

2004-567-CD  
CSB BANK

VS

DAVID P. BERRY ETAL

CSB Bank vs. David and Lynnette Berry  
2004-567-CD

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

CSB BANK,	:	
Plaintiff	:	No. 04 - 567 - CD
	:	
-vs-	:	IN MORTGAGE FORECLOSURE
	:	
DAVID P. BERRY and LYNNETTE	:	
M. BERRY, Defendants	:	

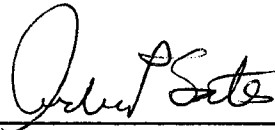
PRAECIPE

TO: WILLIAM SHAW, PROTHONOTARY:

Please reinstate the Complaint in the above captioned matter.

GATES & SEAMAN

By:



Andrew P. Gates, Esquire

Date: May 28, 2004

FILED

MAY 28 2004

William A. Shaw  
Prothonotary/Clerk of Courts

FILED

04/00/01  
MAY 28 2004

1 Comp. Reinstated  
to Atty

William A. Shaw

Prothonotary/Clerk of Courts

Atty pd. 7.00

William A. Shaw  
Prothonotary/Clerk of Courts

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

CSB BANK,	:	
Plaintiff	:	No. 04 - - CD
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-vs-	:	IN MORTGAGE FORECLOSURE
	:	
DAVID P. BERRY and LYNNETTE	:	
M. BERRY, Defendants	:	

NOTICE TO DEFEND

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, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

DAVID S. MEHOLICK, COURT ADMINISTRATOR  
Clearfield County Court House  
Clearfield, PA 16830  
(814) 765-2641, Ext. 1303

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

CSB BANK,	:	
Plaintiff	:	No. 04 - - CD
	:	
-vs-	:	IN MORTGAGE FORECLOSURE
	:	
DAVID P. BERRY and LYNNETTE	:	
M. BERRY, Defendants	:	

C O M P L A I N T

NOW COMES, the Plaintiff, CSB BANK, by its attorneys, Gates & Seaman, and brings this action In Mortgage Foreclosure against the named Defendants as follows:

1. The Plaintiff is CSB BANK, a state banking institution and corporation organized and existing under the laws of the Commonwealth of Pennsylvania and having its principal office and place of business at 434 State Street, P. O. Box 29, Curwensville, Clearfield County, Pennsylvania, 15833.

2. Defendant, DAVID P. BERRY, is an adult individual who is married to Co-Defendant, Lynnette M. Berry, and who resides at 80 Griffith Avenue, Curwensville (Clearfield County), Pennsylvania 16833.

3. Defendant, LYNNETTE M. BERRY, is an adult individual who is married to Co-Defendant, David P. Berry, and who resides 80 Griffith Avenue, Curwensville (Clearfield County), Pennsylvania 16833.

4. The Plaintiff brings this action to foreclose on the following Mortgages:

(a) Mortgage in the principal amount of \$100,000.00, dated April 22, 1997 between Defendants, David P. Berry and Lynnette

M. Berry, Mortgagors, and Plaintiff, CSB Bank, Mortgagee, which Mortgage covers commercial/rental real estate, situate in Clearfield Borough, Clearfield County, Pennsylvania and which Mortgage is recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania in Clearfield County Deeds and Records Book 1835, Page 442. A photocopy of said mortgage is attached hereto and made a part hereof as Exhibit "A"; and

(b) Mortgage in the principal amount of \$26,375.00, dated August 20, 1997 between Defendants, David P. Berry and Lynnette M. Berry, Mortgagors, and Plaintiff, CSB Bank, Mortgagee, which Mortgage covers commercial/rental real estate, situate in Clearfield Borough, Clearfield County, Pennsylvania and which Mortgage is recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania in Clearfield County Deeds and Records Book 1865, Page 519. A photocopy of said mortgage is attached hereto and made a part hereof as Exhibit "B".

5. The real estate and two commercial buildings subject to the mortgage are situate in Clearfield Borough, Clearfield County, Pennsylvania and are more fully described in Exhibit "C" which is attached hereto and made a part hereof.

6. The mortgages described in Paragraph 4 hereof secured Defendants' indebtedness to Plaintiff, CSB Bank, which is evidenced by a Promissory Note dated May 20, 2000, in the principal amount of \$136,120.72. A photocopy of said Promissory Note is attached hereto and made a part hereof as Exhibit "D".

7. Said Promissory Note of May 20, 2000, identified

in the preceding paragraph, correctly sets forth the Defendants' secured indebtedness to CSB Bank as determined by said Defendants' Confirmed Plan of Reorganization dated November 29, 1999 filed in their Chapter 11 Bankruptcy filed in the United States Bankruptcy Court for the Western District of Pennsylvania, wherein said mortgage claims of Plaintiff, CSB Bank, were therein identified as a Class 2 Claim. Attached hereto and made a part hereof as Exhibit "E" is a true and correct copy of Defendants' Plan of Reorganization dated November 29, 1999.

8. Defendants' Plan of Reorganization dated November 29, 1999 was confirmed by the United States Bankruptcy Court for the Western District of Pennsylvania by Order dated March 16, 2000, a photocopy of which is attached hereto and made a part hereof as Exhibit "F".

9. Said Promissory Note of May 20, 2000, above identified, sets forth that CSB Bank may accelerate and declare the entire unpaid principal balance on said Promissory Note as well as any accrued unpaid interest, immediately due and payable upon occurrence of any "Event of Default" which includes Defendants' non payment, when due, of any amount payable under said Promissory Note.

10. The repayment terms of the Promissory Note of May 20, 2000 which are secured by the Mortgages of April 22, 1997 and August 20, 1997 are in serious default because the Defendants have failed to make the last six (6) monthly



installments of the principal and interest.

11. The aforesaid Mortgages of April 22, 1997 and August 20, 1997 do not represent "residential mortgages" as said term is defined under Act #6 of 1974, as amended (See 41 P.S. §101 et seq.) and thus no Notice of Intention to Foreclose had to be given by Plaintiff to Defendants as provided for by 41 P.S. §403.

12. Since the real estate subject to the aforesaid Mortgages of April 22, 1997 and August 20, 1997 is not the principal residence of the Defendants, nor a one or two family owner-occupied residence, Plaintiff did not have to give Defendants notice as provided for under the Homeowners Emergency Assistance Act (35 P.S. §1680.401 (et seq.)).

13. Although not required by: (a) Act #6 of 1974, as amended (41 P.S. §401 et seq.); (b) the Promissory Note of May 20, 2000; nor (c) the Mortgages of April 22, 1997 and August 20, 1997, as above identified, on January 6, 2004, Plaintiff prepared a Notice of Intention to Foreclose Mortgage and on the same day mailed the same to Defendant, David P. Berry, at the address set forth herein by Certified Mail, Return Receipt Requested, Certified No. 7003 1010 0001 6348 5003 in the Postal System of the United States of America, postage prepaid. A true and correct copy of the aforesaid Notice, the signed receipt card (P.S. Form 3811) and the postmarked Receipt for Certified Mail (P.S. Form 3800) are attached hereto and made a part hereof, collectively, as Exhibit "G".

14. Although not required by: (a) Act #6 of 1974, as amended (41 P.S. §401 et seq.); (b) the Promissory Note of May 20, 2000; nor (c) the Mortgages of April 22, 1997 and August 20, 1997, on January 6, 2004, Plaintiff prepared a Notice of Intention to Foreclose Mortgage and on the same day mailed the same to Defendant, Lynnette M. Berry, at the address set forth herein by Certified Mail, Return Receipt Requested, Certified No. 7003 1010 0001 6348 7519 in the Postal System of the United States of America, postage prepaid. A true and correct copy of the aforesaid Notice, the signed receipt card (P.S. Form 3811) and the postmarked Receipt for Certified Mail (P.S. Form 3800) are attached hereto and made a part hereof, collectively, as Exhibit "H".

15. Although not required by the Homeowners Emergency Assistance Act (35 P.S. §1680.401 et seq.), on January 6, 2004, Plaintiff prepared a Notice of Intention to Foreclose Mortgage and on the same day mailed the same to Defendant, David P. Berry, at the address set forth herein by first class mail, postage prepaid, in the Postal System of the United States of America. True and correct copies of the aforesaid Notice and the postmarked Certificate of Mailing (P.S. Form 3817) are attached hereto and made a part hereof, collectively, as Exhibit "I".

16. Although not required by the Homeowners Emergency Assistance Act (35 P.S. §1680.401 et seq.), on January 6, 2004, Plaintiff prepared a Notice of Intention to Foreclose Mortgage

and on the same day mailed the same to Defendant, Lynnette M. Berry, at the address set forth herein by first class mail, postage prepaid, in the Postal System of the United States of America. True and correct copies of the aforesaid Notice and the postmarked Certificate of Mailing (P.S. Form 3817) are attached hereto and made a part hereof, collectively, as Exhibit "J".

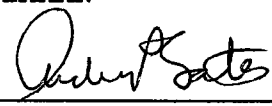
17. The following amounts are due on the Promissory Note of May 20, 2000 which is secured by the Mortgages of April 22, 1997 and August 20, 1997:

(a) Outstanding balance, including accrued interest through March 8, 2004*	\$ 132,284.46
(b) Late Fees as provided for in Promissory Note of 5/20/00 as of March 8, 2004	\$ 265.36
(c) Reasonable attorneys' fees as provided for in Promissory Note and Mortgages	\$ <u>1,000.00</u>
TOTAL	\$ 133,549.82

\*Plus per diem interest of \$35.0886 from March 8, 2004

WHEREFORE, the Plaintiff, CSB Bank, demands Judgment In Mortgage Foreclosure against the Defendants, David P. Berry and Lynnette M. Berry, in the sum of \$133,549.82, plus costs of suit and per diem interest of \$35.0886 per day accruing on the loan from March 8, 2004.

GATES & SEAMAN

By   
Andrew P. Gates, Esquire  
Attorney for Plaintiff, CSB Bank

Two North Front Street  
P. O. Box 846  
Clearfield, PA 16830  
(814) 765-1766

THIS MORTGAGE, dated April 22

, 19 97

is between the mortgagor(s), DAVID P. BERRY and LYNNETTE M. BERRY  
of 304 Meyers Circle, Clearfield, Pennsylvania, 16830

a individual

(corporation/partnership/proprietorship/individual)

organized and existing under the laws of the State of Pennsylvania

(and whether one or more persons, jointly and severally obligated and called "Owner"), and the mortgagee, CSB BANK

(called "Lender").

As used in this Mortgage, David P. Berry and Lynnette M. Berry

shall be called "Debtor." If no person is named as Debtor, however, any reference to "Debtor" in this Mortgage shall refer only to Owner.

A. **THE PROPERTY:** FOR VALUE RECEIVED AND INTENDING TO BE LEGALLY BOUND HEREBY, as security for the prompt payment and performance of all Obligations (as defined below in Paragraph B), Owner grants, bargains, sells, conveys and mortgages to Lender, its successors and assigns, all of Owner's right, title and interest in the real property described in Schedule "A" (called the "Property"), which is attached to and made a part of this Mortgage, together with all present and future buildings, improvements, additions and fixtures, and all alleys, passageways, easements, rights (including mineral and water rights), liberties, privileges, hereditaments and appurtenances, and all reversions, remainders, rents, royalties, issues and profits, now or later accruing or pertaining to the Property. The Property is commonly known as

with Uniform Parcel Identifier (i.e., Tax Parcel Number): 4-1-K8-216-79

B. **OBLIGATIONS SECURED BY THIS MORTGAGE.** As used in this Mortgage, "Obligations" means any and all of the following:

1. the liabilities and obligations of Debtor and/or Owner to Lender arising out of a ☒ note; ☐ surety agreement; ☐ other (describe) in the amount of One Hundred Thousand; dated April 22, 19 97, (called the "Instrument"), plus interest and costs as provided therein, and/or any modifications or extensions and any other instrument or agreement that may be substituted therefor;

2. all other existing and future liabilities and obligations of Debtor and/or Owner, or any of them, to Lender, whether arising from this or any other transaction, or of the same or different kinds or classes of indebtedness; and

3. full and complete performance by Owner of all warranties and representations, covenants and agreements and other obligations under this Mortgage.

C. **WARRANTIES AND REPRESENTATIONS:** Until the Obligations are paid and performed in full, Owner warrants and represents as follows:

1. **Purchase Money Mortgage:** ☒ If checked, this is a Purchase Money Mortgage and the proceeds of the Instrument will be utilized by Owner primarily to purchase the Property.

2. **Payments:** All payments on or secured by the Instrument will be made when and where due, including payments due by acceleration of maturity or on demand. All Obligations will be paid promptly and performed in full in accordance with their terms.

3. **Title:** Owner has fee simple title to the Property and the right to mortgage the Property. Owner will defend Owner's title against any person claiming any right in the Property prior to or superior to the lien of this Mortgage.

4. **Hazardous Conditions and Substances:** While Owner has been in possession of the Property, there has been no use, manufacture, storage, treatment, disposal or release of any hazardous substance or waste on, under or about the Property, nor is Owner aware of the existence of any such activities occurring on the Property prior to Owner's possession of the Property, which activities have not previously been disclosed in writing to Lender. Neither Owner nor the Property is the subject of pending or threatened litigation or regulatory proceedings regarding any hazardous substances or waste, or other activities conducted on or about the Property, which have not previously been disclosed in writing to Lender. As used in this Mortgage, "hazardous substance or waste" means any substance which does not occur naturally on the Property and which, if released into the environment, could or would pose a real and substantial threat to the public health, safety and welfare.

D. **COVENANTS AND AGREEMENTS:** Until the Obligations are paid and performed in full, Owner covenants and agrees as follows:

1. **Insurance:** Owner will maintain insurance on the Property of such kinds, in such amounts, with such companies and with such mortgagee or loss-payable clauses as are satisfactory to Lender. At Lender's request, Owner will promptly provide evidence of such policies, including paid receipts, to Lender. Owner shall not engage in nor permit any lessee of all or any part of the Property to engage in any activity on the Property which, if resulting in loss or damage to the Property, would not be covered by such insurance. Owner shall notify Lender of any loss or damage to the Property, submit to such insurers a proof or proofs of loss, and apply the proceeds of any such insurance to the repair of the Property or to reduce the outstanding balance of the Obligations, at Lender's election. Lender is hereby authorized, without notice to Owner, to file such proof or proofs of loss on behalf of Owner, if Owner fails or refuses to do so, and to sign Owner's name to any check, draft or other instrument in payment of insurance proceeds.

2. **Taxes:** Owner will pay all taxes, assessments, ground rents and governmental charges when they come due, and all other charges of any kind which are levied on the Property at any time and which, if unpaid, would result in a lien or other security interest in the Property superior to that of Lender's. Owner will deliver to Lender, on request, all receipts evidencing such payments. Neither Debtor nor Owner will claim a credit under the Instrument or this Mortgage for such payments.

3. **Use, Condition and Repair:** Owner will maintain the Property in good repair, order and condition. Owner will not commit nor permit any strip, waste, nuisance, impairment or deterioration of the Property. Lender's representatives may inspect the Property at any reasonable time or times. Owner will not bring nor permit any lessee of all or part of the Property to bring any hazardous substance or waste onto the Property, for storage, processing, distillation, treatment, manufacturing, disposal, release or any other purpose, unless with Lender's prior specific written approval. Owner will comply with all applicable laws, regulations and ordinances, federal, state and local, relating to the use and possession of the Property.

4. **Escrow:** At Lender's written request, Lender will be paid, with each payment of Principal or Interest on the Instrument, an additional sum equal to one-twelfth of the aggregate annual amount which will become due for the payment of all taxes to be levied and assessed on the Property, land, water and sewer rents, and any insurance required to be placed on the Property, as reasonably estimated initially and from time to time by Lender. If the sums held by Lender shall not be sufficient to pay such charges as they fall due, any deficiency shall be paid within 15 days from the date notice is mailed by Lender to Owner. All sums so deposited may be commingled with other funds held by Lender, shall NOT be held in trust for Owner, shall NOT bear interest, and are pledged as additional security for the sums secured by this Mortgage.

5. **Transfers:** Owner will not sell, assign or transfer the Property or any portion thereof, voluntarily or involuntarily, to any other person, nor grant anyone rights in the Property, without Lender's prior written consent. If the Property has been leased in whole or in part, Owner will comply with the provisions of such leases, but Owner will not collect more than one month's rent, exclusive of any security deposit for non-payment of rentals or damage to the Property, in advance.

6. **Judgments:** Owner assigns all judgments or awards for damage to the Property, or otherwise, in their entirety, to Lender, and Lender may apply the same to the Obligations secured by this Mortgage. Lender is authorized by Owner to institute or defend such actions and to appeal from any such judgments. If all or any part of the Property is subject to condemnation by any public authority, any award granted in such proceedings shall be paid to Lender as its interest shall then appear.

7. **Assignments:** Owner will not assign the rents, profits or income from the Property without first obtaining the written consent of Lender.

8. **Suits:** Owner shall not permit any action to enforce any other lien or claim against the Property prior to the lien of this Mortgage to be commenced and not discontinued and withdrawn within 10 days.

9. **Restrictions:** Owner shall comply with all restrictions or governmental regulations affecting the use, title or possession of the Property, and shall not make use of the Property or engage in any activity as a result of which the Property may be forfeited to any person.

E. **EVENTS OF DEFAULT.** Each of the following shall constitute an "Event of Default" under this Mortgage:

1. Debtor and/or Owner fails to make any payment on the Instrument as and when due or on demand;

2. Debtor and/or Owner fails to pay or perform any of the Obligations as and when due; or

3. Any warranty or representation or covenant or agreement contained in this Mortgage, in the Instrument, or in any document or instrument evidencing any of the Obligations, is breached.

F. **REMEDIES.** On the occurrence of any Event of Default, Lender may do any or all of the following:

1. At its sole discretion, cure the Event of Default and add the costs of such cure to the principal sum then due on the Obligations. Lender may charge interest on such payment, from the date of such payment, at a rate equal to the greater of 15% per annum or the rate provided in the Instrument.

2. On providing any timely notice of default and of Owner's right to cure the default as may then be provided by law, and failing appropriate and timely cure by Owner, accelerate and declare immediately due and payable all amounts due under the Instrument and under any or all of the Obligations.

3. Refer this Mortgage to an attorney for collection and/or to foreclose on the Property, or to take such other action at law or in equity for the enforcement of this Mortgage as the law may allow, for the entire unpaid balance thereof, together with Lender's costs in curing any Event of Default, with interest thereon at the greater of 15% per annum or the rate charged on the Instrument, and all costs of suit and Lender's reasonable attorneys' fees.

ALL that certain piece or parcel of land situate in the Borough of Clearfield, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a post corner at corner of alley and Third Street; thence along Third Street South four (4) degrees, thirty (30) minutes West, eighty-six (86) feet and one (1) inch to a post at center line of lot and corner now or formerly of Maggie T. Hoover property; thence North eighty-five (85) degrees thirty (30) minutes West along the line now or formerly of Maggie T. Hoover lot, fifty-five (55) feet and five (5) inches to line of Lot #107; thence North four (4) degrees thirty (30) minutes East, eighty-six (86) feet and one (1) inch along Lot #107 to alley; thence South eighty-five (85) degrees thirty (30) minutes East along said alley, fifty (50) feet and five (5) inches to corner at Third Street and place of beginning. Being the northern one-half of Lot #120 in the General Plan of said Borough of Clearfield, as surveyed and divided by E. W. Hess, Civil Engineer, November 22, 1904.

BEING the same premises conveyed to David P. Berry and Lynnette M. Berry, Husband and Wife, from Charles H. Button and Frances K. Button, husband and wife, by deed dated the 22nd day of April, 1997, and intended to be recorded together with this mortgage.

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

4-22-97  
CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 11:24 AM  
BY Joseph Caluschi  
FEES 13.50  
Karen L. Starck, Recorder

1835 PAGE 444  
4. VENDOR. In possession of the Property, with or without legal action, and collect all rents, issues, profits and insurance proceeds, which Owner hereby assigns to Lender as additional security for the Obligations.  
5. At its sole discretion, lease and, at any time and from time to time, on 10 days prior written notice to Owner, which notice Owner acknowledges as commercially reasonable, sell or otherwise dispose of the Property, in whole or in part.  
6. After deducting all costs of collection, apply the rents, issues, profits and proceeds of sale of the Property to the payment of taxes, water and sewer rents, insurance premiums and all other charges, and then apply the balance to the Obligations, in such order and amounts as Lender, in Lender's sole discretion, may elect.  
G. **WAIVERS.** Owner hereby waives and releases all benefit and relief from any and all appraisal, stay and exemption laws of any state now in force or hereafter passed, either for the benefit or relief of Owner, or limiting the balance due to a sum not in excess of the amount actually paid by a purchaser of the Property at a sale thereof in any judicial proceedings on this Mortgage, or exempting the Property or any other real property or any part of the proceeds of sale thereof, from attachment, levy or sale under execution, or providing for any stay of execution or any process.  
H. **CONSENT.** Owner hereby consents: to the extension of the time for payment of the Instrument, this Mortgage or any Obligations; to any compromise or settlement with Debtor or any Owner; to any waiver or failure by Lender to enforce any rights against any person or property; or to any other action which might or could release Owner and/or Debtor from liability.  
I. **NOTICE.** Any notice required to be given to Lender shall be personally served at Lender's address shown above. Any notice required to be given to Owner may, unless otherwise required by law, be sent by ordinary first class mail addressed to Owner's last known mailing address shown on Lender's books and records. Such notice shall be deemed received as of the next business day after mailing.  
J. **RELEASE.** Lender may release any part of the Property without affecting the lien of this Mortgage on the remainder of the Property for the Obligations then remaining unpaid.  
**BUT ALWAYS PROVIDED,** nevertheless, that if this Mortgage and the Obligations it secures are paid and performed in full in the manner provided in the Instrument and in the Obligations, then this Mortgage shall end and become void.  
The rights and remedies of Lender provided in this Mortgage, in the Instrument and in the Obligations shall be cumulative and concurrent. They may be pursued singly, successively, or together against Owner and the Property, at the sole discretion of Lender. The failure of Lender to exercise any right or remedy shall not be construed as a waiver or release of that or any other right or remedy. The words "Debtor," "Owner" and "Lender" shall be deemed and construed to include their respective heirs, personal representatives, successors and assigns. If there is more than one Owner, the obligations of each shall be joint and several. This Mortgage shall be governed by and construed according to the laws of the Commonwealth of Pennsylvania. The unenforceability or invalidity of any provision of this Mortgage shall not render any other provision unenforceable or invalid.  
OWNER HAS DULY EXECUTED THIS MORTGAGE under seal on the date indicated on the front.

Witness: [Signature]

Owner: [Signature] (SEAL)  
DAVID P. BERRY

By: [Signature] (SEAL)  
LYNNETTE M. BERRY

By or Attest: \_\_\_\_\_ (SEAL)  
(Assistant) Secretary

(Affix Corporate Seal Here)

### ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Clearfield

On this, the 22 day of April, 1997, before me, the subscriber, a notary public of the above State, personally appeared DAVID P. BERRY and LYNNETTE M. BERRY, known or satisfactorily proven to me to be the person(s) whose name(s) is (are) subscribed to the above Mortgage, who acknowledged that he/she/they executed the same as his/her/their voluntary act and deed and desired it to be recorded as such, or who acknowledged himself/herself/themselves to be the (Vice) President(s) of the Owner (if a Corporation) or General Partner(s) of the Owner (if a Partnership) and that, being authorized so to do, he/she/they executed the above Mortgage as and for the act and deed of the Corporation or Partnership, as applicable, by signing the name of the Corporation or Partnership by himself/herself/themselves as (Vice) President(s) or General Partner(s) and causing the Corporation seal, if applicable, to be applied thereto, and desired it to be recorded as such.

Witness my hand and official seal the day and year aforesaid.

**NOTARY SEAL**  
JOHN R. RYAN, Notary Public  
Clearfield Boro. Clearfield County, Pa.  
My Commission Expires June 6, 2000

[Signature]  
Notary Public

My commission expires:

I hereby certify that the precise address of the within named Mortgagee, CSB Bank

is P.O. Box 29, Curwensville, Pennsylvania 16833

[Signature]  
Officer on behalf of Mortgagee  
(JOHN R. RYAN, ESQUIRE)

BANCOSUMMER FORM PA 183 (9/90)

Curwensville, PA 16833

P.O. Box 29

CSB Bank

Recorder Please return this Mortgage to:

CSB Bank

Mortgagee

TO

DAVID P. BERRY and LYNNETTE M. BERRY  
Mortgagor(s)

MORTGAGE

Entered of Record 4-22 1997, 11:24am Karen L. Starck, Recorder

**MORTGAGE**

VOL 1865 PAGE 519

THIS MORTGAGE, dated August 20

, 1997

is between the mortgagor(s), David P. Berry and Lynnette M. Berry  
of 304 Meyers Circle, Clearfield, Pennsylvania, 16830

a individuals organized and existing under the laws of the State of  
(corporation/partnership/proprietorship/individual)

(and whether one or more persons, jointly and severally obligated and called "Owner"), and the mortgagee, CSB Bank  
P.O. Box 29, Curwensville, Pennsylvania 16833

(called "Lender").

