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13640

RECORDATION NO. Filed 1425

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PRACTICE IN KENTUCKY

MAY 13 1982 - 2 10 PM

INTERSTATE COMMERCE COMMISSION

May 11, 1982

13640
RECORDATION NO. Filed 1425

2-133A046

Direct Dial: 579-6419

MAY 13 1982 - 2 10 PM

INTERSTATE COMMERCE COMMISSION

No.
MAY 13 1982
Date
Fee \$ 100.00

Secretary of the Interstate
Commerce Commission
Washington, DC 20423

ICC Washington, D. C.

Dear Sir:

This firm is counsel to S. Craig Lindner. Accompanying this letter for recordation in the order listed below pursuant to 49 U.S.C. 11303 are an original and three counterparts of each of the following documents:

(1) Security Agreement between S. Craig Lindner, Owner, and Seattle-First National Bank, Lender, dated as of May 10, 1982.

(2) Assignment of Contract Rights and Rents between S. Craig Lindner, Owner, and Seattle-First National Bank, Lender, dated as of May 10, 1982.

The names and addresses of the parties to these documents are as follows:

S. Craig Lindner, Owner and
Debtor
One East Fourth Street
Cincinnati, Ohio 45202

Seattle-First National Bank,
Lender and Secured Party
1001 Fourth Avenue
Seattle, Washington 98154

Attention: John Mills, Vice
President

RECEIVED
MAY 13 2 01 PM '82
FEE OPERATION BR.
I.O.O.

The equipment covered by the documents consists of five (5) 100-ton 52'6" gondola cars, having identifying marks of CAGY 13019 and 13043-10346.

Secretary of the Interstate
Commerce Commission
May 11, 1982
Page Two

I am also enclosing our check in the amount of \$100 in
payment of your recordation fees.

Please return two stamped copies of each of the enclosed
documents and this letter to:

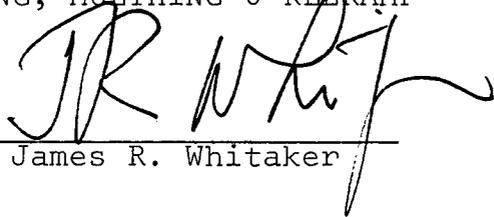
Keating, Muething & Klekamp
18th Floor, Provident Tower
One East Fourth Street
Cincinnati, Ohio 45202

Attention: James R. Whitaker

Sincerely,

KEATING, MUETHING & KLEKAMP

BY:


James R. Whitaker

crg

Enclosures

13640, A

RECORDATION NO. _____ FILED 1425

MAY 13 1982 - 2 10 PM

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF CONTRACT RIGHTS AND RENTS

BETWEEN

S. CRAIG LINDNER, OWNER

AND

SEATTLE-FIRST NATIONAL BANK, LENDER

DATED AS OF MAY 10, 1982

(COVERING FIVE 52'6" 100 TON GONDOLAS)

Filed and recorded with the Interstate Commerce Commission
pursuant to the Interstate Commerce Act on 5/13,
1982 at 2:10 pm, Recordation No. 13640-A.

ASSIGNMENT OF CONTRACT RIGHTS AND RENTS

THIS ASSIGNMENT OF CONTRACT RIGHTS AND RENTS ("Agreement") dated as of May 10, 1982, is made and entered into by and between S. CRAIG LINDNER ("Owner") and SEATTLE-FIRST NATIONAL BANK ("Lender").

W I T N E S S E T H:

WHEREAS, Owner is the sole owner of five (5) 100 ton 52'6" gondola cars (the "Units");

WHEREAS, Lender is the holder of a security interest under a security agreement of even date herewith (the "Security Agreement") on the Units from Owner to Lender securing a promissory note (the "Note") in the total principal sum of Four Hundred Thousand Dollars (\$400,000); and

WHEREAS, Owner has entered into an Agency and Pooling Agreement dated as of March 25, 1980 ("Agency Agreement") pooling the Units with forty-five (45) other gondola cars and appointing Railway Freight Car Services, Inc., a New York corporation, as agent for the Owner; and

WHEREAS, Railway Freight Car Services, Inc. ("Agent") has entered into a Management Agreement dated as of March 25, 1980 ("Management Agreement") with the Columbus & Greenville Railway Company ("Manager") for the management of the Units; and

WHEREAS, Lender, as a condition to making the aforesaid loan, and as additional security therefor, has required an assignment of the Agency Agreement, the Management Agreement and all management agreements, operation and maintenance agreements hereafter placed thereon and of all rents, issues and profits derived or derivable from the Units and has further required the agreement and undertaking of Owner hereinafter set forth.

