

P. E. MYERS & ASSOCIATES
Practice Before The Interstate Commerce Commission

SUITE 348, PENNSYLVANIA BUILDING

425 THIRTEENTH STREET, N. W.,

WASHINGTON, D. C. 20004

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Registered Practitioners

PAULINE E. MYERS

MARK D. RUSSELL

RECORDATION NO.

13435

JAN 18 1982 -3 35 PM

January 18, 1982

2-018A070

INTERSTATE COMMERCE COMMISSION

JAN 18 1982

\$50.00

Washington, D. C.

Mrs. Agatha L. Mergenovich
Secretary
Interstate Commerce Commission
Washington, DC 20423

Dear Secretary:

I have enclosed an original and one copy/counterpart of the document described below, to be recorded pursuant to Section 11303 of Title 49 U.S. Code.

This document is a Mortgage of Railroad Cars, a primary document, dated December 22, 1981. The names and addresses of the parties to the document are as follows:

MORTGAGOR: Rochester Independent Packer, Inc.
11 Independence Street
Rochester, NY 14611

MORTGAGEE: Marine Midland Bank, N.A.
One Marine Midland Plaza
Rochester, NY 14639

A description of the equipment covered by the document follows:

Reporting Marks: RIPX 85, 88, 93, 1100, 1101, 1102, 1103, 1104, 3604, 3606, and 3612.

Ortner Freight Car Company Livestock Cars. All of the above cars are 85 foot (inside length) steel, double deck, Ortner "Steer Palace" stock cars.

A fee of \$50.00 is enclosed. Please return the original. Your cooperation in this matter is greatly appreciated.

Yours very truly,

Pauline E. Myers

Pauline E. Myers

slt

Enclosures

Check No. 3573

Counterpart - Shirley L. Quinn

JAN 18 3 30 PM '82

Interstate Commerce Commission
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Pauline E. Myers
P. E. Myers & Associates
Suite 348, Pennsylvania Bldg.
425 Thirteenth St. N. W.
Washington, D. C. 20004

January 18, 1982

Dear **Madam:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **1/18/82** at **3:35PM**, and assigned re-
recording number(s). **13435**

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

RECORDATION NO. 13435
FORM 1420

JAN 18 1982 - 3 35 PM

MORTGAGE OF RAILROAD CARS INTERSTATE COMMERCE COMMISSION

THIS MORTGAGE, made this 22nd day of December, 1981, by and between ROCHESTER INDEPENDENT PACKER, INC., Mortgagor, a New York Corporation with its office and principal place of business at 11 Independence Street, Rochester, New York 14611, and MARINE MIDLAND BANK, N.A., a national banking association, with an office for the transaction of business at One Marine Midland Plaza, Rochester, New York 14639, Mortgagee.

WHEREAS, Mortgagor is presently indebted to Mortgagee on account of various loans having a present unpaid principal balance in the amount of approximately 1,967,554 ~~\$1,485,000.00~~, which loans may from time to time hereafter be reduced, extinguished and thereafter reincurred, extended or renewed but shall never exceed in the aggregate the sum of \$1,600,000 (hereinafter called the "Indebtedness").

W I T N E S S E T H:

That the Mortgagor does hereby grant, bargain, sell and release unto the Mortgagee, its successors and assigns forever, all and singular the following described properties, rights and interests and all of the estate, right, title and interest of the Mortgagor in the railroad cars and other properties described on Schedule A, annexed hereto, whether now owned or hereafter acquired, together with all accessories, equipment, parts and appurtenances appertaining or attached to any of the railroad cars described in Schedule A hereto, whether now owned or hereafter acquired, and all substitutions, renewals and replacements of and additions, improvements, accessories, and accumulations to any and all of said railroad cars, including all additions thereto which are now or shall hereafter be incorporated

therein, together with all the rents, issues, income, profits and avails thereof, all of which railroad cars, other properties, rights and interests hereby transferred, conveyed and mortgaged or intended so to be are hereinafter referred to as "Railroad Cars."

TO HAVE AND TO HOLD the above granted and described property unto said Mortgagee, its successors and assigns forever.

PROVIDED, ALWAYS, and upon the express condition that if the Mortgagor, its successors and assigns shall well and timely pay or cause to be paid to the Mortgagee, its successors or assigns, the above mentioned Indebtedness in full, with all interest thereon and any and all additional sums payable under the provisions of the various instruments evidencing the Indebtedness and of this Mortgage, all in accordance with the terms thereof, then this Mortgage shall be void, otherwise to remain in full force and effect. If such payment is made by the Mortgagor, the Mortgagor shall be entitled to have this Mortgage discharged. This Mortgage is given and intended as a collateral and continuing security for the payment of the Indebtedness incurred, or to be incurred by the Mortgagor to the Mortgagee whether such Indebtedness shall at any time or from time to time have been reduced or paid in full and thereafter increased or reincurred and whether such indebtedness may at any time or from time to time exceed the total obligations incurred by the Mortgagor to the Mortgagee, and no renewal of, or extension of time of payment of the obligations or evidence of the Indebtedness or any part thereof, and no agreement not to sue or release or discharge of any persons liable therefor or thereon, or release or exchange of other collateral or any act

or thing whatsoever, save payment as provided in the next preceding paragraph of this Mortgage, shall diminish, discharge, impair or affect this Mortgage or the lien thereof or the security afforded thereby.

