DONELAN, CLEARY, WOOD & MASER, P. C.
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3-236A011
18367 A
AUG 24 1993 - 2 55 PM
INTERSTATE COMMERCE COMMISSION
18367
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AUG 24 1993 - 2 55 PM
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INTERSTATE COMMERCE COMMISSION
$48.00 filing fee

August 24, 1993

New Recordation No., -A and -B

Dear Mr. Strickland:

On behalf of Greyhound Financial Corporation, I submit for filing and recording under 49 U.S.C. § 11303 and the regulations promulgated thereunder, counterparts of three documents, first a primary document, not previously recorded, entitled Memorandum of Lease, executed June 25, 1993, to be recorded under a new Recordation No., and two related secondary documents, neither previously recorded, entitled, as to the one to be recorded under -A, Assignment of Lease and the other, to be recorded under -B, entitled Collateral Assignment and Agreement.

1. The parties to the Memorandum of Lease ("Lease"), executed June 25, 1993, to be recorded under a new Recordation No., are:

Pac Rail - LESSOR
Suite 1655
Two Embarcadero Center
San Francisco, CA 94111

Illinois Central Railroad Company - LESSEE
455 North Cityfront Plaza Drive
Chicago, Illinois 60611-5504

The said Lease covers the leasing by the Lessor to the Lessee of some fifty nine (59) open top hopper cars.

The equipment covered in the Lease is as identified in Appendix A to the Lease.

A short summary of the Lease to appear in the ICC Index is as follows:

"Lease of 59 open top hoppers, IC and ICG numbers."

2. The parties to the Assignment of Lease, to be recorded under -A, are:

Pac Rail - ASSIGNOR
Suite 1655
Two Embarcadero Center
San Francisco, CA 94111

Pac Rail II - ASSIGNEE
Suite 1655
Two Embarcadero Center
San Francisco, CA 94111

See Next page for Cross indexing

Constance A. H. Hansen

The aforesaid Assignment of Lease, assigns all right, title and interest of Assignor to Assignee in, to and under the above Lease and the related lease mentioned therein, and the said Assignment of Lease should be recorded under -A of the new Recordation No. assigned to the Lease.

The equipment covered by the Assignment of Lease is all the equipment covered by the Lease.

A short Summary of the Assignment of Lease to appear in the ICC Index is as follows:

"Assignment of Lease."

3. The parties to the Collateral Assignment and Agreement, to be recorded under -B, are:

Pac Rail II - ASSIGNOR
Suite 1655
Two Embarcadero Center
San Francisco, CA 94111

Greyhound Financial Corporation - ASSIGNEE
Dial Corporate Center
Dial Tower
Phoenix, Arizona 85077

The aforesaid Collateral Assignment and Agreement grants, assigns and sets over from the Assignor to the Assignee a security interest in, to and under the above Lease and the said Collateral Assignment and Agreement should be recorded under -B of the new Recordation No. assigned to the Lease.

The equipment covered by the Collateral Assignment and Agreement is all the equipment covered by the Lease.

A short Summary of the Collateral Assignment and Agreement to appear in the ICC Index is as follows:

"Assigns Security Interest in Lease."

Please index separately the names of the two above-mentioned Assignees in the ICC "Vendee/Assignee" Index Book ("white pages") as follows:

1. Index under Pac Rail II saying, "See Recordation No 18367-A:"

2. Index under Greyhound Financial Corporation saying, "See Recordation No. 18367-B."

Enclosed is a check in the amount of forty eight ($48.00) in payment of the filing fees.

Once the filings have been made, please return to bearer the stamped counterpart(s) of the documents not required for filing purposes, together with the fee receipt, the letter from the ICC acknowledging the filings, and the two extra copies of this letter of transmittal.

Very truly yours,

Allen H. Harrison, Jr.
Attorney for Greyhound Financial Corporation for the purpose of this filing.

