

Hy lind  
infoQuest  
Inc.

RECORDATION NO. 13570 Filed 1425

RECORDATION NO. 13570 Filed 1425

RECORDATION NO. 13570/B Filed 1425

RECORDATION NO. 13570 Filed 1425

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INTERSTATE COMMERCE COMMISSION

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RECORDATION NO. 13570/A Filed 1425

Interstate Commerce Commission  
Interstate Commerce Commission Building  
Washington, D.C. 20423

FEB 26 1982-3 05 PM  
INTERSTATE COMMERCE COMMISSION

No. FEB 26 1982  
Date

RE: Recordation

FEB 26 1982-3 05 PM

Fee \$ ~~100.00~~  
211.00  
ICC Washington, D. C.

Ladies & Gentlemen: INTERSTATE COMMERCE COMMISSION

You are hereby requested to record the following agreement:

Assignment of Lease, Security Agreement and Lease  
which are enclosed.

Lessee: FMC Corporation

Lessor: PLM Investment Management, Inc.

Principal lender for the security agreements are:

Debtor: Richard S. Gordon  
Larry B. Kimbler  
Jim J. Miyazaki  
James B. Moffatt  
Mary P. Moffatt  
Thomas L. Massey

Secured Party: Chase Commercial Corp.

Under Assignment of Lease assignors are:

Assignors: Richard S. Gordon  
Larry B. Kimbler  
Jim J. Miyazaki  
James B. Moffatt  
Mary P. Moffatt  
Thomas L. Massey

Assignee: Chase Commercial Corp.

By: Mark W. Hy Lind  
Mark W. Hy Lind, President  
HYLIND INFOQUEST, INC.

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INTERSTATE COMMERCE COMMISSION

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INTERSTATE COMMERCE COMMISSION

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Robert O'Toole

13570-13569

SECURITY AGREEMENT AND NOTE



Date Dec. 29, 1981

Debtor: Jim J. Miyazaki

Address of Debtor: 2034 Pleasant Street, Wauwatosa, WI 53213

Secured Party: CHASE COMMERCIAL CORPORATION, 560 Sylvan Avenue, Englewood Cliffs, New Jersey 07632.

1. COLLATERAL; OBLIGATIONS SECURED. Debtor hereby sells, mortgages and grants a security interest in, the property described below together with all accessories, attachments, parts, equipment, accessions and repairs now or hereafter affixed thereto or used in connection therewith and substitutions and replacements thereof (hereinafter collectively called the "Collateral"), to Secured Party, its successors and assigns:

QUANTITY	MODEL	SERIAL NO.	DESCRIPTION	ADDRESS WHERE COLLATERAL TO BE KEPT
One (1)	N/A	PLMX 12633	4,700 Cu. Ft. 100 Ton Covered Hopper Car	N/A

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INTERSTATE COMMERCE COMMISSION

as security for the payment of the Promissory Note set out in Section 2 hereof (herein called the "Note"), with interest thereon, if any, and as security for all other indebtedness and obligations, absolute or contingent, present or future, matured or unmatured, of Debtor to Secured Party, together with all amounts herein agreed to be paid (the indebtedness evidenced by the Note and all other indebtedness and obligations secured thereby are herein collectively called the "Obligations"). Debtor shall have the right to the possession and use of the Collateral in any lawful manner not inconsistent with this agreement or with the terms or conditions of any insurance policy thereon until default hereunder.

2. PROMISSORY NOTE.

\$ 30,600 (principal) For value received, the Debtor promises to pay to CHASE COMMERCIAL CORPORATION, or order, at its office at 560 Sylvan Avenue, Englewood Cliffs, New Jersey Thirty Thousand Six Hundred and 00/100 Dollars, in lawful money of the United States in 60 equal monthly installments of \$ \* each, commencing on and on the day of each thereafter until paid, except that the last installment shall be the unpaid balance. If any sum payable on any liability of the Debtor to the holder hereof shall not be paid when due then this note shall, unless the holder hereof shall otherwise elect, forthwith be due and payable. This Note shall be construed according to and governed by the laws of the State of New Jersey. \*Interest only at a rate of 18% per annum followed by one payment of \$30,600.00