AND, the Mortgagor covenants with the Mortgagee that upon the happening of any event of default as defined in any of the instruments evidencing the Indebtedness, the Mortgagee's rights and remedies with respect to the Railroad Cars shall be those of a secured party under the Uniform Commercial Code and under any other applicable law, as the same may from time to time be in effect, in addition to those rights granted herein. ~~Without in any way requiring notice to be given in the following matter,~~ ⁸⁸ The Mortgagor agrees that any notice by the Mortgagee of the sale, disposition or other intended action hereunder or in connection herewith, whether required by the Uniform Commercial Code or otherwise, shall constitute reasonable notice to the Mortgagor if such notice is mailed by certified or registered mail, postage prepaid, at least ten (10) days prior to such action, to Mortgagor's address specified above, Attn: President. The Mortgagor agrees to give such further notice of any sale or other disposition to any other person or corporation or to the public generally as it may believe desirable or as may be required by law. The proceeds of any sale, or other disposition after deduction of all expenses of the taking, keeping and sale of the Railroad Cars including without limitation any and all expenses incurred by the Mortgagee in any legal proceeding which it may institute for the recovery and possession of such Railroad Cars shall be applied to the payment of the Indebtedness hereby secured and the Mortgagor agrees to pay any deficiency. The Mortgagee may purchase at any such sale

in the same manner and to the same effect as a person not interested therein. In no event shall the Mortgagee be required to have the Railroad Cars present at the place of sale or comply with any other provisions of law respecting foreclosure of liens either in the State of New York or elsewhere.

The Mortgagee is hereby appointed attorney-in-fact of the Mortgagor with full power of substitution to execute and deliver to any purchaser aforesaid, and is hereby vested with full power and authority to make in the name and on behalf of the Mortgagee, a conveyance of the title to each of the Railroad Cars so sold. In the event of any sale of any of the Railroad Cars, under any power herein contained, the Mortgagor will, if and when required by the Mortgagee, execute such form of conveyance of the Railroad Cars as the Mortgagee may direct or approve.

This Mortgage and all covenants, powers, and rights herein contained shall bind and shall inure to the benefit of the parties and their respective successors and assigns.

The terms of this Mortgage and all rights and obligations hereunder shall be construed and interpreted in accordance with the Laws of the State of New York in which state it has been executed and delivered.

IN WITNESS WHEREOF, each of the parties hereby has caused this instrument to be signed by its fully authorized officers and its corporate seal hereunto affixed as of the first day and first year above is written.

(Corporate Seal)

ROCHESTER INDEPENDENT PACKERS, INC.

By:
Its:

Donald H. ... V.P.

ATTEST:

Walter ...
Secretary

(Corporate Seal)

MARINE MIDLAND BANK, N.A.

By:
Its:

E. H. B. ...
Administrative Vice President

ATTEST:

E. J. ...
Asst. Secretary

Schedule A

Ortner Freight Car Company Livestock Cars

<u>Reporting Marks</u>	<u>Date Bought</u>	<u>New</u>	<u>Used</u>	<u>Amount</u>
RIPX 85	1975		X	\$15,000.00
" 88	1975		X	15,000.00
" 93	1975		X	15,000.00
" 1100	1969	X		29,638.67
" 1101	1969	X		29,638.67
" 1102	1969	X		29,638.66
" 1103	1970	X		31,590.00
" 1104	1970	X		31,590.00
" 3604	1980		X	14,018.67
" 3606	1980		X	14,018.67
" 3612	1980		X	14,018.66

All of the above cars are 85 foot (inside length) steel, double deck, Ortner "Steer Palace" stock cars.

STATE OF NEW YORK)
COUNTY OF MONROE)
CITY OF ROCHESTER)

On this *22nd* day of *December*, 1981, before me personally came *Bernard Hurvitz*, to me personally known, who being by me duly sworn, says that he resides at *310 Barunina Drive* in the *Town* of *Brighton*, New York; that he is *vice pres.* of Rochester Independent Packer, Inc., the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

Marjorie S. Dempsey

Notary Public

MARJORIE S. DEMPSEY
NOTARY PUBLIC, State of N. Y., Monroe County
My Commission Expires March 30, 19*82*

STATE OF NEW YORK)
COUNTY OF MONROE) SS:
CITY OF ROCHESTER)

On this *16th* day of *December*, 1981, before me personally came Emmett B. Boylan, to me personally known, who being by me duly sworn, says that he resides at 180 Greenvale Drive in the Town of Brighton, New York; that he is Vice President of Marine Midland Bank, N.A., the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

James P. [Signature]

Notary Public

NOTARY PUBLIC, State of N. Y., Monroe County
My Commission Expires March 30, 19*83*