

03-1164-CJ  
FIRST NATIONAL BANK OF PA. vs. DON JOHNSON, et al

FIRST NATIONAL BANK OF PA,  
Successor-in-Interest via merger to  
PROMISTAR BANK,

Plaintiff

vs.

DON JOHNSON and  
MARK JOHNSON, individually,

Defendants

IN THE COURT OF COMMON PLEAS  
OF  
CLEARFIELD COUNTY, PENNSYLVANIA

No. 93-1164-CD

TYPE OF DOCUMENT:

COMPLAINT IN CONFESSION  
OF JUDGMENT

ATTORNEY FOR PLAINTIFF:

DENVER E. WHARTON, ESQUIRE  
SUPREME COURT I.D. #31800  
KAMINSKY, THOMAS, WHARTON  
& LOVETTE  
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JOHNSTOWN, PA 15901  
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**FILED**

AUG 07 2003

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST NATIONAL BANK OF PA, : No.  
Successor-in-Interest via merger to :  
PROMISTAR BANK, :  
:

Plaintiff :  
:

vs.  
:

DON JOHNSON and :  
MARK JOHNSON, individually, :  
:

Defendants :  
:

**COMPLAINT IN CONFESSION OF JUDGMENT**

AND NOW, comes the Plaintiff, First National Bank of PA, Successor-in-Interest via merger to Promistar Bank, by and through its attorneys, Kaminsky, Thomas, Wharton & Lovette, and files this Complaint in Confession of Judgment pursuant to Pa. R.C.P. 2951(b), and in support thereof avers as follows:

1. The Plaintiff, First National Bank of Pennsylvania, Successor-in-Interest via merger to Promistar Bank, is a National Banking Association with an office located at 532-534 Main Street, Johnstown, Cambria County, PA 15901.
2. The Defendant, Don Johnson, is an adult individual whose last known address is P.O. Box 237, Pine Street, Allport, Clearfield County, PA 16821.
3. The Defendant, Mark Johnson, is an adult individual whose last known address is P.O. Box 237, Pine Street, Allport, Clearfield County, PA 16821

4. Attached as Exhibit "A" is a true and correct copy of the original instrument authorizing confession duly executed by Defendants which is a Personal Guaranty between the Defendants and MidAtlantic Financial, Inc. The Personal Guaranty contains a Confession of Judgment clause. The debt instrument is a Lease Agreement between Don-Dine Corporation and Mark Johnson d/b/a J&P Well Drilling and MidAtlantic Financial, Inc., which is attached hereto as Exhibit "B".

5. Attached as Exhibit "C" is a true and correct copy of the original Security Agreement which is executed by MidAtlantic Financial, Inc., and which assigns all of MidAtlantic Financial, Inc.'s rights in the Lease Agreement that is related to the Personal Guaranty of the Defendants to Promistar Bank, succeeded in interest via merger to First National Bank of PA.

6. Judgment is not being entered by Confession against a natural person in connection with a consumer credit transaction.

7. Judgment has not been entered in any jurisdiction on the attached instrument authorizing confession.

8. Defendants are in default under the terms of the instrument in that no payments have been made on the subject Lease Agreement since June 4, 2003.

9. The Defendants are liable to Plaintiff as follows:

a. Unpaid principal: Thirty-seven Thousand Five Hundred Seventy-eight and 54/100 (\$37,578.54) Dollars;

b. Interest: Two Thousand Forty-one and 71/100 (\$2,041.71) Dollars;

c. Late fees and attorney's fees (5%): Two Thousand Four Hundred Ninety-one and 25/100 (\$2,491.25) Dollars, consisting of Four Hundred Eighty-five and 94/100 (\$485.94) Dollars late fees and Two Thousand Five and 31/100 (\$2,005.31) Dollars attorney's fees;

d. Total: Forty-two Thousand One Hundred Eleven and 50/100 (\$42,111.50) Dollars.

WHEREFORE, Plaintiff demands judgment in the sum of Forty-two Thousand One Hundred Eleven and 50/100 (\$42,111.50) Dollars as authorized by the Warrant of Attorney appearing in the instrument attached hereto as Exhibit "A".

Respectfully submitted,

KAMINSKY, THOMAS, WHARTON & LOVETTE

By

Denver E. Wharton  
Attorney for Plaintiff

## PERSONAL GUARANTY

For Value Received, and in consideration of, and in order to induce MidAtlantic Financial, Inc.. (hereinafter "Lessor/Secured Party") to enter into a Lease Agreement/Security Agreement (herein called "Agreement") with Don-Dine Corporation and Mark Johnson DBA J&P Well Drilling (herein called "Lessee/Debtor") with its principal place of business at P.O. Box 237, Pine Street, Allport, PA 16821 providing for the lease/finance of certain equipment described in the Agreement, therein called the "Equipment", the undersigned Don Johnson and Mark Johnson (herein called "Guarantor") hereby unconditionally guarantees to Lessor/Secured Party the full and prompt performance by Lessee/Debtor of all obligations which Lessee/Debtor presently or hereafter may have to Lessor/Secured Party under the Agreement, and the payment when due of all payments and all other sums presently or hereafter owing by Lessee/Debtor to Lessor/Secured Party thereunder, and agrees to indemnify Lessor/Secured Party against any losses Lessor/Secured Party may sustain and expenses it may incur, including attorney's fees, as a result of any breach or default by Lessee/Debtor under the Agreement and/or as a result of the enforcement or attempted enforcement by Lessor/Secured Party of any of its rights against Guarantor hereunder. Guarantor hereby expressly waives all defenses which might constitute a legal or equitable discharge of a surety or guarantor, and agrees that this Guaranty shall be valid and unconditionally binding upon Guarantor regardless of (i) the reorganization, merger, or consolidation of Lessee/Debtor into or with another entity, corporate or otherwise, or the sale or other disposition of all or substantially all of the capital stock, business or assets of Lessee/Debtor to any other person or party, or (ii) the death or dissolution of Lessee/Debtor, or (iii) the voluntary or involuntary bankruptcy (including a reorganization in bankruptcy) of Lessee/Debtor, or (iv) the granting by Lessor/Secured Party of any indulgences to Lessee/Debtor or (v) the assertion by Lessor/Secured Party against Lessee/Debtor of any of Lessor's/Secured Party's rights and remedies provided for under the Agreement or existing in its favor in law, equity or bankruptcy, or (vi) the release of Lessee/Debtor from any of Lessee's/Debtor's obligations under the Agreement by Lessor/Secured Party or by operation of law or otherwise, or (vii) any invalidity, irregularity, defect or unenforceability of any provision of the Lease/Security Agreement. Guarantor hereby waives notice of and consents to the financing of all Equipment now or hereafter financed under the Agreement thereto, to any subleasing or any other use of Equipment permitted by Lessor/Secured Party, (regardless of whom any such sublessee or user may be), to all of the provisions of the Agreement, and to any amendments thereof, and to any actions taken thereunder, and to the execution by Lessee/Debtor of the foregoing documents and of any other agreements, documents and instruments executed by Lessee/Debtor in connection therewith. Guarantor further waives notice of Lessor's/Secured Party's acceptance of this Guaranty, of any default and non-payment and/or non-performance by Lessee/Debtor under the Agreement, of presentment, protest, notice of dishonor, and demand, and of all other matters to which Guarantor might otherwise be entitled.

Guarantor further agrees that this Guaranty shall remain and continue in full force and effect notwithstanding any renewal, modification or extension of the Agreement or the agreement term of any Equipment, Guarantor hereby expressly waiving all notice of and consenting to any such renewal, modification or extension, and to the execution by Lessee/Debtor of any documents pertaining to any such renewal, modification or extension. Guarantor further agrees that Guarantor's liability under this Guaranty shall be absolute, primary and direct, and that Lessor/Secured Party shall not be required to pursue any right or remedy it may have against Lessee/Debtor under the Agreement or otherwise (and shall not be required to first commence any action or obtain any judgment against Lessee/Debtor) before enforcing this Guaranty against Guarantor. Guarantor further warrants and represents to Lessor/Secured Party that the execution, delivery and performance of this Guaranty will not result in a breach of, or constitute a default under, or result in the creation of any security interest, lien, charge or encumbrance upon any property and assets of Guarantor pursuant to any loan agreement, indenture or contract to which Guarantor is a party or by or under which Guarantor is bound.

