

00-790-CD  
ROBERT E. RISHEL, JR. -vs- KENNETH K. RISHEL & SONS, INC.

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PA  
CIVIL ACTION - LAW  
NO. 00 - -CD

ROBERT E. RISHEL, Jr., Plaintiff

vs.

KENNETH K. RISHEL & SONS,  
INC., Defendant

COMPLAINT

LAW OFFICES  
**GATES & SEAMAN**  
2 NORTH FRONT STREET  
P.O. BOX 846  
CLEARFIELD, PA. 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

ROBERT E. RISHEL, Jr.  
Plaintiff

: No. 00 - 790 -CD

: Type of Case: Civil

: Type of Pleading: Complaint

: vs.

KENNETH K. RISHEL &  
SONS, INC.  
Defendant

: Filed on behalf of: Plaintiff

: Counsel of Record for this Party:  
Andrew P. Gates, Esquire

: Supreme Court No.: 36604

: GATES & SEAMAN  
: Attorneys at law  
: Two North Front Street  
: P. O. Box 846  
: Clearfield, Pennsylvania 16830  
: (814) 765-1766

FILED

REC'D JUL 07 2000  
012451 WY

William A. Shaw  
Prothonotary

mailed NOTICE + CERT COPY TO  
DEPT.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT E. RISHEL, Jr.,	:	
Plaintiff	:	
	:	
vs.	:	No. 00-
	:	-CD
KENNETH K. RISHEL & SONS, INC.	:	
Defendant	:	

COMPLAINT

Plaintiff files this Complaint pursuant to Pa. R.C.P. No. 2951(b) for judgment by confession and avers the following:

1. Plaintiff, ROBERT E. RISHEL, Jr., is an adult individual residing at 1853 Suarez Drive, Lillian, Alabama 36549.
2. KENNETH K. RISHEL & SONS, INC., is a Corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with its primary office situate at 1229 Turnpike Avenue, Clearfield, Pennsylvania, 16830.
3. Attached as Exhibit "A" is a true and correct copy of a Coal Rights Lease Agreement dated August 4, 1999 between Plaintiff, Robert E. Rishel, Jr. et al, and Defendant, Kenneth K. Rishel & Sons, Inc.
4. The Judgment to be entered hereunder by confession is not being entered against the Defendant, Kenneth K. Rishel & Sons, Inc., in connection with a consumer credit transaction.
5. Said Coal Rights Lease Agreement of August 4, 1999 has not been assigned by Plaintiff.

6. No judgment has ever been entered against the named Defendant in any Court of Record pursuant to the Warrant of Attorney provision set forth in Paragraph 9 of said Coal Rights Lease Agreement of August 4, 1999, attached hereto as Exhibit "A".

7. Defendant, Kenneth K. Rishel & Sons, Inc., is in default under the terms of said Coal Rights Lease Agreement of August 4, 1999, as follows: (a) Defendant has failed to pay to Plaintiff the "Advance Royalty" of \$10,000.00 which was due April 1, 2000; and (b) Defendant has failed to pay Plaintiff the minimum monthly royalty of \$1,000.00 for the months of May and June, 2000, which payments were due to Plaintiff on May 1, 2000 and May 25, 2000, respectively.

8. Plaintiff has made written demand for the aforementioned sums of money by notices sent and received by the Defendant, more than thirty (30) days prior to the filing of this Complaint. Attached hereto and made a part hereof, collectively, as Exhibit "B" are copies of the written demands mailed to Defendant and the signed receipt cards (P.S. Form 3811) indicating the same were received by the Defendant on May 1, 2000 and May 8, 2000, respectively.

9. Pursuant to the Warrant of Attorney to Confess Judgment authority set forth in said Coal Rights Lease Agreement of August 4, 1999, Plaintiff demands judgment be entered against Defendant, Kenneth K. Rishel & Sons, Inc., for:

(a)	Advance Royalty due April 1, 2000 in the amount of	-	\$10,000.00;
(b)	Minimum monthly royalty due May 1, 2000 in the amount of	-	\$ 1,000.00;
(c)	Minimum monthly royalty due May 25, 2000 in the amount of	-	\$ 1,000.00;
(d)	Attorney Commission of ten (10%) percent on the amount due, namely	-	<u>\$ 1,200.00.</u>
		TOTAL	\$13,200.00

WHEREFORE, Plaintiff demands judgment in its favor in the sum of \$13,200.00 be entered against Defendant, Kenneth K. Rishel & Sons, Inc., as authorized by the warrant of attorney appearing in the attached instrument, plus costs.