As used in this Mortgage, David P. Berry and Lynnette M. Berry

shall be called "Debtor." If no person is named as Debtor, however, any reference to "Debtor" in this Mortgage shall refer only to Owner.

A. **THE PROPERTY:** FOR VALUE RECEIVED AND INTENDING TO BE LEGALLY BOUND HEREBY, as security for the prompt payment and performance of all Obligations (as defined below in Paragraph B), Owner grants, bargains, sells, conveys and mortgages to Lender, its successors and assigns, all of Owner's right, title and interest in the real property described in Schedule "A" (called the "Property"), which is attached to and made a part of this Mortgage, together with all present and future buildings, improvements, additions and fixtures, and all alleys, passageways, easements, rights (including mineral and water rights), liberties, privileges, hereditaments and appurtenances, and all reversions, remainders, rents, royalties, issues and profits, now or later accruing or pertaining to the Property. The Property is commonly known as

with Uniform Parcel Identifier (i.e., Tax Parcel Number): 4-1-K8-216-79

B. **OBLIGATIONS SECURED BY THIS MORTGAGE.** As used in this Mortgage, "Obligations" means any and all of the following:

1. the liabilities and obligations of Debtor and/or Owner to Lender arising out of a ☒ note; ☐ surety agreement; ☐ other (describe)

in the amount of Twenty-six Thousand Three Hundred Seventy-five; dated August 20, 1997  
(called the "Instrument"), plus interest and costs as provided therein, and/or any modifications or extensions and any other instrument or agreement that may be substituted therefor;

2. all other existing and future liabilities and obligations of Debtor and/or Owner, or any of them, to Lender, whether arising from this or any other transaction, or of the same or different kinds or classes of indebtedness; and

3. full and complete performance by Owner of all warranties and representations, covenants and agreements and other obligations under this Mortgage.

C. **WARRANTIES AND REPRESENTATIONS:** Until the Obligations are paid and performed in full, Owner warrants and represents as follows:

1. **Purchase Money Mortgage:** ☒ If checked, this is a Purchase Money Mortgage and the proceeds of the Instrument will be utilized by Owner primarily to purchase the Property.

2. **Payments:** All payments on or secured by the Instrument will be made when and where due, including payments due by acceleration of maturity or on demand. All Obligations will be paid promptly and performed in full in accordance with their terms.

3. **Title:** Owner has fee simple title to the Property and the right to mortgage the Property. Owner will defend Owner's title against any person claiming any right in the Property prior to or superior to the lien of this Mortgage.

4. **Hazardous Conditions and Substances:** While Owner has been in possession of the Property, there has been no use, manufacture, storage, treatment, disposal or release of any hazardous substance or waste on, under or about the Property, nor is Owner aware of the existence of any such activities occurring on the Property prior to Owner's possession of the Property, which activities have not previously been disclosed in writing to Lender. Neither Owner nor the Property is the subject of pending or threatened litigation or regulatory proceedings regarding any hazardous substances or waste, or other activities conducted on or about the Property, which have not previously been disclosed in writing to Lender. As used in this Mortgage, "hazardous substance or waste" means any substance which does not occur naturally on the Property and which, if released into the environment, could or would pose a real and substantial threat to the public health, safety and welfare.

D. **COVENANTS AND AGREEMENTS:** Until the Obligations are paid and performed in full, Owner covenants and agrees as follows:

1. **Insurance:** Owner will maintain insurance on the Property of such kinds, in such amounts, with such companies and with such mortgagee or loss-payable clauses as are satisfactory to Lender. At Lender's request, Owner will promptly provide evidence of such policies, including paid receipts, to Lender. Owner shall not engage in nor permit any lessee of all or any part of the Property to engage in any activity on the Property which, if resulting in loss or damage to the Property, would not be covered by such insurance. Owner shall notify Lender of any loss or damage to the Property, submit to such insurers a proof or proofs of loss, and apply the proceeds of any such insurance to the repair of the Property or to reduce the outstanding balance of the Obligations, at Lender's election. Lender is hereby authorized, without notice to Owner, to file such proof or proofs of loss on behalf of Owner, if Owner fails or refuses to do so, and to sign Owner's name to any check, draft or other instrument in payment of insurance proceeds.

2. **Taxes:** Owner will pay all taxes, assessments, ground rents and governmental charges when they come due, and all other charges of any kind which are levied on the Property at any time and which, if unpaid, would result in a lien or other security interest in the Property superior to that of Lender's. Owner will deliver to Lender, on request, all receipts evidencing such payments. Neither Debtor nor Owner will claim a credit under the Instrument or this Mortgage for such payments.

3. **Use, Condition and Repair:** Owner will maintain the Property in good repair, order and condition. Owner will not commit nor permit any strip, waste, nuisance, impairment or deterioration of the Property. Lender's representatives may inspect the Property at any reasonable time or times. Owner will not bring nor permit any lessee of all or part of the Property to bring any hazardous substance or waste onto the Property, for storage, processing, distillation, treatment, manufacturing, disposal, release or any other purpose, unless with Lender's prior specific written approval. Owner will comply with all applicable laws, regulations and ordinances, federal, state and local, relating to the use and possession of the Property.

4. **Escrow:** At Lender's written request, Lender will be paid, with each payment of Principal or Interest on the Instrument, an additional sum equal to one-twelfth of the aggregate annual amount which will become due for the payment of all taxes to be levied and assessed on the Property, land, water and sewer rents, and any insurance required to be placed on the Property, as reasonably estimated initially and from time to time by Lender. If the sums held by Lender shall not be sufficient to pay such charges as they fall due, any deficiency shall be paid within 15 days from the date notice is mailed by Lender to Owner. All sums so deposited may be commingled with other funds held by Lender, shall NOT be held in trust for Owner, shall NOT bear interest, and are pledged as additional security for the sums secured by this Mortgage.

5. **Transfers:** Owner will not sell, assign or transfer the Property or any portion thereof, voluntarily or involuntarily, to any other person, nor grant anyone rights in the Property, without Lender's prior written consent. If the Property has been leased in whole or in part, Owner will comply with the provisions of such leases, but Owner will not collect more than one month's rent, exclusive of any security deposit for non-payment of rentals or damage to the Property, in advance.

6. **Judgments:** Owner assigns all judgments or awards for damage to the Property, or otherwise, in their entirety, to Lender, and Lender may apply the same to the Obligations secured by this Mortgage. Lender is authorized by Owner to institute or defend such actions and to appeal from any such judgments. If all or any part of the Property is subject to condemnation by any public authority, any award granted in such proceedings shall be paid to Lender as its interest shall then appear.

7. **Assignments:** Owner will not assign the rents, profits or income from the Property without first obtaining the written consent of Lender.

8. **Suits:** Owner shall not permit any action to enforce any other lien or claim against the Property prior to the lien of this Mortgage to be commenced and not discontinued and withdrawn within 10 days.

9. **Restrictions:** Owner shall comply with all restrictions or governmental regulations affecting the use, title or possession of the Property, and shall not make use of the Property or engage in any activity as a result of which the Property may be forfeited to any person.

E. **EVENTS OF DEFAULT.** Each of the following shall constitute an "Event of Default" under this Mortgage:

1. Debtor and/or Owner fails to make any payment on the Instrument as and when due or on demand;

2. Debtor and/or Owner fails to pay or perform any of the Obligations as and when due; or

3. Any warranty or representation or covenant or agreement contained in this Mortgage, in the Instrument, or in any document or instrument evidencing any of the Obligations, is breached.

F. **REMEDIES.** On the occurrence of any Event of Default, Lender may do any or all of the following:

1. At its sole discretion, cure the Event of Default and add the costs of such cure to the principal sum then due on the Obligations. Lender may charge interest on such payment, from the date of such payment, at a rate equal to the greater of 15% per annum or the rate provided in the Instrument.

2. On providing any timely notice of default and of Owner's right to cure the default as may then be provided by law, and failing appropriate and timely cure by Owner, accelerate and declare immediately due and payable all amounts due under the Instrument and under any or all of the Obligations.

3. Refer this Mortgage to an attorney for collection and/or to foreclose on the Property, or to take such other action at law or in equity for the enforcement of this Mortgage as the law may allow, for the entire unpaid balance thereof, together with Lender's costs in curing any Event of Default, with interest thereon at the greater of 15% per annum or the rate charged on the Instrument, and all costs of suit and Lender's reasonable attorneys' fees.

ALL that certain piece or parcel of land situate in the Borough of Clearfield, Clearfield County, Pennsylvania, bounded and described as follows:

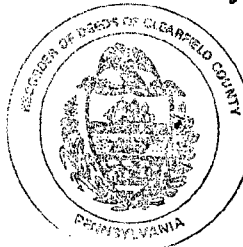
BEGINNING at a post corner at corner of alley and Third Street; thence along Third Street South four (4) degrees, thirty (30) minutes West, eighty-six (86) feet and one (1) inch to a post at center line of lot and corner now or formerly of Maggie T. Hoover property; thence North eighty-five (85) degrees thirty (30) minutes West along the line now or formerly of Maggie T. Hoover lot, fifty-five (55) feet and five (5) inches to line of Lot Number 107; thence North four (4) degrees thirty (30) minutes East, eighty-six (86) feet and one (1) inch along Lot Number 107 to alley; thence South eighty-five (85) degrees thirty (30) minutes East along said alley, fifty (50) feet and five (5) inches to corner at Third Street and place of beginning.

Being the northern one-half of Lot Number 120 in the General Plan of said Borough of Clearfield, as surveyed and divided by E.W. Hess, Civil Engineer, November 22, 1904.

BEING the same premises conveyed to David P. Berry and Lynnette M. Berry, husband and wife, from Charles H. Button and Frances K. Button, husband and wife, by deed dated April 22, 1997, said deed being recorded in Deed and Record Book 1835, Page 439.

ANY DEFAULT IN ANY MORTGAGE SENIOR TO THIS MORTGAGE SHALL BE DEEMED TO BE A DEFAULT OF THIS MORTGAGE AND THEREBY ENTITLE MORTGAGEE HEREIN TO ANY AND ALL REMEDIES PROVIDED BY LAW AND/OR IN THIS MORTGAGE, INCLUDING THE ACCELERATION OF ALL SUMS DUE HEREIN UNDER, THAT IS, THE ENTIRE AMOUNT OF THE PRINCIPAL BALANCE DUE HEREUNDER MAY BE DECLARED BY MORTGAGEE TO BE DUE AND PAYABLE UPON SUCH DEFAULT.

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



4. Enter into possession of the Property, without legal action, and collect all rents, issues, profits and insurance proceeds which Owner hereby assigns to Lender as additional security for the Obligations.

5. At its sole discretion, lease and, at any time and from time to time, on 10 days prior written notice to Owner, which notice Owner acknowledges is commercially reasonable, sell or otherwise dispose of the Property, in whole or in part.

6. After deducting all costs of collection, apply the rents, issues, profits and proceeds of sale of the Property to the payment of taxes, water and sewer rents, insurance premiums and all other charges, and then apply the balance to the Obligations, in such order and amounts as Lender, in Lender's sole discretion, may elect.

G. **WAIVERS.** Owner hereby waives and releases all benefit and relief from any and all appraisal, stay and exemption laws of any state now in force or hereafter passed, either for the benefit or relief of Owner, or limiting the balance due to a sum not in excess of the amount actually paid by a purchaser of the Property at a sale thereof in any judicial proceedings on this Mortgage, or exempting the Property or any other real property or any part of the proceeds of sale thereof, from attachment, levy or sale under execution, or providing for any stay of execution or any process.

H. **CONSENT.** Owner hereby consents: to the extension of the time for payment of the Instrument, this Mortgage or any Obligations; to any compromise or settlement with Debtor or any Owner; to any waiver or failure by Lender to enforce any rights against any person or property; or to any other action which might or could release Owner and/or Debtor from liability.

I. **NOTICE.** Any notice required to be given to Lender shall be personally served at Lender's address shown above. Any notice required to be given to Owner may, unless otherwise required by law, be sent by ordinary first class mail addressed to Owner's last known mailing address shown on Lender's books and records. Such notice shall be deemed received as of the next business day after mailing.

J. **RELEASE.** Lender may release any part of the Property without affecting the lien of this Mortgage on the remainder of the Property for the Obligations then remaining unpaid.

**BUT ALWAYS PROVIDED,** nevertheless, that if this Mortgage and the Obligations it secures are paid and performed in full in the manner provided in the Instrument and in the Obligations, then this Mortgage shall end and become void.

The rights and remedies of Lender provided in this Mortgage, in the Instrument and in the Obligations shall be cumulative and concurrent. They may be pursued singly, successively, or together against Owner and the Property, at the sole discretion of Lender. The failure of Lender to exercise any right or remedy shall not be construed as a waiver or release of that or any other right or remedy. The words "Debtor," "Owner" and "Lender" shall be deemed and construed to include their respective heirs, personal representatives, successors and assigns. If there is more than one Owner, the obligations of each shall be joint and several. This Mortgage shall be governed by and construed according to the laws of the Commonwealth of Pennsylvania. The unenforceability or invalidity of any provision of this Mortgage shall not render any other provision unenforceable or invalid.

OWNER HAS DULY EXECUTED THIS MORTGAGE under seal on the date indicated on the front.

Witness: [Signature]

Owner: [Signature] (SEAL)

By: [Signature] (SEAL)

By or Attest: [Signature] (SEAL)

(Assistant) Secretary

(Affix Corporate Seal Here)

## ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Clearfield

On this, the 20 day of August, 19 97, before me, the subscriber, a notary public of the above State, personally appeared David P. Berry and Lynnette M. Berry, known or satisfactorily proven to me to be the person(s) whose name(s) is (are) subscribed to the above Mortgage, who acknowledged that he/she/they executed the same as his/her/their voluntary act and deed and desired it to be recorded as such, or who acknowledged himself/herself/themselves to be the (Vice) President(s) of the Owner (if a Corporation) or General Partner(s) of the Owner (if a Partnership) and that, being authorized so to do, he/she/they executed the above Mortgage as and for the act and deed of the Corporation or Partnership, as applicable, by signing the name of the Corporation or Partnership by himself/herself/themselves as (Vice) President(s) or General Partner(s) and causing the Corporation seal, if applicable, to be applied thereto, and desired it to be recorded as such.

Witness my hand and official seal the day and year aforesaid.

**NOTARY SEAL**  
JOHN R. RYAN, Notary Public  
Clearfield Boro, Clearfield County, Pa.  
My Commission Expires June 8, 2000

Notary Public

My commission expires:

I hereby certify that the precise address of the within named Mortgagee, CSB BANK

is P.O. Box 29, Curwensville, Pennsylvania 16833

[Signature]  
Officer on behalf of Mortgagee

(JOHN R. RYAN, ESQUIRE)

CLEARFIELD COUNTY  
ENTERED OF RECORD

TIME 2:29 PM 8-20-97  
BY [Signature]  
FEES 13.50

Karen L. Starck, Recorder

BANKCONSUMER FORM PA 103 (9/90)

Curwensville, PA 16833

P.O. Box 29

CSB Bank

Recorder: Please return this Mortgage to:

CSB BANK

Mortgagee

TO

Mortgagor(s)

DAVID P. BERRY and LYNNETTE M. BERRY

MORTGAGE

Entered of Record Aug 20 1997, 2:29 PM Karen L. Starck, Recorder

ALL that certain piece or parcel of land situate in the Borough of Clearfield, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a post corner at corner of alley and Third Street; thence along Third Street South four (4) degrees, thirty (30) minutes West, eighty-six (86) feet and one (1) inch to a post at center line of lot and corner now or formerly of Maggie T. Hoover property; thence North eighty-five (85) degrees thirty (30) minutes West along the line now or formerly of Maggie T. Hoover lot, fifty-five (55) feet and five (5) inches to line of Lot Number 107; thence North four (4) degrees thirty (30) minutes East, eighty-six (86) feet and one (1) inch along Lot Number 107 to alley; thence South eighty-five (85) degrees thirty (30) minutes East along said alley, fifty (50) feet and five (5) inches to corner at Third Street and place of beginning.

Being the northern one-half of Lot Number 120 in the General Plan of said Borough of Clearfield, as surveyed and divided by E.W. Hess, Civil Engineer, November 22, 1904.

BEING the same premises conveyed to David P. Berry and Lynnette M. Berry, husband and wife, from Charles H. Button and Frances K. Button, husband and wife, by deed dated April 22, 1997, said deed being recorded in Deed and Record Book 1835, Page 439.

# PROMISSORY NOTE

Principal	Loan Date	Maturity	Loan No.	Call	Collateral	Account	Officer	Initials
\$136,120.72	05-20-2000	05-20-2020	141718		0020	109930	026	
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. Any item above containing ***** has been omitted due to text length limitations.								

**Borrower:** David P. Berry  
Lynnette M. Berry  
112 N 3rd St.  
Clearfield, PA 16830

**Lender:** CSB BANK  
Curwensville Office  
434 State Street  
P.O. Box 29  
Curwensville, PA 16833

**Principal Amount: \$136,120.72**

**Date of Note: May 20, 2000**

**PROMISE TO PAY.** David P. Berry and Lynnette M. Berry ("Borrower") jointly and severally promise to pay to CSB BANK ("Lender"), or order, in lawful money of the United States of America, the principal amount of One Hundred Thirty Six Thousand One Hundred Twenty & 72/100 Dollars (\$136,120.72), together with interest on the unpaid principal balance from May 20, 2000, until paid in full.

**PAYMENT.** Subject to any payment changes resulting from changes in the Index or margin or both, Borrower will pay this loan in accordance with the following payment schedule: 239 monthly consecutive payments in the initial amount of \$1,326.94 each, beginning June 20, 2000, with interest calculated on the unpaid principal balances at an interest rate of 10.000% per annum; and one payment of \$1,323.55 on May 20, 2020, with interest calculated on the unpaid principal balances at an interest rate of 10.000% per annum. This estimated final payment is based on the assumption that all payments will be made exactly as scheduled and that the Index does not change; the actual final payment will be for all principal and accrued interest not yet paid, together with any other unpaid amounts under this Note. 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. Borrower will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

**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 Wall Street Journal Published Prime Rate (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 Borrower. Lender will tell Borrower the current Index rate upon Borrower's request. The interest rate change will not occur more often than each five years. Borrower understands that Lender may make loans based on other rates as well. The Index currently is 9.000% per annum. The interest rate or rates to be applied to the unpaid principal balance of this Note will be the rate or rates set forth herein in the "Payment" section. Notwithstanding any other provision of this Note, after the first payment stream, the interest rate for each subsequent payment stream will be effective as of the last payment date of the just-ending payment stream. **NOTICE:** Under no circumstances will the interest rate on this Note be more than the maximum rate allowed by applicable law. Whenever increases occur in the interest rate, Lender, at its option, may do one or more of the following: (A) increase Borrower's payments to ensure Borrower's loan will pay off by its original final maturity date, (B) increase Borrower's payments to cover accruing interest, (C) increase the number of Borrower's payments, and (D) continue Borrower's payments at the same amount and increase Borrower's final payment.

**PREPAYMENT; MINIMUM INTEREST CHARGE.** In any event, even upon full prepayment of this Note, Borrower understands that Lender is entitled to a minimum interest charge of \$5.00. Other than Borrower's obligation to pay any minimum interest charge, Borrower 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 Borrower of Borrower's obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in Borrower's making fewer payments. Borrower agrees not to send Lender payments marked "paid in full", "without recourse", or similar language. If Borrower sends such a payment, Lender may accept it without losing any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: CSB BANK, Curwensville Office, 434 State Street, P.O. Box 29, Curwensville, PA 16833.

**LATE CHARGE.** If a payment is 16 days or more late, Borrower will be charged 5.000% of the unpaid portion of the regularly scheduled payment or \$999.99, whichever is less.

**INTEREST AFTER DEFAULT.** Upon default, including failure to pay upon final maturity, Lender, at its option, may, if permitted under applicable law, increase the variable interest rate on this Note by 4.000 percentage points. The interest rate will not exceed the maximum rate permitted by applicable 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.

**DEFAULT.** Each of the following shall constitute an event of default ("Event of Default") under this Note:

**Payment Default.** Borrower fails to make any payment when due under this Note.

**Other Defaults.** Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Note or in any of the related documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Note or the related documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Death or Insolvency.** The death of Borrower or the dissolution or termination of Borrower's existence as a going business, the insolvency of Borrower, the appointment of a receiver for any part of Borrower'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 Borrower.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or by any governmental agency against any collateral securing the loan. This includes a garnishment of any of Borrower's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the indebtedness or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the indebtedness. In the event of a death, 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

## PROMISSORY NOTE (Continued)

Page 2

any Event of Default.

**Adverse Change.** A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of this Note is impaired.

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

**Cure Provisions.** If any default, other than a default in payment, is curable and if Borrower has 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 Borrower, after receiving written notice from Lender demanding cure of such default: (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes 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 Borrower will pay that amount.

**ATTORNEYS' FEES; EXPENSES.** Lender may hire or pay someone else to help collect the loan if Borrower does not pay. Borrower 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, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, Borrower also will pay any court costs, in addition to all other sums provided by law.

**RIGHT OF SETOFF.** To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any and all such accounts, and, at Lender's option, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights provided in this paragraph.

**COLLATERAL.** Borrower acknowledges this Note is secured by a Mortgage dated April 22, 1997, and recorded April 22, 1997, in Volume 1835, Page 442 and a Mortgage dated August 20, 1997, and recorded August 20, 1997, in Volume 1865, Page 519, 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.

**SUCCESSOR INTERESTS.** The terms of this Note shall be binding upon Borrower, and upon Borrower's heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and Lender's successors and assigns.

**GENERAL PROVISIONS.** Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. Each Borrower understands and agrees that, with or without notice to Borrower, Lender may with respect to any other Borrower (a) make one or more additional secured or unsecured loans or otherwise extend additional credit; (b) alter, compromise, renew, extend, accelerate, or otherwise change one or more times the time for payment or other terms any indebtedness, including increases and decreases of the rate of interest on the indebtedness; (c) exchange, enforce, waive, subordinate, fail or decide not to perfect, and release any security, with or without the substitution of new collateral; (d) apply such security and direct the order or manner of sale thereof, including without limitation, any non-judicial sale permitted by the terms of the controlling security agreements, as Lender in its discretion may determine; (e) release, substitute, agree not to sue, or deal with any one or more of Borrower's sureties, endorser, or other guarantors on any terms or in any manner Lender may choose; and (f) determine how, when and what application of payments and credits shall be made on any other indebtedness owing by such other Borrower. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, 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; and take any other action deemed necessary by Lender without the consent of or notice to anyone. 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. If any portion of this Note is for any reason determined to be unenforceable, it will not affect the enforceability of any other provisions of this Note.

**CONFESSION OF JUDGMENT.** BORROWER HEREBY IRREVOCABLY AUTHORIZES AND EMPOWERS ANY ATTORNEY OR THE PROTHONOTARY OR CLERK OF ANY COURT IN THE COMMONWEALTH OF PENNSYLVANIA, OR ELSEWHERE, TO APPEAR AT ANY TIME FOR BORROWER AFTER A DEFAULT UNDER THIS NOTE AND WITH OR WITHOUT COMPLAINT FILED, CONFESS OR ENTER JUDGMENT AGAINST BORROWER FOR THE ENTIRE PRINCIPAL BALANCE OF THIS NOTE AND ALL ACCRUED INTEREST, LATE CHARGES AND ANY AND ALL AMOUNTS EXPENDED OR ADVANCED BY LENDER RELATING TO ANY COLLATERAL SECURING THIS NOTE, TOGETHER WITH COSTS OF SUIT, AND AN ATTORNEY'S COMMISSION OF TEN PERCENT (10%) OF THE UNPAID PRINCIPAL BALANCE AND ACCRUED INTEREST FOR COLLECTION, BUT IN ANY EVENT NOT LESS THAN FIVE HUNDRED DOLLARS (\$500) ON WHICH JUDGMENT OR JUDGMENTS ONE OR MORE EXECUTIONS MAY ISSUE IMMEDIATELY; AND FOR SO DOING, THIS NOTE OR A COPY OF THIS NOTE VERIFIED BY AFFIDAVIT SHALL BE SUFFICIENT WARRANT. THE AUTHORITY GRANTED IN THIS NOTE TO CONFESS JUDGMENT AGAINST BORROWER SHALL NOT BE EXHAUSTED BY ANY EXERCISE OF THAT AUTHORITY, BUT SHALL CONTINUE FROM TIME TO TIME AND AT ALL TIMES UNTIL PAYMENT IN FULL OF ALL AMOUNTS DUE UNDER THIS NOTE. BORROWER HEREBY WAIVES ANY RIGHT BORROWER MAY HAVE TO NOTICE OR TO A HEARING IN CONNECTION WITH ANY SUCH CONFESSION OF JUDGMENT AND STATES THAT EITHER A REPRESENTATIVE OF LENDER SPECIFICALLY CALLED THIS CONFESSION OF JUDGMENT PROVISION TO BORROWER'S ATTENTION OR BORROWER HAS BEEN REPRESENTED BY INDEPENDENT LEGAL COUNSEL.