Guarantor hereby agrees that the failure of Lessor/Secured Party to insist in any one or more instances upon a strict performance or observance of any of the terms, provisions or covenants of the Agreement or this Guaranty, or to exercise any of its rights thereunder, shall not be construed or deemed to be a waiver or relinquishment for the future or any such terms, provisions, covenants, or rights, but such terms, provisions, covenants, or rights shall continue and remain in full force and effect. Receipt by Lessor/Secured Party of any rent or other sums payable under the Agreement with knowledge that Lessee/Debtor has breached any of the terms, provisions or covenants of the Agreement shall not be deemed to be a waiver by Lessor/Secured Party of such breach.

No assignment or other transfer by Lessor/Secured Party or Lessee/Debtor of any interest, right or obligation under the Agreement, or assumption by any third party of the obligations of Lessee/Debtor under the Agreement, shall extinguish or diminish the unconditional, absolute, primary and direct liability of Guarantor under this Guaranty, Guarantor hereby consenting to and waiving all notice of any such assignment, transfer or assumption.

This Guaranty is assignable by Lessor/Secured Party without notice to Guarantor, but may not be assigned by Guarantor. Any assignee of Lessor/Secured Party shall have all of the rights but none of the duties, if any, of Lessor/Secured Party, and Guarantor agrees not to assert any claim defense against any assignee of Lessor/Secured Party. This Guaranty shall be construed liberally in Lessor's/Secured Party's favor, shall inure to the benefit of Lessor/Secured Party, and its successors and assigns, and shall be binding upon Guarantor and Guarantor's executors, administrators, successors and assigns. Legal rights and obligations hereunder shall be determined in accordance with the laws of the state of Pennsylvania and venue of any action commenced in connection herewith may be laid in Washington County, Pennsylvania or in any other jurisdiction where any action in connection with any guaranteed obligations may be pursued. Guarantor waives any right to trial by jury.

Any provision of this Guaranty which is prohibited or enforceable in any jurisdiction shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability

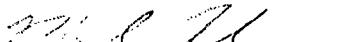
without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any such jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Guaranty represents the entire agreement between Lessor/Secured Party and Guarantor, and it may not be changed, waived, amended or terminated except by a written agreement signed by the parties.

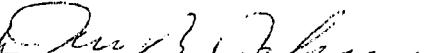
The Guarantor hereby agrees that upon his/her failure to meet any of the obligations contained herein (the "Obligations"), the Guarantor hereby empowers any attorney of any Court of Record within the United States or elsewhere to appear for Guarantor and with or without declarations filed, confess judgment against Guarantor for the Obligations with costs of suit and an attorney's reasonable fee of 20% for collection and release of all errors. No single exercise of the foregoing power to confess judgment shall be deemed to exhaust the power, whether or not any such exercise shall be held by any court to be valid, voidable or void, but the power shall continue undiminished and it may be exercised from time to time as the Lessor/Secured Party shall elect, until such time as the Lessor/Secured Party shall have received payment in full of obligations. Lessee/Debtor hereby expressly waives stay of execution and inquisition and extension upon any levy on real estate. Condemnation is hereby agreed to and the exemption of personal property from levy and sale on any execution hereon is also hereby expressly waived and no benefit of exemption is claimed under and by virtue of any exemption law now in force or which may be hereafter enacted.

**WARNING: BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME, A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE LESSOR, WHETHER FOR FAILURE TO COMPLY WITH THIS AGREEMENT OR ANY OTHER CAUSE.**

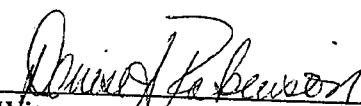
In Witness Whereof, Guarantor has caused this Guaranty to be executed this 29 day of  
MAY, 2001.



Signature of Individual  
Address:



Signature of Individual  
Address:  
614n



Witness  
Address:



Witness  
Address:



## LEASE AGREEMENT

The undersigned lessor (herein, "Lessor") does hereby lease to the undersigned lessee (herein, "Lessee"), subject to the terms and conditions set forth on both sides hereof, the equipment described below and/or in the Schedule "A" attached hereto and incorporated herein, together with all attachments and accessories now or hereafter affixed thereto, and substitutions and replacements thereof (herein, the "Equipment"):

### Equipment Description

(1) 1978 Drill Tech Drilling Rig Model D40K, S/N 870551 Truck Mounted on 1978 Chassis (Crane Carrier) with 175' Pipe, S/N 25715		
No of Rental Installments <b>48</b> Initial Term (Mos.) <b>48</b> Other Terms		
Rental Installment Amount <b>\$ 1,349.96</b>	Sales/Use Tax <b>\$ 0</b>	Total Rental Installment <b>\$ 1,349.96</b>

Upon execution of this lease, Lessee shall pay to Lessor the first one Rental Installment(s) and a Security Deposit in the amount of \$ 0. All rental installments are based on an Equipment cost to Lessor equal to \$ 50,000.00.

In the event the Lessor's cost is other than as set forth above, total rental and rental installments shall be adjusted, accordingly.

### TERMS AND CONDITIONS

1. Lessee shall be deemed to have irrevocably accepted the Equipment under this lease by its execution of Lessor's form of Delivery and Acceptance Certificate ("Commencement Date"). The rental term of the Equipment shall commence upon the Commencement Date and shall continue for the number of months set forth above, beginning on the first day of the first month after the Commencement Date. Lessee shall pay rent to Lessor, monthly in advance, in the Rental Installment amounts, and for the number of Rental Installments, both as set forth above, on the first day of each month (unless otherwise provided herein) during the term hereof, plus, in the case of the first Rental Installment, the per diem equivalent of the Rental Installment for each day from and including the Commencement Date to and including the day immediately preceding the due date of the first Rental Installment.

2. All rentals shall be paid to Lessor at Lessor's address, or at such other address as Lessor may specify by notice to Lessee. All such rentals shall be paid with-out notice or demand, and Lessee's obligation to pay such rentals shall be absolute and unconditional and not subject to any abatement, reduction, set-off, defense, counterclaim or recoupment ("Abatements") for any reason whatsoever (including, without limitation, Abatements due to any present or future claims of Lessee against Lessor under this lease or otherwise, or against the manufacturer or vendor of the Equipment); nor, except as otherwise expressly provided herein, shall this lease terminate or the obligations of Lessor hereunder be affected by reason of any defect in or damage to, or any loss or destruction of, any Equipment from any cause whatsoever, or the interference with the use thereof by any private person, corporation or governmental authority, or the invalidity or unenforceability or lack of due authorization of this lease or lack of right, power or authority to enter into this lease, or for any other cause, whether similar or dissimilar to the foregoing, any present or future law or regulation to the contrary notwithstanding. If any rentals or other sums due hereunder are not paid within 5 days of the due date thereof, Lessee shall pay to Lessor on demand, as additional rental, an amount equal to ten percent (10%) of such past due rentals or sums.

3. The security deposit, if any, specified herein shall secure the full and faithful performance of all agreements, obligations and warranties of Lessee to Lessor, including, but not limited to, the agreement of Lessee to return the Equipment upon the expiration or earlier termination of this lease in the condition hereinafter specified. Such deposit shall not excuse the performance of any such agreements, obligations or warranties of Lessee or prevent a default. Lessor may (but need not) apply all or any part of such security deposit toward discharge of any overdue obligation of Lessee. To the extent any portion of such security deposit is so applied by Lessor, Lessee shall forthwith restore the security deposit to its full amount plus interest thereon at the rate of 1/30th of 1.5% per day until restored.

