall be remitted quarterly to Owner.

(c) Within fifteen (15) days after receipt of notice and demand from Manager, Owner shall pay to Manager in cash the amount, if any, by which Reimbursable Expenses with respect to the Units for any quarter exceed the cash receipts with respect to the Units for such quarter.

9. Remarketing of Units; Exclusive Agency.

(a) Upon termination of this Agreement pursuant to Section 2,

Manager is hereby appointed as Owner's exclusive agent for sale or re-lease of the Units for a period of twelve (12) months following such termination, and Owner shall direct Manager to either sell or re-lease the Units. As compensation for Manager's services in remarketing the Units pursuant to this subparagraph 9(a), Manager shall receive Twenty-Five Percent (25%) of the proceeds of any sale or re-lease of the Units effected by Manager.

(b) Manager shall use its best reasonable efforts to obtain bona fide offers to purchase or lease the Units, as appropriate, and in fulfilling its obligations under this Section 9, Manager may engage equipment brokers or other experts to assist in the sale or lease of Units and shall be entitled to reimbursement for the fees of such brokers or experts from the gross proceeds from the sale or lease of the Units.

10. Indemnification.

(a) Owner shall defend, indemnify and hold Manager harmless from and against any and all claims, actions, damages, expenses, losses or liabilities (including reasonable attorneys' fees) incurred by or asserted against Manager as a result of the performance or non-performance of this Agreement or of Owner's obligations hereunder or the use, management, operation, possession, control, maintenance or repair of the Units; provided, however, that the foregoing indemnity shall not apply to any claim, action, damage, expense, loss or liability directly or indirectly caused by or arising solely from the gross negligence or wilful misconduct of Manager or its default pursuant to this Agreement.

(b) Manager shall defend, indemnify and hold Owner harmless from and against any and all claims, actions, damages, expenses, losses or liabilities (including reasonable attorneys' fees) incurred by or asserted against Owner as a result of Manager's gross negligence or wilful misconduct or a default by Manager in the performance of its responsibilities under this Agreement.

(c) If any claim, action, damage, expense, loss or liability directly or indirectly arises as a result of gross negligence, wilful misconduct or default by both Owner and Manager, responsibility shall be apportioned based upon the degree to which each party's gross negligence, wilful misconduct or default contributed to the ultimate claim, action, damage, expense, loss or liability.

11. Reports. Not later than once every calendar quarter, Manager will furnish to Owner an unaudited report showing, in reasonable detail with respect to the Units for such period and for all the preceding periods in the calendar year, computations setting forth the calculation of the compensation and Reimbursable Expense due and payable to Manager for such period.

12. Events of Default.

(a) The occurrence of any of the following events shall be an event of default hereunder:

(i) The failure of either party to pay to the other any net amounts due within ninety (90) days after any such amounts are due and payable hereunder;

(ii) The breach by either party of any material term, covenant or condition hereunder, other than as specified in paragraph (i) above, which is not cured within thirty (30) days after written notice of such breach;

(iii) Failure by either party to pay its debts generally as they become due, the filing by either party of any petition or action under any bankruptcy, reorganization, insolvency or moratorium law or any other law for the relief of, or relating to, debtors generally; and

(iv) The filing of any involuntary petition under any bankruptcy, reorganization, insolvency, or moratorium law against either party that is not dismissed within ninety (90) days thereafter, or the appointment of any custodian, receiver, or trustee to take possession of the property of either party unless such petition is set aside or withdrawn within ninety (90) days from the date of said filing or appointment.

(b) Upon the occurrence of any event of default by a party hereunder and in addition to any other remedies provided under applicable law, the other party may, at its option, terminate this Agreement upon delivery to the defaulting party and the Lender of thirty (30) days' prior written notice of such termination and/or pursue any other remedies available at law or equity.

13. Notices.

Any notice required or permitted hereunder shall be in writing and shall be deemed delivered as and when delivered personally or by telex, or five (5) days after it is deposited in any post office in the United States of America by certified mail, postage prepaid, addressed to the other party as follows:

If to Manager:

Helm Financial Corporation
One Embarcadero Center, 33rd Floor
San Francisco, California 94111
Attention: Robert L. Hoverson

If to Owner:

Edward A. Garvey
1115 Wiget Lane
Walnut Creek, CA 94598

If to Lender:

The Philadelphia National Bank
Transportation and Equipment Finance Department
Broad and Chestnut Streets
P.O. Box 13867
Philadelphia, Pennsylvania 19101

Attention: Harry E. Ellis, Vice President

and any party may change such address by return notice given to the other party in the manner set forth above.