GATES & SEAMAN

  
Andrew P. Gates, Esquire  
Attorney for Plaintiff

Date: June 30, 2000

COAL RIGHTS LEASE AGREEMENT

This Coal Rights Lease Agreement dated as of AUGUST  
4, 1999 between ROBERT E. RISHEL, JR. (as to an undivided 50%  
interest), of 1853 Suarez Drive, Lillian, Alabama 36549, and  
KENNETH RISHEL and JOANNE D. RISHEL, his wife, (as to an  
undivided 50% interest) of RR #1, Box 163,  
Clearfield, Pennsylvania 16830, hereinafter referred to as  
Lessors, and KENNETH K. RISHEL & SONS, INC. a Corporation  
organized and existing under the laws of the Commonwealth of  
Pennsylvania, with a place of business at 1229 Turnpike Ave.,  
Clearfield, Pennsylvania, 16830, hereinafter referred to as  
Lessee.

W I T N E S S E T H :

1. Properties and Mining Rights: The Lessors  
(insofar as owned by Lessors), for and in consideration of the  
royalties, payments, terms and acts to be paid, kept and  
performed by the Lessee on the terms, conditions and provisions  
herein stated in this Agreement does hereby lease the coal  
rights and right to mine and remove the same by the strip mine  
method on that property located in Lawrence Township, Clearfield  
County, Pennsylvania as described on Exhibit "A", which is  
attached hereto and made a part hereof, and also identified by  
Clearfield County Assessment Map No. 123-J8-82 (In Fee).

The Lessors lease to the Lessee (insofar as owned by  
Lessors) the right of ingress, egress and regress, the right to  
search, prospect, drill, strip mine, process and remove the

coal, bring in machinery and equipment to construct tipples, buildings, structures, roads, tramways, ditches, or other improvements necessary or convenient in the mining and removing of the coal, to deposit on the surface the overburden and waste from the mining operation on the leased properties and from the adjacent properties leased by the Lessee, but only to such an extent as may be necessary to continuously mine both premises, and if not in default under the terms of this lease, the right to remove at any time during the lease, the machinery, equipment or other improvements brought upon or constructed on the property. The Lessee shall not mine by the auger mine method unless written permission is first obtained from the Lessors.

The Lessee shall have the right of ingress, egress and regress into, upon and through, over, along and across the surface of premiss herein leased, the strata above or below the seams of coal, and in the horizons of said coal and other coal now owned or hereinafter acquired by Lease or otherwise by the Lessee, their successors or assigns, at such points and in such a manner as may be necessary or convenient for the purpose of conducting all operations in connection with the mining, and transporting and shipping said coal produced under this Agreement to market.

The Lessee shall have the right to excavate the surface and overburden overlying the said coal and to do and perform such acts as are usually done in the process of mining

coal by mining methods accepted in this mining district, but not otherwise excluded herein. And, such activities shall be done without requiring the Lessee to leave or provide a subjacent or lateral support for the overlying strata or surface or anything therein, thereon or thereunder, including structures and improvements now or hereafter erected thereon with the exception that Lessee will leave or provide sufficient subjacent and/or lateral support on the demised premises as may be necessary to insure adequate support for buildings, structures, and improvements situate on adjoining lands. The Lessee shall have the right and privilege for 120 days after the termination of this lease to remove from the leased premises the improvements thereon which the Lessee owns.

This lease does not cover the timber, clay, oil, gas and other interests, and the Lessors reserve for themselves, their heirs, executors, assignees and other lessees, the right to concurrently explore, prospect, drill, search, mine and remove said reserved timber, oil, gas and other resources.

The Lessee shall cooperate and work with the Lessors and their representatives and buyers or lessees of other interests in other developments of other interests in the property.

The Lessee shall have the right to construct and maintain ponds and diversion ditches for erosion control and water treatment and to cut drains and drainage ditches over and

across the demised premises for the purpose of removing water from the mining operations of the Lessee or those claiming under the Lessee.

The Lessee shall have the right to make roads and haulage ways upon and across the leased premises and to use the same for transporting and taking to market coal mined on the demised premises but for coal mined from other lands and hauled across the demised premises, the Lessee shall pay the lessors Ten (\$.10) Cents per ton. However, before constructing any haul roads or haulage ways across the demised premises, Lessee must first obtain the written approval of the Lessors as to said road locations, which approval is not to be unreasonably withheld.

Lessors further lease to the Lessee the right of ingress, egress and regress in and to the area where the coal has been removed within five (5) years after the termination of the lease for the purpose of backfilling, restoring, planting or otherwise complying with the mining laws of the Commonwealth of Pennsylvania and United States, but this right of re-entry for a period of five (5) years is solely for that purpose and shall not vest in the Lessee any right whatsoever in any other resources in the property. Before any reclamation work is begun, Lessee shall provide Lessors, in writing, the specifics of the Reclamation Plan. Lessors shall have thirty (30) days to advise Lessee of any requested changes to the said Plan which are to be implemented by Lessee, the cost of which changes shall

be paid by Lessors. If Lessors fail to so notify Lessee within said thirty (30) days, Lessee may proceed with its Reclamation Plan.