PROMISSORY NOTE  
(Continued)

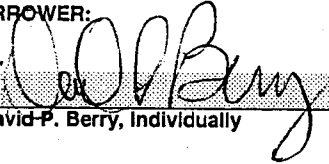
Page 3


PRIOR TO SIGNING THIS NOTE, EACH BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE, INCLUDING THE VARIABLE INTEREST RATE PROVISIONS. EACH BORROWER AGREES TO THE TERMS OF THE NOTE.

BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE.

THIS NOTE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS NOTE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.

BORROWER:

x  (Seal)  
David P. Berry, Individually

x  (Seal)  
Lynnette M. Berry, Individually

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

\*\*\*\*\*

IN RE: : BANKRUPTCY NO: 99-24093-BM  
:   
DAVID AND LYNNETTE BERRY d/b/a : Chapter 11  
COUSIN'S BAKERY, :   
Debtor :   
\*\*\*\*\*

PLAN OF REORGANIZATION  
DATED NOVEMBER 29, 1999

AND NOW this 29th day of November, 1999, comes the Movants, David and Lynnette Berry d/b/a Cousin's Bakery, Debtors-in-Possession in the above-referenced Chapter 11 case, by and through their attorneys, Spence, Custer, Saylor, Wolfe & Rose, and Thomas W. Cartwright, Esquire, and do file the within Plan of Reorganization dated November 29, 1999 upon a cause whereof the following is a statement:

I. INTRODUCTION

The instant case was commenced by the filing of a voluntary petition for relief pursuant to Chapter 11 of Title 11 of the Bankruptcy Code, 11 U.S.C. Section 101, et seq. by the Debtors-in-Possession, David Paul Berry and Lynnette Berry with the United States Bankruptcy Court for the Western District of Pennsylvania on June 1, 1999. As Debtors-in-Possession pursuant to Section 1107 of the Code, the debtors have remained in control of their assets, subject to Court approval of extra-ordinary transactions and the "oversight" provided by the Office of the United States Trustee.

The goal of the filing is the formulation and development of a Plan of Reorganization confirmable pursuant to 11 U.S.C. Section 1129.

Upon the commencement of the case, the debtors sought and obtained authority by Order dated August 6, 1999 at Motion No. 99-3695M to retain Thomas W. Cartwright, Esquire, of Spence, Custer, Saylor, Wolfe and Rose to represent them and assist them in their Chapter 11 case. Due to a lack of response from parties in interest, no Official Committee of Unsecured Creditors was appointed and organized pursuant to Section 1102 of the Code.

Said case has progressed to the point that the debtors have proposed a Plan of Reorganization dated as of November 29, 1999, as well as the Disclosure Statement filed in accord with Section 1125 of the Code, in furtherance of said Plan.

The purpose of the within Plan of Reorganization is to provide creditors with sufficient detail and information that a hypothetical creditor/investor, typical of the holders of claims and interests in this case, can make a knowing and informed decision as to whether to vote in favor of or against the pending Plan of Reorganization.

## II. CLASSES OF CREDITORS

The Plan of Reorganization of the Debtors is an approach for reorganization by refinancing the major mortgage debt and surrendering certain collateral back to secured creditors. The Debtors would surrender the property known as 304 Meyers Circle back to the secured creditors, Norwest and Beneficial. This would relieve the Debtors of the mortgage debt service on that particular parcel. The major lien holders, Curwensville National Bank and County National Bank, will be paid from the rents from the remaining properties and the proceeds from the business. The disposable income at the end of the month after paying their necessities of life in the range of approximately \$100.00 to \$125.00 to be paid into a pool of money to pay unsecured creditors. The Debtors would suggest a three year plan of payment resulting in a pool of money of approximately \$3,600.00. This would result in approximately a 16% payout to the unsecured creditors having a total of \$22,285.09. The unsecured creditors amount does not include any unsecured amount as determined by any Motion to Determine Secured Status whereby a mortgage lien under-secured to a parcel resulting in a deficiency on the mortgage would be placed into the general unsecured class. The total amount of the unsecured mortgage debt that may be considered a general unsecured claim is unknown at this time.

More specifically, the Plan of Reorganization involves nine classes of creditors.

1. CLASS 1 - Class 1 consists of the property tax claims of Clearfield County Tax Claim Bureau on differing parcels owned by the Debtors for 1997 and 1998 taxes. Total amount due to the Clearfield County Tax Claim Bureau is \$3,974.55.

2. CLASS 2 - Class 2 consists of the secured mortgage claim of Curwensville State Bank holding first, second and third mortgage liens on the parcels known as 112-124 Third Street in Clearfield, Pennsylvania. The amount due as scheduled by the Debtors on the outstanding indebtedness is \$134,000.00. The Debtors value the underlying collateral at \$168,500.00. Part of this

property is the primary principle residence of the Debtors. But this parcel also includes the residential rental properties as well as the business of the bakery and other store front rental properties. The Bank has renegotiated this mortgage and also forgiven some interest in order to help the Debtors reorganize. Curwensville will be paid \$1,326.00 per month on the mortgage total at 10% over a period of 20 years.

3. CLASS 3 - Class 3 consists of the allowed secured claim of County National Bank. County National Bank is a first lien holder on the parcels known as 1616 Lincoln Avenue in Hyde, Pennsylvania and the parcel known as the Kermoor Homestead (R.D. #2, Curwensville). The Debtors list the amount due on the first mortgage as \$52,000.00. The underlying collateral is listed as having a value of \$67,500.00. These two parcels are not the primary principle residence of the Debtors. County National Bank also holds a second mortgage on the 1616 Lincoln Avenue, Hyde, Pennsylvania property and the Kermoor Homestead (R.D. #2, Curwensville) but in addition to the real property on this mortgage, there is also an outstanding lien against the Debtors 1990 Plymouth Voyager and 1993 Chevy Lumina and other collateral. The amount due on this particular claim is listed as \$26,000.00. The underlying collateral is listed as being an addition of \$12,500.00. These parcels are not the principle primary residence of the Debtors. To the extent that the second mortgage exceeds the value of the underlying collateral the balance due over and above the fair market value will be treated as an unsecured creditor. These particular mortgages may be subject to Section 506 Motions to Determine Secured Status as well as Section 1129 Mortgage Modification. County National Bank will be paid \$722.00 per month on an \$88,000.00 mortgage which results in payments over a 20 years period.

4. CLASS 4 - Class 4 consists of the allowed secured claims of Clearfield Consumer Company which has a lien against a 1984 Cadillac and a claim amount listed as \$3,023.00. The Debtors list the value of the vehicle as \$1,000.00. This claim may be subject to a Motion to Determine Secured Status as the balance due on the loan exceeds the value of the collateral it shall be treated as a general unsecured claim.

5. CLASS 5 - Class 5 consists of the allowed secured claim of Norwest Mortgage, Inc. and Beneficial Finance. Norwest holds a first mortgage lien on the property known as 304 Meyers Circle in Clearfield. The amount of the first mortgage is listed as being \$75,000.00 with the value of the property being listed as \$70,500.00. Attempts to renegotiate the mortgage on this particular property have been fruitless. Beneficial is a second mortgage lien holder on this property. The value of the Beneficial claim is listed as \$8,400.00. Because the Debtor intends to surrender the collateral supporting these two mortgages, the Debtor



believes that, in fact, Norwest and Beneficial do not have a secured claim in this particular Chapter 11 Plan. To the extent the value of the surrendered collateral does not exceed the value of the claim, the claim will be treated as an unsecured amount. Currently, the unsecured amount estimated by the Debtor would be \$4,500.00 to Norwest and \$8,400.00 to Beneficial

6. CLASS 6 - Class 6 consists of the allowed administrative expenses allowed under Section 503(B)(1) of the Code to pay administrative expenses involved in the case.

7. CLASS 7 - Class 7 consists of the allowed administrative expenses allowed under Section 503 of the Code to Professionals in this case. Currently, the accountant that was retained by Order of this Court and the attorney retained by Order of this Court would submit their fees in this claim. Said fees will only be paid upon review and Order of Court.

8. CLASS 8 - Class 8 consists of the unsecured claims currently estimated to be approximately \$35,285.00. With the current proposed deposit by the Creditors, a monthly amount into the Plan of \$3,600.00 over three years this would result in approximately a 10% payout to the unsecured creditors.

9. CLASS 9 - Class 9 consists of any untimely or disputed claims.

### III. DESIGNATION OF UNIMPAIRED CLASSES

All of the listed unsecured claims as found in the Petition are considered undisputed. The claim of County National Bank is considered undisputed and unimpaired.

### IV. DESIGNATION OF IMPAIRED CLASSES

In the opinion of the Debtor there are certain impaired classes. County National Bank and Clearfield Consumer Company should be the subjects of Section 506 and possible Section 1129 treatment which may result in an impairment in that class.

### V. POST-CONFIRMATION MANAGEMENT OF THE DEBTORS FINANCES

The Berrys remain on full-time status as the owners and operators of Berrys Bakery and More. The bakery/restaurant has increased its business through word of mouth and quality of product. The Berrys also still continue to own certain rental properties and other real estate for income purposes. Prior to the filing of the bankruptcy, David's full-time work paid the mortgages on all the properties. Lynnette's income in the bakery paid for

the other expenses of the business and household. After David lost his job and he became a full-time employee of the Bakery, the mortgage debt could not be met. the Banks have renegotiated the mortgages or will be subject to \$1129 Motions to whereby the rental incomes will cover all of the mortgage payments. The income from the Bakery will then cover all other expenses of the household and business.

## VI. MISCELLANEOUS PROVISIONS

1. The current outstanding variables in this Plan are the disputed claim amounts of the parties mentioned above.

2. Until such time as a final decree is entered by the court closing this case, the Court shall retain jurisdiction to determine all matters related to the Plan, pre-confirmation claims against the estate, and the validity, extent, and priority of liens and claims and/or matters related thereto as well as any other matter affecting the Debtor's ability to perform under the provisions of this Plan, and/or any amendments thereof.

3. The aforesaid provisions notwithstanding, in the event of final decree shall be entered, the Court shall nevertheless retain jurisdiction to adjudicate all pending matters before it, and to adjudicate applications for fees by debtor's counsel for post-confirmation services as disbursing agent and/or claims litigation, and or other matters relating to the "winding up" of the estate.

4. The Debtors retain the right, despite confirmation of the Plan, and the failure to have objected to a claim for the voting purposes, to object to any claim for purposes of receiving a distribution, and/or as to the priority thereof.

5. The Court may, after notice and hearing after Motion duly filed by the Debtors, grant such extensions of the time provided for in the Plan as the Debtor, for good cause shown, may require.

6. In addition to all other powers retained by the Court, and not in limitation thereof, the Court shall have the power to order the cancellation or modification, of record, of any liens filed prior to the commencement of the case, to the extent that the records fail to reflect the post-confirmation status thereof as provided for in this Plan.

7. In addition to all other powers retained by the Court, and not in limitation thereof, the Court shall retain the jurisdiction to rule upon and correct, if deemed necessary, all omissions, ambiguities and/or inconsistencies in the Plan.

8. Upon confirmation, except to the extent otherwise specifically provided in this Plan regarding the retention of liens against the enumerated assets, all of the debtors' property shall; pursuant to Section 1141 (c) of the Code, revert in the debtors free and clear of all claims and interests of creditors whose claims arose pre-confirmation, the said obligations being replaced by the obligations of the debtor under the Plan.

9. Subsequent to the entry of the order of confirmation, the debtor shall continue to have full power and authority to continue the then pending claims litigation and/or to the commence the same, to compromise the same (subject to Court approval after notice), and to otherwise act in the best interest of the debtors and their creditors, provided however, they shall have no authority to take any action contrary to or in derogation of the terms of this Plan.

10. Except to the extent governed by the laws of the United States, including but not limited to Title 11, the provisions hereof shall be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania.

11. Under the facts of this case, the debtor is, pursuant to Section 1141 (d)(1), entitled to a discharge, and the effect of the entry of the order of confirmation shall be to grant the debtor a discharge to the full extent provided for under Section 1141 of the Code.

12. The granting of a discharge shall constitute a determination that there are no nondischargeable claims owed by the debtor.

13. Except to the extent that a lease/executory contract was rejected prior to confirmation pursuant to 11 U.S.C. Section 365, all leases/executory contracts of the debtor/estate shall be deemed, assumed and remain in full force and effect subsequent to confirmation.

#### VII. COMPARISON WITH CHAPTER 7 CONVERSION/LIQUIDATION

As noted above, the distribution proposed under the Plan of Reorganization of November 29, 1999 is a partial liquidation plan based on the surrender of certain collateral to the secured creditors. Debtors also plan to pay the priority and part of the unsecured debt as a part of this Plan.

The alternative to confirmation of this proposed Plan, the Debtors believe, is conversion to a Chapter 7 case, in which the only benefit to creditors in Classes 1 through 5 would be the immediate receipt, through liquidation, of any proceeds received from the liquidation of the collateral under the absolute priority rule provisions.

It is the belief of the Debtors that if the realty was sold at sheriff's sale, rather than through negotiated sales at full fair market value, the sale of the property would result in the generation of less than the appraised value for the commercial property and the farm and equipment.

Conversion of the case would also result in a substantial decrease in the amount realized to pay the creditors. The Debtors do not believe there would be enough proceeds from a distress type sale to pay the unsecured creditors.

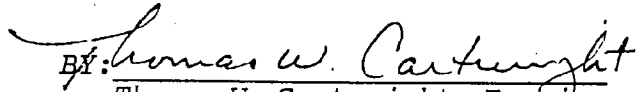
Also, if the case were converted, it is believed that the Chapter 7 trustee would incur the costs and expenses that would have to be paid prior to distribution to creditors. This further depletes the amount of funds available to pay creditors.

It is the Debtor's belief that all parties, the Debtor, secured creditors and unsecured creditors will maximize their returns by the confirmation and consummation of the above Plan, and each will receive more than it would receive in a liquidation following conversion.

It is therefore the Debtor's conclusion that the confirmation of the proposed Plan provides a greater distribution to the creditors, much quicker and more cheaply, than a distribution following conversion and distribution in a Chapter 7 case.

Respectfully submitted,

SPENCE, CUSTER, SAYLOR, WOLFE  
& ROSE

BY:   
Thomas W. Cartwright, Esquire  
400 U.S. Bank Building  
P.O.Box 280  
Johnstown, PA 15907-0280  
(814) 536-0735  
PA I.D. #56660

RECEIVED MAR 20 2000

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:

DAVID PAUL BERRY and  
LYNNETTE M. BERRY d/b/a  
COUSIN'S BAKERY  
Debtors

BANKRUPTCY NO. 99-24093BM  
CHAPTER 11

ORDER OF COURT CONFIRMING  
PLAN OF REORGANIZATION DATED  
NOVEMBER 29, 1999

AND NOW, this 16<sup>th</sup> day of March, 2000, after conducting a hearing on the Confirmation of the Plan of Reorganization dated November 29, 1999 filed by the Debtors in the above-captioned case and the Court having considered the Confirmation issues, all responses and the arguments of counsel, it is hereby

ORDERED, ADJUDGED and DETERMINED and DECREED THAT:

1. The Chapter 11 Plan of Reorganization dated November 29, 1999 of the Debtors-in-Possession, David and Lynnette Berry d/b/a Cousin's Bakery d/b/a Berry's Bakery and More, attached hereto as "Exhibit A" complies with the provisions of §1129 of the Code.

2. The Plan of Reorganization dated November 29, 1999 as identified in "Exhibit A" is approved and confirmed with the following corrective language regarding the lien positions of the lenders on the real property identified in the Plan by the Debtors-in-Possession.

A. The parcel identified at 112-124 Third Street, Clearfield, Pennsylvania having a fair market value of \$168,500.00 is lienied by Curwensville State Bank in first lien position by mortgage dated 4/22/97 found at RBV 1835/42 in the face amount of \$100,000.00, by Curwensville State Bank in second lien position by mortgage dated 8/20/97 found at RBV 1865/519 in the face amount of \$26,375.00 and by County National Bank in third lien position by mortgage dated 8/13/98 found at RBV 1966/140 in the face amount of \$25,735.31. The third position CNB mortgage also includes the parcels of Lincoln Avenue (Hyde) and 304 Meyers Circle.

B. The parcel known as 1616 Lincoln Avenue, Hyde, Pennsylvania with a fair market value of \$67,500.00 is lienied by

CNB as a first position mortgage lien holder by mortgage dated 12/27/96 at RBV 1812/327 with a face amount of \$53,200.00 and CNB in second lien position by mortgage dated 8/13/98 found at RBV 1966/140. CNB's first mortgage on this parcel is combined with the Curwensville parcel. CNB's second mortgage on this parcel is combined with the Third Avenue and Meyers Circle parcels.

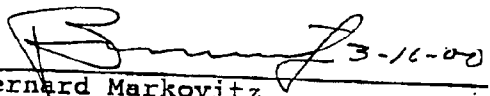
C. The parcel known at 304 Meyers Circle has a fair market value of \$70,500.00. The first position mortgage lien holder is Prudential Realty with the assignment to Norwest Financial by assignment dated 8/23/96 on the mortgage found at RBV 1680/95 with a face amount of \$65,550.00 and Beneficial Finance being the second position mortgage lien holder by mortgage dated 4/3/96 at RBV 1748/44 in the face amount of \$7,500.00 and CNB in a third position mortgage lien by mortgage dated 8/13/98 found at RBV 1966/140 in the face amount of \$25,735.31. The third position mortgage lien of CNB is combined with the Third Avenue and Lincoln Avenue (Hyde) parcels. This parcel is to be surrendered to the lien holders.

D. Parcel known at R.D. #2, Curwensville (Kermore Homestead) has a fair market value of the Debtors 1/4 interest of \$9,750.00. CNB has a first position mortgage lien by mortgage dated 12/27/96 at RBV 1812/327 in the face amount of \$53,200.00. This CNB mortgage is combined with the Lincoln Avenue (Hyde) parcel.

3. Although the lien positions are correctly identified in this Order which changes the identification of the lien positions as identified in the Plan the fully secured position of both Curwensville State Bank and County National Bank remain the same on their outstanding indebtedness which will be paid under the Plan provisions.

4. All objections filed thereto are denied and dismissed.

By the Court:

  
Bernard Markovitz  
Judge  
United States Bankruptcy Court  
Western District of Pennsylvania

DISC "B": B:\BERRY.BRY\PLAN.ORD

**FILED**

MAR 17 2000

CLERK, U.S. BANKRUPTCY COURT  
WEST DIST OF PENNSYLVANIA



NOTICE OF INTENTION TO FORECLOSE MORTGAGE

David P. Berry  
80 Griffith Avenue  
Curwensville, PA 16833

RE: Account 141718

Dear Mr. Berry,

The mortgage held by CSB Bank (hereinafter we, us or ours) on your property located at 112-124 N. 3<sup>rd</sup>. St., Clearfield, Clearfield County, PA, IS IN SERIOUS DEFAULT because you have not made the monthly payments for October, November, & December of 2003. Late charges and other charges have also accrued to this date in the amount of \$199.02. The total amount now required to cure this default, or in other words, get caught up in your payments, as of the date of this letter, is \$4,179.84 (Four thousand one hundred seventy nine dollars and eighty four cents).

You may cure this default within THIRTY (30) DAYS of the date of this letter, by paying to us the above amount of \$4,179.84 plus any additional monthly payments and late charges which may fall due during this period. Such payment must be made either by cash, cashier's check, certified check or money order, and made at any office of CSB Bank.

If you do not cure the default within THIRTY (30) DAYS, we intend to exercise our right to accelerate the mortgage payments. This means that whatever is owing on the original amount borrowed will be considered due immediately and you may lose the chance to pay off the original mortgage monthly installments. If full payment of the amount of default is not made within THIRTY (30) DAYS, we also intend to instruct our attorneys to start a lawsuit to foreclose your mortgaged property. If the mortgage is foreclosed, your mortgaged property will be sold by the Sheriff to pay off the mortgage debt. If we refer your case to our attorneys, but you cure the default before they begin legal proceedings against you, you will still have to pay the reasonable attorney's fees, actually incurred, up to \$50.00. However, if legal proceedings are started against you, you will have to pay the reasonable attorney's fees even if they are over \$50.00. Any attorney's fees will be added to whatever you owe us, which may also include our reasonable costs. If you cure the default within the thirty day period, you will not be required to pay attorney's fees.

CURWENSVILLE - Main Office  
P.O. Box 29  
Curwensville, PA 16833-0029  
814-236-2550

TARGET SQUARE DRIVE THRU  
Route 879  
Clearfield, PA 16830

COALPORT OFFICE  
P.O. Box 354  
Coalport, PA 16627  
814-672-5396

K MART PLAZA OFFICE  
R.D. Box 257 A-1  
Clearfield, PA 16830  
814-765-1781

DuBOIS OFFICE  
P.O. Box 465  
DuBois, PA 15801  
814-371-3066

ST. MARYS OFFICE  
1379 Bucktail Village  
St. Marys, PA 15857  
814-834-4020

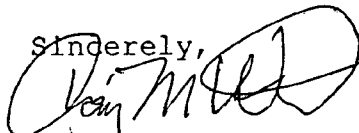
We may also sue you personally for the unpaid principal balance and all other sums due under the mortgage. If you have not cured the default within the thirty-day period and foreclosure proceedings have begun, you still have the right to cure the default and prevent the sale at any time up to one hour before the Sheriff's foreclosure sale. You may do so by paying the total amount of the unpaid monthly payments plus any late or other charges then due, as well as the reasonable attorney's fees and costs connected with the foreclosure sale and perform any other requirements under the mortgage. You also have the right to assert in the foreclosure proceeding the non-existence of a default or any other defense you may have to acceleration and foreclosure. It is estimated that the earliest date that such a Sheriff's sale could be held would be approximately May of 2003. A notice of the date of the Sheriff's sale will be sent to you before the sale. Of course, the amount needed to cure the default will increase the longer you wait. You may find out at any time exactly what the required payment will be by calling us at the following number: 814-236-2550. This payment must be in cash, cashier's check, certified check or money order and made payable to us at the address stated above.

You should realize that a Sheriff's sale will end your ownership of the mortgaged property and your right to remain in it. If you continue to live in the property after the Sheriff's sale, a lawsuit could be started to evict you.

You have additional rights to help protect your interest in the property. YOU HAVE THE RIGHT TO SELL THE PROPERTY TO OBTAIN MONEY TO PAY OFF THE MORTGAGE DEBT, OR TO BORROW MONEY FROM ANOTHER LENDING INSTITUTION TO PAY OFF THIS DEBT. (YOU MAY HAVE THE RIGHT TO SELL OR TRANSFER THE PROPERTY SUBJECT TO THE MORTGAGE TO A BUYER OR TRANSFEREE WHO WILL ASSUME THE MORTGAGE DEBT, PROVIDED THAT ALL THE OUTSTANDING PAYMENTS, CHARGES AND ATTORNEY'S FEES AND COSTS ARE PAID PRIOR TO OR AT THE SALE), AND THAT THE OTHER REQUIREMENTS UNDER THE MORTGAGE ARE SATISFIED. CONTACT US TO DETERMINE UNDER WHAT CIRCUMSTANCES THIS RIGHT MIGHT EXIST. YOU HAVE THE RIGHT TO HAVE THIS DEFAULT CURED BY ANY THIRD PARTY ACTING ON YOUR BEHALF.

If you cure the default, the mortgage will be restored to the same position as if no default has occurred. However, you are not entitled to this right to cure your default more than three times in any calendar year.

Sincerely,



Craig M. Witherow  
Collection Manager



**COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

David P. Berry  
80 Griffith Ave  
Corwensville, PA 16833

2. Article Number

(Transfer from service label) 7003 1010 0001 6348 5003

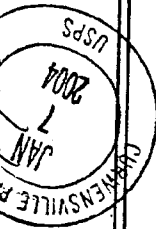
PS Form 3811, August 2001

Domestic Return Receipt

2ACPR1-03-P-4081

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature David P. Berry ☐ Agent ☐ Addressee  
B. Received by (Printed Name) David P. Berry  
C. Date of Delivery 1/7/04  
D. Is delivery address different from item 1? ☐ Yes ☐ No  
If YES, enter delivery address below:



3. Service Type  
☒ Certified Mail ☐ Express Mail  
☐ Registered ☒ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes ☐ No

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**CERTIFIED MAIL<sup>TM</sup> RECEIPT**  
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**OFFICIAL USE**

Postage	\$ 137
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.42



Sent To David P. Berry

Street, Apt. No., or PO Box No. 80 Griffith Ave.

City, State, ZIP+4 Corwensville, PA 16833

PS Form 3800, June 2002 See Reverse for Instructions



NOTICE OF INTENTION TO FORECLOSE MORTGAGE

Lynette M. Berry  
80 Griffith Avenue  
Curwensville, PA 16833

RE: Account 141718

Dear Mrs. Berry,

The mortgage held by CSB Bank (hereinafter we, us or ours) on your property located at 112-124 N. 3<sup>rd</sup>. St., Clearfield, Clearfield County, PA, IS IN SERIOUS DEFAULT because you have not made the monthly payments for October, November, & December of 2003. Late charges and other charges have also accrued to this date in the amount of \$199.02. The total amount now required to cure this default, or in other words, get caught up in your payments, as of the date of this letter, is \$4,179.84 (Four thousand one hundred seventy nine dollars and eighty four cents).

