

GREENSFELDER, HEMKER & GALE, P.C.

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0-348A042

December 13, 1990

17123
RECORDED NO. FILED IN

DEC 14 1990 - 1 15 PM

INTERSTATE COMMERCE COMMISSION

VIA FEDERAL EXPRESS

DOCUMENTS FOR RECORDATION

Ms. Mildred Lee, Recordations
Interstate Commerce Commission
Room 2303
12th & Constitution Avenue Northwest
Washington D.C, 20423

DEC 14 1 05 PM '90
MOTOR OPERATING UNIT

Re: Document For Recordation;
Collateral Assignment of Lease

Dear Mildred:

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

This document is a Collateral Assignment of Lease (primary document) dated December 13, 1990. The names and addresses of the parties to the Collateral Assignment of Lease are as follows:

Borrower: Gregory B. and Connie S. Cundiff
1104 North Smiley
O'Fallon, Illinois 62269

Lender: First Bank of Illinois
200 South Lincoln
O'Fallon, Illinois 62269
Attn: Douglas Distler

A description of the equipment covered by the document is as follows:

Locomotive No. 1209, Serial No. 52F166

A fee of \$15.00 is enclosed for recording the Security Agreement. Please return at least one (1) filed stamped and recorded original Collateral Assignment of Lease to the undersigned at the address noted above.

GREENSFELDER, HEMKER & GALE, P.C.

Ms. Mildred Lee, Recordations
December 13, 1990
Page 2

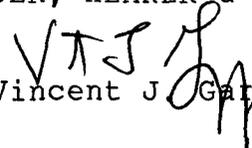
A short summary of the document to appear in the index follows:

Collateral Assignment of Lease between Gregory B. Cundiff and Connie S. Cundiff, his wife, as borrower, and First Bank of Illinois, as lender, wherein borrower has assigned all of their right, title and interest in and to a leased locomotive No. 1209, Serial No. 52F166 to lender as additional security for a loan.

Very Truly Yours,

GREENSFELDER, HEMKER & GALE, P.C.

By


Vincent J. Garózzo

1378/203
Enclosures

cc: Douglas Distler (w/enclosures)
Sheldon K. Stock (w/o enclosures)

VERIFICATION

17123
RECORDED NO. _____ FILED 1425

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

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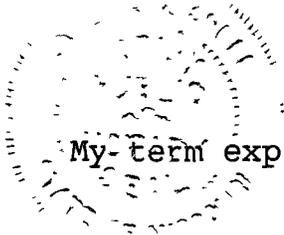
INTERSTATE COMMERCE COMMISSION

Vincent J. Garozzo, attorney, being duly sworn, deposes and states that he has compared the attached copy with the original document and has found the copy to be complete and identical in all respects to the original document.

VJG

Vincent J. Garozzo

Subscribed and sworn to before me this 13th day of December, 1990.



My term expires:

Earlene C. Shell

Notary Public

EARLENE C. SHELL
NOTARY PUBLIC, STATE OF MISSOURI
MY COMMISSION EXPIRES 6/12/93
ST. LOUIS CITY

17123
RECEIVED IN _____ FILED IN _____

DEC 14 1990 - 1 20 PM

COLLATERAL ASSIGNMENT OF LEASE INTERSTATE COMMERCE COMMISSION

THIS COLLATERAL ASSIGNMENT OF LEASE ("Assignment") is made and entered into this 13 day of December, 1990, by and between GREGORY B. CUNDIFF and CONNIE S. CUNDIFF, his wife, residents of the State of Illinois ("Borrower") and FIRST BANK OF ILLINOIS, an Illinois state chartered banking corporation ("Lender").

RECITALS

A. Lender and Borrower desire to enter into that certain Loan Agreement ("Loan Agreement"), the terms and conditions of which are incorporated herein by this reference, pursuant to which Lender has agreed to loan to Debtor the principal sum of Four Hundred Thousand and No/100 Dollars (\$400,000) (the "Loan").

B. The Loan will be evidenced by that certain promissory note executed by Borrower and delivered to Lender dated the date hereof (the "Note").

C. Borrower is the lessee of that certain E.M.D. 1200 H.P. diesel locomotive, number 1209, Serial No. 52F166 (the "Equipment"), pursuant to that certain Assignment of Lease dated December 12, 1990, by and between Borrower as assignee thereunder, and Merchants Management Corp., a Delaware corporation ("Merchants"), wherein Merchants has assigned to Borrower all of its right, title and interest in and to that certain lease agreement ("Lease") between Stegmann Enterprises, Inc., a Missouri corporation ("Lessor") and Merchants, as lessee, dated September 1, 1988.