Honorable Sidney L. Strickland, Jr.
Secretary
Interstate Commerce Commission
Washington, D.C. 20423
Enclosures
BY HAND
8346-020

Interstate Commerce Commission
Washington, D.C. 20423

8/24/93

OFFICE OF THE SECRETARY

Allen H Harrison, Jr
Donelan Cleary, Wood & Maser
1275 K St N.W. Suite 850
Washington,D.C. 20005

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 8/24/93 at 12:25pm, and assigned recordation number(s). 18367, 18367-A & 18367-B

Sincerely yours,

Secretary
SIDNEY L. STRICKLAND, JR.

Enclosure(s)

-B
18367
AUG 24 1993 -2 PM
INTERSTATE COMMERCE COMMISSION

[ILLINOIS CENTRAL]

COLLATERAL ASSIGNMENT OF LEASES

THIS COLLATERAL ASSIGNMENT AND AGREEMENT ("Assignment") is entered into as of June 25, 1993, by PAC RAIL II, a California corporation ("Assignor"), for the benefit of GREYHOUND FINANCIAL CORPORATION, a Delaware corporation ("Assignee").

WITNESSETH

WHEREAS, Assignor, as Borrower, and Assignee, as Lender, have entered into a certain Loan and Security Agreement ("Agreement"), dated as of the date hereof, providing for the loan by Lender to Borrower of the sum of Nine Million Eight Hundred Thirty Four Thousand Two Hundred Forty Five Dollars ($9,834,245). All terms used herein with initial capital letters, unless otherwise specifically defined herein, shall have the meanings set forth in the Agreement; and

WHEREAS, Borrower's obligations under the Agreement are secured, inter alia, by a Security Interest in certain collateral described in the Agreement (the "Collateral"); and

WHEREAS, Assignor has entered into a lease agreement, as more fully described on Exhibit A attached hereto and by this reference made a part hereof, (the "Lease") with the lessee (the "Lessee") more fully described on the attached Exhibit A, pursuant to which Assignor, inter alia, has leased one or more items of the Collateral to the Lessee; and

WHEREAS, pursuant to the Agreement, Assignee is willing to consent to the Lease if (i) Assignor will continue to remain responsible and liable under the Agreement for the full and complete performance of all of Assignor's obligations thereunder and (ii) Assignor assigns to Assignee the Lease as herein provided.

NOW, THEREFORE, Assignor hereby covenants and agrees as follows:

1. GRANT. Assignor does hereby grant, sell, transfer and assign to Assignee and grant to Assignee a first priority security interest in all of the right, title and interest of Assignor in and to the Lease, together with all rail cars, rolling stock and equipment covered thereby or constituting the subject matter thereof together with all rents, additional rents, issues, revenues, income, profits, payments of stipulated loss value, insurance proceeds arising from loss or damage to any of the foregoing, damages, monies, security deposits, engine reserves, payments, royalties, accounts, earnings, per diem mileage credits, excess mileage credits and any other

remuneration now or hereafter arising from or under or payable in connection with the Lease, proceeds from requisition or taking (all of the foregoing, collectively "Payments") now due and which may hereafter become due to Assignor by virtue of any portion of the Collateral being the subject matter, or a portion of the subject matter, of the Lease, together with collateral, if any, now or hereafter given to Assignee by the Lessee under the Lease. Assignor hereby irrevocably appoints Assignee as Assignor's true and lawful attorney, in its name and stead (with or without taking possession of the Collateral), to enforce the Lease and to collect all of said Payments.

2. SECURITY. This Assignment is for the purpose of securing:

(a) Payment in full of all sums, together with interest thereon, becoming due and payable to Assignee under the provisions of the Agreement, the Documents or pursuant hereto; and

(b) Performance and discharge of each and every obligation, covenant, condition and agreement of Assignor contained herein and of the Borrower contained in the Agreement and the Documents.

3. REPRESENTATIONS AND WARRANTIES. Assignor covenants with and represents and warrants to Assignee that:

(a) Notwithstanding this Assignment and the exercise by Assignee of any rights assigned hereunder, Assignor will nevertheless, at all times for the duration of the Lease and at Assignor's sole cost and expense (i) perform and discharge each and every obligation, covenant, condition and agreement of Assignor under the Lease, and (ii) use diligence to enforce or secure the performance of each and every obligation, covenant, condition, and agreement to be performed by the Lessee pursuant to the Lease.