4. Until the Equipment is returned to Lessor in accordance with the terms of this lease, Lessee shall: (i) use the Equipment solely in the conduct of its business, (ii) Lessee agrees to keep the Equipment at the address specified in this lease, or as set forth in the Delivery and Acceptance Certificate, and not to remove all or any part of the Equipment therefrom without the Lessor's prior written consent; (iii) use and preserve the Equipment in a careful, proper and lawful manner, (iv) at its own expense, keep the Equipment in good repair, condition and working order and furnish any and all parts and labor required for that purpose, and in this connection shall use in said maintenance only spare and repair parts manufactured or furnished by the manufacturer of the Equipment (v) not make any material alterations to the Equipment without the prior written consent of Lessor, and Lessee agrees that all equipment, attachments, accessories and repairs at any time made to or placed upon the Equipment shall immediately become the property of Lessor, and shall be deemed to have incorporated into the Equipment and subject to the terms and conditions of this lease as if originally leased hereunder, (vi) promptly notify Lessor of any loss or damage to the Equipment, (vii) assume and shall bear the entire risk of loss of and damage to the Equipment, and injury or death to persons, from any cause whatsoever pursuant to the provisions of this lease, and provide full insurance coverage as hereinabove provided, and (viii) not assign, sublet or hypothecate any of the Equipment or any interest in this lease or allow the Equipment to be used by persons other than employees of the Lessee, and any attempt to do so shall constitute an act of default hereunder and such assignment, sublease or hypothecation shall be void and without effect.

5. Lessee shall, at its expense, keep the Equipment insured against all risks of loss or physical damage for not less than its "Stipulated Loss Value" (as that term is defined herein). The Stipulated Loss Value for the Equipment as of any rental payment date shall be an amount equal to all past due Rental Installments and other sums due and unpaid hereunder, plus the accelerated balance of the total amounts due for the remaining term of this lease discounted to present value at a discount rate of 6% as of the date of loss and the Lessor's estimate as of the time this lease was entered into of Lessor's residual interest in the Equipment discounted to present value at a discount rate of 6%. Lessor shall further, at its expense, provide and maintain comprehensive public liability insurance against claims for bodily injury, death and/or property damage arising out of the use, ownership, possession, operation or condition of the Equipment, together with such other insurance as may be required by law or reasonably requested by Lessor. All said insurance shall name both Lessor and Lessee as parties insured and shall be in form and amount and with insurers satisfactory to Lessor, and Lessee shall furnish to Lessor certified copies or certificates of the policies of such insurance and each renewal thereof. If Lessee shall fail to provide said insurance, or within ten (10) days after Lessor's request therefor, shall fail to deliver the policies or certificates thereof to Lessor, then Lessor, at its option, shall have the right to procure such insurance and to add the cost thereof to the rent payment next becoming due which Lessee agrees to pay as additional rent. Each insurer must agree by endorsement upon the policy or policies issued by it that it will give Lessor not less than 30 days written notice before such policy or policies are cancelled or altered, and, under the physical damage insurance, that (a) losses shall be payable solely to Lessor, and (b) no act or omission of Lessee or any of its officers, agents, employees or representatives shall affect the obligation of the insurer to pay the full amount of any loss. Lessee hereby irrevocably authorizes Lessor to make, settle and adjust claims under such policy or policies of physical damage insurance and to endorse the name of Lessee on any check or other item of payment for the proceeds thereof; it being understood, however, that unless otherwise directed in writing by Lessor, Lessee shall make and file timely all claims under such policy or policies, and Lessee may, unless Lessee is then in default, settle and adjust all such claims.

6. Lessee agrees to report and pay to the appropriate authority any and all license fees, registration fees, assessments, charges and taxes, including penalty and interest if any assessed against the Equipment or the ownership, purchase, rental or use of the Equipment, except for taxes payable in respect to Lessor's net income. Unless Lessee provides Lessor with a valid certificate of exemption, Lessee shall pay all applicable sales or use taxes to Lessor.

**ALL TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS AGREEMENT ARE A PART HEREOF AND ARE BINDING UPON THE PARTIES HERETO.**

LESSOR	<b>MidAtlantic Financial, Inc.</b>	LESEE	Don-Dine Corporation and Mark Johnson DBA J&P Well Drilling
Name			
Address	P.O. Box 237, Pine Street		
City	State	Zip	City
McMurray, PA	15317		Allport, PA
5-29-01			5-29-01
By:	By: <i>Mark Johnson</i> Date: <i>5-29-01</i>		
Signature	Signature		
Printed Name	Printed Name		
Scott A. Lesnett	Mark Johnson, Pres.		
Title	Title		

7. The Equipment shall remain personal property notwithstanding the manner in which it may be attached to realty, and title thereto shall remain in Lessor exclusively. Lessee shall keep the Equipment free from all liens and encumbrances. Lessee shall execute and/or furnish to Lessor any further instruments and assurances reasonably requested from time to time by Lessor to protect its interest, and Lessee shall otherwise cooperate to defend the title of Lessor and to maintain the status of the Equipment as personal property, including, without limitation, the execution of financing statements and the furnishing of waivers with respect to rights in the Equipment from the owners and mortgagees of the real estate on which the Equipment is or will be located, all at Lessee's expense. Without limiting the foregoing, Lessee hereby authorizes and irrevocably appoints Lessor as Lessee's attorney-in-fact, with full power of substitution, to execute and file such financing statements and other documents in all places where necessary to protect Lessor's interest in the Equipment.

8. Lessor shall not be liable for any direct, indirect special or consequential damages or loss (i) resulting from the non-delivery, delivery manufacture, installation, use, ownership or operation of the Equipment or from any defects in failures, malfunctions, repairs, replacements or alterations thereof, or (ii) arising out of this lease or any breach thereof, or (iii) without limitation, any other liability of any nature with respect to the Equipment, or this lease or any breach thereof (hereinafter "Liabilities"), and Lessee shall indemnify and hold harmless Lessor, its directors, officers, employees, agents and representatives, from any and all claims, actions, suits, proceedings, costs, expenses, damages and liabilities, including attorneys' fees, arising out of, connected with, or resulting from, this lease or the breach thereof or the Equipment, including, without limitation, any and all Liabilities. LESSEE UNDERSTANDS AND AGREES THAT LESSOR MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT. IT IS UNDERSTOOD AND AGREED THAT NO WARRANTY IS TO BE IMPLIED WITH RESPECT TO THE CONDITION OF THE EQUIPMENT, ITS MERCHANTABILITY, THE FITNESS OF THE EQUIPMENT FOR A PARTICULAR PURPOSE, OR WITH RESPECT TO INFRINGEMENT OR THE LIKE. THIS PARAGRAPH MAY NOT BE MODIFIED, AMENDED, DISCHARGED OR TERMINATED BY ANY WRITING OR ANY ACTION, INACTION, CONDUCT OR PAST DEALINGS OF THE PARTIES HERETO.

9. Lessee warrants to Lessor that (a) this Lease has been duly and validly executed and delivered by Lessee and constitutes and will constitute the valid and binding obligation of Lessee, and is and will be enforceable in accordance with its terms; (b) the execution, delivery and performance of this lease by Lessee will not violate any law or other governmental requirement or, if Lessor is a corporation, Lessee's corporate charter or by-laws; nor will it constitute a default under any agreement, instrument or document to which Lessee is now or hereafter a party or by which Lessee is now or will hereafter be bound; (c) all financial statements and information which have been or may hereafter be submitted to Lessor relating to Lessee or any guarantor or Lessee's obligations hereunder ("Guarantor") have been and will be complete, true and correct and have been and will be prepared in accordance with generally accepted accounting principles. Lessee agrees to deliver to Lessor at any time or times hereafter such documents, as Lessor may reasonably request to demonstrate Lessee's compliance with this Lease.

