

LAW OFFICES  
**MILES & STOCKBRIDGE**

A PROFESSIONAL CORPORATION

10 LIGHT STREET  
BALTIMORE, MARYLAND 21202-1487

TELEPHONE 410-727-6464  
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300 ACADEMY STREET  
CAMBRIDGE, MD 21613-1865

101 BAY STREET  
EASTON, MD 21601-2718

11350 RANDOM HILLS ROAD  
FAIRFAX, VA 22030-7429

30 WEST PATRICK STREET  
FREDERICK, MD 21701-6903

22 WEST JEFFERSON STREET  
ROCKVILLE, MD 20850-4286

600 WASHINGTON AVENUE  
TOWSON, MD 21204-3965

1450 G STREET, N.W.  
WASHINGTON, D.C. 20005-2001

JOHN A. STALFORT  
410-385-3424

February 6, 1995

via FEDERAL EXPRESS

Interstate Commerce Commission  
12th and Constitution Avenues, N.W.  
Washington, D.C. 20423  
Attention: Janice Forte

RECORDATION NO. 19232 FILED 1/25  
FEB 8 1995 4:00 AM  
INTERSTATE COMMERCE COMMISSION

Re: Our File No. 258-1492

Dear Mrs. Forte:

This office recorded an Assignment of Rights in Certain Agreements made as of December 30, 1994 by Portfolio Rail Corporation (6 West Hubbard Street, Suite 500, Chicago, Illinois 60610) in favor of First Maryland Leasecorp (25 South Charles Street, Baltimore, Maryland 21201) with the Interstate Commerce Commission on January 12, 1995 at 8:50 a.m., under Recordation No. 19153-A. We mistakenly recorded this document as a secondary document to a Security Agreement dated December 30, 1994 by Wheeling & Lake Erie Railway Company in favor of Portfolio Rail Corporation which was filed with the ICC on January 3, 1995 at 11:30 a.m., under Recordation No. 19153.

Because this document represents a loan separate from the loan that the Security Agreement represents, the Assignment of Rights in Certain Agreements should have been filed as a primary document. Accordingly, I have enclosed the above-referenced Assignment of Rights in Certain Agreement and request you to change this document to a primary document and give it its own recordation number.

I apologize for any inconvenience our error may have caused you. If you have any questions in connection with this matter, please call me at (410) 385-3425.

Sincerely,



Michele E. Sperato  
Secretary to John A. Stalfort

RECORDATION NO. 19232

0100482002

JAN 12 1995 - 8 30 AM

INTERSTATE COMMERCE COMMISSION  
1300 K STREET, N.W.  
CAMBRIDGE, MD 21613-1865

101 BAY STREET  
EASTON, MD 21601-2718

11350 RANDOM HILLS ROAD  
FAIRFAX, VA 22030-7429

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1450 G STREET, N.W.  
WASHINGTON, D.C. 20005-2001

January 10, 1995

JOHN A. STALFORT  
~~VIA FEDERAL EXPRESS~~

Interstate Commerce Commission  
12th and Constitution Avenues, N.W.  
Washington, D.C. 20423  
Attention: Recordation

Re: Our File No. 258-1496

Madam:

Enclosed for recordation as a secondary document pursuant to the provisions of 49 U.S.C. §11303 are one original and one notarized copy of the following document:

Assignment of Rights in Certain Agreements made as of December 30, 1994 by Portfolio Rail Corporation (6 West Hubbard Street, Suite 500, Chicago, Illinois 60610) in favor of First Maryland Leasecorp (25 South Charles Street, Baltimore, Maryland 21201) which relates to the Security Agreement dated December 30, 1994 by Wheeling & Lake Erie Railway Company in favor of Portfolio Rail Corporation which was filed with the ICC on January 3, 1995 at 11:30 a.m., under Recordation No. 19153.

Also enclosed is a check in the amount of \$21.00 to cover the costs of recordation.