NOW, THEREFORE, for value received and in consideration of Lender making the aforesaid loan unto Owner in the total principal sum of Four Hundred Thousand Dollars (\$400,000), the receipt and sufficiency of which are hereby acknowledged, Owner does hereby assign, transfer and set over unto Lender, as additional security for the aforesaid loan, all of his right, title and interest in and to the Agency Agreement, the Management Agreement and all management agreements, operation and maintenance agreements which may now or hereafter be placed thereon, including, but not by way of limitation, the right to receive and collect all rents, incomes, revenues, issues, profits, moneys and/or securities now or hereafter payable or receivable under said Agency Agreement, Management Agreement or other management agreements, operation and maintenance agreements or any of the provisions therefor, together with all other rents, issues and profits now or hereafter derived or derivable from the Units. Owner covenants to deliver to Lender copies of the Agency Agreement, the Management Agreement and all such management agreements, operation and maintenance

agreements in effect from time to time with respect to the Units together with a certificate signed by him to the effect that such copy is a true, accurate and complete copy of the originally executed document.

In furtherance of the foregoing assignment, Owner hereby authorizes Lender, upon and in the event of default in any of the payments or in the performance of any of the terms, covenants and conditions set forth in the aforesaid promissory note and/or Security Agreement, at its option, to collect, by its officers, agents or employees, in the name of Owner, or in its own name as assignee, the rents, incomes, revenues, issues, profits, moneys and/or securities accrued but unpaid at the date of such default, as well as any rents, incomes, revenues, issues, profits, moneys and/or securities thereafter accruing and becoming payable during the period of said default or any other default. Upon electing to exercise the rights herein granted, Lender may make reasonable effort to collect the rents, incomes, revenues, issues, profits, moneys and/or securities, reserving, however, within its own discretion, the right to determine the method of collection and the extent to which enforcement of collection of delinquent rents, incomes, revenues, issues, profits, moneys and/or securities shall be prosecuted, but it shall not be accountable for more funds than it actually receives and shall not be liable for failure to collect said rents, incomes, revenues, issues profits, moneys and/or securities.

Lender shall, after payment of all proper charges and expenses, credit the net amount received from the exercise of any power herein granted to any amounts due or owing to it under the terms of the aforesaid note and/or Security Agreement, but the manner of application of such net amount and the items which shall be credited shall be within the sole discretion of Lender.

Owner by these presents does hereby authorize and direct any manager or operator of the Units, upon receipt of notice in writing from Lender of an act of default by Owner under the aforesaid promissory note and/or Security Agreement, to pay to Lender all rents, incomes, revenues, issues, profits, moneys and/or securities then due or thereafter to become due under the terms of any management agreement, operating and maintenance agreement.

Owner hereby warrants that he is the sole owner of the Units and that the same is not in any way encumbered (except for the Agency and Management Agreement) and that he has not executed any prior assignment or pledge of the rents, incomes, issues, profits, moneys and/or securities of the Units, and further covenants and agrees that he has not performed any act or executed any agreement which might prevent Lender from operating under any of the terms and conditions of this instrument or which would limit Lender in such operation. Nothing in this instrument shall abridge, postpone or otherwise affect the rights and remedies of Lender, but, to the contrary, all such rights and

remedies may be pursued by Lender at any and all times as fully and as completely as if this instrument had not been executed. The rights and powers herein granted, conveyed and assigned are continuing rights, and the exercise of same upon the occasion of one default shall not abrogate or diminish the rights and powers of Lender hereunder upon the occasion of any subsequent default or defaults. The failure to exercise said rights and powers upon the occasion of any default shall not constitute a waiver of the right of Lender to exercise the powers and privileges herein granted upon the occasion of a subsequent default. The collection and application of the rents, incomes, revenues, issues, profits, moneys and/or securities to the indebtedness, or as otherwise provided herein, shall not constitute a waiver of any default which might at any time of the application or thereafter exist under the note or Security Agreement, and the payment of the indebtedness covered by the note may be accelerated in accordance with its terms and notwithstanding such application.

This instrument shall not be revoked without the written consent of Lender and shall remain in full force and effect as long as the aforesaid loan from Lender to Borrower remains unpaid in whole or in part. A full and complete release of the Security Agreement shall operate as a full and complete release of Lender's rights hereunder and, after the Security Agreement has been fully released, this instrument shall become void and of no further effect. Whenever "Owner," "Lender," or "it" occurs in this

instrument or is referred to, the same shall be construed as singular or plural and masculine, feminine or neuter, as the case may be, and shall include the heirs, executors, administrators, successors or assigns of either as though originally herein written.

IN WITNESS WHEREOF, Owner and Lender have hereunto executed this Assignment of Contract Rights and Rents as of the day and year hereinabove first written.

S. Craig Lindner
S. CRAIG LINDNER

SEATTLE-FIRST NATIONAL BANK

BY: Patrick J. Connelly
ITS: Vice President

STATE OF OHIO)
 : SS.
COUNTY OF HAMILTON)

On this 6TH day of May, 1982, before me personally appeared S. Craig Lindner, to me known to be the person described in and who executed the foregoing instrument, and he acknowledged that he executed the same as his free act and deed.

[Seal]

James R. Whitaker
TITLE OF OFFICER

NOTARY PUBLIC

My commission expires: JAMES R. WHITAKER, Attorney at Law
Notary Public, State of Ohio
My commission has no expiration date
Section 147.03 O. R. C.