You may cure this default within THIRTY (30) DAYS of the date of this letter, by paying to us the above amount of \$4,179.84 plus any additional monthly payments and late charges which may fall due during this period. Such payment must be made either by cash, cashier's check, certified check or money order, and made at any office of CSB Bank.

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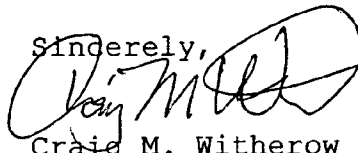
We may also sue you personally for the unpaid principal balance and all other sums due under the mortgage. If you have not cured the default within the thirty-day period and foreclosure proceedings have begun, you still have the right to cure the default and prevent the sale at any time up to one hour before the Sheriff's foreclosure sale. You may do so by paying the total amount of the unpaid monthly payments plus any late or other charges then due, as well as the reasonable attorney's fees and costs connected with the foreclosure sale and perform any other requirements under the mortgage. You also have the right to assert in the foreclosure proceeding the non-existence of a default or any other defense you may have to acceleration and foreclosure. It is estimated that the earliest date that such a Sheriff's sale could be held would be approximately May of 2003. A notice of the date of the Sheriff's sale will be sent to you before the sale. Of course, the amount needed to cure the default will increase the longer you wait. You may find out at any time exactly what the required payment will be by calling us at the following number: 814-236-2550. This payment must be in cash, cashier's check, certified check or money order and made payable to us at the address stated above.

You should realize that a Sheriff's sale will end your ownership of the mortgaged property and your right to remain in it. If you continue to live in the property after the Sheriff's sale, a lawsuit could be started to evict you.

You have additional rights to help protect your interest in the property. YOU HAVE THE RIGHT TO SELL THE PROPERTY TO OBTAIN MONEY TO PAY OFF THE MORTGAGE DEBT, OR TO BORROW MONEY FROM ANOTHER LENDING INSTITUTION TO PAY OFF THIS DEBT. (YOU MAY HAVE THE RIGHT TO SELL OR TRANSFER THE PROPERTY SUBJECT TO THE MORTGAGE TO A BUYER OR TRANSFEREE WHO WILL ASSUME THE MORTGAGE DEBT, PROVIDED THAT ALL THE OUTSTANDING PAYMENTS, CHARGES AND ATTORNEY'S FEES AND COSTS ARE PAID PRIOR TO OR AT THE SALE), AND THAT THE OTHER REQUIREMENTS UNDER THE MORTGAGE ARE SATISFIED. CONTACT US TO DETERMINE UNDER WHAT CIRCUMSTANCES THIS RIGHT MIGHT EXIST. YOU HAVE THE RIGHT TO HAVE THIS DEFAULT CURED BY ANY THIRD PARTY ACTING ON YOUR BEHALF.

If you cure the default, the mortgage will be restored to the same position as if no default has occurred. However, you are not entitled to this right to cure your default more than three times in any calendar year.

Sincerely,



Craig M. Witherow  
Collection Manager

# SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Lynette M. Barry  
80 Griffee Ave.  
Curwensville, PA 16833

2. Article Number

(Transfer from service label) 7003 1010 0001 6348 7519

PS Form 3811, August 2001

Domestic Return Receipt

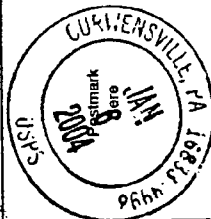
2ACPR1-03-P-4081

## U.S. Postal Service<sup>TM</sup> CERTIFIED MAIL<sup>TM</sup> RECEIPT (Domestic Mail Only: No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

OFFICIAL USE

Postage	\$ 1.37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.42



Sent To

Lynette M. Barry  
Street, Apt. No.,  
or PO Box No. 80 Griffee Ave.  
City, State, ZIP+4 Curwensville, PA 16833

PS Form 3800, June 2002

See Reverse for Instructions

# COMPLETE THIS SECTION ON DELIVERY

A. Signature *Lynette M. Barry* ☐ Agent  
B. Received by (Printed Name) *Lynette M. Barry* ☐ Addressee  
C. Date of Delivery *JAN 7 2002*  
D. Is delivery address different from item 1? ☐ Yes ☒ No  
If YES, enter delivery address below:



3. Service Type  
☐ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes ☒ No

7003 1010 0001 6348 7519



NOTICE OF INTENTION TO FORECLOSE MORTGAGE

David P. Berry  
80 Griffith Avenue  
Curwensville, PA 16833

RE: Account 141718

Dear Mr. Berry,

The mortgage held by CSB Bank (hereinafter we, us or ours) on your property located at 112-124 N. 3<sup>rd</sup>. St., Clearfield, Clearfield County, PA, IS IN SERIOUS DEFAULT because you have not made the monthly payments for October, November, & December of 2003. Late charges and other charges have also accrued to this date in the amount of \$199.02. The total amount now required to cure this default, or in other words, get caught up in your payments, as of the date of this letter, is \$4,179.84 (Four thousand one hundred seventy nine dollars and eighty four cents).

You may cure this default within THIRTY (30) DAYS of the date of this letter, by paying to us the above amount of \$4,179.84 plus any additional monthly payments and late charges which may fall due during this period. Such payment must be made either by cash, cashier's check, certified check or money order, and made at any office of CSB Bank.

If you do not cure the default within THIRTY (30) DAYS, we intend to exercise our right to accelerate the mortgage payments. This means that whatever is owing on the original amount borrowed will be considered due immediately and you may lose the chance to pay off the original mortgage monthly installments. If full payment of the amount of default is not made within THIRTY (30) DAYS, we also intend to instruct our attorneys to start a lawsuit to foreclose your mortgaged property. If the mortgage is foreclosed, your mortgaged property will be sold by the Sheriff to pay off the mortgage debt. If we refer your case to our attorneys, but you cure the default before they begin legal proceedings against you, you will still have to pay the reasonable attorney's fees, actually incurred, up to \$50.00. However, if legal proceedings are started against you, you will have to pay the reasonable attorney's fees even if they are over \$50.00. Any attorney's fees will be added to whatever you owe us, which may also include our reasonable costs. If you cure the default within the thirty day period, you will not be required to pay attorney's fees.

CURWENSVILLE - Main Office  
P.O. Box 29  
Curwensville, PA 16833-0029  
814-236-2550

TARGET SQUARE DRIVE THRU  
Route 879  
Clearfield, PA 16830

COALPORT OFFICE  
P.O. Box 354  
Coalport, PA 16627  
814-672-5396

K MART PLAZA OFFICE  
R.D. Box 257 A-1  
Clearfield, PA 16830  
814-765-1781

DuBOIS OFFICE  
P.O. Box 465  
DuBois, PA 15801  
814-371-3066

ST. MARYS OFFICE  
1379 Bucktail Village  
St. Marys, PA 15857  
814-834-4020

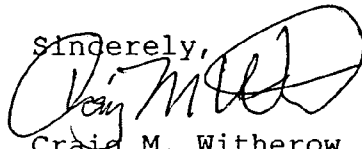
We may also sue you personally for the unpaid principal balance and all other sums due under the mortgage. If you have not cured the default within the thirty-day period and foreclosure proceedings have begun, you still have the right to cure the default and prevent the sale at any time up to one hour before the Sheriff's foreclosure sale. You may do so by paying the total amount of the unpaid monthly payments plus any late or other charges then due, as well as the reasonable attorney's fees and costs connected with the foreclosure sale and perform any other requirements under the mortgage. You also have the right to assert in the foreclosure proceeding the non-existence of a default or any other defense you may have to acceleration and foreclosure. It is estimated that the earliest date that such a Sheriff's sale could be held would be approximately May of 2003. A notice of the date of the Sheriff's sale will be sent to you before the sale. Of course, the amount needed to cure the default will increase the longer you wait. You may find out at any time exactly what the required payment will be by calling us at the following number: 814-236-2550. This payment must be in cash, cashier's check, certified check or money order and made payable to us at the address stated above.

You should realize that a Sheriff's sale will end your ownership of the mortgaged property and your right to remain in it. If you continue to live in the property after the Sheriff's sale, a lawsuit could be started to evict you.


You have additional rights to help protect your interest in the property. YOU HAVE THE RIGHT TO SELL THE PROPERTY TO OBTAIN MONEY TO PAY OFF THE MORTGAGE DEBT, OR TO BORROW MONEY FROM ANOTHER LENDING INSTITUTION TO PAY OFF THIS DEBT. (YOU MAY HAVE THE RIGHT TO SELL OR TRANSFER THE PROPERTY SUBJECT TO THE MORTGAGE TO A BUYER OR TRANSFEREE WHO WILL ASSUME THE MORTGAGE DEBT, PROVIDED THAT ALL THE OUTSTANDING PAYMENTS, CHARGES AND ATTORNEY'S FEES AND COSTS ARE PAID PRIOR TO OR AT THE SALE), AND THAT THE OTHER REQUIREMENTS UNDER THE MORTGAGE ARE SATISFIED. CONTACT US TO DETERMINE UNDER WHAT CIRCUMSTANCES THIS RIGHT MIGHT EXIST. YOU HAVE THE RIGHT TO HAVE THIS DEFAULT CURED BY ANY THIRD PARTY ACTING ON YOUR BEHALF.

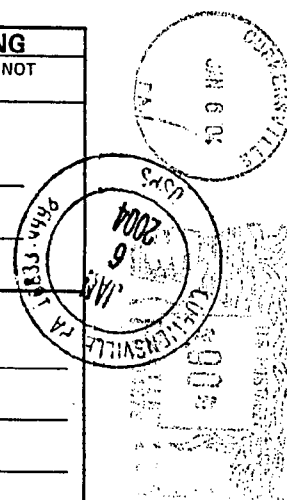
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Sincerely,



Craig M. Witherow  
Collection Manager

U.S. POSTAL SERVICE	<b>CERTIFICATE OF MAILING</b>
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT PROVIDE FOR INSURANCE—POSTMASTER	
Received From:	
 <b>CSB BANK</b> <b>PO BOX 29</b> <b>CURWENSVILLE, PA 16833</b>	
One piece of ordinary mail addressed to:	
<u>David P. Berry</u> <u>80 GRIFFIN AVE</u> <u>CURWENSVILLE, PA 16833</u>	



PS Form 3817, Mar. 1989



NOTICE OF INTENTION TO FORECLOSE MORTGAGE

Lynette M. Berry  
80 Griffith Avenue  
Curwensville, PA 16833

RE: Account 141718

Dear Mrs. Berry,

The mortgage held by CSB Bank (hereinafter we, us or ours) on your property located at 112-124 N. 3<sup>rd</sup>. St., Clearfield, Clearfield County, PA, IS IN SERIOUS DEFAULT because you have not made the monthly payments for October, November, & December of 2003. Late charges and other charges have also accrued to this date in the amount of \$199.02. The total amount now required to cure this default, or in other words, get caught up in your payments, as of the date of this letter, is \$4,179.84 (Four thousand one hundred seventy nine dollars and eighty four cents).

You may cure this default within THIRTY (30) DAYS of the date of this letter, by paying to us the above amount of \$4,179.84 plus any additional monthly payments and late charges which may fall due during this period. Such payment must be made either by cash, cashier's check, certified check or money order, and made at any office of CSB Bank.

If you do not cure the default within THIRTY (30) DAYS, we intend to exercise our right to accelerate the mortgage payments. This means that whatever is owing on the original amount borrowed will be considered due immediately and you may lose the chance to pay off the original mortgage monthly installments. If full payment of the amount of default is not made within THIRTY (30) DAYS, we also intend to instruct our attorneys to start a lawsuit to foreclose your mortgaged property. If the mortgage is foreclosed, your mortgaged property will be sold by the Sheriff to pay off the mortgage debt. If we refer your case to our attorneys, but you cure the default before they begin legal proceedings against you, you will still have to pay the reasonable attorney's fees, actually incurred, up to \$50.00. However, if legal proceedings are started against you, you will have to pay the reasonable attorney's fees even if they are over \$50.00. Any attorney's fees will be added to whatever you owe us, which may also include our reasonable costs. If you cure the default within the thirty day period, you will not be required to pay attorney's fees.

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Clearfield, PA 16830

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814-672-5396

K MART PLAZA OFFICE  
R.D. Box 257 A-1  
Clearfield, PA 16830  
814-765-1781

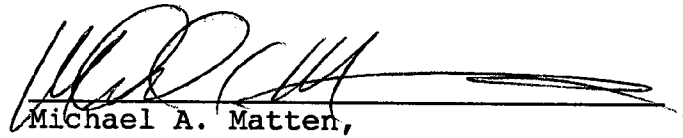
DuBOIS OFFICE  
P.O. Box 465  
DuBois, PA 15801  
814-371-3066

ST. MARYS OFFICE  
1379 Bucktail Village  
St. Marys, PA 15857  
814-834-4020



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

I, MICHAEL A. MATTEN, Senior Vice-President and Senior Lending Officer of CSB BANK, verify that the statements made in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I the undersigned understand that false statements made herein are subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.



Michael A. Matten,  
Senior Vice-President and  
Senior Lending Officer,  
CSB BANK

Date: \_\_\_\_\_

4-23-04

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

CSB BANK, Plaintiff

--VS--

DAVID P. BERRY and  
LYNNETTE M. BERRY,  
Defendants

COMPLAIN IN MORTGAGE  
FORECLOSURE

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

THE PLANKENHORN CO., WILLIAMSPORT, PA.

5/28/04 Document  
Reinstated/Reissued to ~~SETH~~ Attorney  
for service.

W. L. [Signature]  
Deputy Prothonotary

01/15/01 Acc  
Att. Cotes  
Aug pd 85.00  
(initials)

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

**CSB BANK**

**VS.**

**BERRY, DAVID P. & LYNNETTE M.**

**Sheriff Docket #**

**15487**

**04-567-CD**

**COMPLAINT IN MORTGAGE FORECLOSURE**

**SHERIFF RETURNS**

NOW MAY 3, 2004 AT 10:50 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON LYNNETTE M. BERRY, DEFENDANT AT RESIDENCE, 80 GRIFFITH AVE., CRWENSVILLE, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO LYNNETTE M. BERRY A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN TO HER THE CONTENTS THEREOF.  
SERVED BY: DAVIS/MORGILLO

NOW MAY 6, 2004 AT 10:10 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON ETHAN'S CAFE, TENANT AT EMPLOYMENT, 112-124 NORTH THIRD ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO THADDEUS E. DURANT/KIMBERLY D. GIBSON, TENANTS A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN TO THEM THE CONTENTS THEREOF.  
SERVED BY: NEVLING/HUNTER

NOW MAY 6, 2004 AT 10:16 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON CHRIS AUGHENBAUGH, TENANT AT RESIDENCE, 112-2124 NORTH THIRD ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO CHRIS AUGHENBAUGH, TENANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN TO HM THE CONTENTS THEREOF.  
SERVED BY: NEVLING/HUNTER

NOW MAY 6, 2004 AT 10:18 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON JENNIFER BERRY, TENANT AT RESIDENCE, 112-124 NORTH THIRD ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO JENNIFER BERRY A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN TO HER THE CONTENTS THEREOF.  
SERVED BY: NEVLING/HUNTER

NOW MAY 28, 2004 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURN THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE "NOT FOUND" AS TO DAVID P. BERRY, DEFENDANT. MOVED TO TEXAS, ADDRESS UNKNOWN.

NOW MAY 28, 2004 RETURN COMPLAINT IN MORTGAGE FORECLOSURE "NOT SERVED" AS TO ANY OTHER TENANTS AT 112-124 NORTH THIRD ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA..

**FILED**

*01:31:23H*  
**MAY 28 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

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

CSB BANK

VS.

BERRY, DAVID P. & LYNNETTE M.

COMPLAINT IN MORTGAGE FORECLOSURE

Sheriff Docket #

15487

04-567-CD

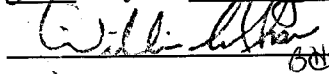
**SHERIFF RETURNS**

**Return Costs**

Cost	Description
58.37	SHERIFF HAWKINS PAID BY: ATTY CK# 33891
60.00	SURCHARGE PAID BY: ATTY CK# 33892

Sworn to Before Me This

28<sup>th</sup> Day Of May 2004



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

So Answers,



Chester A. Hawkins  
Sheriff

LAW OFFICES

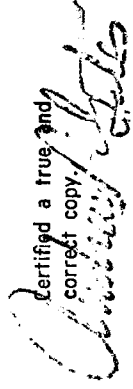
GATES & SEAMAN

2 NORTH FRONT STREET

P.O. BOX 846

CLEARFIELD, PA. 16830

certified a true and  
correct copy.



Attorney for



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

CSB BANK,  
Plaintiff :  
No. 04 - - CD  
-vs- :  
IN MORTGAGE FORECLOSURE  
DAVID P. BERRY and LYNNETTE :  
M. BERRY, Defendants :

C O M P L A I N T

NOW COMES, the Plaintiff, CSB BANK, by its attorneys, Gates & Seaman, and brings this action In Mortgage Foreclosure against the named Defendants as follows:

1. The Plaintiff is CSB BANK, a state banking institution and corporation organized and existing under the laws of the Commonwealth of Pennsylvania and having its principal office and place of business at 434 State Street, P. O. Box 29, Curwensville, Clearfield County, Pennsylvania, 16833.

2. Defendant, DAVID P. BERRY, is an adult individual who is married to Co-Defendant, Lynnette M. Berry, and who resides at 80 Griffith Avenue, Curwensville (Clearfield County), Pennsylvania 16833.

3. Defendant, LYNNETTE M. BERRY, is an adult individual who is married to Co-Defendant, David P. Berry, and who resides 80 Griffith Avenue, Curwensville (Clearfield County), Pennsylvania 16833.

4. The Plaintiff brings this action to foreclose on the following Mortgages:

(a) Mortgage in the principal amount of \$100,000.00, dated April 22, 1997 between Defendants, David P. Berry and Lynnette

M. Berry, Mortgagors, and Plaintiff, CSB Bank, Mortgagee, which Mortgage covers commercial/rental real estate, situate in Clearfield Borough, Clearfield County, Pennsylvania and which Mortgage is recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania in Clearfield County Deeds and Records Book 1835, Page 442. A photocopy of said mortgage is attached hereto and made a part hereof as Exhibit "A"; and

(b) Mortgage in the principal amount of \$26,375.00, dated August 20, 1997 between Defendants, David P. Berry and Lynnette M. Berry, Mortgagors, and Plaintiff, CSB Bank, Mortgagee, which Mortgage covers commercial/rental real estate, situate in Clearfield Borough, Clearfield County, Pennsylvania and which Mortgage is recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania in Clearfield County Deeds and Records Book 1865, Page 519. A photocopy of said mortgage is attached hereto and made a part hereof as Exhibit "B".

5. The real estate and two commercial buildings subject to the mortgage are situate in Clearfield Borough, Clearfield County, Pennsylvania and are more fully described in Exhibit "C" which is attached hereto and made a part hereof.

6. The mortgages described in Paragraph 4 hereof secured Defendants' indebtedness to Plaintiff, CSB Bank, which is evidenced by a Promissory Note dated May 20, 2000, in the principal amount of \$136,120.72. A photocopy of said Promissory Note is attached hereto and made a part hereof as Exhibit "D".

7. Said Promissory Note of May 20, 2000, identified



in the preceding paragraph, correctly sets forth the Defendants' secured indebtedness to CSB Bank as determined by said Defendants' Confirmed Plan of Reorganization dated November 29, 1999 filed in their Chapter 11 Bankruptcy filed in the United States Bankruptcy Court for the Western District of Pennsylvania, wherein said mortgage claims of Plaintiff, CSB Bank, were therein identified as a Class 2 Claim. Attached hereto and made a part hereof as Exhibit "E" is a true and correct copy of Defendants' Plan of Reorganization dated November 29, 1999.

8. Defendants' Plan of Reorganization dated November 29, 1999 was confirmed by the United States Bankruptcy Court for the Western District of Pennsylvania by Order dated March 16, 2000, a photocopy of which is attached hereto and made a part hereof as Exhibit "F".

9. Said Promissory Note of May 20, 2000, above identified, sets forth that CSB Bank may accelerate and declare the entire unpaid principal balance on said Promissory Note as well as any accrued unpaid interest, immediately due and payable upon occurrence of any "Event of Default" which includes Defendants' non payment, when due, of any amount payable under said Promissory Note.

10. The repayment terms of the Promissory Note of May 20, 2000 which are secured by the Mortgages of April 22, 1997 and August 20, 1997 are in serious default because the Defendants have failed to make the last six (6) monthly

installments of the principal and interest.

11. The aforesaid Mortgages of April 22, 1997 and August 20, 1997 do not represent "residential mortgages" as said term is defined under Act #6 of 1974, as amended (See 41 P.S. §101 et seq.) and thus no Notice of Intention to Foreclose had to be given by Plaintiff to Defendants as provided for by 41 P.S. §403.

12. Since the real estate subject to the aforesaid Mortgages of April 22, 1997 and August 20, 1997 is not the principal residence of the Defendants, nor a one or two family owner-occupied residence, Plaintiff did not have to give Defendants notice as provided for under the Homeowners Emergency Assistance Act (35 P.S. §1680.401 (et seq.)).

13. Although not required by: (a) Act #6 of 1974, as amended (41 P.S. §401 et seq.); (b) the Promissory Note of May 20, 2000; nor (c) the Mortgages of April 22, 1997 and August 20, 1997, as above identified, on January 6, 2004, Plaintiff prepared a Notice of Intention to Foreclose Mortgage and on the same day mailed the same to Defendant, David P. Berry, at the address set forth herein by Certified Mail, Return Receipt Requested, Certified No. 7003 1010 0001 6348 5003 in the Postal System of the United States of America, postage prepaid. A true and correct copy of the aforesaid Notice, the signed receipt card (P.S. Form 3811) and the postmarked Receipt for Certified Mail (P.S. Form 3800) are attached hereto and made a part hereof, collectively, as Exhibit "G".

14. Although not required by: (a) Act #6 of 1974, as amended (41 P.S. §401 et seq.); (b) the Promissory Note of May 20, 2000; nor (c) the Mortgages of April 22, 1997 and August 20, 1997, on January 6, 2004, Plaintiff prepared a Notice of Intention to Foreclose Mortgage and on the same day mailed the same to Defendant, Lynnette M. Berry, at the address set forth herein by Certified Mail, Return Receipt Requested, Certified No. 7003 1010 0001 6348 7519 in the Postal System of the United States of America, postage prepaid. A true and correct copy of the aforesaid Notice, the signed receipt card (P.S. Form 3811) and the postmarked Receipt for Certified Mail (P.S. Form 3800) are attached hereto and made a part hereof, collectively, as Exhibit "H".

15. Although not required by the Homeowners Emergency Assistance Act (35 P.S. §1680.401 et seq.), on January 6, 2004, Plaintiff prepared a Notice of Intention to Foreclose Mortgage and on the same day mailed the same to Defendant, David P. Berry, at the address set forth herein by first class mail, postage prepaid, in the Postal System of the United States of America. True and correct copies of the aforesaid Notice and the postmarked Certificate of Mailing (P.S. Form 3817) are attached hereto and made a part hereof, collectively, as Exhibit "I".

16. Although not required by the Homeowners Emergency Assistance Act (35 P.S. §1680.401 et seq.), on January 6, 2004, Plaintiff prepared a Notice of Intention to Foreclose Mortgage

and on the same day mailed the same to Defendant, Lynnette M. Berry, at the address set forth herein by first class mail, postage prepaid, in the Postal System of the United States of America. True and correct copies of the aforesaid Notice and the postmarked Certificate of Mailing (P.S. Form 3817) are attached hereto and made a part hereof, collectively, as Exhibit "J".

17. The following amounts are due on the Promissory Note of May 20, 2000 which is secured by the Mortgages of April 22, 1997 and August 20, 1997:


(a) Outstanding balance, including accrued interest through March 8, 2004*	\$ 132,284.46
(b) Late Fees as provided for in Promissory Note of 5/20/00 as of March 8, 2004	\$ 265.36
(c) Reasonable attorneys' fees as provided for in Promissory Note and Mortgages	\$ <u>1,000.00</u>
TOTAL	\$ 133,549.82

\*Plus per diem interest of \$35.0886 from March 8, 2004

WHEREFORE, the Plaintiff, CSB Bank, demands Judgment In Mortgage Foreclosure against the Defendants, David P. Berry and Lynnette M. Berry, in the sum of \$133,549.82, plus costs of suit and per diem interest of \$35.0886 per day accruing on the loan from March 8, 2004.

GATES & SEAMAN

By



Andrew P. Gates, Esquire  
Attorney for Plaintiff, CSB Bank

Two North Front Street  
P. O. Box 846  
Clearfield, PA 16830  
(814) 765-1766

THIS MORTGAGE, dated April 22

19 97

is between the mortgagor(s), DAVID P. BERRY and LYNNETTE M. BERRY

of 304 Meyers Circle, Clearfield, Pennsylvania, 16830

a individual

(corporation/partnership/proprietorship/individual)

organized and existing under the laws of the State of Pennsylvania

(and whether one or more persons, jointly and severally obligated and called "Owner"), and the mortgagee, CSB BANK

(called "Lender").