Once this document has been recorded, please return the same to:

John A. Stalfort, Esquire  
Miles & Stockbridge, A Professional Corporation  
10 Light Street - 9th Floor  
Baltimore, Maryland 21202

Thank you for your prompt attention to this matter. Please call me at (410) 385-3425 if you have any questions.

Sincerely,

*Michele E. Sperato*

Michele E. Sperato,  
Secretary to John A. Stalfort

JAS:mes  
Enclosures



Interstate Commerce Commission  
Washington, D.C. 20423-0001

Office Of The Secretary

JANUARY 12, 1995

JOHN A. STAEORT, ESQUIRE  
MILES & STOCKBRIDGE  
10 LIGHT STREET - 9TH FLOOR  
BALTIMORE MD 21202

Dear MR. STALFORT:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 1/12/95 at 8:50AM, and assigned recordation number(s) 19232.

Sincerely yours,

  
Vernon A. Williams  
Secretary

Enclosure(s)

\$ 21.00 The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine your document.

Signature



RECORDATION NO. 19232 FILED 1925

JAN 12 1995 -8 50 AM

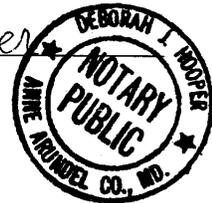
INTERSTATE COMMERCE COMMISSION

STATE OF MARYLAND, COUNTY OF ANNE ARUNDEL, TO WIT:

I HEREBY CERTIFY that the attached Assignment of Rights in Certain Agreements is a true and complete copy of said Assignment of Rights in Certain Agreements.

WITNESS my hand and seal this 10<sup>th</sup> day of January, 1995.

Deborah J. Hooper  
Notary Public



My Commission Expires: 7-27-98

JAN 12 1995 -8 50 AM

ASSIGNMENT OF RIGHTS IN CERTAIN AGREEMENTS

THIS ASSIGNMENT OF RIGHTS IN CERTAIN AGREEMENTS (this "Agreement") is made as of this 30th day of December, 1994, by PORTFOLIO RAIL CORPORATION, an Illinois corporation (the "Pledgor"), in favor of FIRST MARYLAND LEASECORP, a Maryland corporation (the "Lender"); witnesseth:

**Recitals**

The Pledgor has applied to the Lender for a loan in the principal amount of (the "Financial Accommodations"). The Financial Accommodations are to be evidenced by, and repaid with interest in accordance with provisions of, a Promissory Note of even date herewith from the Pledgor payable to the Lender in the principal amount of the Financial Accommodations (the "Note"). The Pledgor will use the proceeds of the Financial Accommodations together with certain of its own funds to make a loan of even date herewith in the original principal amount of to Wheeling & Lake Erie Railway Company ("Wheeling"). The Pledgor's loan to Wheeling is evidenced and secured by the loan documents described on Schedule 1 attached hereto and made a part hereof (together with any instrument, document and agreement now and hereafter evidencing, securing, guaranteeing, indemnifying and given by Wheeling or any third party in connection with such loan and any and all amendments thereto and modifications thereof, the "Agreements"). The Lender has required, as a condition to the making of the Financial Accommodations, the execution of this Agreement by the Pledgor.

NOW, THEREFORE, in order to secure (a) the prompt payment of all past, present, and future indebtedness, liabilities, and obligations of the Pledgor to the Lender of any nature whatsoever in connection with the Financial Accommodations (collectively, the "Pledgor's Liabilities"), and (b) the performance by the Pledgor of all of the terms, conditions, and provisions of this Agreement, the Note, and of any other note, security agreement, pledge agreement, guaranty agreement, mortgage, deed of trust, loan agreement, hypothecation agreement, subordination agreement, indemnity agreement, letter of credit application, assignment, or any other document previously, simultaneously, or hereafter executed and delivered by the Pledgor and/or any other person, singly or jointly with another person or persons, evidencing, securing, guarantying, or in connection with any of the Pledgor's Liabilities (collectively, the "Loan Documents"), the Pledgor hereby pledges, assigns, and grants to the Lender a security interest in and assigns to the Lender all its right, title and interest in the Agreements and the Collateral (as defined in the Agreements), it being the intent and purpose hereof that the assignment to Lender of such right, title and interest shall be an immediate and present assignment.

