

11553
RECORDATION NO. Filed 1425

MAR 4 1980 - 10 35 AM

INTERSTATE COMMERCE COMMISSION

Broadway National Bank

January 29, 1980

Secretary
Interstate Commerce Commission, Room 2203
Washington, D.C. 20423

Attn: Mrs. Lee

Gentlemen:

This is a letter of transmittal pursuant to 1116.4, Chapter X, Title 49, C.R.R.

Enclosed is a check for \$50.00 for recordation fee and acknowledged original and to acknowledged counterparts of the following:

1. NAMES AND ADDRESSES OF PARTIES:

LENDER

Broadway National Bank
P.O. Box 17001
San Antonio, Texas 78286
Attn: Steven L. Aycock, Assistant Vice President

OWNER

J.D. Browning
214 Wood Shadow
San Antonio, Tx 78216

2.

TITLE OF DOCUMENT

"RAIL CAR SECURITY AGREEMENT AND ASSIGNMENT OF REVENUES

3. GENERAL DESCRIPTION OF EQUIPMENT COVERED BY THE DOCUMENT:

- a) MECHANICAL REFRIGERATED RAILROAD CAR PFE CLASS R-70-19 NUMBER REMX 1062, previously numbered PFE 456840.
- b) All equipment attached to this including Carrier Model 66E15PFE68 refrigeration units, Detroit - Diesel model 2-71 engines and 500 gallon fuel tanks and Equipco two piece swivel type load dividers and Assignment of Revenues from REMX Corporation.

RAIL CAR SECURITY AGREEMENT

AND

ASSIGNMENT OF REVENUES

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INTERSTATE COMMERCE COMMISSION

This Agreement is made at San Antonio, Texas, as of this
25 day of January, 19 80 by and between
J.D. BROWNING of SAN ANTONIO, TEXAS,
hereinafter referred to as OWNER and BROADWAY NATIONAL BANK
of SAN ANTONIO, TEXAS, hereinafter referred to as LENDER
with respect to the following facts:

RECITALS

1. LENDER has loaned OWNER the sum of \$40,000.00 evidenced by a promissory note (Exhibit "A") for said amount of even date to finance the purchase of a refrigerated Railroad Car designated by the attached Bill of Sale (Exhibit "B") hereinafter referred to as "Cars".

2. OWNER desires to grant LENDER a Security Agreement including an Assignment of Revenues to secure said note which will constitute a first and prior lien on said cars.

NOW THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties agree as follows:

1. OWNER hereby grants to LENDER a security interest with power of sale in and to said cars. OWNER warrants said lien is first, prior and senior to any other interest, lien or encumbrance to cars.

2. Said security interest includes a first and prior security interest of any and all rights of OWNER in any management agreement for the management company including but not limited to a first lien on all revenues due OWNER under any such agreement. OWNER shall not enter into any such agreement without prior approval of LENDER which approval shall not unreasonably be withheld and without acknowledgement of any such management company of LENDER'S rights under this Security Agreement.

3. Said Security Agreement includes a first and prior security interest in all payments and rentals contributable to OWNER'S cars under existing or future leases of said cars.

4. In case default is made in the payment of any instalment of principal or interest of said note (Exhibit "A") as and when due or in the case of default by OWNER of any obligation herein imposed upon OWNER and upon written demand by LENDER to OWNER or any management company than under contract for the operation or utilization of said cars with OWNER, OWNER shall at its own cost and expense, deliver said cars to LENDER at such place or places as LENDER may direct and LENDER shall have the right at its option to take immediate and exclusive

possession of said cars, and for that purpose may pursue said cars wherever same may be found and may for that purpose enter upon or direct the delivery of said cars to any place which LENDER shall designate and LENDER shall have the right to sell said cars at public or private sale, with or without notice as it may elect, in one or more lots, at such price or prices, and on such terms as it may deem advisable, and at such sale LENDER may, if it so elects, become the purchaser of said cars. In the case of said default as aforesaid, all mileage, earnings or rentals of or attributable to said cars and each of them, which at the date of such default may be due or which shall thereafter become due shall thereupon be and become payable to the LENDER, and shall be applied to the payment of any indebtedness due from OWNER to LENDER. Upon such default, OWNER shall forthwith notify the LENDER from whom such mileage, earnings or revenues or lease payments are due or to become due, to pay the same to said LENDER but such notice shall not be necessary in order to enable the LENDER to collect or receive such earnings in the case of such default.

And to facilitate the LENDER in the event of such default in securing possession of said cars and the payment to it of said mileage earnings, revenues or lease payments, OWNER hereby appoints irrevocable LENDER as its agent and attorney-in-fact and hereby authorizes said LENDER as such agent and attorney-in-fact of said OWNER and in the name of the OWNER to give such instructions and directions, oral or written, as in the judgment of LENDER, may be desirable and necessary to enable the LENDER to obtain possession of said cars and the payment of said earnings. The remedies herein granted in favor of the LENDER shall not be deemed exclusive, but shall be deemed cumulative and in addition to any and all other remedies existing at law or in equity upon the part of said LENDER.

