

03-496-CD  
First Commonwealth Bank vs. John D. Duttry, et al

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

Plaintiff,

vs.

JOHN D. DUTTRY, individually and  
as Administrator of the Estate of  
MARY JO DUTTRY,

Defendant.

CIVIL DIVISION

Case No. 2003-496-CJ

COMPLAINT IN  
MORTGAGE FORECLOSURE

Filed on behalf of FIRST COMMONWEALTH  
BANK, f/k/a DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Timothy A. Krieger, Esquire  
Pa. I.D. No. 65250  
Christopher J. Richardson, Esquire  
Pa. I.D. No. 44841  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

I hereby verify that the property to be  
foreclosed upon is:

Section 15, Lot 34, Treasure Lake  
DuBois, Pennsylvania 15801  
Tax Parcel I.D. No. 128-D3-15-34-21

Timothy Krieger  
\_\_\_\_\_  
Timothy A. Krieger, Esquire  
Christopher J. Richardson, Esquire  
Attorneys for Plaintiff

FILED

APR 07 2003

11:30 AM  
William A. Shaw  
Prothonotary

1 copy to self

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. \_\_\_\_\_  
vs. )  
JOHN D. DUTTRY, individually and )  
as Administrator of the Estate of )  
MARY JO DUTTRY, )  
Defendant. )

**IMPORTANT NOTICE**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Pennsylvania Lawyer Referral Service  
P. O. Box 186  
Harrisburg, Pennsylvania 17108  
(800) 692-7375

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. \_\_\_\_\_  
vs. )  
JOHN D. DUTTRY, individually and )  
as Administrator of the Estate of )  
MARY JO DUTTRY, )  
Defendant. )

**COMPLAINT IN MORTGAGE FORECLOSURE**

AND NOW COMES the Plaintiff, First Commonwealth Bank, f/k/a Deposit Bank, by and through its counsel, Tucker Arensberg, P.C., and files the within Complaint in Mortgage Foreclosure, in support of which it avers the following:

1. Plaintiff, First Commonwealth Bank, f/k/a Deposit Bank (the "Bank"), is a banking association with business offices at 654 Philadelphia Street, P.O. Box 400, Indiana, Pennsylvania 15701-0400.

2. Defendant, John D. Duttry, is an adult individual whose last known address is P. O. Box 736, R.R. #4, DuBois, Pennsylvania 15801.

3. Mary Jo Duttry died on July 25, 1998. An estate has been established at Clearfield County No. 98-499 to administer the affairs of Decedent Mary Jo Duttry. As Mary Jo Duttry had no Will, Defendant, John D. Duttry, was appointed as Administrator of the Estate of Mary Jo Duttry. (Collectively herein, Defendant, John D. Duttry, and Mary Jo Duttry will be referred to as "Borrowers".)

4. Under due process of law, Mary Jo Duttry's interest in the real property which is the subject of this action passes directly to her husband, Defendant, John D. Duttry.

5. On or about August 31, 1995, Borrowers executed and delivered a Promissory Note ("Note") to the Bank whereby Borrowers agreed to pay the Bank the principal amount of \$90,000.00, together with interest thereon in the manner provided therein. A true and correct copy of the Note is attached hereto as Exhibit "A" and incorporated herein.

6. The obligations evidenced by the Note are secured by a Mortgage dated August 31, 1995 ("Mortgage") given by Borrowers to the Bank, granting the Bank a security interest in certain real property located in Sandy Township, Clearfield County, Pennsylvania (the "Premises"). The Mortgage was recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, ("Recorder's Office") at Mortgage Book Volume 1700, page 532. A true and correct copy of the Mortgage, containing the legal description of the Premises, is attached hereto as Exhibit "B" and incorporated herein.

7. The Borrowers are in default of the provisions of the Note and the Mortgage for failure to make payments when due. The last payment made to the Bank by Borrowers was on April 5, 2002, resulting in Borrowers remaining due and owing on the Note and Mortgage for April 1, 2002 and all subsequent payments to date.

8. The Defendant is the real and record owner of the Premises.

9. There has been no assignment, release or transfer of the Note or the Mortgage.

10. Notices pursuant to 35 P.S. §1680.403C (Homeowner's Emergency Mortgage Assistance Act of 1983 -- Act 91 of 1983) and 41 P.S. §403 (Act 6 of 1974) were not

required because the Mortgage is not a "residential mortgage" as defined by Act 6, and the Premises is not "owner occupied" as required by Act 91.

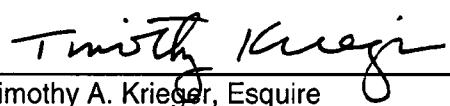
11. The amount due Bank under the Note and Mortgage as of May 29, 2002 is as follows:

Principal.....	\$ 74,875.14
Interest through May 29, 2002 .....	1,395.55
(per diem \$15.98250)	
Late Fees .....	1,351.56
Costs .....	to be added
Attorney's Fees.....	<u>to be added</u>
 TOTAL.....	\$ 77,622.25

12. The total amount now due to the Bank under the Note and Mortgage as of May 29, 2002 was Seventy-Seven Thousand Six Hundred Twenty-Two and 25/100 Dollars (\$77,622.25) plus interest accruing from May 29, 2002 at the contract rate, late charges, costs and reasonable attorneys' fees.

WHEREFORE, Plaintiff demands judgment in mortgage foreclosure for the amount due of Seventy-Seven Thousand Six Hundred Twenty-Two and 25/100 Dollars (\$77,622.25), plus continuing interest at the contract rate from May 29, 2002, late charges, reasonable attorneys' fees as authorized by the Note, and costs of foreclosure and sale of the Premises.

TUCKER ARENSBERG, P.C.

  
\_\_\_\_\_  
Timothy A. Krieger, Esquire  
Pa. I.D. No. 65250  
Christopher J. Richardson, Esquire  
Pa. I.D. No. 44841  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212  
Attorneys for First Commonwealth Bank  
f/k/a Deposit Bank, Plaintiff

## PROMISSORY NOTE

Principal \$90,000.00	Loan Date 09-01-2015	Maturity 09-01-2015	Loan No.	Call 020	Collateral J	Account	Officer CLJ	Initials
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References in the shaded area are for Lender's use only and do not limit the applicability of this document to any particular loan or item.

**Borrower:** JOHN D DUTTRY (SSN: 197-28-9933)  
MARY JO DUTTRY (SSN: 182-44-2383)  
P O BOX 736  
DUBOIS, PA 15801

**Lender:** Deposit Bank  
Main Branch  
2 East Long Avenue  
PO Box 607A  
Dubois, PA 15801

**Principal Amount:** \$90,000.00

**Initial Rate:** 7.750%

**Date of Note:** August 31, 1995

**PROMISE TO PAY.** I promise to pay to Deposit Bank ("Lender"), or order, in lawful money of the United States of America, the principal amount of Ninety Thousand & 00/100 Dollars (\$90,000.00), together with interest on the unpaid principal balance from August 31, 1995, until paid in full. The interest rate will not increase above 10.750%.

**PAYMENT.** Subject to any payment changes resulting from changes in the Index, I will pay this loan in 240 payments of \$738.85 each payment. My first payment is due October 1, 1995, and all subsequent payments are due on the same day of each month after that. My final payment will be due on September 1, 2015, and will be for all principal and all accrued interest not yet paid. Payments include principal and interest. I will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing. Unless otherwise agreed or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs and late charges.

**VARIABLE INTEREST RATE.** The interest rate on this Note is subject to change from time to time based on changes in an independent index which is the monthly average yield on US Treasury Securities adjusted to a constant maturity of one year (the "Index"). The Index is not necessarily the lowest rate charged by Lender on its loans. If the Index becomes unavailable during the term of this loan, Lender may designate a substitute index after notice to me. Lender will tell me the current Index rate upon my request. I understand that Lender may make loans based on other rates as well. The interest rate change will not occur more often than each year. The Index currently is 5.640% per annum. The interest rate to be applied to the unpaid principal balance of this Note will be at a rate of 2.125 percentage points over the Index, rounded to the nearest .125 percent, adjusted if necessary for the minimum and maximum rate limitations described below, resulting in an initial rate of 7.750% per annum. Notwithstanding any other provision of this Note, the variable interest rate or rates provided for in this Note will be subject to the following minimum and maximum rates. NOTICE: Under no circumstances will the interest rate on this Note be less than 7.750% per annum or more than the lesser of 10.750% per annum or the maximum rate allowed by applicable law. Notwithstanding the above provisions, the maximum increase or decrease in the interest rate at any one time on this loan will not exceed 0.500 percentage points. Unless waived by Lender, any increase in the interest rate will increase the amounts of my payments.

**PREPAYMENT.** I agree that all loan fees and other prepaid finance charges are earned fully as of the date of the loan and will not be subject to refund upon early payment (whether voluntary or as a result of default), except as otherwise required by law. Except for the foregoing, I may pay without penalty all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Lender in writing, relieve me of my obligation to continue to make payments under the payment schedule. Rather, they will reduce the principal balance due and may result in me making fewer payments.

**LATE CHARGE.** If a payment is 16 days or more late, I will be charged 6.000% of the regularly scheduled payment.

**DEFAULT.** I will be in default if any of the following happens: (a) I fail to make any payment when due. (b) I break any promise I have made to Lender, or I fail to comply with or to perform when due any other term, obligation, covenant, or condition contained in this Note or any agreement related to this Note, or in any other agreement or loan I have with Lender. (c) Any representation or statement made or furnished to Lender by me or on my behalf is false or misleading in any material respect either now or at the time made or furnished. (d) I die or become insolvent, a receiver is appointed for any part of my property, I make an assignment for the benefit of creditors, or any proceeding is commenced either by me or against me under any bankruptcy or insolvency laws. (e) Any creditor tries to take any of my property on or in which Lender has a lien or security interest. This includes a garnishment of any of my accounts with Lender. (f) Any of the events described in this default section occurs with respect to any guarantor of this Note. (g) Lender in good faith deems itself insecure.

If any default, other than a default in payment, is curable and if I have not been given a notice of a breach of the same provision of this Note within the preceding twelve (12) months, it may be cured (and no event of default will have occurred) if I, after receiving written notice from Lender demanding cure of such default: (a) cure the default within fifteen (15) days; or (b) if the cure requires more than fifteen (15) days, immediately initiate steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**LENDER'S RIGHTS.** Upon default, Lender may, after giving such notices as required by applicable law, declare the entire unpaid principal balance on this Note and all accrued unpaid interest immediately due, and then I will pay that amount. Lender may hire or pay someone else to help collect this Note if I do not pay. I also will pay Lender that amount. This includes, subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. If not prohibited by applicable law, I also will pay any court costs, in addition to all other sums provided by law. If judgment is entered in connection with this Note, interest will continue to accrue on this Note after judgment at the interest rate applicable to this Note at the time judgment is entered. This Note has been delivered to Lender and accepted by Lender in the Commonwealth of Pennsylvania. If there is a lawsuit, I agree upon Lender's request to submit to the jurisdiction of the courts of Clearfield County, the Commonwealth of Pennsylvania. Subject to the provisions on arbitration, this Note shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

**RIGHT OF SETOFF.** I grant to Lender a contractual possessory security interest in, and hereby assign, convey, deliver, pledge, and transfer to Lender all my right, title and interest in and to, my accounts with Lender (whether checking, savings, or some other account), including without limitation all accounts held jointly with someone else and all accounts I may open in the future, excluding however all IRA, Keogh, and trust accounts. I authorize Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on this Note against any and all such accounts.

**COLLATERAL.** This Note is secured by a Mortgage dated August 31, 1995 to Lender on real property located in CLEARFIELD County, Commonwealth of Pennsylvania, all the terms and conditions of which are hereby incorporated and made a part of this Note.

### ARBITRATION:

1. **Mandatory Arbitration:** Any controversy or claim between or among the BORROWER and LENDER, including but not limited to those arising out of or relating to this AGREEMENT or any of the COLLATERAL SECURITY DOCUMENTS, including any claim based on or arising from an alleged tort, shall be determined by arbitration in accordance with the Uniform Arbitration Act, 42 PA. C.S.A. Section 7301 et seq. and the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). All statutes of limitations which would otherwise be applicable shall apply to any arbitration proceeding under this Section. Judgment upon the award rendered may be entered in any court having jurisdiction.