2. Term and Effective Date: This Coal Lease Agreement shall become effective upon the execution by the Lessors and the Lessee and shall continue in force and effect for a period of two (2) years from the date hereof and shall automatically renew itself for an additional period of one (1) year, provided that the Lessee is engaged in active mining operations upon the within described premises at the expiration of the initial term. The Lessee shall have the right at any time to cancel this Lease upon giving sixty (60) days written notice of the cancellation to the Lessors, provided all tonnage and minimum royalty payments due to the Lessors to the effective date of the cancellation are paid in full and Lessee is in full compliance with the terms and conditions of this Lease. In the event of such cancellation, no advance or minimum payments shall be returned to Lessee.

3. Royalty: All royalties to be paid by Lessee hereunder, whether classified as Tonnage Royalty, Advanced Royalty or Minimum Royalty will be paid solely to Lessor, Robert B. Rishel, Jr., his heirs, personal representatives and assigns as set forth hereafter:

(a) Tonnage Royalty Rate: Lessee will pay to the Lessor, Robert E. Rishel, Jr., on the 25th day of the month

following the month of mining an "earned royalty" of Three (\$3.00) Dollars per net ton or Ten (10%) Percent of the net selling price, whichever is greater, for all coal mined and removed from the Premises.

The Lessee agrees to periodically, but at least once a month, sample the coal being mined and removed from the Lessors' coal rights and test the samples to determine the quality of the coal being mined and concurrently with the monthly tonnage statement shall furnish to the Lessors a statement showing the results of said tests as well as the data and calculations used to determine the net selling price of coal sold.

The term "net selling price" as above used will be the average price paid to the Lessee during the month by bona fide customers of the Lessee, who are not affiliates, subsidiaries or in a joint venture with the Lessee, in arms length transactions for the coal of similar quality less the actual costs of trucking the coal from the property to the tipple. The trucking costs shall not be more than the rate paid to haul coal from the property to the nearest tipple of the Lessee.

Should coal of similar quality to that mined and removed be not sold during the month, the "net selling price" would be based on the average price paid the Lessee for coal of similar quality during the last month when coal of that quality was sold or the average price of all coal sold by the Lessee during the current month, whichever is greater.

All payments of tonnage royalty shall be made monthly to the Lessor Robert E. Rishel, Jr. on or before the twenty-fifth (25th) day of each calendar month for all coal mined and removed in the preceding calendar month and shall be accompanied by a statement showing the tonnage mined, the fixed and percentage royalty rates, the total royalty due, the amount of minimum royalty used as a credit against the tonnage royalty, and the amount of remaining unused minimum royalty, if any.

(b) Minimum Royalty: The Lessee shall pay to Lessor Robert E. Rishel, Jr. a monthly minimum royalty of One thousand (\$1,000.00) Dollars with the first payment due upon the earlier of: (i) the 25th of the month following the month Lessee receives the approved mining permit from the Pennsylvania Department of Environmental Protection; or (ii) May 1, 2000. Thereafter, the minimum royalty shall be paid monthly on the 25th of the month, during the term of this Lease and any extension thereof. All minimum royalty payments may be used as a credit against current and subsequent tonnage royalty, unless this Lease is terminated by Lessee under Paragraph 2 hereof or terminated by Lessors as provided for in this Lease.

If no coal is mined during a month and no tonnage statement required, the Lessee shall furnish the Lessors a minimum royalty statement showing the amount of minimum royalty payment during the calendar month and the amount of unused minimum royalty remaining at the end of the calendar month.

(c) Advance Royalty - The Lessee shall pay Lessor, Robert E. Rishel, Jr. the sum of TEN THOUSAND (\$10,000.00) DOLLARS, upon the earlier of: (i) thirty (30) days after Lessee receives the approved Mining Permit from the Pennsylvania Department of Environmental Protection; or (ii) April 1, 2000. The Lessee shall provide Lessor with a photocopy of the approved permit when the above payment is made. The Lessee shall be entitled to a Credit for the aforementioned lump sum payment, but it shall not excuse Lessee from making the minimum monthly royalty payments of ONE THOUSAND (\$1,000.00) DOLLARS per month for those months when the Tonnage Royalty does not exceed ONE THOUSAND (\$1,000.00) DOLLARS.

4. Tonnage Measurement and Payments: Tonnage royalty shall be based on certified truck scale weights of the coal mined and removed from the leased premises in the trucks hauling the coal from the pits to the tipple, and, in the trucks transporting no shrinkage shall be deducted from the truck weights of the coal. If requested in writing by any of the Lessors, the Lessee shall furnish said Lessor with copies of the truck scale weights. The Lessee authorizes any of the Lessors, or their representatives, to examine the truck scales and truck weights, records and any and all records of the coal mined and removed and the coal transported across the properties, together with the records showing the average sale prices of the same period, and to make copies of the same.

All payments shall be paid and sent, first class mail on or before the 25th of the month, for the preceding month's royalty, without demand, by Lessee to Lessor Robert E. Rishel, Jr. at his address stated herein. Lessor, Robert E. Rishel, Jr. reserves the right to designate other persons or parties to accept payments and statements, etc., provided the designation is in writing and furnished to the Lessee.