(b) No Payment the Lease will be forgiven, released, reduced or discounted, or otherwise discharged or compromised by Assignor.

(c) Assignor is the sole party entitled to receive said Payments, and to enjoy all the other rights and benefits mentioned herein, and the same have not been heretofore nor will they be hereinafter granted, sold, transferred or assigned by Assignor to any other person. Assignor has the right to grant, sell, transfer and assign Assignor's rights under the Lease pursuant hereto and to grant and confer upon Assignee the rights, interests, powers and/or authority herein granted and conferred, and no consent from any Lessee is required under the terms of the Lease, nor has any such obligation for Lessee consent otherwise been agreed to by Assignor or if such consent is required, the same has been obtained and no such consent has been rescinded or modified in any way.

(d) (i) Assignor has the full power and legal right to make this Assignment and all proceedings necessary to authorize this Assignment have been taken; (ii) the Lease is in full force and effect, all Collateral has been delivered to and accepted by the Lessee pursuant to the Lease, and neither Assignor nor the Lessee is in default thereunder (exclusive of minor or immaterial defaults which do not affect any material portion of Lease, which are ordinary or customary in the industry or which are consistent with Assignor's prior course of dealing with such Lessee, and as to which Lease Assignor expects to fully realize the benefits granted by such Lease); (iii) the Agreement is in full force and effect and Assignor is not in default thereunder; (iv) the Lease is and will continue to be valid, binding and enforceable against Assignor and the Lessee in accordance with their terms; and (v) the Agreement and the Documents are and will continue to be valid, binding and enforceable against Assignor in accordance with its terms.

(e) Assignor will execute and deliver, immediately upon the request of Assignee, all such further assurances of assignment of the Lease as Assignee shall from time to time require, and will pay all recording and filing fees or other charges that may be incident to or may arise out of the recording of the same or of this Assignment. Assignor will execute upon request any and all instruments requested by Assignee to carry this Assignment into effect or to accomplish any other purposes deemed by Assignee to be necessary or appropriate in connection with this Assignment.

(f) The Lease is and shall remain a true lease and not an installment sale.

(g) Assignor shall not cancel or terminate the Lease without the prior written consent of Assignee.

4. EXERCISE OF RIGHTS.

(a) Although it is the intention of the parties that this Assignment shall be a present assignment, it is understood and agreed that Assignee will not exercise any of its rights and powers hereunder until and unless there shall occur an Event of Default or a default in the performance of any obligation, covenant, condition or agreement hereunder. However the foregoing notwithstanding, all Payments shall be paid and made to the Controlled Account.

(b) If an Event of Default shall occur or there shall occur a default in the performance of any obligation, covenant, condition or agreement hereunder, not cured as provided herein or in the Document pursuant to which such Event of Default arose, Assignee may, at its option (i) enforce any and all of Assignee's rights and remedies under the Agreement and the Documents, and/or (ii)

take such action as it deems proper or necessary to collect the Payments from Lessee, which Payments shall be paid tc the Controlled Account. In furtherance thereof, Assignee may make, cancel, enforce or modify the Lease, and do any acts or things which Assignee deems proper to protect the security hereof, and may, in its own name or Assignor's name, sue for or otherwise collect and receive the Payments, including those past due and unpaid, and apply the same in accordance with the provisions of this Assignment.

(c) In the exercise of the rights and powers conferred upon it by this Assignment, Assignee shall have the full power to hold, use and apply all of the Payments to the payment of or on account of any sums due under the Agreement, to the notes executed pursuant to the foregoing, and to any cost and expense of collection, including reasonable attorneys' fees, all in such order as Assignee in its sole discretion may determine.

(d) So long as Lessee is not in default (beyond any period given to Lessee to cure such default) in the payment of any amounts due under or in the performance of any terms, covenants, or conditions in the Lease, Assignee shall not disturb or interfere with the Lessee's right to quiet enjoyment under the Lease, during the term of such Lease or any extension thereof duly exercised by the Lessee, anything to the contrary herein, notwithstanding.