10. So long as Lessee shall not be in default and fully performs all of its obligations hereunder, Lessor will not interfere with the quiet use and enjoyment of the Equipment by Lessee.

11. Lessee hereby consents to any assignment or encumbrance by Lessor of this Lease or all or any part of the rentals hereunder or the rights of Lessor in the Equipment, with or without notice. Lessee agrees that the rights hereunder of any assignee or creditor of Lessor shall not be subject to any defense, setoff or counter-claim that Lessee may have against the Lessor, and that any such assignee or creditor shall have all of Lessor's rights hereunder, but none of Lessor's obligations. Notwithstanding the foregoing, no such assignment or encumbrance shall release any of Lessor's obligations hereunder or any claim which Lessee may have against Lessor.

12. Upon the expiration or earlier termination of this Lease with respect to any Equipment, Lessee shall return such Equipment to Lessor in the condition required by this Lease. Lessee shall make such return, at its expense, by causing such Equipment to be assembled, crated and loaded on board such carrier as Lessor shall specify and shipping the same, freight and insurance prepaid, to the destination specified by Lessor. Lessee shall pay to Lessor on demand as additional rental hereunder, the cost of any repairs necessary to then place the Equipment in the condition required by this Lease. If Lessor shall so require, Lessee will provide free storage and insurance for any Equipment at Lessee's location for a period not exceeding sixty (60) days from the date of expiration or earlier termination of this Lease. If, for whatever reason, Lessee fails to return the Equipment as set forth herein, Lessee agrees to pay, at Lessor's sole option, rental installments in the same amount as hereinabove provided, until so returned.

13. As used herein the term "Event of Loss" shall mean the actual or constructive loss of the Equipment, by damage, theft, or otherwise, including any failure to return the Equipment to Lessor upon the expiration or termination of this Lease, unless Lessee shall have purchased the Equipment or renewed this Lease, pursuant to the terms of any purchase or renewal option to this Lease. Upon the occurrence of an Event of Loss, Lessee shall notify Lessor in writing of such occurrence and pay to Lessor within 30 days of the date of the Event of Loss, the "Stipulated Loss Value" of the Equipment, plus all accrued and unpaid rent to the date of such payment.

14. Lessee shall be in default of this lease if Lessee breaches its obligation to pay rent when due and fails to cure said breach within 5 days or if Lessee breaches any of the other terms hereof, or if Lessee or any Guarantor becomes insolvent or ceases to do business as a going concern, or if Lessee or any Guarantor makes an assignment for the benefit of creditors, or if a petition in bankruptcy or for arrangement or reorganization is filed by or against Lessee or any Guarantor, or if property of Lessee is attached or a receiver is appointed for Lessee or any Guarantor, or any of Lessee's or Guarantor's property, or if Lessee is in default pursuant to the provisions of any other agreement by and between Lessor and Lessee or if Lessee or any Guarantor is in default, and any applicable cure period has expired, under any material agreement for the payment of money.

15. In the event of any default by Lessee, Lessor may, at its option, do one or more of the following: (a) terminate this Lease and Lessee's rights hereunder; (b) proceed by appropriate court action to enforce performance of the terms of this Lease and/or recover damages for the breach hereof; (c) by notice in writing, cause Lessee, at Lessor's expense, promptly to return the Equipment to the possession of Lessor in accordance with the terms hereof, or Lessor directly or by its agent, and without notice or liability or legal process may enter upon any premises where any Equipment is located, take possession of such Equipment, and either store it on said premises without charge or remove the same (any damages occasioned by such taking of possession, storage or removal being waived by Lessee); and/or (d) declare as immediately due and payable and forthwith recover from Lessee, as liquidated damages and not as a penalty, an amount equal to the sum of (i) past due rentals and other sums then due and unpaid hereunder and (ii) the then aggregate Stipulated Loss Value of the Equipment ("Liquidated Damages"), together with interest thereon as provided in Section 2 hereof and all other charges recoverable hereunder.

In the event of any repossession of any Equipment by Lessor, Lessor may (but need not), without notice to Lessee, (A) hold or use all or part of such Equipment for any purpose whatsoever, (B) sell all or part of such Equipment at public or private sale for cash or on credit and/or (C) relet all or part of such Equipment upon such terms as Lessor may solely determine, in each case without any duty to account to Lessee except as herein expressly provided. After any repossession of Equipment by Lessor there shall be applied on account of the obligations of Lessee hereunder the net proceeds actually received by Lessor from a sale or lease of such Equipment, after deduction of all expenses of sale and other expenses recoverable by Lessor hereunder. No termination, repossession or other act by Lessor after default shall relieve Lessee from any of its obligations hereunder. In addition to all other charges hereunder, Lessee shall pay to Lessor on demand all fees, costs and expenses incurred by Lessor as a result of such default, including without limitation, reasonable attorneys', appraisers' and brokers' fees and expenses and costs of removal, storage, transportation, insurance and disposition of the Equipment. In the event that any court of competent jurisdiction determines that any provision of this Section 14/15 is invalid or enforceable in whole or in part such determination shall not prohibit Lessor from establishing its damages sustained as a result of any breach of this Lease in any action or proceedings in which Lessor seeks to recover such damages. To the extent permitted by law, Lessee hereby waives trial by jury and any right of setoff or counterclaim in any action between Lessor and Lessee. The remedies provided herein in favor of Lessor shall not be exclusive, but shall be cumulative and in addition to all other remedies existing at law or in equity, any one or more of which may be exercised simultaneously or successively.

UPON DEFAULT, LESSEE HEREBY EMPOWERS THE PROTHONOTARY, CLERK, OR ANY ATTORNEY OF ANY COURT OF RECORD WITHIN PENNSYLVANIA OR DOMICILED STATE TO APPEAR FOR LESSEE AND, WITH OR WITHOUT ONE OR MORE COMPLAINTS FILED, ENTER A JUDGEMENT OR JUDGEMENTS AGAINST LESSEE IN FAVOR OF LESSOR, OR ITS SUCCESSOR OR ASSIGNS AS OF ANY TERM FOR SUCH UNPAID RENTAL PAYMENTS AND OTHER SUMS DUE UNDER THE SAID LEASE WHETHER BY ACCELERATION OR OTHERWISE, TOGETHER WITH COSTS OF SUIT AND ATTORNEY'S COMMISSION OF FIFTEEN PERCENT (15%) FOR COLLECTION, WITH RELEASE OF ALL ERRORS AND WITHOUT STAY OF EXECUTION, IN THE EVENT OF ANY DEFAULT BY LESSEE HEREUNDER. LESSEE ALSO EMPOWERS ANY ATTORNEY OF ANY COURT OF RECORD IN PENNSYLVANIA OR OTHER STATE THAT LESSEE IS DOMICILED TO APPEAR FOR LESSEE AND ENTER A JUDGEMENT IN FAVOR OF LESSOR, OR ITS SUCCESSORS OR ASSIGNS AND AGAINST LESSEE FOR POSSESSION OF THE EQUIPMENT.

16. If Lessee shall fail to make any payment or perform any act or obligation required of Lessee hereunder, Lessor may (but need not) at any time thereafter make such payment or perform such act or obligation at the expense of Lessee. Any payment so made or expense so incurred by Lessor shall constitute additional rental hereunder payable by Lessee to Lessor upon demand. The performance of any act or payment of any monies by Lessor, as aforesaid, shall not be deemed a waiver or release of any obligation or default on the part of Lessee.

17. Lessee shall furnish to Lessor within 120 days after the end of each fiscal year of Lessee during the term hereof a statement of profit and loss and of surplus of Lessee for such fiscal year-end and a balance sheet of Lessee as at the end of such year, all in reasonable detail and certified by a reputable firm of independent public accountants. Lessee shall furnish to Lessor such other information about the condition and affairs of Lessee and any Guarantor and about the Equipment as Lessor may from time to time reasonably request.