5. Mining Methods, Indemnification and Liability

Insurance: Lessee shall conduct the mining operation of the coal in a proper and workmanlike manner with adequate machinery and equipment and will mine and remove all the merchantable and minable coal that can be profitably mined by the strip mine or other methods, subject to any conditions and restrictions as set forth in this Lease, and when the mining is completed will promptly restore the properties.

The parties agree that the obligation of the Lessee to restore the properties after mining is completed is also a contractual obligation.

The Lessee covenants and warrants that it will abide by and comply with all local, state and federal laws, rules and regulations now existing or which may hereafter become effective relating to mining by the open pit, strip mine or other methods, including those regarding drilling, prospecting, cleaning, processing, transporting, restoration, surface, support, water, streams, air, employees, blasting, explosives and vertical and

lateral support of highways.

The Lessee agrees and covenants to indemnify and save harmless the Lessors from all responsibility and liability for any failure of the Lessee to comply with the local, state and federal laws, rules and regulations, from any failure to obtain the required permits, from any fines, penalties and prosecutions of any kind or character, and from any claim for damages to person(s) (including death), and property, including reasonable attorney fees for the defense thereof, and from any claims for damages to water, water supply or from blasting or the use of explosives which may arise as a result of the Lessee's operations or from the condition of the property because of the operations, but Lessee shall not be liable for acts of third parties not claiming through Lessee.

The Lessee's covenant to indemnify and save harmless the Lessors shall be a continuing obligation notwithstanding this Lease may be terminated by its terms or by the Lessors because of a breach or default of the Lessee or by cancellation by the Lessee as provided for in this Lease.

The Lessors, or their designated representative(s), shall have the right at all times to inspect the leased properties and the Lessee's mining operations thereon, but the inspection shall not interfere with said operations.

Furthermore, Lessors shall not be liable for any damages or compensation to the employees of Lessee, and/or any

assignee for claims asserted by any employee and or agent of Lessee or any claim made by any third party. This provision shall survive the cancellation, modification, termination or expiration of this Agreement. Lessee shall, upon request of Lessors, supply Lessors with the appropriate certificates of insurance coverage for public liability, worker's compensation or other appropriate forms of insurance. Lessee agrees to maintain public liability insurance in the following minimum amounts: Property damage - \$500,000.00 and Bodily injury - \$1,000,000.00.

6. Taxes: All real estate taxes levied upon the property on which the coal rights are hereby leased shall be paid by the Lessors, and all taxes that may be levied, imposed or charged upon any improvements, equipment or mining machinery placed upon the leased property by the Lessee shall be paid by the Lessee. Should any federal, state or local government impose a tax upon the mining of the coal, the coal mined or otherwise, said tax shall be paid by the Lessee and also if the real estate taxes on the coal on which the coal rights are leased increases after December 31, 1999, the Lessee shall pay that increase.

7. Records and Maps: The Lessors are making no warranty as to the description of the property described within or the location of the boundary lines but will make available to the Lessee any maps in their possession. The Lessee, at its

expense before mining operations shall take place, shall survey the boundary lines of the within described properties in this Lease, shall not disturb or move any existing boundary markers without obtaining the written consent of the Lessors and shall furnish the Lessors a map or maps showing the surveyed boundaries of the properties.

The Lessee shall prepare and furnish Lessors within sixty (60) days of the date of this Lease a Mining Plan with a time line plan indicating the areas and tonnage to be mined on a calendar year estimate. The Lessee shall also prepare, maintain and retain accurate records of the drilling, prospecting, analysis and production of coal from the leased properties and maps of the leased property and the area of mining thereon, and will furnish Lessors copies of the said maps and will make these records, together with the truck weight sheets and analysis of coal samples, available to the Lessors, or their designated representative(s), at any reasonable time.

Upon the exercise of this Coal Rights Lease Agreement, the Lessee will furnish the Lessors a copy of the map of the leased properties and the proposed mining area filed with the Commonwealth of Pennsylvania, indicating on the map the location of the drill holes, together with a copy of the drilling records and the analyses of the coal samples. Each quarter the Lessee will furnish the Lessors with a current map showing the progress of the mining operation.

8. Title: Lessors are leasing to the Lessee, notwithstanding any other provisions or any other thing to the contrary, only that interest in the coal rights and mining rights which they now hold and no greater interest, and it is agreed that this Lease is subject to all prior deeds, restrictions, reservations, exceptions, leases and agreements, that all payments made hereunder are in consideration for the execution of this Agreement, irrespective of title, and upon receipt shall immediately vest in the Lessors. The Lessee shall have no claim or right for the return or recovery of any payments made hereunder, or take credit for the same against subsequent payments due the Lessor, Robert E. Rishel, Jr., from the Lessee, but the Lessee shall not be required to mine or remove any coal unless counsel for Lessee is satisfied with the Lessors' title.