2. **Provisional Remedies, Self Help and Foreclosure:** No provision of, or the exercise of any rights under Section 1, shall limit LENDER'S right to exercise self help remedies such as setoff, to foreclose against any real or personal property collateral, to confess judgment under the NOTE or to obtain provisional or ancillary remedies such as injunctive relief or the appointment of a receiver from a court having jurisdiction before, during or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief, confession of judgment or pursuit of provisional or ancillary remedies or exercise of self help remedies shall not constitute a waiver of the right of LENDER to submit the controversy or claim to arbitration.

**GENERAL PROVISIONS.** Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. I and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, protest and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan, or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several. This means that the words "I", "me", and "my" mean each and all of the persons signing below.

**EXHIBIT**

PRIOR TO SIGNING THIS NOTE, I, AND EACH OF US, READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE, INCLUDING THE VARIABLE INTEREST RATE PROVISIONS. I, AND EACH OF US, AGREE TO THE TERMS OF THE NOTE AND ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THE NOTE.

## BORROWER:

X: John D Duttry (SEAL)  
JOHN D DUTTRY

X: Mary Jo Duttry (SEAL)  
MARY JO DUTTRY

## LENDER:

Deposit Bank

By: John D Duttry  
Authorized Officer

Variable Rate, Installment.

LASER PRO, Reg. U.S. Pat. &amp; T.M. Off., Ver. 3.20 (c)1995 CFI ProServices, Inc. All rights reserved. [PA-D201581.LNR14.OVL]

## RECORDATION REQUESTED BY:

Deposit Bank  
2 East Long Avenue  
PO Box 607A  
DuBois, PA 15801

## WHEN RECORDED MAIL TO:

Deposit Bank  
2 East Long Avenue  
PO Box 607A  
DuBois, PA 15801

## SEND TAX NOTICES TO:

JOHN D DUTTRY and MARY JO DUTTRY  
P O BOX 736  
DUBOIS, PA 15801

## CLEARFIELD COUNTY

ENTERED OF RECORD

TIME 11:15 AM 8-31-95  
BY *Jeanne Starck*  
FEES *1750*

Karen L. Starck, Recorder

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

## MORTGAGE

THIS MORTGAGE IS DATED August 31, 1995, between JOHN D DUTTRY and MARY JO DUTTRY, whose address is P O BOX 736, DUBOIS, PA 15801 (referred to below as "Grantor"); and Deposit Bank, whose address is 2 East Long Avenue, PO Box 607A, DuBois, PA 15801 (referred to below as "Lender").

**GRANT OF MORTGAGE.** For valuable consideration, Grantor grants, bargains, sells, conveys, assigns, transfers, releases, confirms and mortgages to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all streets, lanes, alleys, passages, and ways; all easements, rights of way, all liberties, privileges, tenements, hereditaments, and appurtenances thereto belonging or otherwise made appurtenant hereafter, and the reversions and remainders with respect thereto; all water, water rights, watercourses and ditch rights (including stock in utility with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, located in ~~CLEARFIELD County, Commonwealth of Pennsylvania~~ (the "Real Property"): Per Schedule A attached hereto and incorporated herein by reference.

The Real Property or its address is commonly known as SECT 15 LOT 34 TREASURE LAKE, DUBOIS, PA 15801.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

**DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Grantor.** The word "Grantor" means JOHN D DUTTRY and MARY JO DUTTRY. The Grantor is the mortgagor under this Mortgage.

**Guarantor.** The word "Guarantor" means and includes without limitation each and all of the guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, fixtures, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Note and any amounts expended or advanced by Lender to discharge obligations of Grantor or expenses incurred by Lender to enforce obligations of Grantor under this Mortgage, together with interest on such amounts as provided in this Mortgage.

**Lender.** The word "Lender" means Deposit Bank, its successors and assigns. The Lender is the mortgagee under this Mortgage.

**Mortgage.** The word "Mortgage" means this Mortgage between Grantor and Lender, and includes without limitation all assignments and security interest provisions relating to the Personal Property and Rents.

1995

**Note.** The word "Note" means the promissory note or credit agreement dated August 31, 1995, in the original principal amount of \$90,000.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The maturity date of this Mortgage is September 1, 2015. **NOTICE TO GRANTOR: THE NOTE CONTAINS A VARIABLE INTEREST RATE.**

**Personal Property.** The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

**Property.** The word "Property" means collectively the Real Property and the Personal Property.

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Grant of Mortgage" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guarantees, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Rents.** The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ALL OBLIGATIONS OF GRANTOR UNDER THIS MORTGAGE AND THE RELATED DOCUMENTS. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantor's obligations under this Mortgage.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

**Possession and Use.** Until in default, Grantor may remain in possession and control of and operate and manage the Property and collect the Rents from the Property.

**Duty to Maintain.** Grantor shall maintain the Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Hazardous Substances.** The terms "hazardous waste," "hazardous substance," "disposal," "release," and "threatened release," as used in this Mortgage, shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 49 U.S.C. Section 6901, et seq., or other applicable state or Federal laws, rules, or regulations adopted pursuant to any of the foregoing. The terms "hazardous waste" and "hazardous substance" shall also include, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos. Grantor represents and warrants to Lender that: (a) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any person on, under, about or from the Property; (b) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (i) any use, generation, manufacture, storage, treatment, disposal, release, or threatened release of any hazardous waste or substance on, under, about or from the Property by any prior owners or occupants of the Property or (ii) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (c) Except as previously disclosed to and acknowledged by

EXHIBIT

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Lender in writing, (i) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of, or release any hazardous waste or substance on, under, about or from the Property and (ii) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation those laws, regulations, and ordinances described above. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for hazardous waste and hazardous substances. Grantor hereby (a) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws, and (b) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**Nuisance, Waste.** Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), soil, gravel or rock products without the prior written consent of Lender.

**Removal of Improvements.** Grantor shall not demolish or remove any Improvements from the Real Property without the prior written consent of Lender. As a condition to the removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

**Lender's Right to Enter.** Lender and its agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

**Duty to Protect.** Grantor agrees neither to abandon nor leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without the Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest therein; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of Real Property interest. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Pennsylvania law.

**TAXES AND LIENS.** The following provisions relating to the taxes and liens on the Property are a part of this Mortgage.

**Payment.** Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this Mortgage, except for the lien of taxes and assessments not due, and except as otherwise provided in the following paragraph.

**Right To Contest.** Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and attorneys' fees or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

**Evidence of Payment.** Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

**Notice of Construction.** Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

**PROPERTY DAMAGE INSURANCE.** The following provisions relating to insuring the Property are a part of this Mortgage.

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgage clause in favor of Lender. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property at any time become located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, to the extent such insurance is required by Lender and is or becomes available, for the term of the loan and for the full unpaid principal balance of the loan, or the maximum limit of coverage that is available, whichever is less.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds \$5,000.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default hereunder. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to prepay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor.

**Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any trustee's sale or other sale held under the provisions of this Mortgage, or at any foreclosure sale of such Property.

**EXPENDITURES BY LENDER.** If Grantor fails to comply with any provision of this Mortgage, or if any action or proceeding is commenced that would materially affect Lender's interests in the Property, Lender on Grantor's behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Note, or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**WARRANTY; DEFENSE OF TITLE.** The following provisions relating to ownership of the Property are a part of this Mortgage.

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in

favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

**Defense of Title.** Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

**Compliance With Laws.** Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

**CONDEMNATION.** The following provisions relating to condemnation of the Property are a part of this Mortgage.

**Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all actual costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments as may be requested by it from time to time to permit such participation.

**IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.** The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage:

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

**Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default (as defined below), and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (a) pays the tax before it becomes delinquent, or (b) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

**SECURITY AGREEMENT; FINANCING STATEMENTS.** The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage.

**Security Agreement.** This instrument shall constitute a security agreement to the extent any of the Property constitutes fixtures or other personal property, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

**Security Interest.** Upon request by Lender, Grantor shall execute financing statements and take whatever other action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

**Addresses.** The mailing addresses of Grantor (debtor) and Lender (secured party), from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code), are as stated on the first page of this Mortgage.

**FURTHER ASSURANCES; ATTORNEY-IN-FACT.** The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage.

**Further Assurances.** At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (a) the obligations of Grantor under the Note, this Mortgage, and the Related Documents, and (b) the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or agreed to the contrary by Lender in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Attorney-In-Fact.** If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

**FULL PERFORMANCE.** If Grantor pays all the Indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

**DEFAULT.** Each of the following, at the option of Lender, shall constitute an event of default ("Event of Default") under this Mortgage:

**Default on Indebtedness.** Failure of Grantor to make any payment when due on the Indebtedness.

**Default on Other Payments.** Failure of Grantor within the time required by this Mortgage to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**Compliance Default.** Failure to comply with any other term, obligation, covenant or condition contained in this Mortgage, the Note or in any of the Related Documents. If such a failure is curable and if Grantor has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantor, after Lender sends written notice demanding cure of such failure: (a) cures the failure within fifteen (15) days; or (b) if the cure requires more than fifteen (15) days, immediately initiates steps sufficient to cure the failure and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantor under this Mortgage, the Note or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished.

**Death or Insolvency.** The death of Grantor, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Foreclosure, Forfeiture, etc.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any of the Property. However, this subsection shall not apply in the event of a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the foreclosure or forfeiture proceeding, provided that Grantor gives Lender written notice of such claim and furnishes reserves or a surety bond for the claim satisfactory to Lender.

**Breach of Other Agreement.** Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor to Lender, whether existing now or later.

**Events Affecting Grantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. Lender, at its option, may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender, and, in doing so, cure the Event of Default.

**Insecurity.** Lender in good faith deems itself insecure.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of any Event of Default and at any time thereafter, Lender, at its option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Subject to applicable law, Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable.

**UCC Remedies.** With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

**Collect Rents.** Lender shall have the right, without notice to Grantor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Judicial Foreclosure.** Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

**Nonjudicial Sale.** If permitted by applicable law, Lender may foreclose Grantor's interest in all or in any part of the Personal Property or the Real Property by nonjudicial sale.

**Deficiency Judgment.** Lender may obtain a judgment for any deficiency remaining in the Indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

**Tenancy at Sufferance.** If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (a) pay a reasonable rental for the use of the Property, or (b) vacate the Property immediately upon the demand of Lender.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Mortgage or the Note or available at law or in equity.

**Sale of the Property.** To the extent permitted by applicable law, Grantor hereby waives any and all right to have the property marshalled. In exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

**Notice of Sale.** Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Unless otherwise required by applicable law, reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition.

**Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or take action to perform an obligation of Grantor under this Mortgage after failure of Grantor to perform shall not affect Lender's right to declare a default and exercise its remedies under this Mortgage.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and on any appeal. Whether or not any court action is involved, all reasonable expenses incurred by Lender that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest from the date of expenditure until repaid at the rate provided for in the Note. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, and title insurance, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**NOTICES TO GRANTOR AND OTHER PARTIES.** Unless otherwise provided by applicable law, any notice under this Mortgage shall be in writing, may be sent by telefacsimile, and shall be effective when actually delivered, or when deposited with a nationally recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the United States mail first class, registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Mortgage:

**Amendments.** This Mortgage, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Mortgage. No alteration or amendment to this Mortgage shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Applicable Law.** This Mortgage has been delivered to Lender and accepted by Lender in the Commonwealth of Pennsylvania. Subject to the provisions on arbitration, this Mortgage shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

**ARBITRATION:**

**1. Mandatory Arbitration:** Any controversy or claim between or among the BORROWER and LENDER, including but not limited to those arising out of or relating to this AGREEMENT or any of the COLLATERAL SECURITY DOCUMENTS, including any claim based on or arising from an alleged tort, shall be determined by arbitration in accordance with the Uniform Arbitration Act, 42 PA C.S.A. Section 7301 *et seq.* and the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). All statutes of limitations which would otherwise be applicable shall apply to any arbitration proceeding under this Section. Judgment upon the award rendered may be entered in any court having jurisdiction.