As used in this Mortgage, David P. Berry and Lynnette M. Berry

shall be called "Debtor." If no person is named as Debtor, however, any reference to "Debtor" in this Mortgage shall refer only to Owner.

A. **THE PROPERTY:** FOR VALUE RECEIVED AND INTENDING TO BE LEGALLY BOUND HEREBY, as security for the prompt payment and performance of all Obligations (as defined below in Paragraph B), Owner grants, bargains, sells, conveys and mortgages to Lender, its successors and assigns, all of Owner's right, title and interest in the real property described in Schedule "A" (called the "Property"), which is attached to and made a part of this Mortgage, together with all present and future buildings, improvements, additions and fixtures, and all alleys, passageways, easements, rights (including mineral and water rights), liberties, privileges, hereditaments and appurtenances, and all reversions, remainders, rents, royalties, issues and profits, now or later accruing or pertaining to the Property. The Property is commonly known as

with Uniform Parcel Identifier (i.e., Tax Parcel Number): 4-1-K8-216-79

B. **OBLIGATIONS SECURED BY THIS MORTGAGE.** As used in this Mortgage, "Obligations" means any and all of the following:1. the liabilities and obligations of Debtor and/or Owner to Lender arising out of a ☒ note; ☐ surety agreement; ☐ other (describe)in the amount of One Hundred Thousand; dated April 22, 1997  
(called the "Instrument"), plus interest and costs as provided therein, and/or any modifications or extensions and any other instrument or agreement that may be substituted therefor; Dollars (\$ 100,000.00).

2. all other existing and future liabilities and obligations of Debtor and/or Owner, or any of them, to Lender, whether arising from this or any other transaction, or of the same or different kinds or classes of indebtedness; and

3. full and complete performance by Owner of all warranties and representations, covenants and agreements and other obligations under this Mortgage.

C. **WARRANTIES AND REPRESENTATIONS:** Until the Obligations are paid and performed in full, Owner warrants and represents as follows:1. **Purchase Money Mortgage:** ☒ If checked, this is a Purchase Money Mortgage and the proceeds of the Instrument will be utilized by Owner primarily to purchase the Property.2. **Payments:** All payments on or secured by the Instrument will be made when and where due, including payments due by acceleration of maturity or on demand. All Obligations will be paid promptly and performed in full in accordance with their terms.3. **Title:** Owner has fee simple title to the Property and the right to mortgage the Property. Owner will defend Owner's title against any person claiming any right in the Property prior to or superior to the lien of this Mortgage.4. **Hazardous Conditions and Substances:** While Owner has been in possession of the Property, there has been no use, manufacture, storage, treatment, disposal or release of any hazardous substance or waste on, under or about the Property, nor is Owner aware of the existence of any such activities occurring on the Property prior to Owner's possession of the Property, which activities have not previously been disclosed in writing to Lender. Neither Owner nor the Property is the subject of pending or threatened litigation or regulatory proceedings regarding any hazardous substances or waste, or other activities conducted on or about the Property, which have not previously been disclosed in writing to Lender. As used in this Mortgage, "hazardous substance or waste" means any substance which does not occur naturally on the Property and which, if released into the environment, could or would pose a real and substantial threat to the public health, safety and welfare.D. **COVENANTS AND AGREEMENTS:** Until the Obligations are paid and performed in full, Owner covenants and agrees as follows:1. **Insurance:** Owner will maintain insurance on the Property of such kinds, in such amounts, with such companies and with such mortgagee or loss-payable clauses as are satisfactory to Lender. At Lender's request, Owner will promptly provide evidence of such policies, including paid receipts, to Lender. Owner shall not engage in nor permit any lessee of all or any part of the Property to engage in any activity on the Property which, if resulting in loss or damage to the Property, would not be covered by such insurance. Owner shall notify Lender of any loss or damage to the Property, submit to such insurers a proof or proofs of loss, and apply the proceeds of any such insurance to the repair of the Property or to reduce the outstanding balance of the Obligations, at Lender's election. Lender is hereby authorized, without notice to Owner, to file such proof or proofs of loss on behalf of Owner, if Owner fails or refuses to do so, and to sign Owner's name to any check, draft or other instrument in payment of insurance proceeds.2. **Taxes:** Owner will pay all taxes, assessments, ground rents and governmental charges when they come due, and all other charges of any kind which are levied on the Property at any time and which, if unpaid, would result in a lien or other security interest in the Property superior to that of Lender's. Owner will deliver to Lender, on request, all receipts evidencing such payments. Neither Debtor nor Owner will claim a credit under the Instrument or this Mortgage for such payments.3. **Use, Condition and Repair:** Owner will maintain the Property in good repair, order and condition. Owner will not commit nor permit any strip, waste, nuisance, impairment or deterioration of the Property. Lender's representatives may inspect the Property at any reasonable time or times. Owner will not bring nor permit any lessee of all or part of the Property to bring any hazardous substance or waste onto the Property, for storage, processing, distillation, treatment, manufacturing, disposal, release or any other purpose, unless with Lender's prior specific written approval. Owner will comply with all applicable laws, regulations and ordinances, federal, state and local, relating to the use and possession of the Property.4. **Escrow:** At Lender's written request, Lender will be paid, with each payment of Principal or Interest on the Instrument, an additional sum equal to one-twelfth of the aggregate annual amount which will become due for the payment of all taxes to be levied and assessed on the Property, land, water and sewer rents, and any insurance required to be placed on the Property, as reasonably estimated initially and from time to time by Lender. If the sums held by Lender shall not be sufficient to pay such charges as they fall due, any deficiency shall be paid within 15 days from the date notice is mailed by Lender to Owner. All sums so deposited may be commingled with other funds held by Lender, shall NOT be held in trust for Owner, shall NOT bear interest, and are pledged as additional security for the sums secured by this Mortgage.5. **Transfers:** Owner will not sell, assign or transfer the Property or any portion thereof, voluntarily or involuntarily, to any other person, nor grant anyone rights in the Property, without Lender's prior written consent. If the Property has been leased in whole or in part, Owner will comply with the provisions of such leases, but Owner will not collect more than one month's rent, exclusive of any security deposit for non-payment of rentals or damage to the Property, in advance.6. **Judgments:** Owner assigns all judgments or awards for damage to the Property, or otherwise, in their entirety, to Lender, and Lender may apply the same to the Obligations secured by this Mortgage. Lender is authorized by Owner to institute or defend such actions and to appeal from any such judgments. If all or any part of the Property is subject to condemnation by any public authority, any award granted in such proceedings shall be paid to Lender as its interest shall then appear.7. **Assignments:** Owner will not assign the rents, profits or income from the Property without first obtaining the written consent of Lender.8. **Suits:** Owner shall not permit any action to enforce any other lien or claim against the Property prior to the lien of this Mortgage to be commenced and not discontinued and withdrawn within 10 days.9. **Restrictions:** Owner shall comply with all restrictions or governmental regulations affecting the use, title or possession of the Property, and shall not make use of the Property or engage in any activity as a result of which the Property may be forfeited to any person.E. **EVENTS OF DEFAULT.** Each of the following shall constitute an "Event of Default" under this Mortgage:

1. Debtor and/or Owner fails to make any payment on the Instrument as and when due or on demand;

2. Debtor and/or Owner fails to pay or perform any of the Obligations as and when due; or

3. Any warranty or representation or covenant or agreement contained in this Mortgage, in the Instrument, or in any document or instrument evidencing any of the Obligations, is breached.

F. **REMEDIES.** On the occurrence of any Event of Default, Lender may do any or all of the following:

1. At its sole discretion, cure the Event of Default and add the costs of such cure to the principal sum then due on the Obligations. Lender may charge interest on such payment, from the date of such payment, at a rate equal to the greater of 15% per annum or the rate provided in the Instrument.

2. On providing any timely notice of default and of Owner's right to cure the default as may then be provided by law, and failing appropriate and timely cure by Owner, accelerate and declare immediately due and payable all amounts due under the Instrument and under any or all of the Obligations.

3. Refer this Mortgage to an attorney for collection and/or to foreclose on the Property, or to take such other action at law or in equity for the enforcement of this Mortgage as the law may allow, for the entire unpaid balance thereof, together with Lender's costs in curing any Event of Default, with interest thereon at the greater of 15% per annum or the rate charged on the Instrument, and

EXHIBIT "A"

ALL that certain piece or parcel of land situate in the Borough of Clearfield, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a post corner at corner of alley and Third Street; thence along Third Street South four (4) degrees, thirty (30) minutes West, eighty-six (86) feet and one (1) inch to a post at center line of lot and corner now or formerly of Maggie T. Hoover property; thence North eighty-five (85) degrees thirty (30) minutes West along the line now or formerly of Maggie T. Hoover lot, fifty-five (55) feet and five (5) inches to line of Lot #107; thence North four (4) degrees thirty (30) minutes East, eighty-six (86) feet and one (1) inch along Lot #107 to alley; thence South eighty-five (85) degrees thirty (30) minutes East along said alley, fifty (50) feet and five (5) inches to corner at Third Street and place of beginning. Being the northern one-half of Lot #120 in the General Plan of said Borough of Clearfield, as surveyed and divided by E. W. Hess, Civil Engineer, November 22, 1904.

BEING the same premises conveyed to David P. Berry and Lynnette M. Berry, Husband and Wife, from Charles H. Button and Frances K. Button, husband and wife, by deed dated the 22<sup>nd</sup> day of April, 1997, and intended to be recorded together with this mortgage.

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

4-22-97  
CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 11:24 AM  
BY Joseph Caluschi  
FEES 13.50  
Karen L. Starck, Recorder

4. Vol 1835 Page 444  
4. WAIVER. Lender hereby waives all benefit and relief from any and all appraisal, stay and exemption laws of any state now in force or hereafter passed, either for the benefit or relief of Owner, or limiting the balance due to a sum not in excess of the amount actually paid by a purchaser of the Property at a sale thereof in any judicial proceedings on this Mortgage, or exempting the Property or any other real property or any part of the proceeds of sale thereof, from attachment, levy or sale under execution, or providing for any stay of execution or any process.  
5. At its sole discretion, lease and, at any time and from time to time, on 10 days prior written notice to Owner, which notice Owner acknowledges is commercially reasonable, sell or otherwise dispose of the Property, in whole or in part.  
6. After deducting all costs of collection, apply the rents, issues, profits and proceeds of sale of the Property to the payment of taxes, water and sewer rents, insurance premiums and all other charges, and then apply the balance to the Obligations, in such order and amounts as Lender, in Lender's sole discretion, may elect.  
G. WAIVERS. Owner hereby waives and releases all benefit and relief from any and all appraisal, stay and exemption laws of any state now in force or hereafter passed, either for the benefit or relief of Owner, or limiting the balance due to a sum not in excess of the amount actually paid by a purchaser of the Property at a sale thereof in any judicial proceedings on this Mortgage, or exempting the Property or any other real property or any part of the proceeds of sale thereof, from attachment, levy or sale under execution, or providing for any stay of execution or any process.  
H. CONSENT. Owner hereby consents: to the extension of the time for payment of the Instrument, this Mortgage or any Obligations; to any compromise or settlement with Debtor or any Owner; to any waiver or failure by Lender to enforce any rights against any person or property; or to any other action which might or could release Owner and/or Debtor from liability.  
I. NOTICE. Any notice required to be given to Lender shall be personally served at Lender's address shown above. Any notice required to be given to Owner may, unless otherwise required by law, be sent by ordinary first class mail addressed to Owner's last known mailing address shown on Lender's books and records. Such notice shall be deemed received as of the next business day after mailing.  
J. RELEASE. Lender may release any part of the Property without affecting the lien of this Mortgage on the remainder of the Property for the Obligations then remaining unpaid.  
BUT ALWAYS PROVIDED, nevertheless, that if this Mortgage and the Obligations it secures are paid and performed in full in the manner provided in the Instrument and in the Obligations, then this Mortgage shall end and become void.  
The rights and remedies of Lender provided in this Mortgage, in the Instrument and in the Obligations shall be cumulative and concurrent. They may be pursued singly, successively, or together against Owner and the Property, at the sole discretion of Lender. The failure of Lender to exercise any right or remedy shall not be construed as a waiver or release of that or any other right or remedy. The words "Debtor," "Owner" and "Lender" shall be deemed and construed to include their respective heirs, personal representatives, successors and assigns. If there is more than one Owner, the obligations of each shall be joint and several. This Mortgage shall be governed by and construed according to the laws of the Commonwealth of Pennsylvania. The unenforceability or invalidity of any provision of this Mortgage shall not render any other provision unenforceable or invalid.

OWNER HAS DULY EXECUTED THIS MORTGAGE under seal on the date indicated on the front.

Witness: [Signature]

Owner: DAVID P. BERRY (SEAL)

By: LYNNETTE M. BERRY (SEAL)

By or Attest: \_\_\_\_\_ (SEAL)  
(Assistant) Secretary

(Affix Corporate Seal Here)

## ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Clearfield

On this, the 22 day of April, 1997, before me, the subscriber, a notary public of the above State, personally appeared DAVID P. BERRY and LYNNETTE M. BERRY, known or satisfactorily proven to me to be the person(s) whose name(s) is (are) subscribed to the above Mortgage, who acknowledged that he/she/they executed the same as his/her/their voluntary act and deed and desired it to be recorded as such, or who acknowledged himself/herself/themselves to be the (Vice) President(s) of the Owner (if a Corporation) or General Partner(s) of the Owner (if a Partnership) and that, being authorized so to do, he/she/they executed the above Mortgage as and for the act and deed of the Corporation or Partnership, as applicable, by signing the name of the Corporation or Partnership by himself/herself/themselves as (Vice) President(s) or General Partner(s) and causing the Corporation seal, if applicable, to be applied thereto, and desired it to be recorded as such.

Witness my hand and official seal the day and year aforesaid.

NOTARIAL SEAL  
JOHN R. RYAN, Notary Public  
Clearfield Boro. Clearfield County, Pa.  
My Commission Expires June 8, 2000

Notary Public

My commission expires:

I hereby certify that the precise address of the within named Mortgagee, CSB Bank

is P.O. Box 29, Curwensville, Pennsylvania 16833

[Signature]  
Officer on behalf of Mortgagee  
(JOHN R. RYAN, ESQUIRE)

BANCOSUMER FORM PA 183 (9/90)

Curwensville, PA 16833

P.O. Box 29

CSB Bank

Recorder: Please return this Mortgage to:

CSB Bank  
Mortgagee

TO

DAVID P. BERRY and LYNNETTE M. BERRY  
Mortgagor(s)

MORTGAGE

Entered of Record 4-22-97

**MORTGAGE**

VOL 1865 PAGE 519

THIS MORTGAGE, dated August 20

, 1997

is between the mortgagor(s), David P. Berry and Lynnette M. Berry  
of 304 Meyers Circle, Clearfield, Pennsylvania, 16830

a individuals organized and existing under the laws of the State of  
(corporation/partnership/proprietorship/individual)

(and whether one or more persons, jointly and severally obligated and called "Owner"), and the mortgagee, CSB Bank  
P.O. Box 29, Curwensville, Pennsylvania 16833

(called "Lender").

As used in this Mortgage, David P. Berry and Lynnette M. Berry

shall be called "Debtor." If no person is named as Debtor, however, any reference to "Debtor" in this Mortgage shall refer only to Owner.  
A. THE PROPERTY: FOR VALUE RECEIVED AND INTENDING TO BE LEGALLY BOUND HEREBY, as security for the prompt payment and performance of all  
Obligations (as defined below in Paragraph B), Owner grants, bargains, sells, conveys and mortgages to Lender, its successors and assigns, all of Owner's right,  
title and interest in the real property described in Schedule "A" (called the "Property"), which is attached to and made a part of this Mortgage, together with all  
present and future buildings, improvements, additions and fixtures, and all alleys, passageways, easements, rights (including mineral and water rights),  
privileges, hereditaments and appurtenances, and all reversions, remainders, rents, royalties, issues and profits, now or later accruing or pertaining  
to the Property. The Property is commonly known as

with Uniform Parcel Identifier (i.e., Tax Parcel Number): 4-1-K8-216-79

B. OBLIGATIONS SECURED BY THIS MORTGAGE. As used in this Mortgage, "Obligations" means any and all of the following:

1. the liabilities and obligations of Debtor and/or Owner to Lender arising out of a ☒ note; ☐ surety agreement; ☐ other (describe)  
in the amount of Twenty-six Thousand Three Hundred Seventy-five; dated August 20, 1997.  
(called the "Instrument"), plus interest and costs as provided therein, and/or any modifications or extensions and any other instrument or agreement that may  
be substituted therefor; Dollars (\$ 26,375.00 ).
2. all other existing and future liabilities and obligations of Debtor and/or Owner, or any of them, to Lender, whether arising from this or any other  
transaction, or of the same or different kinds or classes of indebtedness; and
3. full and complete performance by Owner of all warranties and representations, covenants and agreements and other obligations under this Mortgage.
- C. WARRANTIES AND REPRESENTATIONS: Until the Obligations are paid and performed in full, Owner warrants and represents as follows:
  1. Purchase Money Mortgage: ☒ If checked, this is a Purchase Money Mortgage and the proceeds of the Instrument will be utilized by Owner primarily  
to purchase the Property.
  2. Payments: All payments on or secured by the Instrument will be made when and where due, including payments due by acceleration of maturity or on  
demand. All Obligations will be paid promptly and performed in full in accordance with their terms.
  3. Title: Owner has fee simple title to the Property and the right to mortgage the Property. Owner will defend Owner's title against any person claiming any  
right in the Property prior to or superior to the lien of this Mortgage.
  4. Hazardous Conditions and Substances: While Owner has been in possession of the Property, there has been no use, manufacture, storage, treatment,  
disposal or release of any hazardous substance or waste on, under or about the Property, nor is Owner aware of the existence of any such activities occurring on  
the Property prior to Owner's possession of the Property, which activities have not previously been disclosed in writing to Lender. Neither Owner nor the  
Property is the subject of pending or threatened litigation or regulatory proceedings regarding any hazardous substances or waste, or other activities  
conducted on or about the Property, which have not previously been disclosed in writing to Lender. As used in this Mortgage, "hazardous substance or waste"  
means any substance which does not occur naturally on the Property and which, if released into the environment, could or would pose a real and substantial  
threat to the public health, safety and welfare.
- D. COVENANTS AND AGREEMENTS: Until the Obligations are paid and performed in full, Owner covenants and agrees as follows:
  1. Insurance: Owner will maintain insurance on the Property of such kinds, in such amounts, with such companies and with such mortgagee or  
loss-payable clauses as are satisfactory to Lender. At Lender's request, Owner will promptly provide evidence of such policies, including paid receipts, to  
Lender. Owner shall not engage in nor permit any lessee of all or any part of the Property to engage in any activity on the Property which, if resulting in loss or  
damage to the Property, would not be covered by such insurance. Owner shall notify Lender of any loss or damage to the Property, submit to such insurers a  
proof or proofs of loss, and apply the proceeds of any such insurance to the repair of the Property or to reduce the outstanding balance of the Obligations, at  
Lender's election. Lender is hereby authorized, without notice to Owner, to file such proof or proofs of loss on behalf of Owner, if Owner fails or refuses to do so,  
and to sign Owner's name to any check, draft or other instrument in payment of insurance proceeds.
  2. Taxes: Owner will pay all taxes, assessments, ground rents and governmental charges when they come due, and all other charges of any kind which  
are levied on the Property at any time and which, if unpaid, would result in a lien or other security interest in the Property superior to that of Lender's. Owner will  
deliver to Lender, on request, all receipts evidencing such payments. Neither Debtor nor Owner will claim a credit under the Instrument or this Mortgage for  
such payments.
  3. Use, Condition and Repair: Owner will maintain the Property in good repair, order and condition. Owner will not commit nor permit any strip, waste,  
nuisance, impairment or deterioration of the Property. Lender's representatives may inspect the Property at any reasonable time or times. Owner will not bring  
nor permit any lessee of all or part of the Property to bring any hazardous substance or waste onto the Property, for storage, processing, distillation, treatment,  
manufacturing, disposal, release or any other purpose, unless with Lender's prior specific written approval. Owner will comply with all applicable laws,  
regulations and ordinances, federal, state and local, relating to the use and possession of the Property.
  4. Escrow: At Lender's written request, Lender will be paid, with each payment of Principal or Interest on the Instrument, an additional sum equal to  
one-twelfth of the aggregate annual amount which will become due for the payment of all taxes to be levied and assessed on the Property, land, water and sewer  
rents, and any insurance required to be placed on the Property, as reasonably estimated initially and from time to time by Lender. If the sums held by Lender  
shall not be sufficient to pay such charges as they fall due, any deficiency shall be paid within 15 days from the date notice is mailed by Lender to Owner. All  
sums so deposited may be commingled with other funds held by Lender, shall NOT be held in trust for Owner, shall NOT bear interest, and are pledged as  
additional security for the sums secured by this Mortgage.
  5. Transfers: Owner will not sell, assign or transfer the Property or any portion thereof, voluntarily or involuntarily, to any other person, nor grant anyone  
rights in the Property, without Lender's prior written consent. If the Property has been leased in whole or in part, Owner will comply with the provisions of such  
leases, but Owner will not collect more than one month's rent, exclusive of any security deposit for non-payment of rentals or damage to the Property, in  
advance.
  6. Judgments: Owner assigns all judgments or awards for damage to the Property, or otherwise, in their entirety, to Lender, and Lender may apply the  
same to the Obligations secured by this Mortgage. Lender is authorized by Owner to institute or defend such actions and to appeal from any such judgments. If  
all or any part of the Property is subject to condemnation by any public authority, any award granted in such proceedings shall be paid to Lender as its interest  
shall then appear.
  7. Assignments: Owner will not assign the rents, profits or income from the Property without first obtaining the written consent of Lender.
  8. Suits: Owner shall not permit any action to enforce any other lien or claim against the Property prior to the lien of this Mortgage to be commenced and  
not discontinued and withdrawn within 10 days.
  9. Restrictions: Owner shall comply with all restrictions or governmental regulations affecting the use, title or possession of the Property, and shall not  
make use of the Property or engage in any activity as a result of which the Property may be forfeited to any person.
- E. EVENTS OF DEFAULT. Each of the following shall constitute an "Event of Default" under this Mortgage:
  1. Debtor and/or Owner fails to make any payment on the Instrument as and when due or on demand;
  2. Debtor and/or Owner fails to pay or perform any of the Obligations as and when due; or
  3. Any warranty or representation or covenant or agreement contained in this Mortgage, in the Instrument, or in any document or instrument evidencing  
any of the Obligations, is breached.
- F. REMEDIES. On the occurrence of any Event of Default, Lender may do any or all of the following:
  1. At its sole discretion, cure the Event of Default and add the costs of such cure to the principal sum then due on the Obligations. Lender may charge  
interest on such payment, from the date of such payment, at a rate equal to the greater of 15% per annum or the rate provided in the Instrument.
  2. On providing any timely notice of default and of Owner's right to cure the default as may then be provided by law, and failing appropriate and timely  
cure by Owner, accelerate and declare immediately due and payable all amounts due under the Instrument and under any or all of the Obligations.
  3. Refer this Mortgage to an attorney for collection and/or to foreclose on the Property, or to take such other action at law or in equity for the enforcement  
of this Mortgage as the law may allow, for the entire unpaid balance thereof, together with Lender's costs in curing any Event of Default, with interest thereon at  
the greater of 15% per annum or the rate charged on the Instrument, and all costs of suit and Lender's reasonable attorneys' fees.



ALL that certain piece or parcel of land situate in the Borough of Clearfield, Clearfield County, Pennsylvania, bounded and described as follows:

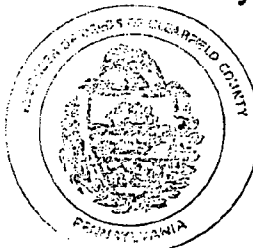
BEGINNING at a post corner at corner of alley and Third Street; thence along Third Street South four (4) degrees, thirty (30) minutes West, eighty-six (86) feet and one (1) inch to a post at center line of lot and corner now or formerly of Maggie T. Hoover property; thence North eighty-five (85) degrees thirty (30) minutes West along the line now or formerly of Maggie T. Hoover lot, fifty-five (55) feet and five (5) inches to line of Lot Number 107; thence North four (4) degrees thirty (30) minutes East, eighty-six (86) feet and one (1) inch along Lot Number 107 to alley; thence South eighty-five (85) degrees thirty (30) minutes East along said alley, fifty (50) feet and five (5) inches to corner at Third Street and place of beginning.

Being the northern one-half of Lot Number 120 in the General Plan of said Borough of Clearfield, as surveyed and divided by E.W. Hess, Civil Engineer, November 22, 1904.

BEING the same premises conveyed to David P. Berry and Lynnette M. Berry, husband and wife, from Charles H. Button and Frances K. Button, husband and wife, by deed dated April 22, 1997, said deed being recorded in Deed and Record Book 1835, Page 439.