9. Default in Royalties: If any royalties and other amounts payable by Lessee under the terms of this Lease shall, after being due, remain unpaid for a period of thirty (30) days after written demand, Lessee does hereby authorize and empower any attorney of any court of record in Pennsylvania, or elsewhere, to appear for it and confess judgment against it for any and all sums, with costs of suit and attorney's commission of ten (10%) percent on the amount due, with release of all errors, and without stay of execution, and inquisition and extension upon any levy on real estate is hereby waived and

condemnation agreed to, and the exemption of personal property from levy and sale on any execution is also hereby waived, and no benefit of exemption shall be claimed under or by virtue of any exemption laws now in force or hereafter to be enacted, the above provisions, however, shall not be a bar to any other remedy which Lessors may have for the enforcement of payment of royalties in arrears, or such other sums or payments as may be due from Lessee to Lessors, and the Lessee agrees that the landlord and tenant laws, including landlord's restraint, relating to the collection of rents shall apply to the collection of royalty or other payments due under this Lease. Lessee hereby agrees and it is made part of this contract that the power to confess judgment against it may be used time and time again, as often as there is a default and any exercise of said power shall in no way extinguish the power of confess judgment for other defaults. Should a judgment be recovered and be declared void or invalid for any reason whatsoever, the power to confess another judgment to correct any mistake on the original judgment or judgments is specifically authorized.

10. Breach of Terms: In case of a breach by Lessee of any of the terms of this lease, or in default in royalty or other payments due Lessor, Robert E. Rishel, Jr., all of which are declared to be enforceable as conditions as well, continuing for a period of thirty (30) days after written notice thereof from either Lessor, or immediately in case of a judicial sale or transfer or sale by operation of law, in any manner or form, an

adjudication in bankruptcy, voluntary or involuntary, thereupon either Lessor, at their option, may declare this Lease terminated and at an end or at the end of the term of the Lease, and either Lessor shall have the right and is fully authorized upon any such terminations to enter upon said leased coal rights and take exclusive possession of the same, or either Lessor may, at their option, from time to time, have issued a writ or writs of ejectment against Lessee for said leased coal rights and to the end Lessee hereby authorizes any attorney of any court of record in Pennsylvania or elsewhere, to appear for it in such suit of ejectment, and to confess judgment therein against it, with costs of suit and attorney's commission of ten (10%) percent on the amount due, and Lessee does hereby consent and agree that a writ of possession may in that event forthwith be issued with a writ of execution for costs, royalties and other payments in arrears, and be duly executed so that thereby on such judgment or judgments an execution may be issued, that said Lessee, his employees, contractors and agents shall be ousted from the possession of the same, the said Lessee does further, in that event, hereby waive and release all errors and any and every manner of benefit which it may otherwise have by reason of any error or irregularities in any suit or judgment or execution brought, entered or issued under the terms hereof, waiving the benefit all exemption laws now in force or which may hereafter be enacted and all the benefits of any law giving stays of execution in any action or actions brought or judgments entered by virtue hereof, provided, however, that any such termination

of this Lease or the taking of judgment or possession of the leased properties as herein provided shall not deprive Lessors of any other action or actions, or right of action whatsoever, which they may have in law or in equity, for the recovery of said leased properties or for the collection of royalties or other payments for the recovery of any damages which might or may occur to them hereunder, nor shall such actions release Lessee from the responsibility or indemnifications as stated in Paragraph 5. The said Lessee hereby agrees and it is hereby made a part of the provisions that the power to confess judgment in ejectment against it may be used time and time again, as often as there is a default, and the exercise shall in no way extinguish the power to confess judgment for other defaults. Should a judgment be recovered and be declared void or invalid for any reason whatsoever, the power to confess another judgment to correct any mistake on the original judgment or judgments is specifically authorized.

11. Non-Assignment: Lessee agrees not to mortgage or encumber with liens of any kind, or sell, assign, subcontract or sublet the whole or any part of the herein leased coal rights without the written consent of both Lessors first had and obtained. Should Lessee breach the foregoing provisions, either Lessor, at their option, may terminate this agreement and immediately take possession of the leased coal rights without further formality. It is agreed and provided that any adjudication or sale in bankruptcy or insolvency or under any other compulsory procedure or any receivership created shall be

deemed and taken to be an assignment or subletting within the meaning of this agreement, and at the option of either Lessor, shall work an immediate forfeiture without notice, and thereupon possession may be immediately taken by either Lessor without further formality and either Lessor shall have the right to use any remedy provided for in Paragraphs 9 and 10, hereof. Likewise, should this Agreement be assigned by Lessee, the same does not release the Lessee from its obligations hereunder, but Lessee shall remain contractually liable to Lessors.

12. Memorandum of Lease: Concurrently with the execution of this Coal Rights Lease Agreement the parties have executed a Memorandum of Coal Lease Agreement of the same date setting forth only the description of the properties and the period of time covered by the Coal Rights Lease Agreement. If either party desires to have the execution of the Lease entered on record, the Memorandum of Coal Rights Lease Agreement shall be recorded and the Coal Rights Lease Agreement shall not be recorded unless it is required to enforce a remedy for breach or default.