**2. Provisional Remedies, Self Help and Foreclosure:** No provision of, or the exercise of any rights under Section 1, shall limit LENDER's right to exercise self help remedies such as self-help, to foreclose against any real or personal property collateral, to confess judgment under the NOTE or to obtain provisional or ancillary remedies such as injunctive relief or the appointment of a receiver from a court having jurisdiction before, during or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief, confession of judgment or pursuit of provisional or ancillary remedies or exercise of self help remedies shall not constitute a waiver of the right of LENDER to submit the controversy or claim to arbitration.

**Caption Headings.** Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

**Merger.** There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Multiple Parties.** All obligations of Grantor under this Mortgage shall be joint and several, and all references to Grantor shall mean each and every Grantor. This means that each of the persons signing below is responsible for all obligations in this Mortgage.

**Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**Successors and Assigns.** Subject to the limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their heirs, personal representatives, successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Mortgage and the

Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Mortgage or liability under the Indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Mortgage.

**Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or any of Grantor's obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

EACH GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND EACH GRANTOR AGREES TO ITS TERMS.

GRANTOR:

John D Duttry (SEAL)  
JOHN D DUTTRY

Mary Jo Duttry (SEAL)  
MARY JO DUTTRY

Signed, acknowledged and delivered in the presence of:

J. Sughru, H.P.  
Witness

\_\_\_\_\_  
Witness

Signed, acknowledged and delivered in the presence of:

J. Sughru, H.P.  
Witness

\_\_\_\_\_  
Witness

LENDER:

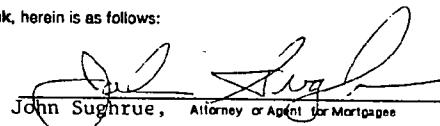
Deposit Bank

By: Claudia Jacobson  
Authorized Officer

#### CERTIFICATE OF RESIDENCE

I hereby certify, that the precise address of the mortgagor, Deposit Bank, herein is as follows:

2 East Long Avenue, PO Box 607A, DuBois, PA 15801

  
John Sughru, Attorney or Agent for Mortgagor

#### INDIVIDUAL ACKNOWLEDGMENT

STATE OF PENNSYLVANIA )

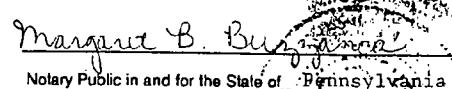
) SS

COUNTY OF CLEARFIELD )

On this, the 31st day of August, 1995, before me Margaret B. Buzzanca, the undersigned Notary Public, personally appeared JOHN D DUTTRY and MARY JO DUTTRY, known to me (or satisfactorily proven) to be the person whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

**NOTARIAL SEAL**  
MARGARET B. BUZZANCA, Notary Public  
Clearfield Boro, Clearfield County, Pa.  
My Commission Expires Nov. 23 1997

  
Margaret B. Buzzanca  
Notary Public in and for the State of Pennsylvania

#### LENDER ACKNOWLEDGMENT

STATE OF Pennsylvania )

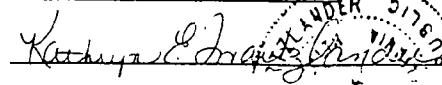
) SS

COUNTY OF Clearfield )

On this, the 15th day of August, 1995, before me Claudia Jacobson, the undersigned Notary Public, personally appeared Claudia Jacobson who acknowledged himself or herself to be the Customer Service Officer of Deposit Bank, a corporation, and that he or she as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself or herself as such officer.

In witness whereof, I hereunto set my hand and official seal.

**NOTARIAL SEAL**  
Kathryn E. Swartzlander, Notary Public  
DuBois, Clearfield County  
My Commission Expires Aug. 29, 1996

  
Kathryn E. Swartzlander  
Notary Public in and for the State of Pennsylvania



SCHEDULE A

**Mortgage Description**

RE: John D. Duttry and Mary Jo Duttry, his wife, Mortgagors; and Deposit Bank, Mortgagee.

ALL that certain tract of land designated as Lot No. 34, Section No. 15 "Bimini" in the Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania, recorded in the Recorder of Deeds' Office in Misc. Docket Map File No. 25.

EXCEPTING AND RESERVING therefrom and subject to:

1. All easements, rights of way, reservations, restrictions, and limitations shown or contained in prior instruments of record and in the aforesaid recorded plan.
2. The Declaration of Restrictions, Treasure Lake, Inc., recorded in Misc. Book Vol. 145, p. 476, all of said restrictions being covenants which run with the land.
3. All minerals and mining rights of every kind and nature.
4. A lien for all unpaid charges or assessments as may be made by Grantor or Treasure Lake Property Owners Association, Inc., which lien shall run with the land and be an encumbrance against it.

BEING the same premises which George D. Kline and Neva B. Kline, his wife, by their deed dated May 16, 1994 and recorded June 2, 1994 in the Recorder's Office of Clearfield County, Pennsylvania in Deeds and Records Book 1609, page 10, granted and conveyed unto John D. Duttry and Mary Jo Duttry, his wife, Mortgagors herein.

I hereby CERTIFY that this document is recorded in the Recorder's Office of Clearfield County, Pennsylvania.



*Karen L. Starck*

Karen L. Starck  
Recorder of Deeds

Entered of Record Aug 31 1995, 11:25 AM Karen L. Starck, Recorder

**VERIFICATION**

I, Dennis A. Baldwin, Special Assets Officer, First Commonwealth Bank, do hereby depose and say, subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities, that the facts set forth in the foregoing Complaint in Mortgage Foreclosure are true and correct upon my information and belief. I further depose and say that, in my position as Special Assets Officer, I am duly authorized to make this authorization on behalf of the Bank.



Dennis A. Baldwin  
Special Assets Officer  
First Commonwealth Bank

192981.1:BF  
11555-106551

9 June 03 Document  
Reinstated, Reissued to Sheriff/Attorney  
for service.  
W.A. Shaw  
Prothonotary

**FILED**

APR 07 2003

William A. Shaw  
Prothonotary

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

FIRST COMMONWEALTH BANK f/k/a DEPOSIT BANK

Sheriff Docket # 13909

VS.

03-496-CD

DUTTRY, JOHN D. /a/a adm. Of the Estate of MARY JO DUTTRY

COMPLAINT IN MORTGAGE FORECLOSURE

**SHERIFF RETURNS**

**NOW MAY 28, 2003 RETURN THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE "NOT SERVED, TIME EXPIRED" AS TO JOHN D. DUTTRY ind & as Adm. Of the Estate of MARY JO DUTTRY, DEFENDANT.**

**FILED**  
MAY 30 2003  
MAY 30 2003

William A. Shaw  
Prothonotary

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**Return Costs**

**Cost      Description**

**14.00      SHERIFF HAWKINS PAID BY: ATTY CK# 244960**

**10.00      SURCHARGE PAID BY: ATTY Ck# 244961**

---

Sworn to Before Me This

30 Day Of May 2003  
William A. Shaw

So Answers,

*Chester A. Hawkins  
by Marley Hause*  
Chester A. Hawkins  
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

CIVIL DIVISION

Plaintiff,

Case No. 2003-496-CB

vs.

JOHN D. DUTTRY, individually and  
as Administrator of the Estate of  
MARY JO DUTTRY,

COMPLAINT IN  
MORTGAGE FORECLOSURE

Defendant.

Filed on behalf of FIRST COMMONWEALTH  
BANK, f/k/a DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Timothy A. Krieger, Esquire  
Pa. I.D. No. 65250  
Christopher J. Richardson, Esquire  
Pa. I.D. No. 44841  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

I hereby verify that the property to be  
foreclosed upon is:

Section 15, Lot 34, Treasure Lake  
DuBois, Pennsylvania 15801  
Tax Parcel I.D. No. 128-D3-15-34-21

Timothy Krieger  
\_\_\_\_\_  
Timothy A. Krieger, Esquire  
Christopher J. Richardson, Esquire  
Attorneys for Plaintiff

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

APR 07 2003

Attest.

Wm. E. ...  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. \_\_\_\_\_  
vs. )  
JOHN D. DUTTRY, individually and )  
as Administrator of the Estate of )  
MARY JO DUTTRY, )  
Defendant. )

**IMPORTANT NOTICE**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Pennsylvania Lawyer Referral Service  
P. O. Box 186  
Harrisburg, Pennsylvania 17108  
(800) 692-7375

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. \_\_\_\_\_  
vs. )  
JOHN D. DUTTRY, individually and )  
as Administrator of the Estate of )  
MARY JO DUTTRY, )  
Defendant. )

**COMPLAINT IN MORTGAGE FORECLOSURE**

AND NOW COMES the Plaintiff, First Commonwealth Bank, f/k/a Deposit Bank, by and through its counsel, Tucker Arensberg, P.C., and files the within Complaint in Mortgage Foreclosure, in support of which it avers the following:

1. Plaintiff, First Commonwealth Bank, f/k/a Deposit Bank (the "Bank"), is a banking association with business offices at 654 Philadelphia Street, P.O. Box 400, Indiana, Pennsylvania 15701-0400.
2. Defendant, John D. Duttry, is an adult individual whose last known address is P. O. Box 736, R.R. #4, DuBois, Pennsylvania 15801.
3. Mary Jo Duttry died on July 25, 1998. An estate has been established at Clearfield County No. 98-499 to administer the affairs of Decedent Mary Jo Duttry. As Mary Jo Duttry had no Will, Defendant, John D. Duttry, was appointed as Administrator of the Estate of Mary Jo Duttry. (Collectively herein, Defendant, John D. Duttry, and Mary Jo Duttry will be referred to as "Borrowers".)

4. Under due process of law, Mary Jo Duttry's interest in the real property which is the subject of this action passes directly to her husband, Defendant, John D. Duttry.

5. On or about August 31, 1995, Borrowers executed and delivered a Promissory Note ("Note") to the Bank whereby Borrowers agreed to pay the Bank the principal amount of \$90,000.00, together with interest thereon in the manner provided therein. A true and correct copy of the Note is attached hereto as Exhibit "A" and incorporated herein.

6. The obligations evidenced by the Note are secured by a Mortgage dated August 31, 1995 ("Mortgage") given by Borrowers to the Bank, granting the Bank a security interest in certain real property located in Sandy Township, Clearfield County, Pennsylvania (the "Premises"). The Mortgage was recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, ("Recorder's Office") at Mortgage Book Volume 1700, page 532. A true and correct copy of the Mortgage, containing the legal description of the Premises, is attached hereto as Exhibit "B" and incorporated herein.

7. The Borrowers are in default of the provisions of the Note and the Mortgage for failure to make payments when due. The last payment made to the Bank by Borrowers was on April 5, 2002, resulting in Borrowers remaining due and owing on the Note and Mortgage for April 1, 2002 and all subsequent payments to date.

8. The Defendant is the real and record owner of the Premises.

9. There has been no assignment, release or transfer of the Note or the Mortgage.

10. Notices pursuant to 35 P.S. §1680.403C (Homeowner's Emergency Mortgage Assistance Act of 1983 -- Act 91 of 1983) and 41 P.S. §403 (Act 6 of 1974) were not

required because the Mortgage is not a "residential mortgage" as defined by Act 6, and the Premises is not "owner occupied" as required by Act 91.

11. The amount due Bank under the Note and Mortgage as of May 29, 2002 is as follows:

Principal.....	\$ 74,875.14
Interest through May 29, 2002 .....	1,395.55
(per diem \$15.98250)	
Late Fees .....	1,351.56
Costs .....	to be added
Attorney's Fees.....	<u>to be added</u>
 TOTAL.....	\$ 77,622.25

12. The total amount now due to the Bank under the Note and Mortgage as of May 29, 2002 was Seventy-Seven Thousand Six Hundred Twenty-Two and 25/100 Dollars (\$77,622.25) plus interest accruing from May 29, 2002 at the contract rate, late charges, costs and reasonable attorneys' fees.

WHEREFORE, Plaintiff demands judgment in mortgage foreclosure for the amount due of Seventy-Seven Thousand Six Hundred Twenty-Two and 25/100 Dollars (\$77,622.25), plus continuing interest at the contract rate from May 29, 2002, late charges, reasonable attorneys' fees as authorized by the Note, and costs of foreclosure and sale of the Premises.