18. Lessee shall give Lessor immediate notice of any default hereunder, any material adverse change in financial condition or operations of Lessee or any Guarantor, or any loss, material damage or accident affecting the Equipment. All notices hereunder shall be in writing and sent to the addresses hereinabove, or as the parties may designate. None of the provisions of this Lease shall be held to have been waived by any act or knowledge of Lessor, but only by a written instrument executed by Lessor and delivered to Lessee. If any provision of this Lease or the application thereof is hereafter held invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and to this end the provisions of this Lease are declared severable. This Lease sets forth the entire understanding between the parties and may not be modified except in a writing signed by both parties.

The parties hereto intend to comply with any and all applicable usury laws now in effect or hereafter enacted; if any interest rate provided for in this Lease would violate any such statute or regulation applicable thereto, the rate(s) shall be deemed automatically amended to the highest lawful rate allowed.

Subject to the terms hereof, this Lease shall be binding upon and inure the benefit of Lessor and Lessee and their respective personal representatives, successors and assigns. This Lease shall be governed in all respect by the laws of the State of Pennsylvania. For purposes of any actions, suits or proceedings in connection with this Lease, Lessee and Lessor hereby consent to the jurisdiction of the courts of the State of Pennsylvania and the United States District Court for the District of Pennsylvania. This Lease is submitted to Lessor for this acceptance or rejection and will not become effective until accepted by Lessor in writing at its principal office. THIS LEASE IS IRREVOCABLE BY LESSEE FOR THE FULL TERM HEREOF AND FOR THE AGGREGATE RENTALS HEREIN RESERVED.

SECURITY AGREEMENT

(Non-Recourse)

(Chattel Mortgage and Assignment of Lease Agreement/Security Agreement)

THIS AGREEMENT, dated as of 5-30, 2001, is entered into by and between MidAtlantic Financial, Inc., ("Company") and Promistar Bank ("Bank"). In consideration of the mutual agreements contained herein, the parties hereto agree as follows:

(1) As security for the payment of all indebtedness ("Indebtedness") of the Company to the Bank, hereunder and under a promissory note (the "Note") in the original principal amount of \$ 53,806.87 \* dated 5-30, 2001 and payable by the Company to the Bank, the Company hereby assigns to the Bank, and grants to the Bank a security interest in, all the Company's right, title, and interest in and to property ("Collateral") consisting of (i) the Lease Agreement/Security Agreement ("Agreement") dated 5-27, 2001, between the Company, as Lessor/Secured Party and Don-Dine Corporation and Mark Johnson DBA J&P Well Drilling as Lessee/Debtor ("Lessee"), (ii) the equipment ("Equipment") as described in the Agreement on Schedule N/A ("Schedule") which is attached as Exhibit A hereto and any replacements thereof, (iii) all rental payments/monthly installments and other amounts payable thereafter under the Schedule by Lessee to the Company ("Payments"), and (iv) all proceeds of any of the foregoing and of the insurance referred to in paragraph (4), hereof, (v) any and all guarantees or other Collateral given to the company in connection with the Agreement.

(2) The Company warrants and agrees that (i) it has good title to the Equipment and the Agreement and Payments, free of all liens and claims except for rights of the Lessee under the Agreement, (ii) it has the power and authority to, and does hereby convey to the Bank, a valid first priority security interest in the Equipment and the Agreement as security for the obligations of the Lessee, (iii) the Note, this Agreement and any guarantees are valid and are enforceable in accordance with their respective terms, subject to applicable bankruptcy, insolvency, reorganization or other similar laws affecting the enforceability generally of the rights of creditors or lessors/secured parties, (iv) it has delivered to the Bank fully executed copies of the Agreement, which is, and will be, the only copy marked "Secured Party's Original", (v) it will not grant a security interest in the Collateral to any person other than the Bank, and it will deliver to the Bank a release or subordination of any security interest heretofore granted in the Collateral to any other person as the Bank may reasonably request, and (vi) it will not amend or modify any provision of the Agreement without the prior consent of the Bank, (vii) the Agreement is the only document executed by Company and the Lessee with respect to the Equipment.

(3) Once the Bank has utilized the services of the Company to finalize a transaction, it is hereby agreed that the Bank or its Assigns will not knowingly solicit that Lessee for future equipment finance/lease business for a period of thirty six (36) months after the last funded transaction of the Lessee without Company involvement and compensation. The Bank agrees to refer such equipment finance/lease requests from Lessee to the Company, and if not possible given certain circumstances to do so, Bank agrees to compensate the Company 3% of the equipment cost or funded amount, whichever is greater.

(4) The Company will provide the Bank with a certificate of insurance at time of assignment with Lessee as named insured. All policies for such insurance shall contain loss payable clauses in favor of the Company and the Bank as their respective interest may appear. The Company hereby assigns and sets over unto the Bank all monies which may become payable on account of any such insurance and directs the insurers to pay the Bank any amounts so due to the extent said monies are not used to repair or replace said Equipment provided that if the Agreement is terminated in whole or in part as the result of said loss, damage or destruction, then the Bank shall receive all of the insurance proceeds applicable thereto to the full extent of said termination.

\* MidAtlantic Financial, Inc. retains all ownership rights to equipment; therefore, MidAtlantic requires all UCCs/rights be reassigned back to MidAtlantic Financial, Inc. upon maturity or early payoff.

(5) If (i) the Company defaults in the performance of any other obligation of the Company hereunder or under the Note, (ii) any representation or warranty made herein by the Company shall prove to have been false or misleading in any material respect as of the date hereof, or (iii) an Event of Default (as described in the Agreement) occurs under the Agreement, then, if any event described in the above clauses (iv) through (v), Paragraph 2 shall be continuing, the Bank may at its option declare the Note to be due and payable, whereupon the unpaid principal of and accrued interest on the Note shall become immediately due and payable and the Bank may exercise all rights and remedies (not inconsistent with the terms of the Agreement, the Note or this Agreement) with respect to the Collateral, available to it under applicable law.

(6) Notwithstanding any other provision of this Agreement, the Bank agrees that (i) its security interest and rights hereunder are subject to the rights of the Lessee under the Agreement, (ii) the Company has and shall have no personal liability or obligation with respect to payment of the Indebtedness (non-recourse), which is payable solely from proceeds received by the Bank from the Bank's right, title and interest in and to the Collateral, except that the Company shall have personal responsibility for any loss or liability of the Bank arising out of a breach of the Company's representations, warranties or agreements herein. (iii) Upon payment in full, the Bank shall cancel the Note, this Agreement and UCC financing statements, if any, and shall promptly deliver all such cancelled documents to the Company.

(7) The Agreement and the Note shall be contracts made under and governed by the laws of Pennsylvania. Whenever possible, each provision of the Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective only to the extent and duration of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement. Any notice required or given hereunder shall be deemed properly given when mailed, postage prepaid, addressed to the designated recipient at its address set forth herein or such other address as such party may advise the other party by notice given in accordance with this provision.

(8) This Agreement shall be binding upon, and shall inure to the benefit of, the successors and assigns of the Company and the Bank. The Bank agrees that, in the event of any transfer by it or the Note, it will endorse thereon a notation as to the portion of the principal of the Note which shall have been paid at the time of such transfer and as to the date to which interest shall have been last paid thereon.

IN WITNESS WHEREOF, the Company and the Bank have duly executed and delivered this Agreement as of the day and year first above written.

ATTEST:

Carla L. Fries

Title Credit Mgr.

MidAtlantic Financial, Inc.

By N.D. Fries

Title Credit Mgr.

ATTEST:

Edith Johnson  
Title Administrative Assistant

Promistar Bank

By William Ober

Title U.P.

