

15630-8

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June 22, 1988

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RECORDER NO. 15630-D
FILED 1988

JUN 24 1988 - 10 52 AM

INTERSTATE COMMERCE COMMISSION

Secretary
Interstate Commerce Commission
Washington, D.C.

Dear Madam:

Enclosed for recordation pursuant to the provisions of Section §11303(a) of Title 49 of the United States Code and the rules and regulations thereunder are two (2) executed copies of First Amendment to Security Agreement dated as of May 19, 1988. This amendment is to a Security Agreement dated as of April 29, 1988, recorded with the Interstate Commerce Commission on May 10, 1988 with recordation No. 1 5630.

A general description of the railroad equipment covered by by the enclosed document is:

<u>DESIGNATION</u>	<u>DESCRIPTION</u>	<u>QUANTITY</u>	<u>CAR NUMBERS</u>
HT	100 ton, 3418 cubic foot, triple pocket, open top hopper cars. Remanufactured (Rule 88) by Bethlehem Steel Freight Car Division, 1988	190	HLMX 5000-5114 (inclusive) TWRV 10,000 TWRV 10,004 - 10,077 (inclusive)

The names and addresses of the parties to the enclosed document are:

First Amendment to Security Agreement dated as of May 10, 1988.

DEBTOR: Helm Financial Corporation
One Embarcadero Center
Suite 3320
San Francisco, CA 94111

SECURED PARTY: Westinghouse Credit Corporation
One Oxford Centre
Pittsburgh, PA 15219

A fee of \$ 13- is enclosed. Please return the originals and any copies not needed by the Commission for recordation to me.

Handwritten signatures and initials on the left margin.

A short summary of the document to appear in the Index follows:

First Amendment to Security Agreement between Helm Financial Corporation, debtor, One Embarcadero Center, Suite 3320, San Francisco, CA 94111 and Westinghouse Credit Corporation, secured party, One Oxford Centre, Pittsburgh, PA 15219, dated as of May 10, 1988, and covering 190 remanufactured railroad cars, numbered HLMX 5000-5114 (inclusive) and TWRY 10,000 and TWRY 10,004 - 10,077 (inclusive) and amending a Security Agreement dated as of April 29, 1988 recorded in the Interstate Commerce Commission May 10, 1988 with recordation No. 1 5630.

You are hereby authorized to deliver any executed copies of the Security Agreement not needed by the Commission, with filing data noted thereon, following recordation, to the representative of Messrs. Sidley & Austin, who is delivering this letter and said enclosures to you.

MCCANN, GARLAND, RIDALL & BURKE

By *McCann Garland Ridall & Burke*
Burke

Enclosure

07LT26/27

Interstate Commerce Commission
Washington, D.C. 20423

6/24/88

OFFICE OF THE SECRETARY

McCann, Garland, Ridall & Burke
309 Smithfield Street
Suite 4000
Pittsburgh, PA. 15222

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 6/24/88 at 10:25am, and assigned recordation number(s). 15644-D, 15630-D, 15630-E

Sincerely yours,

Norita R. McEue
Secretary

Enclosure(s)

REGISTRATION BY 15630-2
FILE 208

JUN 24 1988 10 55 AM

INTERSTATE COMMERCE COMMISSION

First Amendment To Security Agreement

The First Amendment is made ^{UMP as of 10/2} this 10th day of May, 1988, by and between Helm Financial Corporation, a California corporation ("Borrower") and Westinghouse Credit Corporation, a Delaware corporation ("WCC").

WHEREAS, on April 29, 1988, Borrower and WCC entered into a Security Agreement ("Security Agreement") under which WCC made available to Borrower a loan in the amount of \$3,363,220.00. The above described indebtedness was secured by a continuing security interest in certain of Borrower's Equipment, Lease Agreements, Purchase Order with Bethlehem, RMI Agreement and proceeds, all as defined in the Security Agreement, and was evidenced by Secured Note ("Promissory Note") in the face amount of \$3,363,220.00.

WHEREAS, Borrower and WCC have agreed to amend the Security Agreement as further set forth below.