TUCKER ARENSBERG, P.C.

  
\_\_\_\_\_  
Timothy A. Krieger, Esquire  
Pa. I.D. No. 65250  
Christopher J. Richardson, Esquire  
Pa. I.D. No. 44841  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212  
Attorneys for First Commonwealth Bank  
f/k/a Deposit Bank, Plaintiff

192981.1:BF/#11555-106551

# PROMISSORY NOTE

Principal	Loan Date	Maturity	Loan No.	Call	Collateral	Account	Officer	Initials
\$90,000.00	09-01-2015			020	J		CLJ	

References in the shaded area are for Lender's use only and do not limit the applicability of this document to any particular loan or item.

**Borrower:** JOHN D DUTTRY (SSN: 197-28-9933)  
 MARY JO DUTTRY (SSN: 182-44-2383)  
 P O BOX 736  
 DUBOIS, PA 15801

**Lender:** Deposit Bank  
 Main Branch  
 2 East Long Avenue  
 PO Box 607A  
 DuBois, PA 15801

**Principal Amount:** \$90,000.00

**Initial Rate:** 7.750%

**Date of Note:** August 31, 1995

**PROMISE TO PAY.** I promise to pay to Deposit Bank ("Lender"), or order, in lawful money of the United States of America, the principal amount of Ninety Thousand & 00/100 Dollars (\$90,000.00), together with interest on the unpaid principal balance from August 31, 1995, until paid in full. The interest rate will not increase above 10.750%.

**PAYMENT.** Subject to any payment changes resulting from changes in the Index, I will pay this loan in 240 payments of \$738.85 each payment. My first payment is due October 1, 1995, and all subsequent payments are due on the same day of each month after that. My final payment will be due on September 1, 2015, and will be for all principal and all accrued interest not yet paid. Payments include principal and interest. I will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing. Unless otherwise agreed or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs and late charges.

**VARIABLE INTEREST RATE.** The interest rate on this Note is subject to change from time to time based on changes in an independent index which is the monthly average yield on US Treasury Securities adjusted to a constant maturity of one year (the "Index"). The Index is not necessarily the lowest rate charged by Lender on its loans. If the Index becomes unavailable during the term of this loan, Lender may designate a substitute index after notice to me. Lender will tell me the current Index rate upon my request. I understand that Lender may make loans based on other rates as well. The interest rate change will not occur more often than each year. The Index currently is 5.640% per annum. The interest rate to be applied to the unpaid principal balance of this Note will be at a rate of 2.125 percentage points over the Index, rounded to the nearest .125 percent, adjusted if necessary for the minimum and maximum rate limitations described below, resulting in an initial rate of 7.750% per annum. Notwithstanding any other provision of this Note, the variable interest rate or rates provided for in this Note will be subject to the following minimum and maximum rates. NOTICE: Under no circumstances will the interest rate on this Note be less than 7.750% per annum or more than the lesser of 10.750% per annum or the maximum rate allowed by applicable law. Notwithstanding the above provisions, the maximum increase or decrease in the interest rate at any one time on this loan will not exceed 0.500 percentage points. Unless waived by Lender, any increase in the interest rate will increase the amounts of my payments.

**PREPAYMENT.** I agree that all loan fees and other prepaid finance charges are earned fully as of the date of the loan and will not be subject to refund upon early payment (whether voluntary or as a result of default), except as otherwise required by law. Except for the foregoing, I may pay without penalty all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Lender in writing, relieve me of my obligation to continue to make payments under the payment schedule. Rather, they will reduce the principal balance due and may result in me making fewer payments.

**LATE CHARGE.** If a payment is 16 days or more late, I will be charged 6.000% of the regularly scheduled payment.

**DEFAULT.** I will be in default if any of the following happens: (a) I fail to make any payment when due. (b) I break any promise I have made to Lender, or I fail to comply with or to perform when due any other term, obligation, covenant, or condition contained in this Note or any agreement related to this Note, or in any other agreement or loan I have with Lender. (c) Any representation or statement made or furnished to Lender by me or on my behalf is false or misleading in any material respect either now or at the time made or furnished. (d) I die or become insolvent, a receiver is appointed for any part of my property, I make an assignment for the benefit of creditors, or any proceeding is commenced either by me or against me under any bankruptcy or insolvency laws. (e) Any creditor tries to take any of my property on or in which Lender has a lien or security interest. This includes a garnishment of any of my accounts with Lender. (f) Any of the events described in this default section occurs with respect to any guarantor of this Note. (g) Lender in good faith deems itself insecure.

If any default, other than a default in payment, is curable and if I have not been given a notice of a breach of the same provision of this Note within the preceding twelve (12) months, it may be cured (and no event of default will have occurred) if I, after receiving written notice from Lender demanding cure of such default: (a) cure the default within fifteen (15) days; or (b) if the cure requires more than fifteen (15) days, immediately initiate steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**LENDER'S RIGHTS.** Upon default, Lender may, after giving such notices as required by applicable law, declare the entire unpaid principal balance on this Note and all accrued unpaid interest immediately due, and then I will pay that amount. Lender may hire or pay someone else to help collect this Note if I do not pay. I also will pay Lender that amount. This includes, subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. If not prohibited by applicable law, I also will pay my court costs, in addition to all other sums provided by law. If judgment is entered in connection with this Note, interest will continue to accrue on this Note after judgment at the interest rate applicable to this Note at the time judgment is entered. This Note has been delivered to Lender and accepted by Lender in the Commonwealth of Pennsylvania. If there is a lawsuit, I agree upon Lender's request to submit to the jurisdiction of the courts of Clearfield County, the Commonwealth of Pennsylvania. Subject to the provisions on arbitration, this Note shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

**RIGHT OF SETOFF.** I grant to Lender a contractual possessory security interest in, and hereby assign, convey, deliver, pledge, and transfer to Lender all my right, title and interest in and to, my accounts with Lender (whether checking, savings, or some other account), including without limitation all accounts held jointly with someone else and all accounts I may open in the future, excluding however all IRA, Keogh, and trust accounts. I authorize Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on this Note against any and all such accounts.

**COLLATERAL.** This Note is secured by a Mortgage dated August 31, 1995 to Lender on real property located in CLEARFIELD County, Commonwealth of Pennsylvania, all the terms and conditions of which are hereby incorporated and made a part of this Note.

## ARBITRATION:

1. **Mandatory Arbitration:** Any controversy or claim between or among the BORROWER and LENDER, including but not limited to those arising out of or relating to this AGREEMENT or any of the COLLATERAL SECURITY DOCUMENTS, including any claim based on or arising from an alleged tort, shall be determined by arbitration in accordance with the Uniform Arbitration Act, 42 PA C.S.A. Section 7301 et seq. and the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). All statutes of limitations which would otherwise be applicable shall apply to any arbitration proceeding under this Section. Judgment upon the award rendered may be entered in any court having jurisdiction.
2. **Provisional Remedies, Self Help and Foreclosure:** No provision of, or the exercise of any rights under Section 1, shall limit LENDER's right to exercise self help remedies such as setoff, to foreclose against any real or personal property collateral, to confess judgment under the NOTE or to obtain provisional or ancillary remedies such as injunctive relief or the appointment of a receiver from a court having jurisdiction before, during or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief, confession of judgment or pursuit of provisional or ancillary remedies or exercise of self help remedies shall not constitute a waiver of the right of LENDER to submit the controversy or claim to arbitration.

**GENERAL PROVISIONS.** Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. I and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, protest and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan, or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several. This means that the words "I", "me", and "my" mean each and all of the persons signing below.

**EXHIBIT**

PROMISSORY NOTE  
(Continued)

Page 2

Loan No

PRIOR TO SIGNING THIS NOTE, I, AND EACH OF US, READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE, INCLUDING THE VARIABLE INTEREST RATE PROVISIONS. I, AND EACH OF US, AGREE TO THE TERMS OF THE NOTE AND ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THE NOTE.

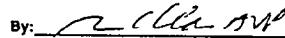
BORROWER:

 (SEAL)  
JOHN D DUTTRY

 (SEAL)  
MARY JO DUTTRY

LENDER:

Deposit Bank

By:   
Authorized Officer

Variable Rate, Installment.

LASER PRO, Reg. U.S. Pat. & T.M. Off., Ver. 3.20 (c) 1995 CFI ProServices, Inc. All rights reserved. [PA-D201581.LN R14.OVL]

## RECORDATION REQUESTED BY:

Deposit Bank  
2 East Long Avenue  
PO Box 607A  
DuBois, PA 15801

## WHEN RECORDED MAIL TO:

Deposit Bank  
2 East Long Avenue  
PO Box 607A  
DuBois, PA 15801

## SEND TAX NOTICES TO:

JOHN D DUTTRY and MARY JO DUTTRY  
P O BOX 736  
DUBOIS, PA 15801

## CLEARFIELD COUNTY

## ENTERED OF RECORD

TIME 11:25 AM 8-31-95  
BY John Stack  
FEES \$17.50

Karen L. Stack, Recorder

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

## MORTGAGE

THIS MORTGAGE IS DATED August 31, 1995, between JOHN D DUTTRY and MARY JO DUTTRY, whose address is P O BOX 736, DUBOIS, PA 15801 (referred to below as "Grantor"); and Deposit Bank, whose address is 2 East Long Avenue, PO Box 607A, DuBois, PA 15801 (referred to below as "Lender").

GRANT OF MORTGAGE. For valuable consideration, Grantor grants, bargains, sells, conveys, assigns, transfers, releases, confirms and mortgages to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all streets, lanes, alleys, passages, and ways; all easements, rights of way, all liberties, privileges, tenements, hereditaments, and appurtenances thereto belonging or otherwise made appurtenant hereafter, and the reversions and remainders with respect thereto; all water, water rights, watercourses and ditch rights (including stock in utility with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, located in CLEARFIELD COUNTY, COMMONWEALTH OF PENNSYLVANIA (the "Real Property"); Per Schedule A attached hereto and incorporated herein by reference.

The Real Property or its address is commonly known as SECT 15 LOT 34 TREASURE LAKE, DUBOIS, PA 15801.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

DEFINITIONS. The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

Grantor. The word "Grantor" means JOHN D DUTTRY and MARY JO DUTTRY. The Grantor is the mortgagor under this Mortgage.

Guarantor. The word "Guarantor" means and includes without limitation each and all of the guarantors, sureties, and accommodation parties in connection with the Indebtedness.

Improvements. The word "Improvements" means and includes without limitation all existing and future improvements, fixtures, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

Indebtedness. The word "Indebtedness" means all principal and interest payable under the Note and any amounts expended or advanced by Lender to discharge obligations of Grantor or expenses incurred by Lender to enforce obligations of Grantor under this Mortgage, together with interest on such amounts as provided in this Mortgage.

Lender. The word "Lender" means Deposit Bank, its successors and assigns. The Lender is the mortgagee under this Mortgage.

Mortgage. The word "Mortgage" means this Mortgage between Grantor and Lender, and includes without limitation all assignments and security interest provisions relating to the Personal Property and Rents.

1995

Note. The word "Note" means the promissory note or credit agreement dated August 31, 1995, in the original principal amount of \$90,000.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The maturity date of this Mortgage is September 1, 2015. NOTICE TO GRANTOR: THE NOTE CONTAINS A VARIABLE INTEREST RATE.

Personal Property. The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

Property. The word "Property" means collectively the Real Property and the Personal Property.

Real Property. The words "Real Property" mean the property, interests and rights described above in the "Grant of Mortgage" section.

Related Documents. The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guarantees, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

Rents. The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ALL OBLIGATIONS OF GRANTOR UNDER THIS MORTGAGE AND THE RELATED DOCUMENTS. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantor's obligations under this Mortgage.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until in default, Grantor may remain in possession and control of and operate and manage the Property and collect the Rents from the Property.