3. SPECIAL REPRESENTATIONS AND COVENANTS. Debtor represents, warrants and covenants that: (check or fill in where applicable)

- (a) Use of Collateral. The Collateral will be used primarily for  farming operations;  business purposes.
- (b) Proceeds of Note. If checked here , the proceeds of the Note will be used to acquire the Collateral and Secured Party may, at its option, disburse such proceeds directly to the seller of the Collateral.
- (c) Location of Collateral.
  - (1) Fixtures. If the Collateral has been or is to be attached to real estate, such real estate is located at N/A (No. and Street) (City) (County) (State) (Section and Block No.) and the name and address of the record owner, if other than Debtor, is
  - (2) Collateral Used in More Than One State. If the Collateral is used primarily for business and is of a type normally used in more than one state (road building equipment, etc.) the CHIEF PLACE OF BUSINESS of Debtor is 50 California Street, San Francisco or, if left blank, is that shown at the beginning of this agreement and Debtor will notify Secured Party in writing immediately upon any change of Debtor's chief place of business.
  - (3) Other Collateral. All other types of Collateral will be kept at the address shown in paragraph 1 hereof or, if not shown, at Debtor's address shown at the beginning of this agreement and Debtor will not remove the Collateral from said location without the written consent of Secured Party.
  - (4) Other Places of Business. If the Collateral is bought or will be used primarily for non-farm business use the address shown at the beginning of this agreement is Debtor's place of business in this State and Debtor has no place of business in any other county of this State except (if none write "NONE") N/A (City) (County) (City) (County)
- (e) Change of Address. Debtor will immediately notify Secured Party in writing of any change in Debtor's address.

This agreement is subject to the terms and conditions appearing hereon including those ON THE REVERSE SIDE HEREOF, all of which are made a part hereof. Debtor hereby acknowledges receipt of a true executed copy of this SECURITY AGREEMENT AND NOTE.

Signature of Jim J. Miyazaki, Debtor (L.S.)
By CHASE COMMERCIAL CORPORATION (L.S.)
By (Corporate Seal) (L.S.)

**4. OTHER REPRESENTATIONS AND COVENANTS.** (a) Debtor represents and warrants that: (i) Debtor has, or forthwith will acquire, title to the Collateral free and clear of all liens and encumbrances; (ii) no financing statement covering any of the Collateral is on file in any public office; (iii) if Debtor is a corporation, the certificate of incorporation does not prohibit the Security Interest granted herein and the execution of this agreement will not violate any law or any agreement to which it is a party; (b) Debtor covenants and agrees that Debtor: (i) will keep the Collateral in first class order, repair and running condition, will replace any worn, broken or defective parts and will house the Collateral in suitable shelter and shall make no material alterations in the Collateral without the prior written consent of the Secured Party; (ii) will promptly pay all taxes levied or assessed against the Collateral and will keep the Collateral free and clear of all liens, attachments and encumbrances; (iii) will allow Secured Party and its representatives free access to the Collateral at all reasonable times for the purpose of inspection; (iv) will promptly notify Secured Party in writing of any loss or damage to the Collateral; (v) will keep the Collateral insured by responsible companies against loss by theft and fire and against such other perils as is usually carried by owners of similar properties, or as may be required by Secured Party, in such amounts and payable in such manner as shall be satisfactory to Secured Party and shall provide Secured Party with evidence of such insurance upon request and assure that such insurance shall provide that Secured Party shall receive 30 days' notice of any termination, cancellation, or alteration of the terms of such insurance and shall provide that the coverage afforded to Secured Party shall not be rescinded, impaired or invalidated by any act or neglect of Debtor; (vi) will indemnify Secured Party against all claims arising out of or connected with the ownership or use of the Collateral; (vii) will reimburse Secured Party upon demand for all expenses incurred in connection with perfecting the security interest granted herein or the satisfaction thereof; (viii) will not abandon the Collateral; (ix) will not sell, assign, lease, mortgage or otherwise dispose of any interest in the Collateral without first obtaining the written consent of Secured Party; (x) will not use or permit the Collateral to be used for any unlawful purpose or in violation of any federal, state or municipal law, statute or ordinance or for hire; and (xi) will not permit the Collateral to become a part of or to be affixed to any real property of any person without first making arrangements satisfactory to Secured Party to protect its Security Interest. If Debtor fails to observe or perform any covenant or agreement contained in this Paragraph which failure is not remedied by Debtor within 10 days after written notice thereof, Secured Party may, in addition to any other remedy, take whatever action may be necessary to remedy such failure and should such action require the expenditure of monies to protect and preserve Secured Party's interest in the Collateral (including but not limited to payment of insurance premiums, repairs, storage, transportation, removal of liens, etc.) then the amount of such expenditure shall become forthwith due and payable by Debtor with interest at the rate of 10% per annum; and if Secured Party takes any action authorized hereunder, Secured Party shall not be liable to Debtor for damages as a result of delays, temporary withdrawals of the Collateral from service or other causes. In addition to Secured Party's other rights, Debtor agrees to pay to Secured Party, as liquidated damages and not as a penalty, an amount equal to 5% per month, but not in excess of the amount Secured Party is entitled to receive under any applicable law, of any payment not received by Secured Party before the tenth day following the due date of such payment.