5. NO LIABILITY OF ASSIGNEE. This Assignment shall not operate to increase Assignee's obligations or liabilities or decrease Assignee's rights and remedies under the Agreement. Assignee shall not be responsible for any loss, liability or damage under the Lease, or under or by reason of this Assignment, other than to the extent such loss, liability or damage arises from the gross negligence or willful misconduct of Assignee. Should Assignee incur any such liability, loss or damage, including without limitation such liability, loss or damage incurred in the defense of any claims or demands whatsoever asserted against Assignee under the Lease or under or by reason of this Assignment, the amount thereof, including costs, expenses and attorneys' fees, shall be additional sums secured hereby, shall bear interest at the Overdue Rate specified in the Agreement, and Assignor agrees that it shall reimburse Assignee therefor immediately upon demand.

6. AUTHORIZATION TO RECOGNIZE CLAIMS OF ASSIGNEE. Lessee is hereby authorized to recognize the claims of Assignee hereunder when made under the sole signature of Assignee, without investigating the reason for any action taken by Assignee, or the validity of the amounts due and owing to Assignee, or the existence of any default under the Agreement or hereunder, or the application to be made by Assignee of any amount to be paid to Assignee. Following the occurrence of an Event of Default, checks for all or any part of the Payments

collected under this Assignment shall be drawn at Assignee's option to the exclusive order of Assignee.

7. NATURE OF REMEDIES. The remedies herein set forth shall be deemed special remedies given to Assignee and shall not be deemed exclusive of any other remedies granted in the Agreement, the Documents, or by law, all of which shall be cumulative with the remedies herein granted. Any right or remedy exercised hereunder by Assignee including, without limitation, the collection of the Payments and the application thereof as aforesaid shall not cure, modify or waive any default or any notice thereof under the Agreement or the Documents or invalidate any act done pursuant to such notice. No delay or failure of Assignee to exercise any right or remedy hereunder or under the Agreement, the Documents, or the Lease shall be deemed to be a waiver thereof, and the single or partial exercise by Assignee of any right or remedy hereunder, under the Agreement, the Documents or the Lease shall not preclude any other or further exercise thereof or the exercise of any other right or remedy at any time.

8. CROSS DEFAULT. Any default by Assignor in the performance of any obligation, covenant, condition or agreement herein contained shall, at Assignee's option and following the expiration of applicable cure and/or grace periods set forth in Article VII of the Agreement, the relevant provisions of which are incorporated herein by reference, constitute and be deemed an Event of Default under the terms of the Agreement.

9. BINDING. This Assignment and each and every covenant, agreement and other provision hereof shall be binding upon Assignor and its successors and assigns and shall inure to the benefit of Assignee and its successors and assigns.

10. DURATION. This Assignment shall continue in full force and effect until (i) the payment in full of all sums due to Assignee under the Documents and the Note executed in connection therewith and (ii) the performance and discharge of each and every obligation, covenant, condition and agreement of Assignor thereunder and hereunder required to be performed on or before the date of payment in full of the Note.

11. SEVERABILITY. The unenforceability, illegality or invalidity of any provision hereof shall not render any other provision or provisions herein contained unenforceable, illegal or invalid, and this Assignment shall be construed as if such unenforceable, illegal or invalid provision had never been contained herein.

12. NOTICES. All notices hereunder shall be in writing and shall be deemed to have been duly given if sent as provided in the Agreement.

13. APPLICABLE LAW. THIS ASSIGNMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF ARIZONA. FOR PURPOSES OF THIS SECTION 13, THIS ASSIGNMENT SHALL BE DEEMED TO BE PERFORMED AND MADE IN THE STATE OF ARIZONA.