Duty to Maintain. Grantor shall maintain the Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Hazardous Substances. The terms "hazardous waste," "hazardous substance," "disposal," "release," and "threatened release," as used in this Mortgage, shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 49 U.S.C. Section 6901, et seq., or other applicable state or Federal laws, rules, or regulations adopted pursuant to any of the foregoing. The terms "hazardous waste" and "hazardous substance" shall also include, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos. Grantor represents and warrants to Lender that: (a) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any person on, under, about or from the Property; (b) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to Lender in writing, (i) any use, generation, manufacture, storage, treatment, disposal, release, or threatened release of any hazardous waste or substance on, under, about or from the Property by any prior owners or occupants of the Property or (ii) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (c) Except as previously disclosed to and acknowledged by

EXHIBIT

B

Lender in writing. (i) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of, or release any hazardous waste or substance on, under, about or from the Property and (ii) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation those laws, regulations, and ordinances described above. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for hazardous waste and hazardous substances. Grantor hereby (a) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws, and (b) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**Nuisance, Waste.** Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), soil, gravel or rock products without the prior written consent of Lender.

**Removal of Improvements.** Grantor shall not demolish or remove any improvements from the Real Property without the prior written consent of Lender. As condition to the removal of any improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such improvements with improvements of at least equal value.

**Lender's Right to Enter.** Lender and its agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

**Duty to Protect.** Grantor agrees neither to abandon nor leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without the Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest therein; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of Real Property interest. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Pennsylvania law.

**TAXES AND LIENS.** The following provisions relating to the taxes and liens on the Property are a part of this Mortgage.

**Payment.** Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this Mortgage, except for the lien of taxes and assessments not due, and except as otherwise provided in the following paragraph.

**Right To Contest.** Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and attorneys' fees or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

**Evidence of Payment.** Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

**Notice of Construction.** Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

**PROPERTY DAMAGE INSURANCE.** The following provisions relating to insuring the Property are a part of this Mortgage.

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property at any time become located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, to the extent such insurance is required by Lender and is or becomes available, for the term of the loan and for the full unpaid principal balance of the loan, or the maximum limit of coverage that is available, whichever is less.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds \$5,000.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default hereunder. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to prepay accrued interest, and the remainder, if any, shall be applied to the principal balance of the indebtedness. If Lender holds any proceeds after payment in full of the indebtedness, such proceeds shall be paid to Grantor.

**Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any trustee's sale or other sale held under the provisions of this Mortgage, or at any foreclosure sale of such Property.

**EXPENDITURES BY LENDER.** If Grantor fails to comply with any provision of this Mortgage, or if any action or proceeding is commenced that would materially affect Lender's interests in the Property, Lender on Grantor's behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Note, or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**WARRANTY; DEFENSE OF TITLE.** The following provisions relating to ownership of the Property are a part of this Mortgage.

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in

favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

**Defense of Title.** Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

**Compliance With Laws.** Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

**CONDEMNATION.** The following provisions relating to condemnation of the Property are a part of this Mortgage.

**Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all actual costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments as may be requested by it from time to time to permit such participation.

**IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.** The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage:

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

**Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default (as defined below), and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (a) pays the tax before it becomes delinquent, or (b) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

**SECURITY AGREEMENT; FINANCING STATEMENTS.** The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage.

**Security Agreement.** This instrument shall constitute a security agreement to the extent any of the Property constitutes fixtures or other personal property, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

**Security Interest.** Upon request by Lender, Grantor shall execute financing statements and take whatever other action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

**Addresses.** The mailing addresses of Grantor (debtor) and Lender (secured party), from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code), are as stated on the first page of this Mortgage.

**FURTHER ASSURANCES; ATTORNEY-IN-FACT.** The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage.

**Further Assurances.** At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve: (a) the obligations of Grantor under the Note, this Mortgage, and the Related Documents, and (b) the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or agreed to the contrary by Lender in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Attorney-In-Fact.** If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

**FULL PERFORMANCE.** If Grantor pays all the Indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

**DEFAULT.** Each of the following, at the option of Lender, shall constitute an event of default ("Event of Default") under this Mortgage:

**Default on Indebtedness.** Failure of Grantor to make any payment when due on the Indebtedness.

**Default on Other Payments.** Failure of Grantor within the time required by this Mortgage to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**Compliance Default.** Failure to comply with any other term, obligation, covenant or condition contained in this Mortgage, the Note or in any of the Related Documents. If such a failure is curable and if Grantor has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantor, after Lender sends written notice demanding cure of such failure: (a) cures the failure within fifteen (15) days; or (b) if the cure requires more than fifteen (15) days, immediately initiates steps sufficient to cure the failure and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantor under this Mortgage, the Note or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished.

**Death or Insolvency.** The death of Grantor, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Foreclosure, Forfeiture, etc.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any of the Property. However, this subsection shall not apply in the event of a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the foreclosure or forfeiture proceeding, provided that Grantor gives Lender written notice of such claim and furnishes reserves or a surety bond for the claim satisfactory to Lender.

**Breach of Other Agreement.** Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor to Lender, whether existing now or later.

**Events Affecting Grantor.** Any of the preceding events occurs with respect to any Grantor of any of the Indebtedness or any Grantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. Lender, at its option, may, but shall not be required to, permit the Grantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender, and, in doing so, cure the Event of Default.

**Insecurity.** Lender in good faith deems itself insecure.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of any Event of Default and at any time thereafter, Lender, at its option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Subject to applicable law, Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable.

**UCC Remedies.** With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

**Collect Rents.** Lender shall have the right, without notice to Grantor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Judicial Foreclosure.** Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

**Nonjudicial Sale.** If permitted by applicable law, Lender may foreclose Grantor's interest in all or in any part of the Personal Property or the Real Property by nonjudicial sale.

**Deficiency Judgment.** Lender may obtain a judgment for any deficiency remaining in the Indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

**Tenancy at Sufferance.** If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (a) pay a reasonable rental for the use of the Property, or (b) vacate the Property immediately upon the demand of Lender.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Mortgage or the Note or available at law or in equity.

**Sale of the Property.** To the extent permitted by applicable law, Grantor hereby waives any and all right to have the property marshalled. In exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

**Notice of Sale.** Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Unless otherwise required by applicable law, reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition.

**Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or take action to perform an obligation of Grantor under this Mortgage after failure of Grantor to perform shall not affect Lender's right to declare a default and exercise its remedies under this Mortgage.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and on any appeal. Whether or not any court action is involved, all reasonable expenses incurred by Lender that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest from the date of expenditure until repaid at the rate provided for in the Note. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, and title insurance, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**NOTICES TO GRANTOR AND OTHER PARTIES.** Unless otherwise provided by applicable law, any notice under this Mortgage shall be in writing, may be sent by telefacsimile, and shall be effective when actually delivered, or when deposited with a nationally recognized overnight courier, or if mailed, shall be deemed effective when deposited in the United States mail first class, registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Mortgage:

**Amendments.** This Mortgage, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Mortgage. No alteration of or amendment to this Mortgage shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Applicable Law.** This Mortgage has been delivered to Lender and accepted by Lender in the Commonwealth of Pennsylvania. Subject to the provisions on arbitration, this Mortgage shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

**ARBITRATION:**

**1. Mandatory Arbitration:** Any controversy or claim between or among the BORROWER and LENDER, including but not limited to those arising out of or relating to this AGREEMENT or any of the COLLATERAL SECURITY DOCUMENTS, including any claim based on or arising from an alleged tort, shall be determined by arbitration in accordance with the Uniform Arbitration Act, 42 PA.C.S.A. Section 7301 et seq. and the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). All statutes of limitations which would otherwise be applicable shall apply to any arbitration proceeding under this Section. Judgment upon the award rendered may be entered in any court having jurisdiction.

**2. Provisional Remedies, Self Help and Foreclosure:** No provision of, or the exercise of any rights under Section 1, shall limit LENDER's right to exercise self help remedies such as self-help, to foreclose against any real or personal property collateral, to confess judgment under the NOTE or to obtain provisional or ancillary remedies such as injunctive relief or the appointment of a receiver from a court having jurisdiction before, during or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief, confession of judgment or pursuit of provisional or ancillary remedies or exercise of self help remedies shall not constitute a waiver of the right of LENDER to submit the controversy or claim to arbitration.

**Caption Headings.** Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

**Merger.** There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Multiple Parties.** All obligations of Grantor under this Mortgage shall be joint and several, and all references to Grantor shall mean each and every Grantor. This means that each of the persons signing below is responsible for all obligations in this Mortgage.

**Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**Successors and Assigns.** Subject to the limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their heirs, personal representatives, successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Mortgage and the

Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Mortgage or liability under the indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Mortgage.

**Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or any of Grantor's obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

**EACH GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND EACH GRANTOR AGREES TO ITS TERMS.**

**GRANTOR:**

John D. Duttry (SEAL)  
JOHN D DUTTRY

Mary Jo Duttry (SEAL)  
MARY JO DUTTRY

Signed, acknowledged and delivered in the presence of:

J. Sughrue, Jr.  
Witness

Witness

Signed, acknowledged and delivered in the presence of:

J. Sughrue, Jr.  
Witness

Witness

**LENDER:**

Deposit Bank

By: Claudia Jacobson  
Authorized Officer

#### CERTIFICATE OF RESIDENCE

I hereby certify, that the precise address of the mortgagor, Deposit Bank, herein is as follows:

2 East Long Avenue, PO Box 607A, DuBois, PA 15801

J. Sughrue, Attorney or Agent for Mortgagor

#### INDIVIDUAL ACKNOWLEDGMENT

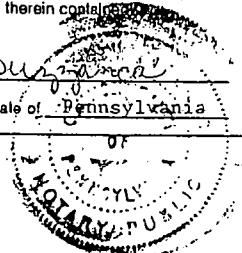
STATE OF PENNSYLVANIA )  
 ) SS  
COUNTY OF CLEARFIELD )

On this, the 31st day of August, 1995, before me Margaret B. Buzzanca, the undersigned Notary Public, personally appeared JOHN D DUTTRY and MARY JO DUTTRY, known to me (or satisfactorily proven) to be the person whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

**NOTARIAL SEAL**  
MARGARET B. BUZZANCA, Notary Public  
Clearfield Boro, Clearfield County, Pa.  
My Commission Expires Nov 23 1997

Margaret B. Buzzanca  
Notary Public in and for the State of Pennsylvania



#### LENDER ACKNOWLEDGMENT

STATE OF Pennsylvania )  
 ) SS  
COUNTY OF Clearfield )

On this, the 15th day of August, 1995, before me Claudia Jacobson, the undersigned Notary Public, personally appeared Claudia Jacobson, who acknowledged himself or herself to be the Customer Service Officer of Deposit Bank, a corporation, and that he or she as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself or herself as such officer.

In witness whereof, I hereunto set my hand and official seal.

**Notarial Seal**  
Kathryn E. Swartzlander, Notary Public  
DuBois, Clearfield County  
My Commission Expires Aug. 29, 1996

Notary Public in and for the State of



SCHEDULE A

Mortgage Description

RE: John D. Duttry and Mary Jo Duttry, his wife, Mortgagors; and Deposit Bank, Mortgagee.

ALL that certain tract of land designated as Lot No. 34, Section No. 15 "Bimini" in the Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania, recorded in the Recorder of Deeds' Office in Misc. Docket Map File No. 25.

EXCEPTING AND RESERVING therefrom and subject to:

1. All easements, rights of way, reservations, restrictions, and limitations shown or contained in prior instruments of record and in the aforesaid recorded plan.
2. The Declaration of Restrictions, Treasure Lake, Inc., recorded in Misc. Book Vol. 145, p. 476, all of said restrictions being covenants which run with the land.
3. All minerals and mining rights of every kind and nature.
4. A lien for all unpaid charges or assessments as may be made by Grantor or Treasure Lake Property Owners Association, Inc., which lien shall run with the land and be an encumbrance against it.

BEING the same premises which George D. Kline and Neva B. Kline, his wife, by their deed dated May 16, 1994 and recorded June 2, 1994 in the Recorder's Office of Clearfield County, Pennsylvania in Deeds and Records Book 1609, page 10, granted and conveyed unto John D. Duttry and Mary Jo Duttry, his wife, Mortgagors herein.