14. Miscellaneous.

(a) This Agreement shall be governed by and construed under the internal laws of the State of California.

(b) This Agreement may be executed in counterparts, each of which shall be deemed an original, but together shall constitute one and the same instrument.

(c) Titles and headings of the sections of this Agreement are for the convenience of reference only and do not form a part of this Agreement and shall not in any way affect the interpretation hereof. Defined terms shall include the singular or plural, as the case may be.

(d) No representation, explanation or information furnished by either of the parties hereto shall alter or affect the meaning or interpretation of this Agreement, and no modification or amendment to this Agreement shall be valid unless in writing and executed by both parties hereto.

(e) The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto; provided, however, that no assignment hereof by Manager or transfer of any of Manager's rights hereunder whether by operation of law or otherwise shall be valid or effective as against Owner without the prior written consent of Owner, which consent shall not be unreasonably withheld.

(f) Neither party hereto shall be deemed to be in breach or in violation of this Agreement if either is prevented from performing any of its obligations hereunder for any reason beyond its reasonable control including, without limitation, acts of God, riots, strikes, fires, storms or public disturbances.

(g) If any party fails to pay any amounts hereunder when due, such party shall pay interest on such amounts due at a rate equal to thirteen (13%) per annum.

(h) The waiver of any breach of any term or condition hereof shall not be deemed a waiver of any other or subsequent breach, whether of like or different nature.

(i) If any term or provision of this Agreement or the performance thereof shall to any extent be invalid or unenforceable, such invalidity or unenforceability shall not affect or render invalid or unenforceable any other provision of this Agreement, and this Agreement shall be valid and enforced to the fullest extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have executed this Agree-

ment as of the day and year first above written.

"MANAGER"

HELM FINANCIAL CORPORATION,
a California corporation

By Robert L. Howerson
Its PRESIDENT

"OWNER"

Edward A. Garvey
EDWARD A. GARVEY

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

On this 1 day of November, in the year 1984, before the undersigned, a Notary Public in and for the State of California, personally appeared ROBERT L. HOVERSON, known to me (or proved to me on the basis of satisfactory evidence) to be the PRESIDENT of HELM FINANCIAL CORPORATION, and known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument on behalf of said HELM FINANCIAL CORPORATION and acknowledged to me that such HELM FINANCIAL CORPORATION executed the same.

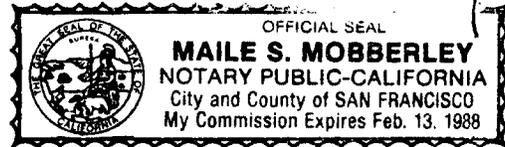
WITNESS my hand and official seal.

My commission expires:

2/13/88

Maile S. Moberley
NOTARY PUBLIC

[NOTARY SEAL]



STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

On this 1 day of November, in the year 1984, before the undersigned, a Notary Public in and for the State of CALIFORNIA, personally appeared EDWARD A. GARVEY, known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

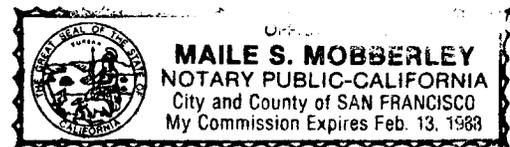
WITNESS my hand and official seal.

My commission expires:

2/13/88

Maile S. Moberley
NOTARY PUBLIC

[NOTARY SEAL]



SCHEDULE A

Amount discounted by The Philadelphia National Bank ("PNB"), plus interim rent due from the Baltimore & Ohio Railroad Company under the Lease of Railroad Equipment, less amounts due to Mellon Bank (East) and Girard Leasing Corporation for purchase of the Boxcars, less amounts due Transco Railway Products, Inc. for modifications of the Boxcars, less amounts due PNB for interest accrued from the date of initial funding of the PNB loan through the Lease Commencement Date.