A. TO PROTECT THE SECURITY OF THIS AGREEMENT, PLEDGOR COVENANTS:

1. To observe and perform all of the obligations imposed upon the Pledgor in the Agreements and not to do or permit to be done anything to impair the security thereof; that the Agreements are valid and enforceable and that there are no known defaults under any of the terms thereof; not to execute any other assignment of the Agreements; and not to alter, modify, or change the terms of the Agreements or surrender, cancel, or terminate the same.

2. To execute and deliver, at the request of the Lender, all such further assurances and assignments as the Lender shall from time to time require.

B. IT IS MUTUALLY AGREED THAT:

1. All payments made to Pledgor pursuant to the Agreements, shall be paid directly to the Lender at 25 South Charles Street, 15th Floor, Baltimore, Maryland 21201, Attention: Richard M. Folio, Mail Code 101-460 without regard to whether any default has occurred under the Loan Documents. The Pledgor hereby authorizes and directs such parties making such payments to pay such payments directly to the Lender and to continue to do so until otherwise notified by the Lender.

2. The Lender shall have the right to apply such payments to the payment of the Pledgor's Liabilities in such order and manner as the Lender may elect in its discretion.

3. The Lender shall have the right to exercise any and all of the Pledgor's rights and remedies under the Agreements.

4. The Lender shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty, or liability under the Agreements, or under or by reason of this Agreement, and the Pledgor shall and does hereby agree to indemnify the Lender for and to hold the Lender harmless of and from any and all liability, loss, or damage which the Lender may or might incur under the Agreements or under or by reason of this Agreement, and of and from any and all claims and demands whatsoever which may be asserted against the Lender by reason of any alleged obligations or undertakings on the Lender's part to perform or discharge any of the terms, covenants, or agreements contained in the Agreements. Should the Lender incur any such liability, loss, or damage under the Agreements or under or by reason of this Agreement or in the defense of any such claims or demands, the amount thereof including costs, expenses, and reasonable attorneys' fees shall be secured hereby, and the Pledgor shall reimburse the Lender therefor immediately upon demand, and upon the failure of the Pledgor so to do, the Lender may declare all sums secured hereby immediately due and payable.

5. Upon the payment in full of all indebtedness secured hereby, this Agreement shall become and be void and of no effect, but the affidavit, certificate, letter, or statement of any officer, supervisor, or attorney of the Lender showing any part of said indebtedness to remain unpaid shall be and constitute conclusive evidence (except in an action between Pledgor and the Lender or its assigns) of the validity, effectiveness, and continuing force of this Agreement, and any person may and is hereby authorized to rely thereon.

6. The Lender may take or release other security; may release any party primarily or secondarily liable for any indebtedness secured hereby; may grant extensions, renewals, or indulgences with respect to such indebtedness; and may apply any other security therefor held by it to the satisfaction of such indebtedness without prejudice to any of its rights hereunder.

7. Nothing herein contained and no act done or omitted by the Lender pursuant to the powers and rights granted to the Lender herein shall be deemed to be a waiver by the Lender of its rights and remedies under the Loan Documents, but this Agreement is made and accepted without prejudice to any of the rights and remedies possessed by the Lender under the terms thereof. The right of the Lender to collect the indebtedness and to enforce any other security therefor owned by it may be exercised by the Lender either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

8. In the event the Note is transferred by the Lender to any other person or entity, the Pledgor covenants and agrees that all the provisions herein contained shall be applied to and inure to the benefit of the holder of the Note in the same manner and to the same extent as if it was the original assignee of the Agreements.