I hereby CERTIFY that this document is recorded in the Recorder's Office of Clearfield County, Pennsylvania.



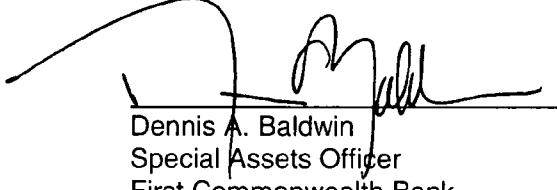
*Karen L. Starck*

Karen L. Starck  
Recorder of Deeds

Entered of Record Aug 31 1995, 11:25 AM Karen L. Starck, Recorder

**VERIFICATION**

I, Dennis A. Baldwin, Special Assets Officer, First Commonwealth Bank, do hereby depose and say, subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities, that the facts set forth in the foregoing Complaint in Mortgage Foreclosure are true and correct upon my information and belief. I further depose and say that, in my position as Special Assets Officer, I am duly authorized to make this authorization on behalf of the Bank.



Dennis A. Baldwin  
Special Assets Officer  
First Commonwealth Bank

192981.1:BF  
11555-106551

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

Plaintiff,

vs.

JOHN D. DUTTRY, individually and  
as Administrator of the Estate of  
MARY JO DUTTRY,

Defendant.

CIVIL DIVISION

No. 2003 - 496 - CD

PRAECIPE TO REINSTATE COMPLAINT

Filed on behalf of FIRST  
COMMONWEALTH BANK, f/k/a  
DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Timothy A. Krieger, Esquire  
Pa. I.D. No. 65250  
Christopher J. Richardson, Esquire  
Pa. I.D. No. 44841  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, PA 15222  
Telephone: (412) 566-1212

FILED

JUN 09 2003

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

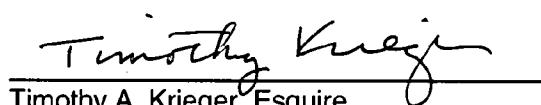
FIRST COMMONWEALTH BANK,	)	CIVIL DIVISION
f/k/a DEPOSIT BANK,	)	
	)	
Plaintiff,	)	No. 2003 - 496 - CD
	)	
vs.	)	
	)	
JOHN D. DUTTRY, individually and	)	
as Administrator of the Estate of	)	
MARY JO DUTTRY,	)	
	)	
Defendant.	)	

**PRAECIPE TO REINSTATE COMPLAINT**

TO: PROTHONOTARY

Please reinstate the Complaint in the above-captioned matter.

TUCKER ARENSBERG, P.C.

  
\_\_\_\_\_  
Timothy A. Krieger, Esquire  
Pa. I.D. No. 65250  
Christopher J. Richardson, Esquire  
Pa. I.D. No. 44841  
1500 One PPG Place  
Pittsburgh, PA 15222  
Telephone: (412) 566-1212

**FILED**

Aug 7.00

1cc & 1 Complaint Reinstated

1110-81  
JUN 09 2003

ER

to Sheriff

William A. Shaw  
Prothonotary

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

**FIRST COMMONWEALTH BANK f/k/a DEPOSIT BANK**

**Sheriff Docket #** 13909

**VS.**

**03-496-CD**

**DUTTRY, JOHN D. /a/a adm. Of the Estate of MARY JO DUTTRY**

**COMPLAINT IN MORTGAGE FORECLOSURE**

**SHERIFF RETURNS**

NOW JULY 9, 2003 AT 10:00 AM SERVED THE WITHIN COMLAINT IN MORTGAGE FORECLOSURE ON JOHN D. DUTTRY ind & as Adm. Of the Estate of MARY JO DUTTRY, DEFENDANT AT MEETING PLACE, PENN STATE UNIVERSITY, DUBOIS CAMPUS, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO BEV COPELLI, SISTER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: COUDRIET

---

**Return Costs**

<b>Cost</b>	<b>Description</b>
<b>50.04</b>	<b>SHERIFF HAWKINS PAID BY: ATTY CK# 247157</b>

---

**Sworn to Before Me This**

25<sup>th</sup> Day Of July 2003  
WILLIAM A. SHAW

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2006  
Clearfield Co., Clearfield, PA

**So Answers,**

Chester A. Hawkins  
by Marley Harris  
Chester A. Hawkins  
Sheriff

**FILED**

07/25/03  
JUL 25 2003  
*[Signature]*

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

Plaintiff,  
vs.

JOHN D. DUTTRY, individually and  
as Administrator of the Estate of  
MARY JO DUTTRY,

Defendant.

CIVIL DIVISION

No. 2003 - 496 - CD

PRAECIPE FOR DEFAULT JUDGMENT  
IN MORTGAGE FORECLOSURE

Filed on behalf of FIRST  
COMMONWEALTH BANK, f/k/a  
DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Timothy A. Krieger, Esquire  
Pa. I.D. No. 65250  
Christopher J. Richardson, Esquire  
Pa. I.D. No. 44841  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
Telephone: (412) 566-1212

**FILED**

AUG 13 2003

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. 2003 - 496 - CD  
vs. )  
JOHN D. DUTTRY, individually and )  
as Administrator of the Estate of )  
MARY JO DUTTRY, )  
Defendant. )

**PRAECIPE FOR DEFAULT JUDGMENT IN MORTGAGE FORECLOSURE**

TO: Prothonotary

Kindly enter Judgment against the Defendant above named in default of an Answer, in the amount of \$85,259.19, plus continuing interest at the contract rate together with late charges, costs of suit and attorney fees on the declining balance computed as follows:

Amount claimed in Complaint .....	\$ 77,622.25
Interest from 05/29/02 through 08/11/03 (interest accruing thereafter at \$15.98250 per diem) .....	7,016.32
Late Fees (6% of \$738.85/mo. pmt. or \$44.33/mo. for months of June, 2002 through July, 2003) .....	<u>620.62</u>
<b>TOTAL</b> .....	<b>\$ 85,259.19</b>

I hereby certify that the appropriate Notice of Default, as attached, has been mailed in accordance with PA R.C.P. 237.1 on the date indicated on the Notice.

TUCKER ARENSBERG, P.C.

  
\_\_\_\_\_  
Timothy A. Krieger, Esquire  
Christopher J. Richardson, Esquire  
Attorneys for First Commonwealth Bank,  
f/k/a Deposit Bank, Plaintiff

Plaintiff : First Commonwealth Bank, f/k/a Deposit Bank  
c/o TUCKER ARENSBERG. P.C., 1500 One PPG Place, Pittsburgh, PA 15222  
Defendant: John D. Duttry, individually and as Administrator of the Estate of Mary Jo Duttry  
P.O. Box 736, R.R. 4, DuBois, PA 15801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. 2003 - 496 - CD  
vs. )  
JOHN D. DUTTRY, individually and )  
as Administrator of the Estate of )  
MARY JO DUTTRY, )  
Defendant. )

**AFFIDAVIT OF NON-MILITARY SERVICE**

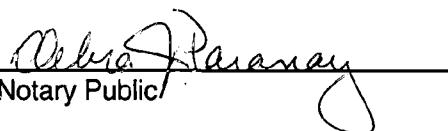
COMMONWEALTH OF PENNSYLVANIA ) SS:  
COUNTY OF ALLEGHENY )

I, Timothy A. Krieger, Esquire, being duly sworn according to law, hereby depose and say that the Defendant, John D. Duttry, is not a member of the military service of the United States of America to the best of my knowledge, information, and belief.

  
\_\_\_\_\_  
Timothy A. Krieger, Esquire

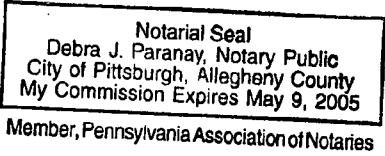
Sworn to and subscribed before me

this 11th day of August, 2003.

  
\_\_\_\_\_  
Debra J. Paranay  
Notary Public

My Commission Expires:

204337.1:BF/#11555-106551



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, )  
f/k/a DEPOSIT BANK, ) CIVIL DIVISION  
)  
Plaintiff, ) No. 2003 - 496 - CD  
)  
vs. )  
)  
JOHN D. DUTTRY, individually and )  
as Administrator of the Estate of )  
MARY JO DUTTRY, )  
)  
Defendant. )

TO: John D. Duttry  
P. O. Box 736  
R.R. #4  
DuBois, PA 15801

DATE OF NOTICE: July 30, 2003

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING, AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
100 South Street  
P. O. Box 186  
Harrisburg, Pennsylvania 17108  
Telephone: (800) 692-7375

TUCKER ARENSBERG, P.C.

By:

  
\_\_\_\_\_  
Timothy A. Krieger, Esquire  
Christopher J. Richardson, Esquire  
Attorneys for First Commonwealth Bank,  
f/k/a Deposit Bank, Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice was served upon the Defendant, John D. Duttry, by depositing same in the United States Mail, first class postage prepaid, on the 30th day of July, 2003 at the following address:

John D. Duttry  
P. O. Box 736  
R.R. #4  
DuBois, PA 15801

TUCKER ARENSBERG, P.C.

By:

Timothy A. Krieger

Timothy A. Krieger, Esquire

203541.1:BF  
11555-106551

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. 2003 - 496 - CD  
vs. )  
JOHN D. DUTTRY, individually and )  
as Administrator of the Estate of )  
MARY JO DUTTRY, )  
Defendant. )

**NOTICE OF JUDGMENT**

To: John D. Duttry, Individually and as  
Administrator of the Estate of Mary Jo Duttry  
P.O. Box 736  
R.R. #4  
DuBois, Pennsylvania 15801

You are hereby notified that a Judgment in Mortgage Foreclosure was entered against you  
on \_\_\_\_\_, 2003, in the amount of \$85,259.19, plus continuing interest  
at the contract rate together with costs, late charges, and attorneys fees.

---

Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY ,  
PENNSYLVANIA  
STATEMENT OF JUDGMENT

First Commonwealth Bank  
Plaintiff(s)

No.: 2003-00496-CD

Q  
Q  
2

Real Debt: \$85,259.19

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

John D. Duttry  
Mary Jo Duttry  
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: August 13, 2003

Expires: August 13, 2008

Certified from the record this 13th day of August, 2003



William A. Shaw, Prothonotary

\*\*\*\*\*

SIGN BELOW FOR SATISFACTION

Received on \_\_\_\_\_, \_\_\_\_\_, of defendant full satisfaction of this Judgment, Debt,  
Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

\_\_\_\_\_  
Plaintiff/Attorney

Bar, Members Clearfield County	Order admitting Cynthia B. Stewart as a member of the Clearfield County Bar	Apr. 12, 1999	11	444
Bar, Members Clearfield County	Order admitting Paul Charles Colavecchi as a member of the Clearfield County Bar	Apr. 15, 1999	11	444
Bar, Members Clearfield County	Order admitting Brian K. Marshall as a member of the Clearfield County Bar	Nov. 14, 2001	11	444
Bar, Members Clearfield County	Order admitting Jonathan W. Jewell as a member of the Clearfield County Bar	Jan. 4, 2002	11	444
Bar, Members Clearfield County	Order admitting Linda Lewis as a member of the Clearfield County Bar	Dec. 19, 1997	11	444
Barger, Gregg	Order, DJ Ford preside over matters in case of Moore & Eshelman-G. Barger, d/b/t/a GT Barger Custom Builders due to a conflict of interest with DJ Ireland	May 24, 1996	11	173
Bartlett, Thomas C.	Order, T. Bartlett be released from Quehanna Boot Camp to custody of Chautauqua Co. Sheriff's Dept. for trial of People of State of NY vs. C. Russo; Def. to be returned at conclusion of testimony	Aug. 24, 1995	11	450
Bathurst, James M.	Applicants for appointment to position of Deputy Sheriff	March 13, 1995	11	249
Baum	Order, DJ Hawkins assinged Issuing Authority for DJ Daisher to hear Baum vs. Condon and Comm. vs. Condon on Sept. 12, 1989; hearing scheduled for 9/7/89 assigned to DJ Shoff	Sep. 5, 1989	11	128
Beard, Beverly J.	Order appointing Beverly J. Beard as Judge of Elections for Union Township.	March 3, 1989	11	002
Beccaria Township	Order, Elsie A. Lucas appointed Judge of Election, Beccaria Twp.; Marquette L. Adam resigned	Oct. 16, 1991	11	011
Beccaria Township	Beccaria Township Annual Audit and Financial Report 2002		11	335

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

Plaintiff,

vs.