13. Recording Termination or Cancellation Statement: At the end of the Lease or any extension thereof or after any termination by Lessors or cancellation by Lessee pursuant to the provisions of the Coal Rights Lease Agreement, either party is authorized to execute and record a Statement of Termination or Cancellation, as the case may be.

14. Notices: A written notice addressed to Robert E. Rishel, Jr., 1853 Suarez Drive, Lillian, Alabama 36549, and Mr.

and Mrs. Kenneth Rishel, RR#1, Box 163 Clearfield, PA 16830, and sent by certified or registered mail shall be deemed received by the said Lessors as of three days after the date of mailing. A written notice addressed to Kenneth K. Rishel & Sons, Inc., 1229 Turnpike Ave., Clearfield, Pennsylvania 16830, and sent by certified or registered mail shall be deemed received by Lessee as of three days after the date of mailing. Written notices may also be given personally to the parties.

IN WITNESS WHEREOF, the parties have hereunto executed this Coal Rights Lease Agreement with the intent to be legally bound as of the date above stated.

Heather M. Harry  
Witness

Heather M. Harry  
Witness

ATTEST:

Karen Rishel  
Secretary

Jan Rishel 45

Robert E. Rishel (SEAL)  
Robert E. Rishel, Jr.

Kenneth Rishel (SEAL)  
Kenneth Rishel

Joanne D. Rishel (SEAL)  
Joanne D. Rishel

Lessors

KENNETH K. RISHEL & SONS, INC.

Kenneth K. Rishel  
Rishel  
Lessee

ALL those premises situate in Lawrence Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a hemlock (down) and which hemlock is at the Northeast corner of premises herein conveyed and also being on the Sunderland property line; thence along the line of Samuel Shank, North eighty-four degrees fifteen minutes West ( $N 84^\circ 15' W$ ) seven hundred sixty-three (763) feet (believed to be approximately eight hundred sixty-two (862) feet to post corner of land of John H. Thompson; thence by land of J. H. Thompson, crossing a small run, South three degrees twenty-five minutes West ( $S 3^\circ 25' W$ ) nine hundred eighty (980) feet to post corner on township road; thence by land of Frank Williams Estate (formerly Robert Cowan) South eighty-five degrees East ( $S 85^\circ E$ ) eight hundred sixty-two (862) feet to post corner; thence South thirty-eight degrees seventeen minutes East ( $S 38^\circ 17' E$ ) sixty-four (64) feet to post; thence South seventy-five degrees two minutes East ( $S 75^\circ 2' E$ ) sixty-seven and six tenths (67.6) feet to post; thence North seventy-nine degrees five minutes East ( $N 79^\circ 5' E$ ) one hundred fifty (150) feet to post corner; thence North sixty-five degrees forty-three minutes East ( $N 65^\circ 43' E$ ) two hundred forty (240) feet to post corner; thence North forty-nine degrees two minutes West ( $N 49^\circ 2' W$ ) five hundred ninety-four (594) feet to post corner; thence North four degrees twenty-one minutes East ( $N 4^\circ 21' E$ ) by land of Sunderland nine hundred seventy-four (974) feet to beginning. Containing 21.8 acres.

To: Kenneth K. Rishel & Sons, Inc.  
1229 Turnpike Avenue  
Clearfield, Pennsylvania 16830

From: Robert E. Rishel, Jr.  
1853 Suarez Drive  
Lillian, Alabama 36549

Re: Demand for payment of Advanced Royalty under Coal Rights Lease  
Agreement of August 4, 1999

Pursuant to Paragraph 9 of the aforementioned Coal Rights Lease Agreement, I hereby make written demand upon Kenneth K. Rishel & Sons, Inc. that it pay me the \$10,000.00 advanced royalty which was due to me on April 1, 2000. In the event the entire advanced royalty payment is not received by me within thirty (30) days of the date of this demand, I will instruct my attorney to confess judgment against you in the Court of Common Pleas of Clearfield County in the amount of \$11,000.00 plus court costs. The aforementioned amount is equal to the amount of the advanced royalty and the 10% attorney commission provided for under Paragraph 9 of said Agreement.



Robert E. Rishel, Jr.

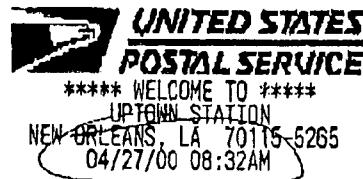
APRIL 16, 2000

**U.S. Postal Service  
CERTIFIED MAIL RECEIPT  
(Domestic Mail Only; No Insurance Coverage Provided)**

Article Sent To:  
Kenneth K. RISHEL & Sons, Inc.