EXHIBIT A  
CERTIFICATE OF DELIVERY AND ACCEPTANCE

Pursuant to Lease Agreement/Security Agreement dated 5.29.01, by and between MidAtlantic Financial, Inc. ("Lessor/Secured Party"), a Pennsylvania Corporation, with a place of business at 100 E. McMurray Road, Suite 206, McMurray, PA 15317 and Don-Dine Corporation and Mark Johnson DBA J&P Well Drilling ("Lessee/Debtor"), with a place of business at P.O. Box 237, Pine Street, Allport, PA 16821, the undersigned, for and on behalf of Lessee/Debtor, and being duly authorized so to do, hereby (a) certifies that the following Equipment ("Equipment") has been delivered to, and inspected by Lessee/Debtor and is in good working order, repair and condition, to Lessee's/Debtor's satisfaction, has been installed to the satisfaction of Lessee/Debtor, is fit for all purposes intended by Lessee/Debtor (b) unconditionally accepts the Equipment for all purposes of the Lease Agreement/Security Agreement, as of the date hereof, and (c) affirms that there have been no modifications or amendments to the Lease Agreement/Security Agreement, and (d) directs Lessor/Secured Party to pay Lessee's/Debtor's Supplier, and (e) with payment of Lessee's/Debtor's supplier, acknowledges that Lessor/Secured Party has fully and satisfactorily performed all obligations to be performed by it pursuant to the Lease Agreement/Security Agreement.

LESSEE/DEBTOR ACKNOWLEDGES THE DISCLAIMER OF CLAIMS AND WARRANTIES MADE IN THE LEASING/FINANCING OF THIS EQUIPMENT, THE PROMISE TO MAKE ALL PAYMENTS TO LESSOR/SECURED PARTY EVEN IF THE EQUIPMENT FAILS TO WORK OR OTHERWISE PERFORM AS EXPECTED AND TO LOOK TO LESSEE'S/DEBTOR'S SUPPLIER AND NOT LESSOR/SECURED PARTY FOR RESOLUTION OF ANY PROBLEMS WITH THE EQUIPMENT.

LESSEE/DEBTOR UNDERSTANDS THAT LESSOR/SECURED PARTY IS RELYING ON LESSEE'S/DEBTOR'S CERTIFICATION OF ITS SATISFACTION WITH THE EQUIPMENT IN DIRECTING PAYMENT OF THE SUPPLIER AND WOULD NOT DO SO BUT FOR LESSEE'S/DEBTOR'S CERTIFICATION.

Quantity	Description of Equipment
(1)	1978 Drill Tech Drilling Rig Model D40K, S/N 870551 Truck Mounted on 1978 Chassis (Crane Carrier) with 175' Pipe, S/N 25715

Don-Dine Corporation and  
Mark Johnson DBA J&P Well Drilling  
Lessee/Debtor

By: Mark Johnson Its a mark and pres.  
Authorized Signature Title

VERIFICATION

I, Richard J. Bem, Vice-President of First National Bank of Pennsylvania, being authorized to do so, verify that the statements made in this Complaint in Confession of Judgment are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to unsworn falsification to authorities.

FIRST NATIONAL BANK OF PENNSYLVANIA

By

Richard J. Bem  
Vice-President

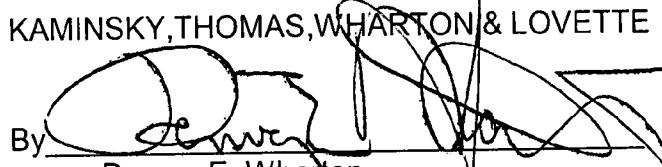
DATED: 8/5/03

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST NATIONAL BANK OF PA, : No.  
Successor-in-Interest via merger to :  
PROMISTAR BANK, :  
:   
Plaintiff :  
:   
vs. :  
:   
DON JOHNSON and :  
MARK JOHNSON, individually, :  
:   
Defendants :  
:

Pursuant to the Authority contained in the Warrant of Attorney, the original or a copy of which is attached to the Complaint filed in this action, I appear for the Defendants and confess judgment in favor of the Plaintiff and against the Defendants as follows:

- a. Unpaid principal: Thirty-seven Thousand Five Hundred Seventy-eight and 54/100 (\$37,578.54) Dollars;
- b. Interest: Two Thousand Forty-one and 71/100 (\$2,041.71) Dollars;
- c. Late fees and attorney's fees (5%): Two Thousand Four Hundred Ninety-one and 25/100 (\$2,491.25) Dollars, consisting of Four Hundred Eighty-five and 94/100 (\$485.94) Dollars late fees and Two Thousand Five and 31/100 (\$2,005.31) Dollars attorney's fees;
- d. Total: Forty-two Thousand One Hundred Eleven and 50/100 (\$42,111.50) Dollars.

KAMINSKY, THOMAS, WHARTON & LOVETTE  
By   
Denver E. Wharton  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST NATIONAL BANK OF PA, : No.  
Successor-in-Interest via merger to :  
PROMISTAR BANK, :

Plaintiff :

vs. :

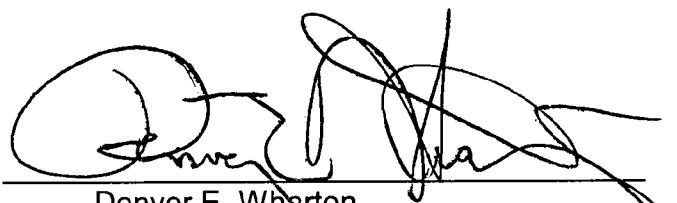
DON JOHNSON and :  
MARK JOHNSON, individually, :

Defendants :

**CERTIFICATE OF RESIDENCE**

I certify that Plaintiff, First National Bank of Pennsylvania, Successor-in-Interest via merger to Promistar Bank, is a banking institution having an office located at 532-534 Main Street, Johnstown, Cambria County, PA 15901, and that Defendant, Don Johnson, is an adult individual whose last known address is P.O. Box 237, Pine Street, Allport, Clearfield Co., PA 16821, and that the Defendant, Mark Johnson, is an adult individual whose last known address is P.O. Box 237, Pine Street, Allport, Clearfield County, PA 16821. I understand that false statements made in this Certificate are subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to unsworn falsification to authorities.

Date: August 6, 2003



Denver E. Wharton  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

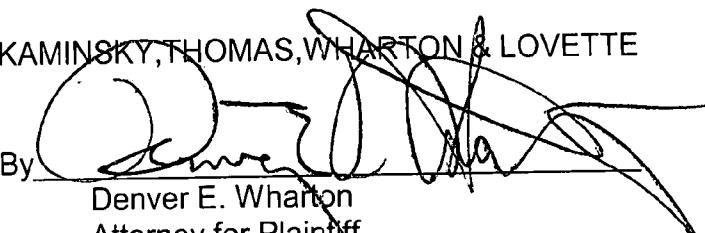
FIRST NATIONAL BANK OF PA,	:	No.
Successor-in-Interest via merger to	:	
PROMISTAR BANK,	:	
	:	
Plaintiff	:	
	:	
vs.	:	
	:	
DON JOHNSON and	:	
MARK JOHNSON, individually,	:	
	:	
Defendants	:	

**CERTIFICATE OF SERVICE**

I, Denver E. Wharton, Esquire, hereby certify that on the 6th day of  
August, 2003, I forwarded a true and correct copy of the Complaint by U.S.  
First Class Mail, postage prepaid, to the following addresses:

Don Johnson  
P.O. Box 237, Pine Street  
Allport, PA 16821

Mark Johnson  
P.O. Box 237, Pine Street  
Allport, PA 16821

KAMINSKY, THOMAS, WHARTON & LOVETTE  
By   
Denver E. Wharton  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

No.

FIRST NATIONAL BANK OF PA,  
Successor-in-Interest via merger  
to PROMISTAR BANK

vs.