5. In the event of a sale made by said LENDER as hereinafter provided, by reason of the default of said OWNER it is hereby expressly stipulated and agreed that it shall not be necessary to have present at such place or places where sale or sales may be made, said cars or any one said cars, and should said LENDER become the purchaser at any such sale of sales, in lieu of paying in cash the purchase price bid, the LENDER may apply the amount of such bid or bids as a credit upon said notes or any of them due from said OWNER to said LENDER under the terms of this agreement.

6. In the event of a sale made as herein provided, the proceeds thereof shall be applied as follows: (a) to the payment of the costs and expenses of the recovery, transportation, custody, and disposition of said cars with all charges incidental thereto; (b) to the payment of any balances that may be then due and owing upon said notes or any of them or other indebtedness from the OWNER arising hereunder, it being expressly agreed that in the event default shall be made in the payment of any one of said notes or of any indebtedness from the OWNER to the LENDER arising hereunder then and in such event each and every of said notes shall thereupon become due and payable whether due and payable on its face or not; (c) if the proceeds of such sale shall be more than sufficient to fully pay each and every of said notes and interest thereon and all other indebtedness due hereunder from said OWNER to said LENDER and all

costs and expenses then the surplus shall be paid to said OWNER, but if there should be a deficit then said OWNER shall pay such deficit upon the demand of the LENDER.

7. Said cars shall be insured against fire by said LENDER at its option and for its benefit and all insurance premiums shall be paid by said OWNER, and said OWNER shall at its own expense, replace any and all cars destroyed by fire or otherwise, and shall receive from the LENDER any amount of money collected from the insurance company on such loss, provided, at the time of such loss said OWNER is not in default in the discharge of any obligations herein upon it imposed and any sum or sums payable or arising out of the destruction or injury to any of said cars shall at the option of said LENDER be payable to it.

8. Said OWNER shall keep each and every of said cars in good order and repair subject to the inspection and approval of said LENDER and said LENDER shall have the right to inspect said cars once in every year during the continuance of this agreement or oftener if it desires so to do, by any person or agent to be appointed by it, after notice to said OWNER, and said OWNER shall provide a suitable place with suitable facilities for such inspection and shall furnish free transportation over its lines to such person or agent making such inspection.

9. Said OWNER shall pay all taxes, licenses and charges of any and every nature and kind whatsoever that may at any time be levied, rated, assessed, charged, or be or become payable on said cars. And any failure to so repair said cars or to pay said taxes, levies, rates, or charges or said insurance premiums or to replace cars destroyed or repair cars injured or perform any obligations on the OWNER herein imposed shall be deemed and held to be a default upon the part of said OWNER, which default shall entitle the LENDER to all mileage earnings due or to become due upon each and every of said cars and to take immediate possession of said cars and to sell the same in the manner hereinbefore provided.

10. Both parties acknowledge that concurrently with the execution of this agreement OWNER is entering into a management agreement with REMX and that pursuant thereto the parties have placed on said cars marks so as to conform with requirements of law for the purpose of making the identity publicly known. Said marks shall be maintained on said cars by OWNER at its own expense or as may be required under such management contract.

11. Said OWNER shall assist said LENDER in the proper filing and recording of this agreement wherever in the opinion of the LENDER, it may be necessary to record or file the same for the purpose of further securing the said LENDER in the ownership of said cars until all payments herein provided to be made have been made, and said OWNER shall reimburse said LENDER for any and all expense incurred in the execution, acknowledgement, stamping, filing and recording of this agreement and in the stamping of said notes.

12. Any transfer of cars or of any interest therein made or suffered by OWNER shall be void unless approved in writing by LENDER and upon any such purported transfer of cars or any interest therein whatsoever LENDER at its sole option and without notice to OWNER may require the entire sum of principal and accrued interest to be accelerated and due and payable.

13. Nothing herein shall prevent LENDER from negotiating or assigning its interest in Exhibit "A" or this agreement, and this agreement shall be binding upon OWNER and his successors in interest, heirs and administrators and shall inure to the benefit of LENDER and its assigns and successors in interest.

14. Wherever applicable the singular shall include the plural or the plural shall be read in the singular and the neuter gender shall include the masculine and feminine gender or visa versa.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

"OWNER"

"LENDER"

J.D. BROWNING

BROADWAY NATIONAL BANK

x J.D. Browning

BY: Steven L. Oyeal

THIS IS A TRUE AND EXACT COPY OF THE ORIGINAL DOCUMENT.

BEXAR COUNTY, TEXAS

JANUARY 29, 1980

Nancy Garnevali
NOTARY
NANCY GARNEVALI

MY COMMISSION EXPIRES MARCH 1980