Postage	3 33
Certified Fee	1.40
Return Receipt Fee (Endorsement Required)	1.25
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 2.98

Notes (Please Print Clearly to be completed by mailer)  
Robert E. RISHEL JR  
Street, Apt. No. or PO Box No.  
1853 SUCAREZ DRIVE  
City, State, ZIP/4  
LILLION, ALABAMA 36549  
MS Form 3800, July 1991  
See Reverse for Instructions



Store USPS Trans 19  
Wkstn sys5003 Cashier KNCOMQ  
Cashier's Name MELROSE  
Stock Unit Id WINMELROSE  
PO Phone Number 800-275-8777

1. PVI Label(s)	2.98
Value:	2.98
Quantity:	1
Subtotal	2.98
Total	2.98
Cash	3.00
Change Due	
Cash	0.02

Number of Items Sold: 1

Thank You  
Please come again!

To: Kenneth K. Rishel & Sons, Inc.  
1229 Turnpike Avenue  
Clearfield, Pennsylvania 16830

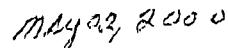
From: Robert E. Rishel Jr.  
1853 Suarez Drive  
Lillian Alabama 36549

Re: Demand for payment of Advanced Royalty under Coal Rights Lease  
Agreement of August 4, 1999

Pursuant to Paragraph 9 of the aforementioned Coal Rights Lease Agreement, I hereby make written demand upon Kenneth K. Rishel & Sons, Inc. that it pay me the \$1,000.00 advanced royalty which was due to me on May 1, 2000. In the event the entire advanced royalty payment is not received by me within (30) days of the date of this demand, I will instruct my attorney to confess judgment against you in the Court of Common Pleas of Clearfield County in the amount of \$1100.00 plus court cost. The aforementioned amount is equal to the amount of the advanced royalty and the 10% attorney commission provided for under Paragraph 9 of said Agreement.



Robert E. Rishel, Jr.



Z 378 266 595

US Postal Service

**Receipt for Certified Mail**

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to	KENNETH K. RISHEL & SONS, INC.	
Street & Number	1227 TURNPIKE AVENUE	
Post Office, State, & ZIP Code	CLAYTON, MO 63105-5265	
Postage	\$	0.33
Certified Fee	1.40	
Special Delivery Fee		
Restricted Delivery Fee		
Return Receipt Showing to Whom & Date Delivered	1.25	
Return Receipt Showing to Whom, Date, & Addressee's Address		
TOTAL Postage & Fees	\$	2.98
Postmark or Date	UNIT ID: 0015 Clerk: KWCKZO 05/02/00	

PS Form 3800, April 1995



\*\*\*\*\* WELCOME TO \*\*\*\*\*

UPTOWN STATION  
NEW ORLEANS, LA 70115-5265  
05/02/00 08:25AM

Store USPS Trans 17  
Wkstn sys5005 Cashier KWCKZO  
Cashier's Name LANA  
Stock Unit Id WJNLANA  
PO Phone Number 800-275-8777

1. First Class	2.98
Destination: 16830	
Weight: 0.50oz	
Postage Type: PVI	
Total Cost: 2.98	
Base Rate: 0.33	
SERVICES	
Certified Mail	1.40
Return Receipt	1.25
Subtotal	2.98
Total	2.98
Cash	3.00
Change Due	
Cash	0.02

Number of Items Sold: 1

Thank You  
Please come again!



<b>SENDER:</b> <ul style="list-style-type: none"> <li>■ Complete items 1 and/or 2 for additional services.</li> <li>■ Complete items 3, 4a, and 4b.</li> <li>■ Print your name and address on the reverse of this form so that we can return this card to you.</li> <li>■ Attach this form to the front of the mailpiece, or on the back if space does not permit.</li> <li>■ Write "Return Receipt Requested" on the mailpiece below the article number.</li> <li>■ The Return Receipt will show to whom the article was delivered and the date delivered.</li> </ul>		I also wish to receive the following services (for an extra fee): <ul style="list-style-type: none"> <li>1. <input type="checkbox"/> Addressee's Address</li> <li>2. <input type="checkbox"/> Restricted Delivery</li> </ul> <p>Consult postmaster for fee.</p>
Is your RETURN ADDRESS completed on the reverse side?	3. Article Addressed to: <b>KENNETH K. RISHEL &amp; SONS INC</b> <b>1229 TURNPIKE AVENUE</b> <b>CLEARFIELD PENNSYLVANIA</b> <b>16830</b>	4a. Article Number  4b. Service Type <ul style="list-style-type: none"> <li><input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified</li> <li><input type="checkbox"/> Express Mail <input type="checkbox"/> Insured</li> <li><input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD</li> </ul>
	5. Received By: (Print Name)  6. Signature: (Addressee or Agent) <b>X</b>	7. Date of Delivery <b>1/20/00</b>  8. Addressee's Address (Only if requested and fee is paid) <b>DOE 1 APR 00</b> <b>89 10,000</b>

PS Form 3811, December 1994 102500-00-0-0220 Domestic Return Receipt

Thank you for using Return Receipt Service.