9. Upon the occurrence and continuance of any event of default under the Loan Agreement of even date herewith between the Pledgor and Wheeling (the "Wheeling Loan Agreement"), the Lender (as assignee of Pledgor) shall have the right to exercise the remedy provisions of the Security Agreement of even date herewith made by Wheeling in favor of the Pledgor (the "Security Agreement"), including the right to foreclose upon and sell or otherwise dispose of the Collateral and to otherwise control such proceedings, on behalf of the Lender and the Pledgor; provided, however, if Lender fails to exercise the remedies under the Security Agreement (on behalf of itself and the Pledgor) within 90 days after notice from Pledgor requesting the Lender to do so, after the occurrence and continuance of an event of default under the Wheeling Loan Agreement, then the Lender shall promptly exercise any right or remedy to which it is entitled under the Wheeling Loan Agreement or the Security Agreement, including (without limitation) the right to foreclose upon and sell the Collateral.

10. Upon any foreclosure and sale of the Collateral (whether pursuant to a proceeding or exercise of remedies brought or instituted by either the Pledgor (as permitted by paragraph 9 above) or the Lender in its own name or in the name, or on behalf, of the other or by both the Pledgor and the Lender acting together) during any period prior to payment in full of the Liabilities (as defined in the Loan Agreement of even date herewith between Lender and Pledgor), the proceeds of such sale shall be applied as follows: (i) first, to the payment of all expenses incurred by the Lender and by the Pledgor (if permitted by paragraph 9 above to exercise rights and remedies under the Wheeling Loan Agreement or Security Agreement) in connection with the foreclosure or sale (including reasonable legal fees); (ii) second, to the payment of all accrued and unpaid interest and late charges due with respect to the Note (other than additional interest pursuant to the second paragraph of the Note); (iii) third, to the payment in full of the outstanding principal due under the Note; (iv) fourth, to payment of all accrued and unpaid interest and late charges due with respect to the promissory note made by Wheeling in favor of the Pledgor pursuant to the Wheeling Loan Agreement (the "Wheeling Note") (other than additional interest pursuant to the second paragraph of the Wheeling Note); (v) fifth, to the payment of the outstanding principal due under the Wheeling Note; (vi) sixth, up to of the remaining proceeds (but not more than the amount described in subparagraph (a) of the second paragraph of the Note) shall be distributed to the Lender in payment of additional interest and up to of the remaining proceeds (but not more than of the amount described in subparagraph (a) of the second paragraph of the Wheeling Note) shall be distributed to the Pledgor as additional interest; and (vii) seventh, the balance of the proceeds (if any) shall be distributed to Wheeling.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

WITNESS the signature and seal of the Pledgor as of the day and year first above written.

ATTEST:

PORTFOLIO RAIL CORPORATION

Debra J Choate

By: John W. Miller (SEAL)  
Name: JOHN W. MILLER  
Title: VICE PRESIDENT

STATE OF ILLINOIS, Clark OF Clark, TO WIT:

On this 29th day of December, 1994, before me, the undersigned, a Notary Public of the State of Illinois, personally appeared John W. Miller, who acknowledged himself to be the Vice President of PORTFOLIO RAIL CORPORATION, an Illinois corporation, and that he, as such Vice President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Vice President.

WITNESS my hand and Notarial Seal.



Faith A. Greene  
Notary Public

My Commission Expires:

A:FN149204.ASG/Portfolio/Disk1/cmr

DESCRIPTION OF AGREEMENTS

1. Loan Agreement dated as of December 30, 1994 between the Pledgor and Wheeling.
2. Promissory Note in the principal amount of \_\_\_\_\_ dated December 30, 1994 from Wheeling to the Pledgor.
3. Security Agreement dated December 30, 1994 from Wheeling to the Pledgor.
4. Financing Statements naming Wheeling as debtor and the Pledgor as secured party.
5. Intercreditor Agreement dated as of December 29, 1994 between the Pledgor and Bank of American National Trust and Savings Association.