DON JOHNSON and  
MARK JOHNSON, individually

COMPLAINT IN CONFESSION  
OF JUDGMENT

**FILED**

2:07-CV-00200  
m  
AUG 07 2003  
SHERIFF'S OFFICE

William A. Shaw  
Prothonotary

LAW OFFICES

KAMINSKY, THOMAS, WHARTON  
AND LOVETTE  
360 STONYCREEK STREET  
JOHNSTOWN, PENNSYLVANIA 15901-1959

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

First National Bank of PA  
Plaintiff(s)

No.: 2003-01164-CD



Real Debt: \$42,111.50

Atty's Comm: \$

Costs: \$

Int. From: \$

Don Johnson  
Mark Johnson  
Defendant(s)

Entry: \$20.00

Instrument: Confession Judgment

Date of Entry: August 7, 2003

Expires: August 7, 2008

Certified from the record this 7th 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

Date: 8/1/2003

Time: 03:44 PM

Page 17 of 28

**Clearfield County Court of Common Pleas**

Fine Distribution by Agency

CT COMMON PLEAS, Collections Department Location Only

All Case Types

From 7/1/2003 to 7/31/2003

Sorted by Fine Distribution Type

**Huston Township**

Fee Schedule Effective Date:	1/1/1998			
CCS - City	Receipt Date	Receipt Number	Local Agency	
	7/2/2003	03:25 PM	1862557	20.00
Sealed		Case: 1820-0000348-JV		Defendant: Reasinger, Christopher
CCS - City Totals:			20.00	20.00
1/1/1998 Schedule Totals:			20.00	20.00
Agency Totals:			20.00	20.00

(Rule of Civil Procedure No. 236)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST NATIONAL BANK OF PA,  
Successor-in-Interest via merger to  
PROMISTAR BANK,

: No. 03-1164-C

Plaintiff  
vs.

DON JOHNSON and  
MARK JOHNSON, individually,

Defendants

TO: Mark Johnson  
P.O. Box 237  
Pine Street  
Allport, PA 16821

Notice is given that a judgment in the above captioned matter  
has been entered against you on August 7, 2003.

  
\_\_\_\_\_  
Prothonotary of Clearfield County

(Rule of Civil Procedure No. 236)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST NATIONAL BANK OF PA,  
Successor-in-Interest via merger to  
PROMISTAR BANK,

: No. 03-1164-CD

Plaintiff  
vs.

DON JOHNSON and  
MARK JOHNSON, individually,

Defendants

TO: Don Johnson  
P.O. Box 237  
Pine Street  
Allport, PA 16821

Notice is given that a judgment in the above captioned matter  
has been entered against you on August 7, 2003.

  
\_\_\_\_\_  
Prothonotary of Clearfield County

FIRST NATIONAL BANK OF PA,  
Successor-in-Interest via merger to  
PROMISTAR BANK,

Plaintiff

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

: No. 2003-01164-CD

vs.

DON JOHNSON and  
MARK JOHNSON, individually,

Defendants

vs.

CLEARFIELD BANK & TRUST  
COMPANY,

Garnishee

: TYPE OF DOCUMENT:

: PRAECIPE TO DISCONTINUE  
AS TO GARNIShee ONLY

: ATTORNEY FOR PLAINTIFF:  
: DENVER E. WHARTON, ESQUIRE  
: SUPERME COURT I.D. #31800  
: KAMINSKY, THOMAS, WHARTON  
: & LOVETTE  
: 360 STONYCREEK STREET  
: JOHNSTOWN, PA 15901  
: PHONE: (814) 535-6756

[Redacted]

MAR 23 2004

WE  
ES  
JW

2004  
JW

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST NATIONAL BANK OF PA,	:	No. 2003-01164-CD
Successor-in-Interest via merger to	:	
PROMISTAR BANK,	:	
Plaintiff		
vs.	:	
DON JOHNSON and	:	
MARK JOHNSON, individually,	:	
Defendants		
vs.	:	
CLEARFIELD BANK & TRUST	:	
COMPANY,	:	
Garnishee	:	

**PRAECIPE TO DISCONTINUE**  
**AS TO GARNIShee ONLY**

TO THE PROTHONOTARY OF THE ABOVE NAMED COURT:

Please discontinue the garnishment filed to the above caption and number against the Garnishee, Clearfield Bank & Trust Company, without prejudice.

KAMINSKY, THOMAS, WHARTON & LOVETTE

By

Denver E. Wharton  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

No. 2003-01164-CD

FIRST NATIONAL BANK OF PA,  
et al.

vs.

DON JOHNSON and  
MARK JOHNSON, individually

vs.

CLEARFIELD BANK & TRUST COMPANY,  
Garnishee

PRAECIPE TO DISCONTINUE  
AS TO GARNISHEE ONLY

**FILED**

*n 1:29-04-100 to getty & cert  
C448 Cert. & C44-8676*

MAR 23 2004

William A. Shaw  
Prothonotary

LAW OFFICES

KAMINSKY, THOMAS, WHARTON  
AND LOVETTE

360 STONYCREEK STREET

JOHNSTOWN, PENNSYLVANIA 15901-1959

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

**CIVIL DIVISION**

**First National Bank of PA**

**Vs.**

**No. 2003-01164-CD**

**Don Johnson**

**Mark Johnson**

**Vs.**

**Clearfield Bank & Trust Company**

**CERTIFICATE OF DISCONTINUATION**

Commonwealth of PA

County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on March 23, 2004, marked:

Discontinued. settled and ended with prejudice against Clearfield Bank & Trust Company ONLY.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 23rd day of March A.D. 2004.

---

William A. Shaw, Prothonotary

**PRAECIPE FOR WRIT OF EXECUTION - (MONEY JUDGMENTS)**  
**P.R.C.P. 3101 to 3149**

FIRST NATIONAL BANK OF PA,  
Successor-in-Interest via merger to  
PROMISTAR BANK  
.....  
vs.

DON JOHNSON and  
.....  
MARK JOHNSON, individually  
.....

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
No. 2003-01164-CD

**PRAECIPE FOR WRIT OF EXECUTION**  
**(MONEY JUDGMENT)**

To the Prothonotary: ISSUE WRIT OF EXECUTION IN THE ABOVE MATTER.

(1) Directed to the Sheriff of ..... Clearfield ..... County, Penna.;  
(2) against ..... Mark Johnson ..... P.O. Box 237, Pine Street, Allport, PA 16821 ..... Defendant(s);  
(3) and against ..... Clearfield Bank & Trust Company ..... Garnishee(s);  
(4) and index this writ  
(a) against ..... Mark Johnson ..... P.O. Box 237, Pine Street, Allport, PA 16821 ..... Defendant(s) and  
(b) against ..... Clearfield Bank & Trust Company ..... Garnishee(s)

as a lis pendens against the real property of the defendant(s) in the name of the Garnishee(s) as follows: (Specifically describe property)  
Any and all bank accounts that are in the name of Mark Johnson at any branch of  
Clearfield Bank & Trust Company.

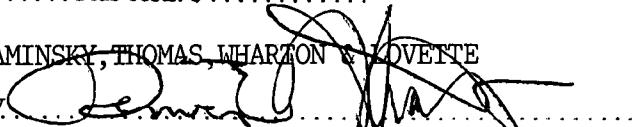
**FILED**

NOV 05 2003

William A. Shaw  
Prothonotary/Clerk of Courts

(5) Amount due	\$ 40,106.19
Interest from 7-27-03	
Atty. Com.	2,005.31 Prothonotary Costs: \$40.00
Total	42,111.50 Plus costs. \$ .
Inquisition and Exemption (is) (is not) Waived.	

Dated ..... November 4, 2003

KAMINSKY, THOMAS, WHARTON & LOVETTE  
By 

Attorney for Plaintiff(s)  
Denver E. Wharton

**NOTE**

Under paragraph (1) when the writ is directed to the sheriff of another county as authorized by Rule 3103 (b), the county should be indicated.

Under Rule 3103(c) a writ issued on a transferred judgment may be directed only to the sheriff of the county in which issued.

Paragraph (3) above should be completed only if a named garnishee is to be included in the writ.

Paragraph (4) (a) should be completed only if indexing of the execution in the county of issuance, is desired as authorized by rule 3104 (a). When the writ issues to another county indexing is required as of course in that county by the prothonotary. See Rule 3104 (b).