**5. ASSIGNMENT OF INSURANCE PROCEEDS.** Debtor hereby assigns to Secured Party any and all monies (including, but not limited to, proceeds of insurance or return of unearned premiums) which may become due under any policy insuring the Collateral against any loss or damage and directs the insurance company issuing such policy to make payment thereof directly to Secured Party. Secured Party may, at its option, apply any insurance monies so received to the cost of repairs to the Collateral and/or to payment of any of the Obligations, in any order; the Secured Party may determine, whether or not due, and shall remit any surplus to Debtor. Debtor irrevocably appoints Secured Party as Debtor's attorney-in-fact, with full power of substitution, to receive all such monies, to execute proof of claim, to endorse drafts, checks and other instruments for the payment of money payable to Debtor in payment of such insurance monies, to adjust and compromise any claim, to execute releases, to cancel any insurance policy covering the Collateral when such policy is not required to protect Debtor's or Secured Party's interest and to do all other acts and things that may be necessary or required to carry into effect the powers herein granted.

**6. EVENTS OF DEFAULT.** The occurrence of any of the following events shall constitute a default, as such term is used herein: (a) failure to pay, when due, any amount payable on any of the Obligations and such default shall continue for a period of fifteen (15) days; (b) if any statement, representation or warranty made herein or in any related credit application, or in any supporting financial statement by or on behalf of Debtor shall be false or breached in any material respect; (c) failure to observe or perform any other covenant or agreement herein or in the Note or other instrument specified above, (d) death of any partner of Debtor which is a partnership or of any guarantor or endorser of the Obligations; (e) should Debtor, or any of them if more than one, or any such guarantor or endorser, become insolvent (however evidenced) or commit any act of bankruptcy or make a general assignment for the benefit of creditors, or if any proceeding is instituted by or against any of them for any relief under any bankruptcy or insolvency laws, or if a receiver is appointed of, or a writ or order of attachment or garnishment is made or issued, or if any proceeding or procedure is commenced or any remedy supplementary to, or in enforcement of a judgment is employed against, or with respect to any property of, any of them; (f) termination or suspension of the transaction of the usual business of Debtor; (g) should the Collateral be substantially damaged or destroyed or should Secured Party deem the Collateral unsafe or at any risk, or (h) Debtor shall default in the performance of any obligation or in the payment of any sum due to Secured Party under any other contract, or agreement, arrangement or understanding, or any indebtedness of Debtor for borrowed money shall become due and payable by acceleration of the maturity thereof.