JOHN D. DUTTRY, individually and  
as Administrator of the Estate of  
MARY JO DUTTRY,

Defendants.

CIVIL DIVISION

No. 2003-496-CD

PRAECIPE FOR WRIT OF EXECUTION  
IN MORTGAGE FORECLOSURE

Filed on behalf of FIRST  
COMMONWEALTH BANK, f/k/a  
DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Timothy A. Krieger, Esquire  
Pa. I.D. No. 65250  
Christopher J. Richardson, Esquire  
Pa. I.D. No. 44841  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

CERTIFICATE OF ADDRESS:

Section 15, Lot 34, Treasure Lake  
DuBois, Pennsylvania 15801  
Tax Parcel I.D. No. 128-D3-15-34-21

FILED

FEB 18 2004

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. 2003-496-CD  
vs. )  
JOHN D. DUTTRY, individually and )  
as Administrator of the Estate of )  
MARY JO DUTTRY, )  
Defendants. )

**PRAECIPE FOR WRIT OF EXECUTION IN MORTGAGE FORECLOSURE**

TO: Prothonotary of Clearfield County:

Kindly issue a Writ of Execution in Mortgage Foreclosure in the above matter as follows:

Judgment Amount..... \$ 85,259.19

Interest from 08/11/03 through 02/29/04  
at \$15.98250 per diem ..... 3,228.47

Late Charges (6% of \$738.85/mo. pmt. or \$44.33/mo.  
for months of August, 2003 through February, 2004) ..... 310.31

Foreclosure Fees ..... 2,650.00

Sub-total..... \$ 91,447.97

Additional Interest to Sale Date  
(to be added by Prothonotary) .....

Additional Late Charges to Date of Sale  
(to be added by Prothonotary) .....

Costs (to be added by the Prothonotary) .....

Total ..... \$ .....

*132.00 Prothonotary costs*

TUCKER ARENSBERG, P.C.

*Timothy Krieger*

Timothy A. Krieger, Esquire

Christopher J. Richardson, Esquire

Attorneys for FIRST COMMONWEALTH BANK,  
f/k/a Deposit BANK, Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. 2003-496-CD  
vs. )  
JOHN D. DUTTRY, individually and )  
as Administrator of the Estate of )  
MARY JO DUTTRY, )  
Defendants. )  
  
COMMONWEALTH OF PENNSYLVANIA )  
COUNTY OF ALLEGHENY ) SS:

I, Timothy A. Krieger, being duly sworn according to law, hereby depose and say that the Defendant, John D. Duttry, is not a member of the military service of the United States of America to the best of my knowledge, information and belief.

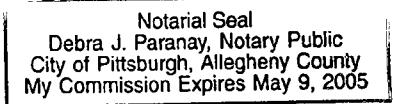
Timothy Krieger  
\_\_\_\_\_  
Timothy A. Krieger

Sworn to and subscribed before me

this 16th day of February, 2004.

Debra J. Paranay  
\_\_\_\_\_  
Notary Public

My Commission Expires:



Member, Pennsylvania Association of Notaries

217517.1:BF  
11555-106551

FILED  
MAY 18 2004  
FEB 18 2004  
Att'y pd.30.00  
1cc & 1cc w/ prop. descriptions  
William A. Shaw  
Prothonotary/Clerk of Courts  
to Shaff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

Plaintiff,

vs.

JOHN D. DUTTRY, individually and  
as Administrator of the Estate of  
MARY JO DUTTRY,

Defendants.

CIVIL DIVISION

No. 2003-496-CD

AFFIDAVIT PURSUANT TO PA. 3129.1

Filed on behalf of FIRST  
COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Timothy A. Krieger, Esquire  
Pa. I.D. No. 65250  
Christopher J. Richardson, Esquire  
Pa. I.D. No. 44841  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. 2003-496-CD  
vs. )  
JOHN D. DUTTRY, individually and )  
as Administrator of the Estate of )  
MARY JO DUTTRY, )  
Defendants. )

**AFFIDAVIT PURSUANT TO Pa. R.C.P. 3129.1**

FIRST COMMONWEALTH BANK, f/k/a DEPOSIT BANK, Plaintiff in the above action, by its attorneys, Tucker Arensberg, P.C., sets forth as of the date of the Praeclipe for Writ of Execution was filed the following information concerning the real property located at Section 15, Lot 34, Treasure Lake, Sandy Township, Clearfield County and Commonwealth of Pennsylvania:

1. Name and address of the Owners or Reputed Owners:

JOHN D. DUTTRY and P. O. Box 736, R.R. #4  
MARY JO DUTTRY (deceased) DuBois, Pennsylvania 15801

2. Name and address of Defendants in the judgment:

SAME AS ABOVE

3. Name and address of every judgment creditor whose judgment is a record lien on the real property to be sold:

FIRST COMMONWEALTH BANK, c/o Timothy A. Krieger, Esquire  
f/k/a DEPOSIT BANK Tucker Arensberg, P.C.  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222

ANDREW SHAUBACH P. O. Box 848  
Harrisburg, Pennsylvania 17108-0848

DONALD B. DELANEY and R.D. 2, Box 279A  
NANCY C. DELANEY DuBois, Pennsylvania 15801

TREASURE LAKE PROPERTY 13 Treasure Lake  
OWNERS ASSOCIATION DuBois, Pennsylvania 15801

YOUR BUILDING CENTERS, INC. 24 Parkway Drive  
DuBois, Pennsylvania 15801

COMMONWEALTH OF PA  
DEPARTMENT OF REVENUE  
BUREAU OF COMPLIANCE

Department 280946  
Harrisburg, Pennsylvania

4. Name and address of last recorded holder of every mortgage of record:

FIRST COMMONWEALTH BANK, c/o Timothy A. Krieger, Esquire  
f/k/a DEPOSIT BANK Tucker Arensberg, P.C.  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222

5. Name and address of every other person who has any record lien on their property:

UNKNOWN

6. Name and address of every other person who has any record interest in the property and whose interest may be affected by the sale:

CLEARFIELD COUNTY TREASURER P. O. Box 289  
Clearfield, Pennsylvania 16830

CLEARFIELD COUNTY TAX CLAIM Clearfield County Courthouse  
1 North Second Street  
Clearfield, Pennsylvania 16830

SANDY TOWNSHIP c/o Lee Ann Collins, Tax Collector  
P. O. Box 252  
DuBois, Pennsylvania 15801

DUBOIS AREA c/o Lee Ann Collins, Tax Collector  
SCHOOL DISTRICT P. O. Box  
DuBois, Pennsylvania 15801

CLEARFIELD COUNTY c/o Lee Ann Collins, Tax Collector  
P. O. Box 252  
DuBois, Pennsylvania 15801

7. Name and address of every other person of whom the Plaintiff has knowledge who has any interest in the property which may be affected by the sale:

UNKNOWN

The information provided in the foregoing Affidavit is provided solely to comply with the Pennsylvania Rules of Civil Procedure 3129.1, and it is not intended to be a comprehensive abstract of the condition of the title of the real estate which is being sold under this execution. No person or entity is entitled to rely on any statements made herein in regard to the condition of the title of the property or to rely on any statement herein in formulating bids which might be made at the sale of the property.

I verify that the statements made in this Affidavit are true and correct to the best of my personal knowledge or information and belief. I understand that false statements herein are

made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

Dated: 2-16-04

By:

Timothy Krieger  
Timothy A. Krieger, Esquire  
Attorney for Plaintiff

Sworn to and subscribed before me  
this 16th day of February, 2004.

Debra J. Paranay  
Notary Public

My Commission Expires:

217517.1:BF/#11555-26422

Notarial Seal  
Debra J. Paranay, Notary Public  
City of Pittsburgh, Allegheny County  
My Commission Expires May 9, 2005

Member, Pennsylvania Association of Notaries

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

Plaintiff,

vs.

JOHN D. DUTTRY, individually and  
as Administrator of the Estate of  
MARY JO DUTTRY,

Defendants.

CIVIL DIVISION

No. 2003-496-CD

AFFIDAVIT OF ACT 6

Filed on behalf of FIRST  
COMMONWEALTH BANK,  
a/k/a DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Timothy A. Krieger, Esquire  
Pa. I.D. No. 65250  
Christopher J. Richardson, Esquire  
Pa. I.D. No. 44841  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. 2003-496-CD  
vs. )  
JOHN D. DUTTRY, individually and )  
as Administrator of the Estate of )  
MARY JO DUTTRY, )  
Defendants. )  
  
COMMONWEALTH OF PENNSYLVANIA )  
COUNTY OF ALLEGHENY ) SS:

Before me the undersigned, a Notary Public in and for aforesaid Commonwealth and  
County, personally appeared Timothy A. Krieger, Esquire, who being duly sworn, deposes and  
says:

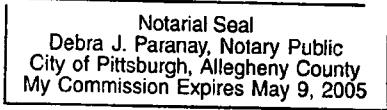
THAT Notice of First Commonwealth Bank's intention to foreclose, pursuant to 41 P.S.  
§403 (Act 6 of 1974), was not required because the Mortgage is not a "residential mortgage" as  
defined by Act 6.

  
\_\_\_\_\_  
Timothy A. Krieger, Esquire

Sworn to and subscribed before me  
this 16th day of February, 2004.

  
\_\_\_\_\_  
Debra J. Parany  
Notary Public

My Commission Expires:



Member, Pennsylvania Association of Notaries

217517.1:BF  
11555-106551

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

Plaintiff,

vs.

JOHN D. DUTTRY, individually and  
as Administrator of the Estate of  
MARY JO DUTTRY,

Defendants.

CIVIL DIVISION

No. 2003-496-CD

AFFIDAVIT OF ACT 91

Filed on behalf of FIRST  
COMMONWEALTH BANK,  
a/k/a DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Timothy A. Krieger, Esquire  
Pa. I.D. No. 65250  
Christopher J. Richardson, Esquire  
Pa. I.D. No. 44841  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

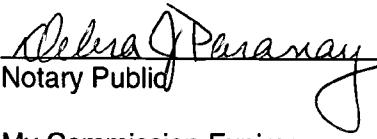
FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. 2003-496-CD  
vs. )  
JOHN D. DUTTRY, individually and )  
as Administrator of the Estate of )  
MARY JO DUTTRY, )  
Defendants. )  
  
COMMONWEALTH OF PENNSYLVANIA )  
COUNTY OF ALLEGHENY ) SS:

Before me the undersigned, a Notary Public in and for aforesaid Commonwealth and  
County, personally appeared Timothy A. Krieger, Esquire, who being duly sworn, deposes and  
says:

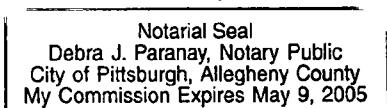
THAT Notice require by the Homeowners' Emergency Mortgage Assistance Act, Act 91  
(35 P.S. §§1680.401c, et seq.), was not required because the Premises is not "owner occupied"  
as required by Act 91.

  
\_\_\_\_\_  
Timothy A. Krieger, Esquire

Sworn to and subscribed before me  
this 16th day of February, 2004.

  
\_\_\_\_\_  
Debra J. Paranay  
Notary Public

My Commission Expires:



Member, Pennsylvania Association of Notaries

217517.1:BF  
11555-106551

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

Plaintiff,

vs.

JOHN D. DUTTRY, individually and  
as Administrator of the Estate of  
MARY JO DUTTRY,

Defendants.