ANY DEFAULT IN ANY MORTGAGE SENIOR TO THIS MORTGAGE SHALL BE DEEMED TO BE A DEFAULT OF THIS MORTGAGE AND THEREBY ENTITLE MORTGAGEE HEREIN TO ANY AND ALL REMEDIES PROVIDED BY LAW AND/OR IN THIS MORTGAGE, INCLUDING THE ACCELERATION OF ALL SUMS DUE HEREIN UNDER, THAT IS, THE ENTIRE AMOUNT OF THE PRINCIPAL BALANCE DUE HEREUNDER MAY BE DECLARED BY MORTGAGEE TO BE DUE AND PAYABLE UPON SUCH DEFAULT.

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

4. Enter into possession of the Property, without legal action, and collect all rents, issues, profits and insurance proceeds which Owner hereby assigns to Lender as additional security for the Obligations.

5. At its sole discretion, lease and, at any time and from time to time, on 10 days prior written notice to Owner, which notice Owner acknowledges is commercially reasonable, sell or otherwise dispose of the Property, in whole or in part.

6. After deducting all costs of collection, apply the rents, issues, profits and proceeds of sale of the Property to the payment of taxes, water and sewer rents, insurance premiums and all other charges, and then apply the balance to the Obligations, in such order and amounts as Lender, in Lender's sole discretion, may elect.

G. **WAIVERS.** Owner hereby waives and releases all benefit and relief from any and all appraisal, stay and exemption laws of any state now in force or hereafter passed, either for the benefit or relief of Owner, or limiting the balance due to a sum not in excess of the amount actually paid by a purchaser of the Property at a sale thereof in any judicial proceedings on this Mortgage, or exempting the Property or any other real property or any part of the proceeds of sale thereof, from attachment, levy or sale under execution, or providing for any stay of execution or any process.

H. **CONSENT.** Owner hereby consents: to the extension of the time for payment of the Instrument, this Mortgage or any Obligations; to any compromise or settlement with Debtor or any Owner; to any waiver or failure by Lender to enforce any rights against any person or property; or to any other action which might or could release Owner and/or Debtor from liability.

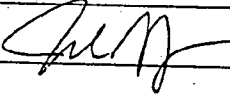
I. **NOTICE.** Any notice required to be given to Lender shall be personally served at Lender's address shown above. Any notice required to be given to Owner may, unless otherwise required by law, be sent by ordinary first class mail addressed to Owner's last known mailing address shown on Lender's books and records. Such notice shall be deemed received as of the next business day after mailing.

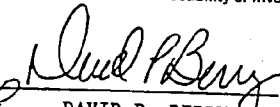
J. **RELEASE.** Lender may release any part of the Property without affecting the lien of this Mortgage on the remainder of the Property for the Obligations then remaining unpaid.

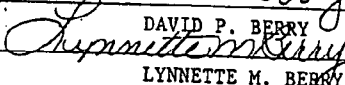
**BUT ALWAYS PROVIDED,** nevertheless, that if this Mortgage and the Obligations it secures are paid and performed in full in the manner provided in the Instrument and in the Obligations, then this Mortgage shall end and become void.

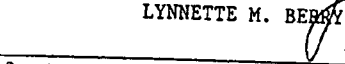
The rights and remedies of Lender provided in this Mortgage, in the Instrument and in the Obligations shall be cumulative and concurrent. They may be pursued singly, successively, or together against Owner and the Property, at the sole discretion of Lender. The failure of Lender to exercise any right or remedy shall not be construed as a waiver or release of that or any other right or remedy. The words "Debtor," "Owner" and "Lender" shall be deemed and construed to include their respective heirs, personal representatives, successors and assigns. If there is more than one Owner, the obligations of each shall be joint and several. This Mortgage shall be governed by and construed according to the laws of the Commonwealth of Pennsylvania. The unenforceability or invalidity of any provision of this Mortgage shall not render any other provision unenforceable or invalid.

OWNER HAS DULY EXECUTED THIS MORTGAGE under seal on the date indicated on the front.

Witness: 

Owner:  (SEAL)

By:  (SEAL)

By or Attest:  (SEAL)  
(Assistant) Secretary

(Affix Corporate Seal Here)

## ACKNOWLEDGMENT

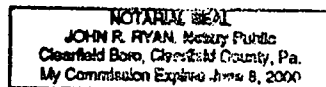
COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Clearfield

: SS.

On this, the 20 day of August, 19 97, before me, the subscriber, a notary public of the above State, personally appeared David P. Berry and Lynnette M. Berry, known or satisfactorily proven to me to be the person(s) whose name(s) is (are) subscribed to the above Mortgage, who acknowledged that he/she/they executed the same as his/her/their voluntary act and deed and desired it to be recorded as such, or who acknowledged himself/herself/themselves to be the (Vice) President(s) of the Owner (if a Corporation) or General Partner(s) of the Owner (if a Partnership) and that, being authorized so to do, he/she/they executed the above Mortgage as and for the act and deed of the Corporation or Partnership, as applicable, by signing the name of the Corporation or Partnership by himself/herself/themselves as (Vice) President(s) or General Partner(s) and causing the Corporation seal, if applicable, to be applied thereto, and desired it to be recorded as such.

Witness my hand and official seal the day and year aforesaid.




Notary Public

My commission expires:

I hereby certify that the precise address of the within named Mortgagee, CSB BANK

is P.O. Box 29, Curwensville, Pennsylvania 16833

  
Officer on behalf of Mortgagee

(JOHN R. RYAN, ESQUIRE)

CLEARFIELD COUNTY  
ENTERED OF RECORD

TIME 3:29 PM 8-20-97

BY J. L. Starck

FEES 13.50

Karen L. Starck, Recorder

BANCORPUS FORM PA 183 (9/90)

Curwensville, PA 16833

P.O. Box 29

CSB Bank

Recorder Please return this Mortgage to:

CSB BANK  
Mortgagee

TO

DAVID P. BERRY and LYNNETTE M. BERRY  
Mortgagor(s)

MORTGAGE

ALL that certain piece or parcel of land situate in the Borough of Clearfield, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a post corner at corner of alley and Third Street; thence along Third Street South four (4) degrees, thirty (30) minutes West, eighty-six (86) feet and one (1) inch to a post at center line of lot and corner now or formerly of Maggie T. Hoover property; thence North eighty-five (85) degrees thirty (30) minutes West along the line now or formerly of Maggie T. Hoover lot, fifty-five (55) feet and five (5) inches to line of Lot Number 107; thence North four (4) degrees thirty (30) minutes East, eighty-six (86) feet and one (1) inch along Lot Number 107 to alley; thence South eighty-five (85) degrees thirty (30) minutes East along said alley, fifty (50) feet and five (5) inches to corner at Third Street and place of beginning.

Being the northern one-half of Lot Number 120 in the General Plan of said Borough of Clearfield, as surveyed and divided by E.W. Hess, Civil Engineer, November 22, 1904.

BEING the same premises conveyed to David P. Berry and Lynnette M. Berry, husband and wife, from Charles H. Button and Frances K. Button, husband and wife, by deed dated April 22, 1997, said deed being recorded in Deed and Record Book 1835, Page 439.

# PROMISSORY NOTE

Principal	Loan Date	Maturity	Loan No.	Call	Collateral	Account	Officer	Initials
\$136,120.72	05-20-2000	05-20-2020	141718		0020	109930	026	

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. Any item above containing \*\*\*\*\* has been omitted due to text length limitations.

**Borrower:** David P. Berry  
Lynnette M. Berry  
112 N 3rd St.  
Clearfield, PA 16830

**Lender:** CSB BANK  
Curwensville Office  
434 State Street  
P.O. Box 29  
Curwensville, PA 16833

**Principal Amount:** \$136,120.72

**Date of Note:** May 20, 2000

**PROMISE TO PAY.** David P. Berry and Lynnette M. Berry ("Borrower") jointly and severally promise to pay to CSB BANK ("Lender"), or order, in lawful money of the United States of America, the principal amount of One Hundred Thirty Six Thousand One Hundred Twenty & 72/100 Dollars (\$136,120.72), together with interest on the unpaid principal balance from May 20, 2000, until paid in full.

**PAYMENT.** Subject to any payment changes resulting from changes in the Index or margin or both, Borrower will pay this loan in accordance with the following payment schedule: 239 monthly consecutive payments in the initial amount of \$1,326.94 each, beginning June 20, 2000, with interest calculated on the unpaid principal balances at an interest rate of 10.000% per annum; and one payment of \$1,323.55 on May 20, 2020, with interest calculated on the unpaid principal balances at an interest rate of 10.000% per annum. This estimated final payment is based on the assumption that all payments will be made exactly as scheduled and that the Index does not change; the actual final payment will be for all principal and accrued interest not yet paid, together with any other unpaid amounts under this Note. 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. Borrower will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

**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 Wall Street Journal Published Prime Rate (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 Borrower. Lender will tell Borrower the current Index rate upon Borrower's request. The interest rate change will not occur more often than each five years. Borrower understands that Lender may make loans based on other rates as well. The Index currently is 9.000% per annum. The interest rate or rates to be applied to the unpaid principal balance of this Note will be the rate or rates set forth herein in the "Payment" section. Notwithstanding any other provision of this Note, after the first payment stream, the interest rate for each subsequent payment stream will be effective as of the last payment date of the just-ending payment stream. **NOTICE:** Under no circumstances will the interest rate on this Note be more than the maximum rate allowed by applicable law. Whenever increases occur in the interest rate, Lender, at its option, may do one or more of the following: (A) increase Borrower's payments to ensure Borrower's loan will pay off by its original final maturity date, (B) increase Borrower's payments to cover accruing interest, (C) increase the number of Borrower's payments, and (D) continue Borrower's payments at the same amount and increase Borrower's final payment.

**PREPAYMENT; MINIMUM INTEREST CHARGE.** In any event, even upon full prepayment of this Note, Borrower understands that Lender is entitled to a minimum interest charge of \$5.00. Other than Borrower's obligation to pay any minimum interest charge, Borrower 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 Borrower of Borrower's obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in Borrower's making fewer payments. Borrower agrees not to send Lender payments marked "paid in full", "without recourse", or similar language. If Borrower sends such a payment, Lender may accept it without losing any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: CSB BANK, Curwensville Office, 434 State Street, P.O. Box 29, Curwensville, PA 16833.

**LATE CHARGE.** If a payment is 16 days or more late, Borrower will be charged 5.000% of the unpaid portion of the regularly scheduled payment or \$999.99, whichever is less.

**INTEREST AFTER DEFAULT.** Upon default, including failure to pay upon final maturity, Lender, at its option, may, if permitted under applicable law, increase the variable interest rate on this Note by 4.000 percentage points. The interest rate will not exceed the maximum rate permitted by applicable 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.

**DEFAULT.** Each of the following shall constitute an event of default ("Event of Default") under this Note:

**Payment Default.** Borrower fails to make any payment when due under this Note.

**Other Defaults.** Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Note or in any of the related documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Note or the related documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Death or Insolvency.** The death of Borrower or the dissolution or termination of Borrower's existence as a going business, the insolvency of Borrower, the appointment of a receiver for any part of Borrower'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 Borrower.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or by any governmental agency against any collateral securing the loan. This includes a garnishment of any of Borrower's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the indebtedness or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the indebtedness. In the event of a death, Lender, at its option, may, but shall not be required to, permit the guarantor's estate to assume unconditionally the obligations of the guarantor.

## PROMISSORY NOTE (Continued)

Page 2

any Event of Default.

**Adverse Change.** A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of this Note is impaired.

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

**Cure Provisions.** If any default, other than a default in payment, is curable and if Borrower has 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 Borrower, after receiving written notice from Lender demanding cure of such default: (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes 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 Borrower will pay that amount.

**ATTORNEYS' FEES; EXPENSES.** Lender may hire or pay someone else to help collect the loan if Borrower does not pay. Borrower 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, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, Borrower also will pay any court costs, in addition to all other sums provided by law.

**RIGHT OF SETOFF.** To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any and all such accounts, and, at Lender's option, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights provided in this paragraph.

**COLLATERAL.** Borrower acknowledges this Note is secured by a Mortgage dated April 22, 1997, and recorded April 22, 1997, in Volume 1835, Page 442 and a Mortgage dated August 20, 1997, and recorded August 20, 1997, in Volume 1865, Page 519, 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.

**SUCCESSOR INTERESTS.** The terms of this Note shall be binding upon Borrower, and upon Borrower's heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and Lender's successors and assigns.

**GENERAL PROVISIONS.** Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. Each Borrower understands and agrees that, with or without notice to Borrower, Lender may with respect to any other Borrower (a) make one or more additional secured or unsecured loans or otherwise extend additional credit; (b) alter, compromise, renew, extend, accelerate, or otherwise change one or more times the time for payment or other terms any indebtedness, including increases and decreases of the rate of interest on the indebtedness; (c) exchange, enforce, waive, subordinate, fail or decide not to perfect, and release any security, with or without the substitution of new collateral; (d) apply such security and direct the order or manner of sale thereof, including without limitation, any non-judicial sale permitted by the terms of the controlling security agreements, as Lender in its discretion may determine; (e) release, substitute, agree not to sue, or deal with any one or more of Borrower's sureties, endorsers, or other guarantors on any terms or in any manner Lender may choose; and (f) determine how, when and what application of payments and credits shall be made on any other indebtedness owing by such other Borrower. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, 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; and take any other action deemed necessary by Lender without the consent of or notice to anyone. 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. If any portion of this Note is for any reason determined to be unenforceable, it will not affect the enforceability of any other provisions of this Note.

**CONFESSION OF JUDGMENT.** BORROWER HEREBY IRREVOCABLY AUTHORIZES AND EMPOWERS ANY ATTORNEY OR THE PROTHONOTARY OR CLERK OF ANY COURT IN THE COMMONWEALTH OF PENNSYLVANIA, OR ELSEWHERE, TO APPEAR AT ANY TIME FOR BORROWER AFTER A DEFAULT UNDER THIS NOTE AND WITH OR WITHOUT COMPLAINT FILED, CONFESS OR ENTER JUDGMENT AGAINST BORROWER FOR THE ENTIRE PRINCIPAL BALANCE OF THIS NOTE AND ALL ACCRUED INTEREST, LATE CHARGES AND ANY AND ALL AMOUNTS EXPENDED OR ADVANCED BY LENDER RELATING TO ANY COLLATERAL SECURING THIS NOTE, TOGETHER WITH COSTS OF SUIT, AND AN ATTORNEYS COMMISSION OF TEN PERCENT (10%) OF THE UNPAID PRINCIPAL BALANCE AND ACCRUED INTEREST FOR COLLECTION, BUT IN ANY EVENT NOT LESS THAN FIVE HUNDRED DOLLARS (\$500) ON WHICH JUDGMENT OR JUDGMENTS ONE OR MORE EXECUTIONS MAY ISSUE IMMEDIATELY; AND FOR SO DOING, THIS NOTE OR A COPY OF THIS NOTE VERIFIED BY AFFIDAVIT SHALL BE SUFFICIENT WARRANT. THE AUTHORITY GRANTED IN THIS NOTE TO CONFESS JUDGMENT AGAINST BORROWER SHALL NOT BE EXHAUSTED BY ANY EXERCISE OF THAT AUTHORITY, BUT SHALL CONTINUE FROM TIME TO TIME AND AT ALL TIMES UNTIL PAYMENT IN FULL OF ALL AMOUNTS DUE UNDER THIS NOTE. BORROWER HEREBY WAIVES ANY RIGHT BORROWER MAY HAVE TO NOTICE OR TO A HEARING IN CONNECTION WITH ANY SUCH CONFESSION OF JUDGMENT AND STATES THAT EITHER A REPRESENTATIVE OF LENDER SPECIFICALLY CALLED THIS CONFESSION OF JUDGMENT PROVISION TO BORROWER'S ATTENTION OR BORROWER HAS BEEN REPRESENTED BY INDEPENDENT LEGAL COUNSEL.

PROMISSORY NOTE  
(Continued)

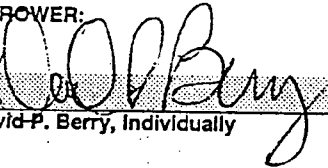
Page 3

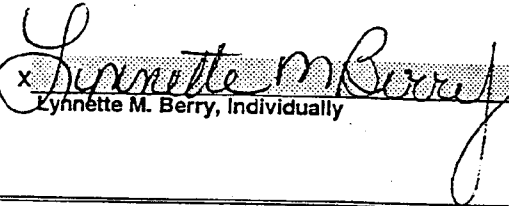
PRIOR TO SIGNING THIS NOTE, EACH BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE, INCLUDING THE VARIABLE INTEREST RATE PROVISIONS. EACH BORROWER AGREES TO THE TERMS OF THE NOTE.

BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE.

THIS NOTE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS NOTE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.

BORROWER:

x  (Seal)  
David-P. Berry, Individually

x  (Seal)  
Lynnette M. Berry, Individually

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

\*\*\*\*\*

IN RE: : BANKRUPTCY NO: 99-24093-BM  
:   
DAVID AND LYNNETTE BERRY d/b/a : Chapter 11  
COUSIN'S BAKERY, :   
Debtor :   
\*\*\*\*\*

PLAN OF REORGANIZATION  
DATED NOVEMBER 29, 1999

AND NOW this 29th day of November, 1999, comes the Movants, David and Lynnette Berry d/b/a Cousin's Bakery, Debtors-in-Possession in the above-referenced Chapter 11 case, by and through their attorneys, Spence, Custer, Saylor, Wolfe & Rose, and Thomas W. Cartwright, Esquire, and do file the within Plan of Reorganization dated November 29, 1999 upon a cause whereof the following is a statement:

I. INTRODUCTION

The instant case was commenced by the filing of a voluntary petition for relief pursuant to Chapter 11 of Title 11 of the Bankruptcy Code, 11 U.S.C. Section 101, et seq. by the Debtors-in-Possession, David Paul Berry and Lynnette Berry with the United States Bankruptcy Court for the Western District of Pennsylvania on June 1, 1999. As Debtors-in-Possession pursuant to Section 1107 of the Code, the debtors have remained in control of their assets, subject to Court approval of extra-ordinary transactions and the "oversight" provided by the Office of the United States Trustee.

The goal of the filing is the formulation and development of a Plan of Reorganization confirmable pursuant to 11 U.S.C. Section 1129.

Upon the commencement of the case, the debtors sought and obtained authority by Order dated August 6, 1999 at Motion No. 99-3695M to retain Thomas W. Cartwright, Esquire, of Spence, Custer, Saylor, Wolfe and Rose to represent them and assist them in their Chapter 11 case. Due to a lack of response from parties in interest, no Official Committee of Unsecured Creditors was appointed and organized pursuant to Section 1102 of the Code.

Said case has progressed to the point that the debtors have proposed a Plan of Reorganization dated as of November 29, 1999, as well as the Disclosure Statement filed in accord with Section 1125 of the Code, in furtherance of said Plan.

The purpose of the within Plan of Reorganization is to provide creditors with sufficient detail and information that a hypothetical creditor/investor, typical of the holders of claims and interests in this case, can make a knowing and informed decision as to whether to vote in favor of or against the pending Plan of Reorganization.

## II. CLASSES OF CREDITORS

The Plan of Reorganization of the Debtors is an approach for reorganization by refinancing the major mortgage debt and surrendering certain collateral back to secured creditors. The Debtors would surrender the property known as 304 Meyers Circle back to the secured creditors, Norwest and Beneficial. This would relieve the Debtors of the mortgage debt service on that particular parcel. The major lien holders, Curwensville National Bank and County National Bank, will be paid from the rents from the remaining properties and the proceeds from the business. The disposable income at the end of the month after paying their necessities of life in the range of approximately \$100.00 to \$125.00 to be paid into a pool of money to pay unsecured creditors. The Debtors would suggest a three year plan of payment resulting in a pool of money of approximately \$3,600.00. This would result in approximately a 16% payout to the unsecured creditors having a total of \$22,285.09. The unsecured creditors amount does not include any unsecured amount as determined by any Motion to Determine Secured Status whereby a mortgage lien under-secured to a parcel resulting in a deficiency on the mortgage would be placed into the general unsecured class. The total amount of the unsecured mortgage debt that may be considered a general unsecured claim is unknown at this time.

More specifically, the Plan of Reorganization involves nine classes of creditors.

1. CLASS 1 - Class 1 consists of the property tax claims of Clearfield County Tax Claim Bureau on differing parcels owned by the Debtors for 1997 and 1998 taxes. Total amount due to the Clearfield County Tax Claim Bureau is \$3,974.55.

2. CLASS 2 - Class 2 consists of the secured mortgage claim of Curwensville State Bank holding first, second and third mortgage liens on the parcels known as 112-124 Third Street in Clearfield, Pennsylvania. The amount due as scheduled by the Debtors on the outstanding indebtedness is \$134,000.00. The Debtors value the underlying collateral at \$168,500.00. Part of this



property is the primary principle residence of the Debtors. But this parcel also includes the residential rental properties as well as the business of the bakery and other store front rental properties. The Bank has renegotiated this mortgage and also forgiven some interest in order to help the Debtors reorganize. Curwensville will be paid \$1,326.00 per month on the mortgage total at 10% over a period of 20 years.

3. CLASS 3 - Class 3 consists of the allowed secured claim of County National Bank. County National Bank is a first lien holder on the parcels known as 1616 Lincoln Avenue in Hyde, Pennsylvania and the parcel known as the Kermoor Homestead (R.D. #2, Curwensville). The Debtors list the amount due on the first mortgage as \$52,000.00. The underlying collateral is listed as having a value of \$67,500.00. These two parcels are not the primary principle residence of the Debtors. County National Bank also holds a second mortgage on the 1616 Lincoln Avenue, Hyde, Pennsylvania property and the Kermoor Homestead (R.D. #2, Curwensville) but in addition to the real property on this mortgage, there is also an outstanding lien against the Debtors 1990 Plymouth Voyager and 1993 Chevy Lumina and other collateral. The amount due on this particular claim is listed as \$26,000.00. The underlying collateral is listed as being an addition of \$12,500.00. These parcels are not the principle primary residence of the Debtors. To the extent that the second mortgage exceeds the value of the underlying collateral the balance due over and above the fair market value will be treated as an unsecured creditor. These particular mortgages may be subject to Section 506 Motions to Determine Secured Status as well as Section 1129 Mortgage Modification. County National Bank will be paid \$722.00 per month on an \$88,000.00 mortgage which results in payments over a 20 years period.

4. CLASS 4 - Class 4 consists of the allowed secured claims of Clearfield Consumer Company which has a lien against a 1984 Cadillac and a claim amount listed as \$3,023.00. The Debtors list the value of the vehicle as \$1,000.00. This claim may be subject to a Motion to Determine Secured Status as the balance due on the loan exceeds the value of the collateral it shall be treated as a general unsecured claim.

5. CLASS 5 - Class 5 consists of the allowed secured claim of Norwest Mortgage, Inc. and Beneficial Finance. Norwest holds a first mortgage lien on the property known as 304 Meyers Circle in Clearfield. The amount of the first mortgage is listed as being \$75,000.00 with the value of the property being listed as \$70,500.00. Attempts to renegotiate the mortgage on this particular property have been fruitless. Beneficial is a second mortgage lien holder on this property. The value of the Beneficial claim is listed as \$8,400.00. Because the Debtor intends to surrender the collateral supporting these two mortgages, the Debtor

believes that, in fact, Norwest and Beneficial do not have a secured claim in this particular Chapter 11 Plan. To the extent the value of the surrendered collateral does not exceed the value of the claim, the claim will be treated as an unsecured amount. Currently, the unsecured amount estimated by the Debtor would be \$4,500.00 to Norwest and \$8,400.00 to Beneficial

6. CLASS 6 - Class 6 consists of the allowed administrative expenses allowed under Section 503(B)(1) of the Code to pay administrative expenses involved in the case.

7. CLASS 7 - Class 7 consists of the allowed administrative expenses allowed under Section 503 of the Code to Professionals in this case. Currently, the accountant that was retained by Order of this Court and the attorney retained by Order of this Court would submit their fees in this claim. Said fees will only be paid upon review and Order of Court.

8. CLASS 8 - Class 8 consists of the unsecured claims currently estimated to be approximately \$35,285.00. With the current proposed deposit by the Creditors, a monthly amount into the Plan of \$3,600.00 over three years this would result in approximately a 10% payout to the unsecured creditors.

9. CLASS 9 - Class 9 consists of any untimely or disputed claims.

### III. DESIGNATION OF UNIMPAIRED CLASSES

All of the listed unsecured claims as found in the Petition are considered undisputed. The claim of County National Bank is considered undisputed and unimpaired.

### IV. DESIGNATION OF IMPAIRED CLASSES

In the opinion of the Debtor there are certain impaired classes. County National Bank and Clearfield Consumer Company should be the subjects of Section 506 and possible Section 1129 treatment which may result in an impairment in that class.