14. JURISDICTION AND VENUE. ASSIGNOR HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS INITIATED BY ASSIGNOR AND ARISING DIRECTLY OR INDIRECTLY OUT OF THIS ASSIGNMENT SHALL BE LITIGATED IN THE SUPERIOR COURT OF ARIZONA, MARICOPA COUNTY DIVISION, OR THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA OR, IF ASSIGNEE INITIATES SUCH ACTION, IN ADDITION TO THE FOREGOING COURTS ANY COURT IN WHICH ASSIGNEE SHALL INITIATE SUCH ACTION, TO THE EXTENT SUCH COURT HAS JURISDICTION. ASSIGNOR HEREBY EXPRESSLY SUBMITS AND CONSENTS IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR PROCEEDING COMMENCED BY ASSIGNEE IN ANY OF SUCH COURTS AND HEREBY WAIVES PERSONAL SERVICE OF THE SUMMONS AND COMPLAINT, OR OTHER PROCESS OR PAPERS ISSUED THEREIN, AND AGREES THAT SERVICE OF SUCH SUMMONS AND COMPLAINT OR OTHER PROCESS OR PAPERS MAY BE MADE BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO ASSIGNOR AT THE ADDRESS TO WHICH NOTICES ARE TO BE SENT PURSUANT TO SECTION 12. ASSIGNOR WAIVES ANY CLAIM THAT PHOENIX, ARIZONA OR THE DISTRICT OF ARIZONA IS AN INCONVENIENT FORUM OR AN IMPROPER FORUM BASED ON LACK OF VENUE. SHOULD ASSIGNOR, AFTER BEING SO SERVED, FAIL TO APPEAR OR ANSWER TO ANY SUMMONS, COMPLAINT, PROCESS OR PAPERS SO SERVED WITHIN THE NUMBER OF DAYS PRESCRIBED BY LAW AFTER THE MAILING THEREOF, ASSIGNOR SHALL BE DEEMED IN DEFAULT AND AN ORDER AND/OR JUDGMENT MAY BE ENTERED BY ASSIGNEE AGAINST ASSIGNOR AS DEMANDED OR PRAYED FOR IN SUCH SUMMONS, COMPLAINT, PROCESS OR PAPERS. THE EXCLUSIVE CHOICE OF FORUM FOR ASSIGNOR SET FORTH IN THIS SECTION 14 SHALL NOT BE DEEMED TO PRECLUDE THE ENFORCEMENT, BY ASSIGNEE, OF ANY JUDGMENT OBTAINED IN ANY OTHER FORUM OR THE TAKING, BY ASSIGNEE, OF ANY ACTION TO ENFORCE THE SAME IN ANY OTHER APPROPRIATE JURISDICTION, AND ASSIGNOR HEREBY WAIVES THE RIGHT TO COLLATERALLY ATTACK ANY SUCH JUDGMENT OR ACTION.

15. WAIVER OF RIGHT TO JURY TRIAL. ASSIGNEE AND ASSIGNOR ACKNOWLEDGE AND AGREE THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS ASSIGNMENT OR WITH RESPECT TO THE TRANSACTION CONTEMPLATED HEREBY WOULD BE BASED UPON

DIFFICULT AND COMPLEX ISSUES AND, THEREFORE, THE PARTIES AGREE THAT ANY LAWSUIT ARISING OUT OF ANY SUCH CONTROVERSY SHALL BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

Initials: ASSIGNOR GAL **ASSIGNEE**

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

"ASSIGNOR"

PAC RAIL II, a California corporation

By

Name: Edward A. Gavery

Title: President

(CORPORATE SEAL)

✓ Check here to confirm that Section 15 has been initialed.

State of _____)
) ss.
County of _____)

On this _____ day of _____, 1993, before me personally appeared _____, to me personally known, who being by me duly sworn, says that he/she is the _____ of _____, a California 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/she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

_____
Signature of Notary Public

SEAL

My Commission Expires:

_____

State of California)
County of San Francisco)

On 6/25/93 before me, John C. Copoulos, personally appeared Edward A. Garvey personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature John C Copoulos (Seal)

JOHN C COPOULOS
Comm. # 988912
NOTARY PUBLIC - CALIFORNIA
City and County of San Francisco
My Comm. Expires Mar. 21, 1997

EXHIBIT A

LEASE DESCRIPTION

Master Railroad Equipment Lease dated October 8, 1990, between Pac Rail, a California corporation, as Lessor (the Lessor's interest in which was assigned to PAC RAIL II, a California corporation, pursuant to an Assignment of Lease), and Illinois Central Railroad, as Lessee, as renewed, amended, extended, replaced and restated from time to time.