CIVIL DIVISION

No. 2003-496-CD

AFFIDAVIT OF LAST KNOWN ADDRESS

Filed on behalf of FIRST  
COMMONWEALTH BANK,  
a/k/a DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Timothy A. Krieger, Esquire  
Pa. I.D. No. 65250  
Christopher J. Richardson, Esquire  
Pa. I.D. No. 44841  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. 2003-496-CD  
vs. )  
JOHN D. DUTTRY, individually and )  
as Administrator of the Estate of )  
MARY JO DUTTRY, )  
Defendants. )  
  
COMMONWEALTH OF PENNSYLVANIA )  
COUNTY OF ALLEGHENY ) SS:

**AFFIDAVIT OF LAST KNOWN ADDRESS OF DEFENDANTS**

Before me the undersigned, a Notary Public in and for aforesaid Commonwealth and County, personally appeared Timothy A. Krieger, Esquire, who being duly sworn, deposes and says as follows:

1. That he is counsel for the Plaintiff in the above referenced matter.
2. That to the best of his knowledge, information and belief, the last known address of Defendant, John D. Duttry, individually and as Administrator of the Estate of Mary Jo Duttry, P. O. Box 736, R.R. 4, DuBois, Pennsylvania 15801.

TUCKER ARENSBERG, P.C.

Timothy Krieger  
Timothy A. Krieger, Esquire  
Attorney for FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK, Plaintiff

Sworn to and subscribed before me  
this 11th day of February, 2004.

Debra J. Paranay  
Notary Public

My Commission Expires: \_\_\_\_\_  
Notarial Seal  
Debra J. Paranay, Notary Public  
City of Pittsburgh, Allegheny County  
My Commission Expires May 9, 2005

217517.1:BF/#11555-106551

**WRIT OF EXECUTION and/or ATTACHMENT  
COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD  
CIVIL ACTION – LAW**

First Commonwealth Bank

Vs.

NO.: 2003-00496-CD

*COPY*

John D. Duttry, individually and as Administrator  
of the Estate of Mary Jo Duttry

**TO THE SHERIFF OF CLEARFIELD COUNTY:**

To satisfy the debt, interest and costs due FIRST COMMONWEALTH BANK, f/k/a Deposit Bank, Plaintiff(s) from JOHN D. DUTTRY, individually and as Administrator of the Estate of MARY JO DUTTRY, Defendant(s):

- (1) You are directed to levy upon the property of the defendant(s) and to sell interest(s) therein:  
See Attached Description
- (2) You are also directed to attach the property of the defendant(s) not levied upon in the possession of:

Garnishee(s) as follows:

and to notify the garnishee(s) that: (a) an attachment has been issued; (b) the garnishee(s) is/are enjoined from paying any debt to or for the account of the defendant(s) and from delivering any property of the defendant(s) or otherwise disposing thereof;

- (3) If property of the defendant(s) not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify him/her that he/she has been added as a garnishee and is enjoined as above stated.

AMOUNT DUE:	<b>\$91,447.97</b>	PAID:	<b>\$132.00</b>
INTEREST from 8/11/03 through 2/29/04		SHERIFF: \$	
at \$15.98250 per diem:	<b>\$3,228.47</b>	LATE CHARGES (6% of \$738.85/mo. pmt. or	
FORECLOSURE FEES:	<b>\$2,650.00</b>	\$44.33/mo. for months of August, 2003 through	
PROTH COSTS: \$		February, 2004):	<b>\$310.31</b>
ATTY'S COMM.: \$		OTHER COSTS: \$	
DATE: 02/18/2004			

Received this writ this \_\_\_\_\_ day  
of \_\_\_\_\_ A.D. \_\_\_\_\_  
At \_\_\_\_\_ A.M./P.M.

\_\_\_\_\_  
Sheriff

---

William A. Shaw  
Prothonotary/Clerk Civil Division

Requesting Party: Timothy A. Krieger, Esq.  
1500 One PPG Place  
Pittsburgh, PA 15222  
(412) 566-1212

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,	)	CIVIL DIVISION
f/k/a DEPOSIT BANK,	)	
	)	No. 2003-496-CD
Plaintiff,	)	
	)	
vs.	)	
	)	
JOHN D. DUTTRY, individually and	)	
as Administrator of the Estate of	)	
MARY JO DUTTRY,	)	
	)	
Defendants.	)	

TO THE SHERIFF OF CLEARFIELD COUNTY:

Please use the following legal description of property for advertising purposes:

**SHORT LEGAL DESCRIPTION OF REAL ESTATE**

ALL THE RIGHT, TITLE, INTEREST AND CLAIMS OF JOHN D. DUTTRY,  
INDIVIDUALLY AND AS ADMINISTRATOR OF THE ESTATE OF MARY JO  
DUTTRY, OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THAT CERTAIN TRACT OF LAND SITUATE IN THE TWP. OF SANDY,  
BEING MORE FULLY DESCRIBED AT DBV 1609, PAGE 10.

BEING KNOWN AS SECTION 15, LOT 34, TREASURE LAKE, DUBOIS, PA  
15801. TAX MAP NO. 128-D3-15-34-21.

217517.1:BF  
11555-106551

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. 2003-496-CD  
vs. )  
JOHN D. DUTTRY, individually and )  
as Administrator of the Estate of )  
MARY JO DUTTRY, )  
Defendants. )

TO THE SHERIFF OF CLEARFIELD COUNTY:

Please use the following legal description for preparation of the Sheriff's Deed:

**LEGAL DESCRIPTION OF REAL ESTATE**

ALL that certain tract of land designated as Lot No. 34, Section 15 "Bimini" in the Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania, recorded in the Recorder of Deeds Office in Misc. Docket Map File No. 25.

EXCEPTING AND RESERVING therefrom and subject to:

1. All easements, rights-of-way, reservations, restrictions and limitations shown or contained in prior instruments of record and in the aforesaid recorded plan.
2. The Declaration of Restrictions, Treasure Lake, Inc., recorded in Misc. Book Vol. 145, p. 476; all of said restrictions being covenants which run with the land.
3. All minerals and mining rights of every kind and nature.
4. A lien for all unpaid charges or assessments as may be made by Grantor or Treasure Lake Property Owners Association, Inc.; which lien shall run with the land and be an encumbrance against it.

BEING KNOWN AS Section 15, Lot 34, Treasure Lake, DuBois, Pennsylvania 15801.

BEING the same premises granted and conveyed unto John D. Duttry and Mary Jo Duttry, husband and wife, by Deed of George D. Kline and Meva B. Kline, husband and wife, dated May 16, 1994, and recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania on June 2, 1994 in Deed Book Volume 1609, page 10. Through operation of law upon the death of Mary Jo Duttry on July 25, 1998, title to the within premises became vested in John D. Duttry, widower.

CLEARFIELD COUNTY TAX PARCEL I.D. NO. 128-D3-15-34-21

  
\_\_\_\_\_  
Timothy A. Krieger, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20824  
NO: 03-496-CD

PLAINTIFF: FIRST COMMONWEALTH BANK, F/K/A DEPOSIT BANK

VS.

DEFENDANT: JOHN D. DUTTRY, INDIVIDUALLY AND AS ADMINISTRATOR OF THE ESTATE OF MARY JO DUTTRY

Execution REAL ESTATE

**SHERIFF RETURN**

DATE RECEIVED WRIT: 2/18/2004

LEVY TAKEN @

POSTED @

SALE HELD

SOLD TO

SOLD FOR AMOUNT PLUS COSTS

WRIT RETURNED 8/25/2008

DATE DEED FILED NOT SOLD

**FILED**

0/12/00 LM

AUG 25 2008

LM

William A. Shaw  
Prothonotary/Clerk of Courts

**DETAILS**

@ SERVED JOHN D. DUTTRY, ADMINISTRATOR OF MARY JO DUTTRY ESTA  
DOCKETED ONLY. TWO ATTORNEYS FILED THE SAME ACTION FOR THE SAME CASE AND PROPERTY.

@ SERVED

NOW, APRIL 1, 2004 RECEIVED A FAX LETTER FROM THE PLAINTIFF TO CANCEL THE ACTION FILED BY TUCKER ARENSBERG, PC AND  
CONTINUE WITH THE ACTION FILED BY CHRISTOPHER E. MOHNEY.

@ SERVED

NOW, AUGUST 25, 2008 RETURN WRIT AS DOCKETED ONLY. THE CHECKS RETURNED VOIDED TO ATTORNEY OFFICE.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20824  
NO: 03-496-CD

PLAINTIFF: FIRST COMMONWEALTH BANK, F/K/A DEPOSIT BANK

vs.

DEFENDANT: JOHN D. DUTTRY, INDIVIDUALLY AND AS ADMINISTRATOR OF THE ESTATE OF MARY JO DUTTRY

Execution REAL ESTATE

**SHERIFF RETURN**

---

SHERIFF HAWKINS

SURCHARGE

PAID BY

So Answers,

  
By *Amber Butler-Cypheral*  
Chester A. Hawkins  
Sheriff

**WRIT OF EXECUTION and/or ATTACHMENT  
COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD  
CIVIL ACTION – LAW**

First Commonwealth Bank

Vs.

NO.: 2003-00496-CD

John D. Duttry, individually and as Administrator  
of the Estate of Mary Jo Duttry

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See Attached Description
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AMOUNT DUE:	\$91,447.97	PAID:	\$132.00
INTEREST from 8/11/03 through 2/29/04 at \$15.98250 per diem:	\$3,228.47	SHERIFF: \$	
FORECLOSURE FEES:	\$2,650.00	LATE CHARGES (6% of \$738.85/mo. pmt. or \$44.33/mo. for months of August, 2003 through February, 2004):	\$310.31
PROTH COSTS: \$		OTHER COSTS: \$	
ATTY'S COMM.: \$			
DATE: 02/18/2004			



William A. Shaw  
Prothonotary/Clerk Civil Division

Received this writ this 18<sup>th</sup> day  
of February A.D. 2004  
At 3:30 A.M./P.M.

Requesting Party: Timothy A. Krieger, Esq.  
1500 One PPG Place  
Pittsburgh, PA 15222  
(412) 566-1212

Chester A. Heuer  
Sheriff Sgt. Cynthia Butler - Aughaban

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,	)	CIVIL DIVISION
f/k/a DEPOSIT BANK,	)	
	)	
Plaintiff,	)	No. 2003-496-CD
	)	
vs.	)	
	)	
JOHN D. DUTTRY, individually and	)	
as Administrator of the Estate of	)	
MARY JO DUTTRY,	)	
	)	
Defendants.	)	

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15801. TAX MAP NO. 128-D3-15-34-21.

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

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Plaintiff, ) No. 2003-496-CD  
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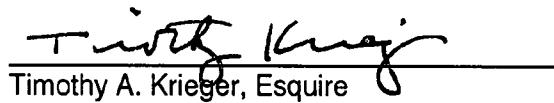
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CLEARFIELD COUNTY TAX PARCEL I.D. NO. 128-D3-15-34-21

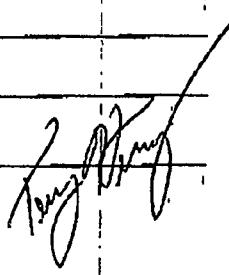
  
\_\_\_\_\_  
Timothy A. Krieger, Esquire



**FIRST**  
Commonwealth

Banking  
Insurance  
Trust  
Financial Management  
Investments

## Fax Transmittal

Date	Thursday, April 01, 2004	Banking Insurance Trust Financial Management Investments
To	<u>Cindy</u>	
Company	<u>Clearfield County Sheriff Dept.</u>	
Fax	<u>814-765-<del>0000</del> 5915</u>	
From	<u>Terry Henry, Loan Workout Officer II</u>	
Phone	<u>724-463-2441</u>	
RE:	<u>John D. Duttry Foreclosure action.</u>	

First Commonwealth Bank  
First Commonwealth Place  
654 Philadelphia Street,  
P.O. Box 400  
Indiana, PA 15701  
724.463.2441 Phone  
724.463.5665 Fax  
[www.febanking.com](http://www.febanking.com)

Number of Pages 1  
(including this cover  
page)

Please contact sender if  
you do not receive all  
the pages or if you  
have transmission  
problems

It has come to our attention that you have received documents for service from two different attorneys covering the same foreclosure action by our bank. Please honor the documents delivered by attorney Christopher E. Mohney of DuBois.

An error at our office caused this mistake and we are dealing with it. Please contact me at the above phone  
Nbrs. or address if further information needed.

We apologize for this snafu.

### Confidentiality / Privacy Note

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