**7. REMEDIES ON DEFAULT.** Debtor agrees that whenever a default shall be existing Secured Party shall have the following rights and remedies to the extent permitted by applicable law: (a) to declare the Note and all Obligations due and payable, at the option of Secured Party, without notice or demand; (b) to enter the foregoing premises or such place or places where any of the Collateral may be located and take and carry away the same, by any of its representatives, with or without legal process, to Secured Party's place of storage; (c) to sell the Collateral at public sale, or private sale whether or not the Collateral is present at such sale and whether or not the Collateral is in constructive possession of Secured Party or the person conducting the sale, in one or more sales, as an entirety or in parcels, for the best price that Secured Party can obtain and upon such terms as Secured Party may deem desirable; (d) to be the purchaser at any such sale; (e) to require Debtor to pay all expenses of such sale, taking, keeping and storage of the Collateral, including reasonable attorney's fees; (f) to apply the proceeds of such sale to all expenses in connection with the taking and sale of the Collateral, and any balance of such proceeds toward the payment of the Obligations in such order of application as Secured Party may from time to time elect (g) to require Debtor to assemble the Collateral upon Secured Party's demand, at Debtor's expense and make it available to Secured Party at a place designated by Secured Party which is reasonably convenient to both parties; and (h) to exercise any one or more rights or remedies accorded by the Uniform Commercial Code. If the proceeds of any such sale are insufficient to pay the expenses, as aforesaid, and the Obligations, the Debtor agrees to pay any deficiency to Secured Party upon demand and if such proceeds are more than sufficient to pay such expenses and Obligations, Secured Party agrees to pay the surplus to Debtor.

**8. OTHER PERSONAL PROPERTY.** If at the time of repossession any of the Collateral contains other personal property not included in the Collateral, Secured Party may take such personal property into custody and store it at the risk and expense of Debtor. Debtor agrees to notify Secured Party within forty-eight (48) hours after repossession of the Collateral of any such other personal property claimed and that failure to do so will release Secured Party or representatives from any liability for loss or damage thereto.

**9. FINANCING STATEMENT.** At request of Secured Party, Debtor will join with Secured Party in executing one or more financing statements pursuant to the Uniform Commercial Code in form satisfactory to Secured Party. Debtor hereby authorizes Secured Party to file a financing statement signed only by Secured Party in all places where necessary to perfect Secured Party's security interest in the Collateral in all jurisdictions where such authorization is permitted by the Uniform Commercial Code. Without limiting the foregoing Debtor agrees that whenever the Uniform Commercial Code requires Debtor to sign a financing statement for filing purposes, Debtor hereby appoints Secured Party or any of Secured Party's representatives as Debtor's attorney and agent, with full power of substitution, to sign or endorse Debtor's name on any such financing statement or other document and authorizes Secured Party to file such a financing statement in all places where necessary to perfect Secured Party's Security Interest in the Collateral; and Debtor hereby ratifies all acts of said attorney and said substitute and agrees to hold Secured Party and said attorney harmless from any acts of commission or omission or any error of judgment or mistake of fact or law pertaining thereto.

**10. MISCELLANEOUS.** This Agreement is in addition to and not in limitation of any other rights and remedies Secured Party may have by virtue of any other instrument or agreement heretofore, contemporaneously herewith or hereafter executed by Debtor or by law or otherwise. If any provision of this Agreement is contrary to applicable law such provision shall be deemed ineffective without invalidating the remaining provisions hereof. If and to the extent that applicable law confers any rights or imposes any duties inconsistent with or in addition to any of the provisions of this Agreement, the affected provision shall be considered amended to conform thereto. Secured Party shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder. A Waiver by Secured Party of any right or remedy hereunder on any one occasion, shall not be construed as a bar to or waiver of any such right or remedy which Secured Party would have had on any future occasion nor shall Secured Party be liable for exercising or failing to exercise any such right or remedy. It is expressly understood and agreed that whenever the service of any notice to Debtor is required hereby or is otherwise required such notice may be sent to Debtor by ordinary mail to the address shown at the beginning of this agreement, and if so mailed, such notice shall after five (5) days have expired from such mailing be deemed sufficient notice thereof. This Agreement shall be binding, jointly and severally, upon all parties described as Debtor. This Agreement is executed in, and shall be construed in accordance with the laws of, the State of New Jersey.

**11. ADDITIONAL TERMS AND PROVISIONS:** (If none, insert "None")