### V. POST-CONFIRMATION MANAGEMENT OF THE DEBTORS FINANCES

The Berrys remain on full-time status as the owners and operators of Berrys Bakery and More. The bakery/restaurant has increased its business through word of mouth and quality of product. The Berrys also still continue to own certain rental properties and other real estate for income purposes. Prior to the filing of the bankruptcy, David's full-time work paid the mortgages on all the properties. Lynnette's income in the bakery paid for

the other expenses of the business and household. After David lost his job and he became a full-time employee of the Bakery, the mortgage debt could not be met. the Banks have renegotiated the mortgages or will be subject to \$1129 Motions to whereby the rental incomes will cover all of the mortgage payments. The income from the Bakery will then cover all other expenses of the household and business.

## VI. MISCELLANEOUS PROVISIONS

1. The current outstanding variables in this Plan are the disputed claim amounts of the parties mentioned above.
2. Until such time as a final decree is entered by the court closing this case, the Court shall retain jurisdiction to determine all matters related to the Plan, pre-confirmation claims against the estate, and the validity, extent, and priority of liens and claims and/or matters related thereto as well as any other matter affecting the Debtor's ability to perform under the provisions of this Plan, and/or any amendments thereof.
3. The aforesaid provisions notwithstanding, in the event of final decree shall be entered, the Court shall nevertheless retain jurisdiction to adjudicate all pending matters before it, and to adjudicate applications for fees by debtor's counsel for post-confirmation services as disbursing agent and/or claims litigation, and or other matters relating to the "winding up" of the estate.
4. The Debtors retain the right, despite confirmation of the Plan, and the failure to have objected to a claim for the voting purposes, to object to any claim for purposes of receiving a distribution, and/or as to the priority thereof.
5. The Court may, after notice and hearing after Motion duly filed by the Debtors, grant such extensions of the time provided for in the Plan as the Debtor, for good cause shown, may require.
6. In addition to all other powers retained by the Court, and not in limitation thereof, the Court shall have the power to order the cancellation or modification, of record, of any liens filed prior to the commencement of the case, to the extent that the records fail to reflect the post-confirmation status thereof as provided for in this Plan.
7. In addition to all other powers retained by the Court, and not in limitation thereof, the Court shall retain the jurisdiction to rule upon and correct, if deemed necessary, all omissions, ambiguities and/or inconsistencies in the Plan.

8. Upon confirmation, except to the extent otherwise specifically provided in this Plan regarding the retention of liens against the enumerated assets, all of the debtors' property shall; pursuant to Section 1141 (c) of the Code, revert in the debtors free and clear of all claims and interests of creditors whose claims arose pre-confirmation, the said obligations being replaced by the obligations of the debtor under the Plan.

9. Subsequent to the entry of the order of confirmation, the debtor shall continue to have full power and authority to continue the then pending claims litigation and/or to the commence the same, to compromise the same (subject to Court approval after notice), and to otherwise act in the best interest of the debtors and their creditors, provided however, they shall have no authority to take any action contrary to or in derogation of the terms of this Plan.

10. Except to the extent governed by the laws of the United States, including but not limited to Title 11, the provisions hereof shall be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania.

11. Under the facts of this case, the debtor is, pursuant to Section 1141 (d)(1), entitled to a discharge, and the effect of the entry of the order of confirmation shall be to grant the debtor a discharge to the full extent provided for under Section 1141 of the Code.

12. The granting of a discharge shall constitute a determination that there are no nondischargeable claims owed by the debtor.

13. Except to the extent that a lease/executory contract was rejected prior to confirmation pursuant to 11 U.S.C. Section 365, all leases/executory contracts of the debtor/estate shall be deemed, assumed and remain in full force and effect subsequent to confirmation.

#### VII. COMPARISON WITH CHAPTER 7 CONVERSION/LIQUIDATION

As noted above, the distribution proposed under the Plan of Reorganization of November 29, 1999 is a partial liquidation plan based on the surrender of certain collateral to the secured creditors. Debtors also plan to pay the priority and part of the unsecured debt as a part of this Plan.

The alternative to confirmation of this proposed Plan, the Debtors believe, is conversion to a Chapter 7 case, in which the only benefit to creditors in Classes 1 through 5 would be the immediate receipt, through liquidation, of any proceeds received from the liquidation of the collateral under the absolute priority rule provisions.

It is the belief of the Debtors that if the realty was sold at sheriff's sale, rather than through negotiated sales at full fair market value, the sale of the property would result in the generation of less than the appraised value for the commercial property and the farm and equipment.

Conversion of the case would also result in a substantial decrease in the amount realized to pay the creditors. The Debtors do not believe there would be enough proceeds from a distress type sale to pay the unsecured creditors.

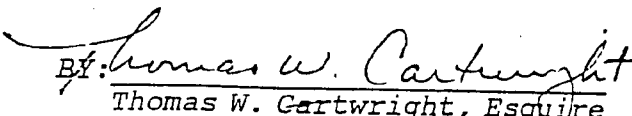
Also, if the case were converted, it is believed that the Chapter 7 trustee would incur the costs and expenses that would have to be paid prior to distribution to creditors. This further depletes the amount of funds available to pay creditors.

It is the Debtor's belief that all parties, the Debtor, secured creditors and unsecured creditors will maximize their returns by the confirmation and consummation of the above Plan, and each will receive more than it would receive in a liquidation following conversion.

It is therefore the Debtor's conclusion that the confirmation of the proposed Plan provides a greater distribution to the creditors, much quicker and more cheaply, than a distribution following conversion and distribution in a Chapter 7 case.

Respectfully submitted,

SPENCE, CUSTER, SAYLOR, WOLFE  
& ROSE

  
BY: Thomas W. Cartwright  
Thomas W. Cartwright, Esquire  
400 U.S. Bank Building  
P.O. Box 280  
Johnstown, PA 15907-0280  
(814) 536-0735  
PA I.D. #56660

RECEIVED MAR 20 2000

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:

DAVID PAUL BERRY and  
LYNNETTE M. BERRY d/b/a  
COUSIN'S BAKERY  
Debtors

BANKRUPTCY NO. 99-24093BM  
CHAPTER 11

ORDER OF COURT CONFIRMING  
PLAN OF REORGANIZATION DATED  
NOVEMBER 29, 1999

AND NOW, this 16<sup>th</sup> day of March, 2000, after conducting a hearing on the Confirmation of the Plan of Reorganization dated November 29, 1999 filed by the Debtors in the above-captioned case and the Court having considered the Confirmation issues, all responses and the arguments of counsel, it is hereby

ORDERED, ADJUDGED and DETERMINED and DECREED THAT:

1. The Chapter 11 Plan of Reorganization dated November 29, 1999 of the Debtors-in-Possession, David and Lynnette Berry d/b/a Cousin's Bakery d/b/a Berry's Bakery and More, attached hereto as "Exhibit A" complies with the provisions of §1129 of the Code.

2. The Plan of Reorganization dated November 29, 1999 as identified in "Exhibit A" is approved and confirmed with the following corrective language regarding the lien positions of the lenders on the real property identified in the Plan by the Debtors-in-Possession.

A. The parcel identified at 112-124 Third Street, Clearfield, Pennsylvania having a fair market value of \$168,500.00 is lienied by Curwensville State Bank in first lien position by mortgage dated 4/22/97 found at RBV 1835/42 in the face amount of \$100,000.00, by Curwensville State Bank in second lien position by mortgage dated 8/20/97 found at RBV 1865/519 in the face amount of \$26,375.00 and by County National Bank in third lien position by mortgage dated 8/13/98 found at RBV 1966/140 in the face amount of \$25,735.31. The third position CNB mortgage also includes the parcels of Lincoln Avenue (Hyde) and 304 Meyers Circle.

B. The parcel known as 1616 Lincoln Avenue, Hyde, Pennsylvania with a fair market value of \$67,500.00 is lienied by

CNB as a first position mortgage lien holder by mortgage dated 12/27/96 at RBV 1812/327 with a face amount of \$53,200.00 and CNB in second lien position by mortgage dated 8/13/98 found at RBV 1966/140. CNB's first mortgage on this parcel is combined with the Curwensville parcel. CNB's second mortgage on this parcel is combined with the Third Avenue and Meyers Circle parcels.

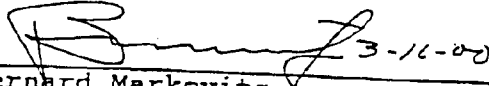
C. The parcel known at 304 Meyers Circle has a fair market value of \$70,500.00. The first position mortgage lien holder is Prudential Realty with the assignment to Norwest Financial by assignment dated 8/23/96 on the mortgage found at RBV 1680/95 with a face amount of \$65,550.00 and Beneficial Finance being the second position mortgage lien holder by mortgage dated 4/3/96 at RBV 1748/44 in the face amount of \$7,500.00 and CNB in a third position mortgage lien by mortgage dated 8/13/98 found at RBV 1966/140 in the face amount of \$25,735.31. The third position mortgage lien of CNB is combined with the Third Avenue and Lincoln Avenue (Hyde) parcels. This parcel is to be surrendered to the lien holders.

D. Parcel known at R.D. #2, Curwensville (Kermore Homestead) has a fair market value of the Debtors 1/4 interest of \$9,750.00. CNB has a first position mortgage lien by mortgage dated 12/27/96 at RBV 1812/327 in the face amount of \$53,200.00. This CNB mortgage is combined with the Lincoln Avenue (Hyde) parcel.

3. Although the lien positions are correctly identified in this Order which changes the identification of the lien positions as identified in the Plan the fully secured position of both Curwensville State Bank and County National Bank remain the same on their outstanding indebtedness which will be paid under the Plan provisions.

4. All objections filed thereto are denied and dismissed.

By the Court:

  
Bernard Markovitz  
Judge  
United States Bankruptcy Court  
Western District of Pennsylvania

DISC 001; B:\BERRY.BRY\PLAN.ORD

**FILED**

MAR 17 2000

CLERK, U.S. BANKRUPTCY COURT  
WEST DIST OF PENNSYLVANIA



NOTICE OF INTENTION TO FORECLOSE MORTGAGE

David P. Berry  
80 Griffith Avenue  
Curwensville, PA 16833

RE: Account 141718

Dear Mr. Berry,

The mortgage held by CSB Bank (hereinafter we, us or ours) on your property located at 112-124 N. 3<sup>rd</sup>. St., Clearfield, Clearfield County, PA, IS IN SERIOUS DEFAULT because you have not made the monthly payments for October, November, & December of 2003. Late charges and other charges have also accrued to this date in the amount of \$199.02. The total amount now required to cure this default, or in other words, get caught up in your payments, as of the date of this letter, is \$4,179.84 (Four thousand one hundred seventy nine dollars and eighty four cents).

You may cure this default within THIRTY (30) DAYS of the date of this letter, by paying to us the above amount of \$4,179.84 plus any additional monthly payments and late charges which may fall due during this period. Such payment must be made either by cash, cashier's check, certified check or money order, and made at any office of CSB Bank.

If you do not cure the default within THIRTY (30) DAYS, we intend to exercise our right to accelerate the mortgage payments. This means that whatever is owing on the original amount borrowed will be considered due immediately and you may lose the chance to pay off the original mortgage monthly installments. If full payment of the amount of default is not made within THIRTY (30) DAYS, we also intend to instruct our attorneys to start a lawsuit to foreclose your mortgaged property. If the mortgage is foreclosed, your mortgaged property will be sold by the Sheriff to pay off the mortgage debt. If we refer your case to our attorneys, but you cure the default before they begin legal proceedings against you, you will still have to pay the reasonable attorney's fees, actually incurred, up to \$50.00. However, if legal proceedings are started against you, you will have to pay the reasonable attorney's fees even if they are over \$50.00. Any attorney's fees will be added to whatever you owe us, which may also include our reasonable costs. If you cure the default within the thirty day period, you will not be required to pay attorney's fees.



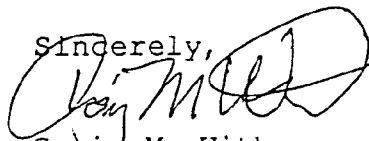
We may also sue you personally for the unpaid principal balance and all other sums due under the mortgage. If you have not cured the default within the thirty-day period and foreclosure proceedings have begun, you still have the right to cure the default and prevent the sale at any time up to one hour before the Sheriff's foreclosure sale. You may do so by paying the total amount of the unpaid monthly payments plus any late or other charges then due, as well as the reasonable attorney's fees and costs connected with the foreclosure sale and perform any other requirements under the mortgage. You also have the right to assert in the foreclosure proceeding the non-existence of a default or any other defense you may have to acceleration and foreclosure. It is estimated that the earliest date that such a Sheriff's sale could be held would be approximately May of 2003. A notice of the date of the Sheriff's sale will be sent to you before the sale. Of course, the amount needed to cure the default will increase the longer you wait. You may find out at any time exactly what the required payment will be by calling us at the following number: 814-236-2550. This payment must be in cash, cashier's check, certified check or money order and made payable to us at the address stated above.

You should realize that a Sheriff's sale will end your ownership of the mortgaged property and your right to remain in it. If you continue to live in the property after the Sheriff's sale, a lawsuit could be started to evict you.

You have additional rights to help protect your interest in the property. YOU HAVE THE RIGHT TO SELL THE PROPERTY TO OBTAIN MONEY TO PAY OFF THE MORTGAGE DEBT, OR TO BORROW MONEY FROM ANOTHER LENDING INSTITUTION TO PAY OFF THIS DEBT. (YOU MAY HAVE THE RIGHT TO SELL OR TRANSFER THE PROPERTY SUBJECT TO THE MORTGAGE TO A BUYER OR TRANSFEREE WHO WILL ASSUME THE MORTGAGE DEBT, PROVIDED THAT ALL THE OUTSTANDING PAYMENTS, CHARGES AND ATTORNEY'S FEES AND COSTS ARE PAID PRIOR TO OR AT THE SALE), AND THAT THE OTHER REQUIREMENTS UNDER THE MORTGAGE ARE SATISFIED. CONTACT US TO DETERMINE UNDER WHAT CIRCUMSTANCES THIS RIGHT MIGHT EXIST. YOU HAVE THE RIGHT TO HAVE THIS DEFAULT CURED BY ANY THIRD PARTY ACTING ON YOUR BEHALF.

If you cure the default, the mortgage will be restored to the same position as if no default has occurred. However, you are not entitled to this right to cure your default more than three times in any calendar year.

Sincerely,



Craig M. Witherow  
Collection Manager

COMPLETE THIS SECTION ON DELIVERY

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

David P. Berry  
80 Griffith Ave  
Corwensville, PA 16833

A. Signature

*[Signature]* ☐ Agent ☐ Addressee

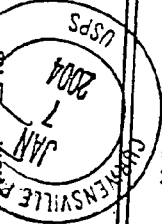
B. Received by (Printed Name)

*Lynette M Berry* C. Date of Delivery

*1/17/04*

D. Is delivery address different from item 1? ☐ Yes ☐ No

If YES, enter delivery address below: ☐ Yes ☐ No



3. Service Type

- ☒ Certified Mail
- ☐ Registered
- ☐ Insured Mail
- ☐ Express Mail
- ☒ Return Receipt for Merchandise
- ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7003 1010 0001 6348 5003

PS Form 3811, August 2001

Domestic Return Receipt

2ACPRI-03-P-4081

U.S. Postal Service<sup>TM</sup>  
**CERTIFIED MAIL<sup>TM</sup> RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Postage	\$ 137
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 442



Sent To

David P. Berry  
80 Griffith Ave.  
Corwensville, PA 16833

PS Form 3800, June 2002



NOTICE OF INTENTION TO FORECLOSE MORTGAGE

Lynette M. Berry  
80 Griffith Avenue  
Curwensville, PA 16833

RE: Account 141718

Dear Mrs. Berry,

The mortgage held by CSB Bank (hereinafter we, us or ours) on your property located at 112-124 N. 3<sup>rd</sup>. St., Clearfield, Clearfield County, PA, IS IN SERIOUS DEFAULT because you have not made the monthly payments for October, November, & December of 2003. Late charges and other charges have also accrued to this date in the amount of \$199.02. The total amount now required to cure this default, or in other words, get caught up in your payments, as of the date of this letter, is \$4,179.84 (Four thousand one hundred seventy nine dollars and eighty four cents).

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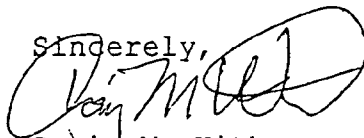
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You should realize that a Sheriff's sale will end your ownership of the mortgaged property and your right to remain in it. If you continue to live in the property after the Sheriff's sale, a lawsuit could be started to evict you.

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Sincerely,



Craig M. Witherow  
Collection Manager

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Lynette M. Barry  
80 Griffith Ave.  
Curtisville, PA 16833

2. Article Number

(Transfer from service label)

7003 1010 0001 6348 7519

Domestic Return Receipt

2ACPRI-03-P-4081

**COMPLETE THIS SECTION ON DELIVERY**

Signature *Lynette M. Barry*  
Received by (Printed Name) *Lynette M. Barry*  
Date of Delivery *1/27/04*  
D. Is delivery address different from item 1? ☒ Yes ☐ No  
If YES, enter delivery address below: ☐ Yes ☐ No

3. Service Type

- ☐ Certified Mail
- ☐ Registered
- ☐ Insured Mail
- ☐ Express Mail
- ☐ Return Receipt for Merchandise
- ☐ C.O.D.

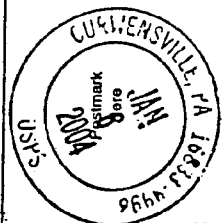
4. Restricted Delivery? (Extra Fee)

- ☐ Yes
- ☐ No

**U.S. Postal Service<sup>TM</sup>**  
**CERTIFIED MAIL<sup>TM</sup> RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**



Postage	\$ 1.37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.42

Sent To

Lynette M. Barry  
Street Apt. No., or PO Box No. 80 Griffith Ave.  
City, State, ZIP+4 Curtisville, PA 16833

PS Form 3800, June 2002 See Reverse for Instructions



# NOTICE OF INTENTION TO FORECLOSE MORTGAGE

David P. Berry  
80 Griffith Avenue  
Curwensville, PA 16833

RE: Account 141718

Dear Mr. Berry,

The mortgage held by CSB Bank (hereinafter we, us or ours) on your property located at 112-124 N. 3<sup>rd</sup>. St., Clearfield, Clearfield County, PA, IS IN SERIOUS DEFAULT because you have not made the monthly payments for October, November, & December of 2003. Late charges and other charges have also accrued to this date in the amount of \$199.02. The total amount now required to cure this default, or in other words, get caught up in your payments, as of the date of this letter, is \$4,179.84 (Four thousand one hundred seventy nine dollars and eighty four cents).

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CURWENSVILLE - Main Office  
P.O. Box 29  
Curwensville, PA 16833-0029  
814-236-2550

TARGET SQUARE DRIVE THRU  
Route 879  
Clearfield, PA 16830

COALPORT OFFICE  
P.O. Box 354  
Coalport, PA 16627  
814-672-5396

K MART PLAZA OFFICE  
R.D. Box 257 A-1  
Clearfield, PA 16830  
814-765-1781

DuBOIS OFFICE  
P.O. Box 465  
DuBois, PA 15801  
814-371-3066

ST. MARYS OFFICE  
1379 Bucktail Village  
St. Marys, PA 15857  
814-834-4020

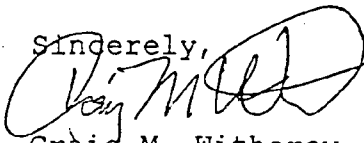
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Sincerely,



Craig M. Witherow  
Collection Manager

U.S. POSTAL SERVICE		CERTIFICATE OF MAILING	
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT PROVIDE FOR INSURANCE-POSTMASTER			
Received From:			
		CSB BANK PO BOX 29 CURWENSVILLE, PA 16833	
One piece of ordinary mail addressed to:			
David P. Berry			
80 GRIFFITH AVE			
CURWENSVILLE, PA 16833			

PS Form 3817, Mar. 1989

Curwensville PA 16833-4496  
MAR 9 2004  
U.S. POSTAL SERVICE





NOTICE OF INTENTION TO FORECLOSE MORTGAGE

Lynette M. Berry  
80 Griffith Avenue  
Curwensville, PA 16833

RE: Account 141718

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P.O. Box 29  
Curwensville, PA 16833-0029  
814-236-2550

TARGET SQUARE DRIVE THRU  
Route 879  
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COALPORT OFFICE  
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K MART PLAZA OFFICE  
R.D. Box 257 A-1  
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814-765-1781

DuBOIS OFFICE  
P.O. Box 465  
DuBois, PA 15801  
814-371-3066

ST. MARYS OFFICE  
1379 Bucktail Village  
St. Marys, PA 15857  
814-834-4020

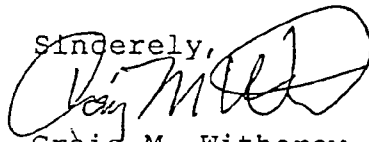
We may also sue you personally for the unpaid principal balance and all other sums due under the mortgage. If you have not cured the default within the thirty-day period and foreclosure proceedings have begun, you still have the right to cure the default and prevent the sale at any time up to one hour before the Sheriff's foreclosure sale. You may do so by paying the total amount of the unpaid monthly payments plus any late or other charges then due, as well as the reasonable attorney's fees and costs connected with the foreclosure sale and perform any other requirements under the mortgage. You also have the right to assert in the foreclosure proceeding the non-existence of a default or any other defense you may have to acceleration and foreclosure. It is estimated that the earliest date that such a Sheriff's sale could be held would be approximately May of 2003. A notice of the date of the Sheriff's sale will be sent to you before the sale. Of course, the amount needed to cure the default will increase the longer you wait. You may find out at any time exactly what the required payment will be by calling us at the following number: 814-236-2550. This payment must be in cash, cashier's check, certified check or money order and made payable to us at the address stated above.

You should realize that a Sheriff's sale will end your ownership of the mortgaged property and your right to remain in it. If you continue to live in the property after the Sheriff's sale, a lawsuit could be started to evict you.

You have additional rights to help protect your interest in the property. YOU HAVE THE RIGHT TO SELL THE PROPERTY TO OBTAIN MONEY TO PAY OFF THE MORTGAGE DEBT, OR TO BORROW MONEY FROM ANOTHER LENDING INSTITUTION TO PAY OFF THIS DEBT. (YOU MAY HAVE THE RIGHT TO SELL OR TRANSFER THE PROPERTY SUBJECT TO THE MORTGAGE TO A BUYER OR TRANSFEREE WHO WILL ASSUME THE MORTGAGE DEBT, PROVIDED THAT ALL THE OUTSTANDING PAYMENTS, CHARGES AND ATTORNEY'S FEES AND COSTS ARE PAID PRIOR TO OR AT THE SALE), AND THAT THE OTHER REQUIREMENTS UNDER THE MORTGAGE ARE SATISFIED. CONTACT US TO DETERMINE UNDER WHAT CIRCUMSTANCES THIS RIGHT MIGHT EXIST. YOU HAVE THE RIGHT TO HAVE THIS DEFAULT CURED BY ANY THIRD PARTY ACTING ON YOUR BEHALF.

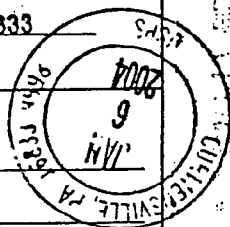
If you cure the default, the mortgage will be restored to the same position as if no default has occurred. However, you are not entitled to this right to cure your default more than three times in any calendar year.

Sincerely,



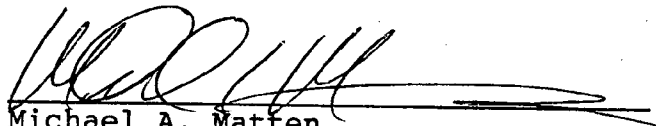
Craig M. Witherow  
Collection Manager

U.S. POSTAL SERVICE		<b>CERTIFICATE OF MAILING</b>	
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT PROVIDE FOR INSURANCE—POSTMASTER			
Received From:			
		<b>CSB BANK</b>	
		<b>PO BOX 29</b>	
		<b>PAWNSVILLE, PA 16833</b>	
One piece of ordinary mail addressed to:			
<i>Lynette M. Berry</i>			
<i>80 Griffith Ave.</i>			
<i>Pawnsville, PA 16833</i>			



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

I, MICHAEL A. MATTEN, Senior Vice-President and Senior Lending Officer of CSB BANK, verify that the statements made in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I the undersigned understand that false statements made herein are subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.

  
Michael A. Matten,  
Senior Vice-President and  
Senior Lending Officer,  
CSB BANK

Date: 4-23-04

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

CSB BANK,  
Plaintiff  
-vs-  
DAVID P. BERRY and LYNNETTE  
M. BERRY, Defendants

:  
:  
:  
:  
:  
:  
:

No. 04 -567 - CD  
IN MORTGAGE FORECLOSURE

NOTICE TO DEFEND

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, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

DAVID S. MEHOLICK, COURT ADMINISTRATOR  
Clearfield County Court House  
Clearfield, PA 16830  
(814) 765-2641, Ext. 1303

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

MAY 05 2004

Attest.