D. As a condition to Lender to make the Loan, Lender has required that Borrower enter into this Assignment to secure the punctual payment and performance of all of Borrower's Obligations (as defined in the Loan Agreement).

NOW, THEREFORE, in consideration of the premises described herein, and to induce Lender to make the Loan, the parties hereby agree as follows:

1. Assignment. As collateral security for the punctual payment and performance of all of Borrower's Obligations, Borrower hereby assigns, transfers and sets over to Lender all of Borrower's right, title and interest, powers and privileges and other benefits as lessee under the Lease, including, without limitation, the right to take possession of, and use the Equipment, and the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of any default giving rise to a right in favor of Borrower under the Lease, and to do any and all other things whatsoever which Borrower is or may become entitled to do under the Lease.

2. Additional Security. This Assignment is executed only as security for Borrower's Obligations under the Loan Agreement and therefore, the execution and delivery of this Assignment shall not subject Lender to, or transfer or pass to Lender, or in any manner affect or modify the liability of Borrower under the Lease, it being understood and agreed that, notwithstanding this Assignment or any subsequent assignment, all of the obligations of Borrower to each and every party under the Lease shall be and remain enforceable by such other party, its successors and assigns, against, and only against, Borrower or persons other than Lender, and its successors and assigns.

3. Affirmative Covenants. To protect the security afforded by this Assignment, Borrower agrees as follows:

(a) Borrower will faithfully abide by, perform and discharge each and every obligation, covenant, condition, duty and agreement which the Lease provides is to be performed by Borrower;

(b) Without the prior written consent of Lender, which consent will not be unreasonably withheld, Borrower will not amend, modify, or otherwise change or terminate the Lease;

(c) At Borrower's sole cost and expense, Borrower will appear in and defend any action or proceedings arising under, growing out of or in any manner connected with the obligations, covenants, conditions, duties, agreements or liabilities of Borrower under the Lease;

(d) Should Borrower fail to perform or discharge its obligations or duties under the Lease as required in Section 3(a) above or under this Assignment, then Lender may, but shall have no obligation to (and shall not thereby release Borrower from any obligation hereunder) perform or discharge any such obligation or duty to such extent as Lender may deem necessary or advisable to protect the security provided hereby, including appearing in and defending any action or proceeding purporting to affect the security hereof and the rights or powers of Lender hereunder. In exercising any such powers, Lender may pay necessary or advisable costs (including attorneys' fees and expenses), and all such expenses paid or incurred by Lender shall be additional obligations of Borrower pursuant to the Loan Agreement, payable upon demand, and shall bear interest at a rate equal to the Default Rate, as defined in the Loan Agreement;

(e) Lender shall have the right to assign its rights and interests in the Lease as granted hereunder; and

(f) In the event Borrower exercises their right to purchase the Equipment in accordance with and pursuant to Section 17 of the Lease, Borrower shall promptly notify Lender of same and provide Lender with all the terms and conditions of such

purchase. In order to preserve Lender's rights granted hereunder, in the event of and upon such purchase, Borrower hereby grants to Lender a security interest in and to the Equipment, together with all substitutions and replacements thereof, and all proceeds related thereto. Simultaneously with the purchase of the Equipment, Borrower shall execute and deliver any and all documents required by Lender (including financing statements to be recorded in all jurisdictions deemed necessary by Lender) to perfect such security interest in the Equipment as additional collateral for Borrower's Obligations. All costs and expenses paid or incurred by Lender to perfect such security interest shall be paid by Borrower upon Lender's demand therefor.

4. Appointment of Lender as Attorney-In-Fact. Borrower does hereby make, constitute and appoint Lender as Borrower's true and lawful attorney-in-fact, irrevocably, with full power (in the name and stead of Borrower, or otherwise), to: (i) ask, require, demand, receive and give acquittance for each and every payment, under or arising out of the Lease to which Borrower is or may become entitled; (ii) enforce compliance by each and every other party with each or any term or provision of the Lease; (iii) to endorse each and every check or other instrument or order in connection therewith, or any one or more of them; and (iv) to file any claim or claims, take any action or actions or institute any proceeding or proceedings which Lender may deem necessary or advisable.

5. Termination. Upon full discharge and satisfaction of all of Borrower's Obligations, this Assignment and all rights herein assigned to Lender shall terminate.

6. Further Assurances. Borrower will, from time to time, do and perform any other act or acts and will execute, acknowledge, deliver and file, register, record and deposit (and will refile, reregister, rerecord and deposit whenever required) any and all further instruments, including any extensions and renewals thereof, required by law or reasonably requested by Lender in order to confirm, or further assure, the interests of Lender hereunder. In addition, Borrower shall obtain the written consent to this Assignment of the lessor under the Lease and any other lender, mortgagee or other party having any interest in the Equipment, in form and substance satisfactory to Lender, as Lender may from time to time require, including the consent attached hereto as Exhibit 1.