NOW, THEREFORE, in consideration of the foregoing premises and intending to be legally bound, the parties hereto agree as follows:

1. Section 4.1 of the Security Agreement is hereby deleted in its entirety and replaced as follows:

4.1. Application of Rentals; Certain Payments. So long as neither (i) an Event of Default hereunder has occurred; or (ii) Union Bank of San Francisco, California, has given Secured Party written notice at any time that Debtor is in default of the Credit as that term is defined in the Intercreditor Agreement between Secured Party and Union Bank dated as of April 29, 1988 ("Credit"), all payments under the Lease Agreements shall be paid to Debtor. However, in the event that either events set forth in (i) or (ii) above have occurred or an Event of Default shall have under the Note, the Debtor does hereby constitute the Secured Party the Debtor's true and lawful attorney, irrevocably, with full power (in the name of the Debtor, or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all rents, monies, and claims for monies due and to become due under or arising out of the Lease Agreements, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings which the Secured Party may deem to be necessary or advisable in the premises. Anything to the contrary notwithstanding, Debtor does immediately constitute Secured Party its true and lawful attorney for the purpose of filing appropriate Interstate Commerce Act, Uniform Commercial Code and other filings with respect to Lease Agreements, and the Debtor does hereby irrevocably authorize the Secured Party by its duly authorized officers or agents as attorney-in-fact of the Debtor to sign any such filings in the name of the Debtor and/or to execute and file the same with only the signature of the Secured Party.

The remaining two subsections of Section 4, 4.2 and 4.3 shall remain in full force and effect.

2. Subpart (h) of Section 5.1 of the Security Agreement is hereby deleted in its entirety and replaced with the following:

- (h) In the reasonable opinion of the Secured Party the value of the Collateral shall be reduced below an amount less than seventy-four percent (74%) of the Debtor's original cost for the Equipment; or

The remaining subparts, (a) - (g) and (i), shall remain in full force and effect.

3. Section 5.1 of the Security Agreement is hereby amended by adding subparts (j) and (k) as follows:

- (j) Union Bank of San Francisco, California, shall have given Secured Party written notice, at any time, that Debtor is in default of the Credit.
- (k) An Event of Default under any agreement between Debtor and Secured Party whether said agreements are now in existence or entered into subsequent to the date of this Security Agreement, including, but not limited to an Event of Default under any and all agreements between the parties pertaining to the financing of railroad equipment.

The remaining paragraphs of Section 5.1, including subparts (a)-(i), shall remain in full force and effect.

4. The first paragraph of Section 5.2 of the Security Agreement is hereby replaced in its entirety and as follows:

5.2 Secured Party's Rights. The Debtor agrees that when any Event of Default has occurred and is continuing and is not cured by Debtor within thirty (30) days of its occurrence, except for an Event of Default set forth in subpart (a) of Section 5.1 for which no period of time shall be required to lapse before all of Secured Party's rights shall be available to it and in full force and effect, the Secured Party shall have the rights, options, duties and remedies of a secured party, and the Debtor shall have the rights and duties of a debtor, under the Uniform Commercial Code of the Commonwealth of Pennsylvania (regardless of whether such Code or a law similar thereto has been enacted in a jurisdiction wherein the rights or remedies are asserted) and, in addition, the Secured Party shall also have the following rights and remedies:

The remaining subsections, (a) - (e), of Section 5.2 shall remain in full force and effect.

5. Schedule A to the Security Agreement is hereby amended by deleting all references to New Reporting Mark HLMX wherever it appears and replacing therefor New Reporting Mark TWRY. The remaining parts of Schedule A shall remain in full force and effect.

6. All terms used in this First Amendment defined in the Security Agreement shall have the meanings set forth therein except as otherwise specified hereunder.

7. Except as otherwise specifically set forth herein, all other terms of the Promissory Note, including, but not limited to the right of WCC to demand full payment of all outstanding principal and accrued and unpaid interest and all other terms of the Security Agreement, and other loan documents referenced therein, including, but not limited to, the Collateral Assignment of Leases, shall remain in full force and effect as originally executed.

IN WITNESS WHEREOF, this First Amendment is duly executed ^{as of} ~~on~~ the date and year set forth above by the undersigned duly authorized representatives of Borrower and WCC. WMP
ME

ATTEST:

HELM FINANCIAL CORPORATION



By: 

(Corporate Seal)

Name: William M. PETERSON

Date: ~~5-10-88~~ 6-16-88

ATTEST:

WESTINGHOUSE CREDIT CORPORATION



By: 

(Corporate Seal)

Name: JOHN F. MCENERY

Date: Vice President, Leasing Operations

JOHN F. McENERY
Vice President, Leasing Operations

0746/P

STATE OF California)
COUNTY OF San Francisco) SS.

On this 16th day of ~~May~~ June, 1988, before me, personally appeared William M. Peterson, to me personally known, who being by me duly sworn, says that he is a Executive Vice President of Helm Financial Corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



(SEAL)

Elena F. Gary
Notary Public

STATE OF PENNSYLVANIA)
COUNTY OF ALLEGHENY) SS.

On this 21ST day of ~~May~~ JUNE, 1988, before me, personally appeared JOHN F. McENERY to me personally known, who being by me duly sworn, says that he is a VICE PRESIDENT of Westinghouse Credit Corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Joann B. Klinge
Notary Public

(SEAL)

0746/P