<b>SENDER:</b> <ul style="list-style-type: none"> <li>■ Complete items 1 and/or 2 for additional services.</li> <li>■ Complete items 3, 4a, and 4b.</li> <li>■ Print your name and address on the reverse of this form so that we can return this card to you.</li> <li>■ Attach this form to the front of the mailpiece, or on the back if space does not permit.</li> <li>■ Write "Return Receipt Requested" on the mailpiece below the article number.</li> <li>■ The Return Receipt will show to whom the article was delivered and the date delivered.</li> </ul>		I also wish to receive the following services (for an extra fee): <ul style="list-style-type: none"> <li>1. <input type="checkbox"/> Addressee's Address</li> <li>2. <input type="checkbox"/> Restricted Delivery</li> </ul> <p>Consult postmaster for fee.</p>
Is your RETURN ADDRESS completed on the reverse side?	3. Article Addressed to: <b>KENNETH K. RISHEL &amp; Sons Inc</b> <b>1229 TURNPIKE AVENUE</b> <b>CLEARFIELD PENNSYLVANIA</b> <b>16830</b>	4a. Article Number <b>2378 266 595</b>  4b. Service Type <ul style="list-style-type: none"> <li><input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified</li> <li><input type="checkbox"/> Express Mail <input type="checkbox"/> Insured</li> <li><input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD</li> </ul>
	5. Received By: (Print Name)  6. Signature: (Addressee or Agent) <b>X</b>	7. Date of Delivery <b>1/20/00</b>  8. Addressee's Address (Only if requested and fee is paid) <b>DOE 1 APR 00</b> <b>89 1,000</b>

PS Form 3811, December 1994 102500-00-0-0220 Domestic Return Receipt

Thank you for using Return Receipt Service.

V E R I F I C A T I O N

I, Robert E. Rishel, Jr., Plaintiff, verify that the statements made in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I the undersigned understand that false statements made herein are subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.



---

Robert E. Rishel, Jr.

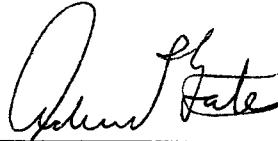
Date: June 26, 2000

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT E. RISHEL, Jr., :  
Plaintiff :  
: :  
vs. : No. 00- 4790 -CD  
: :  
KENNETH K. RISHEL & SONS, INC. :  
Defendant :  
:

CERTIFICATE OF ADDRESS

I hereby certify that the correct address of Defendant,  
Kenneth K. Rishel & Sons, Inc. is: 1229 Turnpike Avenue,  
Clearfield, Pennsylvania 16830.

  
Andrew P. Gates, Esquire  
Attorney for Plaintiff,  
Robert E. Rishel, Jr.

FILED

JUL 07 2000  
072:45/WS  
William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT E. RISHEL, Jr., :  
Plaintiff :  
: :  
vs. : No. 00-790 -CD  
: :  
KENNETH K. RISHEL & SONS, INC. :  
Defendant :  
:

Pursuant to the authority contained in the warrant of attorney, the original or a copy of which is attached to the complaint filed in this action, I appear for the defendant and confess judgment in favor of the plaintiff and against defendant as follows:

Principal Sum	\$12,000.00
Interest	\$
Attorney fees	<u>1,200.00</u>
Total	\$13,200.00

  
\_\_\_\_\_  
Attorney for Defendant

FILED

JUL 07 2000  
01 2007/00  
William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT E. RISHEL, Jr.

No. 00- -CD

Plaintiff

vs

KENNETH K. RISHEL & SONS, INC.

Defendant

To: Kenneth K. Rishel & Sons, Inc.

William A. Shaw, Prothonotary

By \_\_\_\_\_ Deputy

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

ROBERT E. RISHEL, JR., :  
Plaintiff :  
: :  
vs. : No. 00-790-CD  
: :  
KENNETH K. RISHEL & SONS, :  
INC., Defendant :  
:

PRAECIPE

TO WILLIAM A. SHAW, PROTHONOTARY:

Kindly mark the judgment entered in the above captioned  
matter as "paid and satisfied".

GATES & SEAMAN  
By:



Andrew P. Gates, Esquire,  
Attorney for Plaintiff,  
Robert E. Rishel, Jr.

Date: January 3, 2002

**FILED**

JAN 07 2002

William A. Shaw  
Prothonotary

**COPY**

**IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA**

**CIVIL DIVISION**

**CERTIFICATE OF SATISFACTION OF JUDGMENT**

No.: 2000-00790-CD

Robert E. Rishel, Jr.

Debt: \$13,200.00

Vs.

Atty's Comm.:

Kenneth K. Rishel & Sons, Inc.

Interest From:

Cost: \$7.00

NOW, Monday, January 07, 2002 , directions for satisfaction having been received, and all costs having been paid, SATISFACTION was entered of record.

Certified from the record this 7th day of January, A.D. 2002.

---

Prothonotary

COPY

FILED

JAN 07 2002

O H:Se Letty Date pd 5200

William A. Shaw  
Prothonotary

Cent. Satis. to Letty.

1/22