7. Assignment. If Lender shall convey or assign its rights under or pursuant to the Loan Agreement to any successor or assign, then Lender may assign to such successor or assign all or any of the rights assigned to it hereby, or arising under the Lease. In such event, such successor or assign shall enjoy all rights and privileges and be subject to all obligations of the assignor and there shall be no further liability of Lender hereunder or under the Lease.

8. Notice. Borrower shall cause a copy of each and every notice or communication received from any one or more parties to the Lease, which notices or communications shall notify Borrower of any default, event of default, breach or other violation, on the part of Borrower, under the Lease, to be promptly delivered to Lender in the manner and at the place provided for in the Loan Agreement for the giving of notices and communications thereunder, or at such other address or in such other manner as Lender shall designate.

9. Exercise of Rights. Lender hereby agrees with Borrower that, so long as (a) no Event of Default shall exist under the Note, and (b) Borrower shall not be in default of any of their obligations, covenants, agreements or duties hereunder, Lender will not exercise or enforce, or seek to exercise or enforce, or avail itself of, any of the rights, powers, privileges, authorizations or benefits assigned and transferred to Lender pursuant to this Assignment, and that Borrower may exercise or enforce, or seek to exercise or enforce, such rights, powers, privileges, authorizations or benefits.

10. Defined Terms. All terms used herein which are not defined herein but are defined in the Loan Agreement shall have the meanings ascribed to them therein.

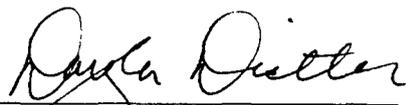
11. Construction. THIS ASSIGNMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE INTERNAL SUBSTANTIVE LAWS OF THE STATE OF MISSOURI, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES, AND MAY BE ENFORCED IN ANY COURT IN THE STATE OF MISSOURI.

12. Invalidity. If any provisions of this Assignment shall be declared prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remaining provisions of this Assignment.

IN WITNESS WHEREOF, Borrower has caused this Assignment to be executed as of the day and year first above written.

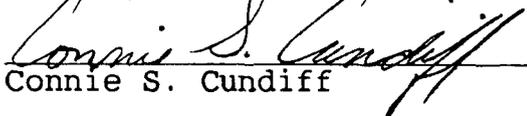
LENDER

FIRST BANK OF ILLINOIS

By: 
Douglas Distler

Title: President

BORROWER


Gregory B. Cundiff

Connie S. Cundiff

STATE OF Missouri)
City OF St Louis) ss.

On this 13th day of December, 1990, before me personally appeared Gregory B. Cundiff and Connie S. Cundiff, husband and wife, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid, the day and year first above written.

Earlene C. Shell
Notary Public

My term expires:

STATE OF Missouri)
City OF St Louis) ss.

On this 13th day of December, 1990, before me appeared Douglas Distler, to me personally known, who, being by me duly sworn, did say that he is the President of First Bank of Illinois, an Illinois state chartered banking corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said Douglas Distler acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid, the day and year first above written.

Earlene C. Shell
Notary Public

My term expires:

EXHIBIT 1
to
Collateral Assignment of Lease
Dated December ____, 1990

CONSENT OF LESSOR

In consideration of FIRST BANK OF ILLINOIS, an Illinois state chartered banking corporation ("Lender") agreeing to make certain financial accommodations to GREGORY B. CUNDIFF and CONNIE S. CUNDIFF, his wife ("Borrower"), the undersigned, _____, being a duly authorized representative of Stegmann Enterprises, Inc., a Missouri corporation, Lessor under that certain lease to Merchants Management Corp., a Missouri corporation ("Merchants"), which has been assigned by Merchants to Borrower pursuant to that certain Stock Purchase Agreement dated November 16, 1990 between Merchants and Borrower, for lease of that certain E.M.D. 1200 H.P. diesel locomotive, number 1209, serial number _____, hereby consents to the foregoing Collateral Assignment of Lease to Lender, and also to any subsequent assignment by Lender thereof, and the undersigned does hereby covenant and agree: (i) to give Lender not less than ten (10) days prior written notice (notice being deemed given when received in person or when given by telecopy or overnight express delivery) of any default, or any event which with the passage of time or the giving of notice, or both, would be a default by Borrower under the Lease; and (ii) not to declare a default under the Lease until expiration of at least ten (10) days after such notice is given.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed on this ____ day of _____, 1990, by its duly authorized representative.

STEGMANN ENTERPRISES, INC.
(a Missouri corporation)

By: _____

Title: _____