Paragraph (4) (b) should be completed only if real property in the name of a garnishee is attached and indexing as a lis pendens is desired. See Rule 3104 (c).

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
FIRST NATIONAL BANK OF PA,  
Successor-in-Interest via merger to  
PROMISTAR BANK

vs.

DON JOHNSON and  
MARK JOHNSON, individually

PRAECIPE FOR WRIT OF EXECUTION

(Money Judgments)  
P.R.C.P. 3101 to 3149 etc.

KAMINSKY, THOMAS, WHARTON & LOVETTE  
By   
Denver E. Wharton Attorney for Plaintiff(s)  
360 Stonycreek Street, Johnstown, PA 15901

Address of Defendant(s)

Mark Johnson  
P.O. Box 237  
Pine Street  
Allport, PA 16821

FILED *Nov 05 2003* *4 pd. 20.00*  
*NOV 05 2003* *lewintz to S&F*  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST NATIONAL BANK OF PA, : No. 2003-01164-CD  
Successor-in-Interest via merger to :  
PROMISTAR BANK, :  
: Plaintiff :  
: :  
vs. :  
: :  
DON JOHNSON and :  
MARK JOHNSON, individually, :  
: :  
Defendants :  
:

**AFFIDAVIT OF DEFENDANT'S LAST KNOWN ADDRESS**

AND NOW, comes Denver E. Wharton, Esquire, Attorney for the Plaintiff, First National Bank of PA, and hereby swears that:

The last known address of the Defendant, Mark Johnson, is as follows:

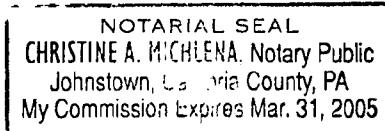
Mark Johnson  
P.O. Box 237  
Pine Street  
Allport, PA 16821

KAMINSKY, THOMAS, WHARTON & LOVETTE  
By   
Denver E. Wharton  
Attorney for Plaintiff

Sworn to and subscribed  
before me this 4th day  
of November, 2003.

Christine A. Michlena  
Notary Public

My commission expires:



*Copy*

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

First National Bank of PA,  
Successsor-in-Interest via merger  
to Promistar Bank

Vs.

NO.: 2003-01164-CD

Don Johnson and  
Mark Johnson, individually

Clearfield Bank & Trust Company  
Garnishee

**TO THE SHERIFF OF CLEARFIELD COUNTY:**

To satisfy the debt, interest and costs due FIRST NATIONAL BANK OF PA, Successor-in-Interest to Promistar Bank, Plaintiff(s) from DON JOHNSON and MARK JOHNSON, individually, Defendant(s):

- (1) You are directed to levy upon the property of the defendant(s) and to sell interest(s) therein:  
Any and all bank accounts that are in the name of Mark Johnson at any branch of Clearfield Bank & Trust Company
- (2) You are also directed to attach the property of the defendant(s) not levied upon in the possession of:  
Clearfield Bank & Trust Company  
Garnishee(s) as follows: Any and all bank accounts that are in the name of Mark Johnson at any branch of Clearfield Bank & Trust Company  
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: \$40,106.19  
INTEREST from 7-27-03  
PROTH. COSTS: \$  
ATTY'S COMM: \$2,005.31  
DATE: 11/05/2003

PAID: \$40.00  
SHERIFF: \$  
OTHER COSTS: \$

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

---

William A. Shaw  
Prothonotary/Clerk Civil Division

Requesting Party: Denver E. Wharton  
360 Stonycreek Street  
Johnstown, PA 15901

Sheriff

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

Sheriff Docket # 14909

FIRST NATIONAL BANK OF PA, SUCCESSOR-IN-INTEREST VIS MERGER 03-1164-CD

VS.

JOHNSON, DON

**WRIT OF EXECUTION    INTERROGATORIES TO GARNISHEE**

**SHERIFF RETURNS**

**NOW, DECEMBER 15, 2003 @ 11:42 A.M. O'CLOCK SERVED WRIT OF EXECUTION AND INTERROGATORIES TO GARNISHEE ON KATHY JACOBSON, OFFICE MANAGER, OF CLEARFIELD BANK & TRUST COMPANY, GARNISHEE, AT HER PLACE OF EMPLOYMENT, 11 N. SECOND STREET, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO KATHY JACOBSON, OFFICE MANAGER OF CLEARFIELD BANK & TRUST COMPANY, GARNISHEE, A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION AND INTERROGATORIES TO GARNISHEE AND BY MAKING KNOWN TO HER THE CONTENTS THEREOF.**

**NOW, DECEMBER 10, 2003 SERVED MARK JOHNSON, DEFENDANT, BY REG. MAIL AT P. O. BOX 237, PINE STREET, ALLPORT, CLEARFIELD COUNTY, PENNSYLVANIA WITH A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION, AND NOTICES FROM ATTORNEY, AS PER LETTER FROM THE PLAINTIFF'S ATTORNEY**

**NOW, MARCH 26, 2004 RETURN WRIT AS BEING SERVED, PAID COSTS FROM THE ADVANCE AND MADE A REFUND OF THE UNUSED ADVANCE TO THE ATTORNEY.**

**SHERIFF HAWKINS                    \$29.37  
SURCHARGE                            \$20.00  
PAID BY ATTORNEY**

**FILED  
01/30/2004  
MAR 26 2004  
EJ**

**William A. Shaw  
Prothonotary/Clerk of Courts**

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 14909

FIRST NATIONAL BANK OF PA, SUCCESSOR-IN-INTEREST VIS MERGER 03-1164-CD

vs.

JOHNSON, DON

WRIT OF EXECUTION INTERROGATORIES TO GARNISHEE

**SHERIFF RETURNS**

---

Sworn to Before Me This

26<sup>th</sup> Day Of March 2004

W. A. Shaw CH

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

So Answers,

Chester Hawkins  
By Cynthia Butler-Augherbaugh  
Chester A. Hawkins  
Sheriff

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

First National Bank of PA,  
Successsor-in-Interest via merger  
to Promistar Bank

Vs.

NO.: 2003-01164-CD

Don Johnson and  
Mark Johnson, individually

Clearfield Bank & Trust Company  
Garnishee

**TO THE SHERIFF OF CLEARFIELD COUNTY:**

To satisfy the debt, interest and costs due FIRST NATIONAL BANK OF PA, Successor-in-Interest to Promistar Bank, Plaintiff(s) from DON JOHNSON and MARK JOHNSON, individually, Defendant(s):

- (1) You are directed to levy upon the property of the defendant(s) and to sell interest(s) therein:  
Any and all bank accounts that are in the name of Mark Johnson at any branch of Clearfield Bank & Trust Company
- (2) You are also directed to attach the property of the defendant(s) not levied upon in the possession of:  
Clearfield Bank & Trust Company  
Garnishee(s) as follows: Any and all bank accounts that are in the name of Mark Johnson at any branch of Clearfield Bank & Trust Company  
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;
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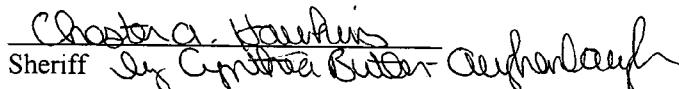
AMOUNT DUE: \$40,106.19  
INTEREST from 7-27-03  
PROTH. COSTS: \$  
ATTY'S COMM: \$2,005.31  
DATE: 11/05/2003

PAID: \$40.00  
SHERIFF: \$  
OTHER COSTS: \$

  
\_\_\_\_\_  
William A. Shaw  
Prothonotary/Clerk Civil Division

Received this writ this 5<sup>th</sup> day  
of November A.D. 2003  
At 3:15 A.M./P.M.

Requesting Party: Denver E. Wharton  
360 Stonycreek Street  
Johnstown, PA 15901

  
\_\_\_\_\_  
Sheriff by Cynthia Butler Aufderhaar