*William L. Shaw*  
Prothonotary/  
Clerk of Courts

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

CSB BANK,	:	
Plaintiff	:	No. 04 - - CD
	:	
-vs-	:	IN MORTGAGE FORECLOSURE
	:	
DAVID P. BERRY and LYNNETTE	:	
M. BERRY, Defendants	:	

C O M P L A I N T

NOW COMES, the Plaintiff, CSB BANK, by its attorneys, Gates & Seaman, and brings this action In Mortgage Foreclosure against the named Defendants as follows:

1. The Plaintiff is CSB BANK, a state banking institution and corporation organized and existing under the laws of the Commonwealth of Pennsylvania and having its principal office and place of business at 434 State Street, P. O. Box 29, Curwensville, Clearfield County, Pennsylvania, 16833.

2. Defendant, DAVID P. BERRY, is an adult individual who is married to Co-Defendant, Lynnette M. Berry, and who resides at 80 Griffith Avenue, Curwensville (Clearfield County), Pennsylvania 16833.

3. Defendant, LYNNETTE M. BERRY, is an adult individual who is married to Co-Defendant, David P. Berry, and who resides 80 Griffith Avenue, Curwensville (Clearfield County), Pennsylvania 16833.

4. The Plaintiff brings this action to foreclose on the following Mortgages:

(a) Mortgage in the principal amount of \$100,000.00, dated April 22, 1997 between Defendants, David P. Berry and Lynnette

M. Berry, Mortgagors, and Plaintiff, CSB Bank, Mortgagee, which Mortgage covers commercial/rental real estate, situate in Clearfield Borough, Clearfield County, Pennsylvania and which Mortgage is recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania in Clearfield County Deeds and Records Book 1835, Page 442. A photocopy of said mortgage is attached hereto and made a part hereof as Exhibit "A"; and

(b) Mortgage in the principal amount of \$26,375.00, dated August 20, 1997 between Defendants, David P. Berry and Lynnette M. Berry, Mortgagors, and Plaintiff, CSB Bank, Mortgagee, which Mortgage covers commercial/rental real estate, situate in Clearfield Borough, Clearfield County, Pennsylvania and which Mortgage is recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania in Clearfield County Deeds and Records Book 1865, Page 519. A photocopy of said mortgage is attached hereto and made a part hereof as Exhibit "B".

5. The real estate and two commercial buildings subject to the mortgage are situate in Clearfield Borough, Clearfield County, Pennsylvania and are more fully described in Exhibit "C" which is attached hereto and made a part hereof.

6. The mortgages described in Paragraph 4 hereof secured Defendants' indebtedness to Plaintiff, CSB Bank, which is evidenced by a Promissory Note dated May 20, 2000, in the principal amount of \$136,120.72. A photocopy of said Promissory Note is attached hereto and made a part hereof as Exhibit "D".

7. Said Promissory Note of May 20, 2000, identified

in the preceding paragraph, correctly sets forth the Defendants' secured indebtedness to CSB Bank as determined by said Defendants' Confirmed Plan of Reorganization dated November 29, 1999 filed in their Chapter 11 Bankruptcy filed in the United States Bankruptcy Court for the Western District of Pennsylvania, wherein said mortgage claims of Plaintiff, CSB Bank, were therein identified as a Class 2 Claim. Attached hereto and made a part hereof as Exhibit "E" is a true and correct copy of Defendants' Plan of Reorganization dated November 29, 1999.

8. Defendants' Plan of Reorganization dated November 29, 1999 was confirmed by the United States Bankruptcy Court for the Western District of Pennsylvania by Order dated March 16, 2000, a photocopy of which is attached hereto and made a part hereof as Exhibit "F".

9. Said Promissory Note of May 20, 2000, above identified, sets forth that CSB Bank may accelerate and declare the entire unpaid principal balance on said Promissory Note as well as any accrued unpaid interest, immediately due and payable upon occurrence of any "Event of Default" which includes Defendants' non payment, when due, of any amount payable under said Promissory Note.

10. The repayment terms of the Promissory Note of May 20, 2000 which are secured by the Mortgages of April 22, 1997 and August 20, 1997 are in serious default because the Defendants have failed to make the last six (6) monthly



installments of the principal and interest.

11. The aforesaid Mortgages of April 22, 1997 and August 20, 1997 do not represent "residential mortgages" as said term is defined under Act #6 of 1974, as amended (See 41 P.S. §101 et seq.) and thus no Notice of Intention to Foreclose had to be given by Plaintiff to Defendants as provided for by 41 P.S. §403.

12. Since the real estate subject to the aforesaid Mortgages of April 22, 1997 and August 20, 1997 is not the principal residence of the Defendants, nor a one or two family owner-occupied residence, Plaintiff did not have to give Defendants notice as provided for under the Homeowners Emergency Assistance Act (35 P.S. §1680.401 (et seq.)).

13. Although not required by: (a) Act #6 of 1974, as amended (41 P.S. §401 et seq.); (b) the Promissory Note of May 20, 2000; nor (c) the Mortgages of April 22, 1997 and August 20, 1997, as above identified, on January 6, 2004, Plaintiff prepared a Notice of Intention to Foreclose Mortgage and on the same day mailed the same to Defendant, David P. Berry, at the address set forth herein by Certified Mail, Return Receipt Requested, Certified No. 7003 1010 0001 6348 5003 in the Postal System of the United States of America, postage prepaid. A true and correct copy of the aforesaid Notice, the signed receipt card (P.S. Form 3811) and the postmarked Receipt for Certified Mail (P.S. Form 3800) are attached hereto and made a part hereof, collectively, as Exhibit "G".

14. Although not required by: (a) Act #6 of 1974, as amended (41 P.S. §401 et seq.); (b) the Promissory Note of May 20, 2000; nor (c) the Mortgages of April 22, 1997 and August 20, 1997, on January 6, 2004, Plaintiff prepared a Notice of Intention to Foreclose Mortgage and on the same day mailed the same to Defendant, Lynnette M. Berry, at the address set forth herein by Certified Mail, Return Receipt Requested, Certified No. 7003 1010 0001 6348 7519 in the Postal System of the United States of America, postage prepaid. A true and correct copy of the aforesaid Notice, the signed receipt card (P.S. Form 3811) and the postmarked Receipt for Certified Mail (P.S. Form 3800) are attached hereto and made a part hereof, collectively, as Exhibit "H".

15. Although not required by the Homeowners Emergency Assistance Act (35 P.S. §1680.401 et seq.), on January 6, 2004, Plaintiff prepared a Notice of Intention to Foreclose Mortgage and on the same day mailed the same to Defendant, David P. Berry, at the address set forth herein by first class mail, postage prepaid, in the Postal System of the United States of America. True and correct copies of the aforesaid Notice and the postmarked Certificate of Mailing (P.S. Form 3817) are attached hereto and made a part hereof, collectively, as Exhibit "I".

16. Although not required by the Homeowners Emergency Assistance Act (35 P.S. §1680.401 et seq.), on January 6, 2004, Plaintiff prepared a Notice of Intention to Foreclose Mortgage

and on the same day mailed the same to Defendant, Lynnette M. Berry, at the address set forth herein by first class mail, postage prepaid, in the Postal System of the United States of America. True and correct copies of the aforesaid Notice and the postmarked Certificate of Mailing (P.S. Form 3817) are attached hereto and made a part hereof, collectively, as Exhibit "J".

17. The following amounts are due on the Promissory Note of May 20, 2000 which is secured by the Mortgages of April 22, 1997 and August 20, 1997:

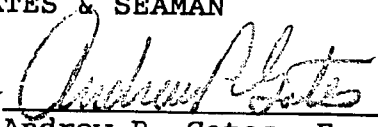
(a) Outstanding balance, including accrued interest through March 8, 2004*	\$ 132,284.46
(b) Late Fees as provided for in Promissory Note of 5/20/00 as of March 8, 2004	\$ 265.36
(c) Reasonable attorneys' fees as provided for in Promissory Note and Mortgages	\$ <u>1,000.00</u>
TOTAL	\$ 133,549.82

\*Plus per diem interest of \$35.0886 from March 8, 2004

WHEREFORE, the Plaintiff, CSB Bank, demands Judgment In Mortgage Foreclosure against the Defendants, David P. Berry and Lynnette M. Berry, in the sum of \$133,549.82, plus costs of suit and per diem interest of \$35.0886 per day accruing on the loan from March 8, 2004.

GATES & SEAMAN

By

  
Andrew P. Gates, Esquire  
Attorney for Plaintiff, CSB Bank

Two North Front Street  
P. O. Box 846  
Clearfield, PA 16830  
(814) 765-1766

THIS MORTGAGE, dated April 22

19 97

is between the mortgagor(s), DAVID P. BERRY and LYNNETTE M. BERRY

of 304 Meyers Circle, Clearfield, Pennsylvania, 16830

a individual

(corporation/partnership/proprietorship/individual)

organized and existing under the laws of the State of Pennsylvania

(and whether one or more persons, jointly and severally obligated and called "Owner"), and the mortgagee, CSB BANK

(called "Lender").

As used in this Mortgage, David P. Berry and Lynnette M. Berry

shall be called "Debtor." If no person is named as Debtor, however, any reference to "Debtor" in this Mortgage shall refer only to Owner.

A. **THE PROPERTY:** FOR VALUE RECEIVED AND INTENDING TO BE LEGALLY BOUND HEREBY, as security for the prompt payment and performance of all Obligations (as defined below in Paragraph B), Owner grants, bargains, sells, conveys and mortgages to Lender, its successors and assigns, all of Owner's right, title and interest in the real property described in Schedule "A" (called the "Property"), which is attached to and made a part of this Mortgage, together with all present and future buildings, improvements, additions and fixtures, and all alleys, passageways, easements, rights (including mineral and water rights), liberties, privileges, hereditaments and appurtenances, and all reversions, remainders, rents, royalties, issues and profits, now or later accruing or pertaining to the Property. The Property is commonly known as

with Uniform Parcel Identifier (i.e., Tax Parcel Number): 4-1-K8-216-79

B. **OBLIGATIONS SECURED BY THIS MORTGAGE.** As used in this Mortgage, "Obligations" means any and all of the following:1. the liabilities and obligations of Debtor and/or Owner to Lender arising out of a ☒ note; ☐ surety agreement; ☐ other (describe)in the amount of One Hundred Thousand; dated April 22, 1997  
(called the "Instrument"), plus interest and costs as provided therein, and/or any modifications or extensions and any other instrument or agreement that may be substituted therefor;

2. all other existing and future liabilities and obligations of Debtor and/or Owner, or any of them, to Lender, whether arising from this or any other transaction, or of the same or different kinds or classes of indebtedness; and

3. full and complete performance by Owner of all warranties and representations, covenants and agreements and other obligations under this Mortgage.

C. **WARRANTIES AND REPRESENTATIONS:** Until the Obligations are paid and performed in full, Owner warrants and represents as follows:1. **Purchase Money Mortgage:** ☒ If checked, this is a Purchase Money Mortgage and the proceeds of the Instrument will be utilized by Owner primarily to purchase the Property.2. **Payments:** All payments on or secured by the Instrument will be made when and where due, including payments due by acceleration of maturity or on demand. All Obligations will be paid promptly and performed in full in accordance with their terms.3. **Title:** Owner has fee simple title to the Property and the right to mortgage the Property. Owner will defend Owner's title against any person claiming any right in the Property prior to or superior to the lien of this Mortgage.4. **Hazardous Conditions and Substances:** While Owner has been in possession of the Property, there has been no use, manufacture, storage, treatment, disposal or release of any hazardous substance or waste on, under or about the Property, nor is Owner aware of the existence of any such activities occurring on the Property prior to Owner's possession of the Property, which activities have not previously been disclosed in writing to Lender. Neither Owner nor the Property is the subject of pending or threatened litigation or regulatory proceedings regarding any hazardous substances or waste, or other activities conducted on or about the Property, which have not previously been disclosed in writing to Lender. As used in this Mortgage, "hazardous substance or waste" means any substance which does not occur naturally on the Property and which, if released into the environment, could or would pose a real and substantial threat to the public health, safety and welfare.D. **COVENANTS AND AGREEMENTS:** Until the Obligations are paid and performed in full, Owner covenants and agrees as follows:1. **Insurance:** Owner will maintain insurance on the Property of such kinds, in such amounts, with such companies and with such mortgagee or loss-payable clauses as are satisfactory to Lender. At Lender's request, Owner will promptly provide evidence of such policies, including paid receipts, to Lender. Owner shall not engage in nor permit any lessee of all or any part of the Property to engage in any activity on the Property which, if resulting in loss or damage to the Property, would not be covered by such insurance. Owner shall notify Lender of any loss or damage to the Property, submit to such insurers a proof or proofs of loss, and apply the proceeds of any such insurance to the repair of the Property or to reduce the outstanding balance of the Obligations, at Lender's election. Lender is hereby authorized, without notice to Owner, to file such proof or proofs of loss on behalf of Owner, if Owner fails or refuses to do so, and to sign Owner's name to any check, draft or other instrument in payment of insurance proceeds.2. **Taxes:** Owner will pay all taxes, assessments, ground rents and governmental charges when they come due, and all other charges of any kind which are levied on the Property at any time and which, if unpaid, would result in a lien or other security interest in the Property superior to that of Lender's. Owner will deliver to Lender, on request, all receipts evidencing such payments. Neither Debtor nor Owner will claim a credit under the Instrument or this Mortgage for such payments.3. **Use, Condition and Repair:** Owner will maintain the Property in good repair, order and condition. Owner will not commit nor permit any strip, waste, nuisance, impairment or deterioration of the Property. Lender's representatives may inspect the Property at any reasonable time or times. Owner will not bring nor permit any lessee of all or part of the Property to bring any hazardous substance or waste onto the Property, for storage, processing, distillation, treatment, manufacturing, disposal, release or any other purpose, unless with Lender's prior specific written approval. Owner will comply with all applicable laws, regulations and ordinances, federal, state and local, relating to the use and possession of the Property.4. **Escrow:** At Lender's written request, Lender will be paid, with each payment of Principal or Interest on the Instrument, an additional sum equal to one-twelfth of the aggregate annual amount which will become due for the payment of all taxes to be levied and assessed on the Property, land, water and sewer rents, and any insurance required to be placed on the Property, as reasonably estimated initially and from time to time by Lender. If the sums held by Lender shall not be sufficient to pay such charges as they fall due, any deficiency shall be paid within 15 days from the date notice is mailed by Lender to Owner. All sums so deposited may be commingled with other funds held by Lender, shall NOT be held in trust for Owner, shall NOT bear interest, and are pledged as additional security for the sums secured by this Mortgage.5. **Transfers:** Owner will not sell, assign or transfer the Property or any portion thereof, voluntarily or involuntarily, to any other person, nor grant anyone rights in the Property, without Lender's prior written consent. If the Property has been leased in whole or in part, Owner will comply with the provisions of such leases, but Owner will not collect more than one month's rent, exclusive of any security deposit for non-payment of rentals or damage to the Property, in advance.6. **Judgments:** Owner assigns all judgments or awards for damage to the Property, or otherwise, in their entirety, to Lender, and Lender may apply the same to the Obligations secured by this Mortgage. Lender is authorized by Owner to institute or defend such actions and to appeal from any such judgments. If all or any part of the Property is subject to condemnation by any public authority, any award granted in such proceedings shall be paid to Lender as its interest shall then appear.7. **Assignments:** Owner will not assign the rents, profits or income from the Property without first obtaining the written consent of Lender.8. **Suits:** Owner shall not permit any action to enforce any other lien or claim against the Property prior to the lien of this Mortgage to be commenced and not discontinued and withdrawn within 10 days.9. **Restrictions:** Owner shall comply with all restrictions or governmental regulations affecting the use, title or possession of the Property, and shall not make use of the Property or engage in any activity as a result of which the Property may be forfeited to any person.E. **EVENTS OF DEFAULT.** Each of the following shall constitute an "Event of Default" under this Mortgage:

1. Debtor and/or Owner fails to make any payment on the Instrument as and when due or on demand;

2. Debtor and/or Owner fails to pay or perform any of the Obligations as and when due; or

3. Any warranty or representation or covenant or agreement contained in this Mortgage, in the Instrument, or in any document or instrument evidencing any of the Obligations, is breached.

F. **REMEDIES.** On the occurrence of any Event of Default, Lender may do any or all of the following:

1. At its sole discretion, cure the Event of Default and add the costs of such cure to the principal sum then due on the Obligations. Lender may charge interest on such payment, from the date of such payment, at a rate equal to the greater of 15% per annum or the rate provided in the Instrument.

2. On providing any timely notice of default and of Owner's right to cure the default as may then be provided by law, and failing appropriate and timely cure by Owner, accelerate and declare immediately due and payable all amounts due under the Instrument and under any or all of the Obligations.

3. Refer this Mortgage to an attorney for collection and/or to foreclose on the Property, or to take such other action at law or in equity for the enforcement of this Mortgage as the law may allow, for the entire unpaid balance thereof, together with Lender's costs in curing any Event of Default, with interest thereon at the greater of 15% per annum or the rate charged on the Instrument, and all costs of suit and costs of collection.

EXHIBIT "A"

ALL that certain piece or parcel of land situate in the Borough of Clearfield, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a post corner at corner of alley and Third Street; thence along Third Street South four (4) degrees, thirty (30) minutes West, eighty-six (86) feet and one (1) inch to a post at center line of lot and corner now or formerly of Maggie T. Hoover property; thence North eighty-five (85) degrees thirty (30) minutes West along the line now or formerly of Maggie T. Hoover lot, fifty-five (55) feet and five (5) inches to line of Lot #107; thence North four (4) degrees thirty (30) minutes East, eighty-six (86) feet and one (1) inch along Lot #107 to alley; thence South eighty-five (85) degrees thirty (30) minutes East along said alley, fifty (50) feet and five (5) inches to corner at Third Street and place of beginning. Being the northern one-half of Lot #120 in the General Plan of said Borough of Clearfield, as surveyed and divided by E. W. Hess, Civil Engineer, November 22, 1904.

BEING the same premises conveyed to David P. Berry and Lynnette M. Berry, Husband and Wife, from Charles H. Button and Frances K. Button, husband and wife, by deed dated the 22<sup>nd</sup> day of April, 1997, and intended to be recorded together with this mortgage.

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

4-22-97  
CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 11:24 AM  
BY Joseph Calicchi  
FEES 13.50  
Karen L. Starck, Recorder

1835-444

4. ~~Vendor~~ <sup>Owner</sup> assigns to Lender as additional security for the obligations, or without legal action, and collect all rents, issue profits and insurance proceeds which Owner hereby assigns to Lender as additional security for the obligations.

5. At its sole discretion, lease and, at any time and from time to time, on 10 days prior written notice to Owner, which notice Owner acknowledges is commercially reasonable, sell or otherwise dispose of the Property, in whole or in part.

6. After deducting all costs of collection, apply the rents, issues, profits and proceeds of sale of the Property to the payment of taxes, water and sewer rents, insurance premiums and all other charges, and then apply the balance to the Obligations, in such order and amounts as Lender, in Lender's sole discretion, may elect.

G. **WAIVERS.** Owner hereby waives and releases all benefit and relief from any and all appraisal, stay and exemption laws of any state now in force or hereafter passed, either for the benefit or relief of Owner, or limiting the balance due to a sum not in excess of the amount actually paid by a purchaser of the Property at a sale thereof in any judicial proceedings on this Mortgage, or exempting the Property or any other real property or any part of the proceeds of sale thereof, from attachment, levy or sale under execution, or providing for any stay of execution or any process.

H. **CONSENT.** Owner hereby consents: to the extension of the time for payment of the Instrument, this Mortgage or any Obligations; to any compromise or settlement with Debtor or any Owner; to any waiver or failure by Lender to enforce any rights against any person or property; or to any other action which might or could release Owner and/or Debtor from liability.

I. **NOTICE.** Any notice required to be given to Lender shall be personally served at Lender's address shown above. Any notice required to be given to Owner may, unless otherwise required by law, be sent by ordinary first class mail addressed to Owner's last known mailing address shown on Lender's books and records. Such notice shall be deemed received as of the next business day after mailing.

J. **RELEASE.** Lender may release any part of the Property without affecting the lien of this Mortgage on the remainder of the Property for the Obligations then remaining unpaid.

**BUT ALWAYS PROVIDED,** nevertheless, that if this Mortgage and the Obligations it secures are paid and performed in full in the manner provided in the Instrument and in the Obligations, then this Mortgage shall end and become void.

The rights and remedies of Lender provided in this Mortgage, in the Instrument and in the Obligations shall be cumulative and concurrent. They may be pursued singly, successively, or together against Owner and the Property, at the sole discretion of Lender. The failure of Lender to exercise any right or remedy shall not be construed as a waiver or release of that or any other right or remedy. The words "Debtor," "Owner" and "Lender" shall be deemed and construed to include their respective heirs, personal representatives, successors and assigns. If there is more than one Owner, the obligations of each shall be joint and several. This Mortgage shall be governed by and construed according to the laws of the Commonwealth of Pennsylvania. The unenforceability or invalidity of any provision of this Mortgage shall not render any other provision unenforceable or invalid.

OWNER HAS DULY EXECUTED THIS MORTGAGE under seal on the date indicated on the front.

Witness: [Signature]

Owner: [Signature] (SEAL)  
 DAVID P. BERRY  
 By: [Signature] (SEAL)  
 LYNNETTE M. BERRY  
 By or Attest: \_\_\_\_\_ (SEAL)  
 (Assistant) Secretary

(Affix Corporate Seal Here)

## ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Clearfield

On this, the 22 day of April, 1997, before me, the subscriber, a notary public of the above State, personally appeared DAVID P. BERRY and LYNNETTE M. BERRY, known or satisfactorily proven to me to be the person(s) whose name(s) is (are) subscribed to the above Mortgage, who acknowledged that he/she/they executed the same as his/her/their voluntary act and deed and desired it to be recorded as such, or who acknowledged himself/herself/themselves to be the (Vice) President(s) of the Owner (if a Corporation) or General Partner(s) of the Owner (if a Partnership) and that, being authorized so to do, he/she/they executed the above Mortgage as and for the act and deed of the Corporation or Partnership, as applicable, by signing the name of the Corporation or Partnership by himself/herself/themselves as (Vice) President(s) or General Partner(s) and causing the Corporation seal, if applicable, to be applied thereto, and desired it to be recorded as such.

Witness my hand and official seal the day and year aforesaid.

**NOTARY SEAL**  
 JOHN R. RYAN, Notary Public  
 Clearfield Boro. Clearfield County, Pa.  
 My Commission Expires June 8, 2000

[Signature]  
 Notary Public

My commission expires:

I hereby certify that the precise address of the within named Mortgagee, CSB Bank

is P.O. Box 29, Curwensville, Pennsylvania 16833

[Signature]  
 Officer on behalf of Mortgagee  
 (JOHN R. RYAN, ESQUIRE)

BANCORNSUMER FORM PA 183 (9/90)

Curwensville, PA 16833

P.O. Box 29

CSB Bank

Recorder: Please return this Mortgage to:

Mortgagee

CSB Bank

TO

Mortgagee(s)

DAVID P. BERRY and LYNNETTE M. BERRY

MORTGAGE

Entered of Record 4-22-97

**MORTGAGE**

VOL 1865 PAGE 519

THIS MORTGAGE, dated August 20

1997

is between the mortgagor(s), David P. Berry and Lynnette M. Berry

of 304 Meyers Circle, Clearfield, Pennsylvania, 16830

a individuals

(corporation/partnership/proprietorship/individual)

organized and existing under the laws of the State of

(and whether one or more persons, jointly and severally obligated and called "Owner"), and the mortgagee, CSB Bank  
P.O. Box 29, Curwensville, Pennsylvania 16833

(called "Lender").

As used in this Mortgage, David P. Berry and Lynnette M. Berry

shall be called "Debtor." If no person is named as Debtor, however, any reference to "Debtor" in this Mortgage shall refer only to Owner.

A. **THE PROPERTY:** FOR VALUE RECEIVED AND INTENDING TO BE LEGALLY BOUND HEREBY, as security for the prompt payment and performance of all Obligations (as defined below in Paragraph B), Owner grants, bargains, sells, conveys and mortgages to Lender, its successors and assigns, all of Owner's right, title and interest in the real property described in Schedule "A" (called the "Property"), which is attached to and made a part of this Mortgage, together with all present and future buildings, improvements, additions and fixtures, and all alleys, passageways, easements, rights (including mineral and water rights), liberties, privileges, hereditaments and appurtenances, and all reversions, remainders, rents, royalties, issues and profits, now or later accruing or pertaining to the Property. The Property is commonly known as

with Uniform Parcel Identifier (i.e., Tax Parcel Number): 4-1-K8-216-79

B. **OBLIGATIONS SECURED BY THIS MORTGAGE.** As used in this Mortgage, "Obligations" means any and all of the following:

1. the liabilities and obligations of Debtor and/or Owner to Lender arising out of a ☒ note; ☐ surety agreement; ☐ other (describe)

in the amount of Twenty-six Thousand Three Hundred Seventy-five; dated August 20, 1997  
(called the "Instrument"), plus interest and costs as provided therein, and/or any modifications or extensions and any other instrument or agreement that may be substituted therefor; Dollars (\$ 26,375.00).

2. all other existing and future liabilities and obligations of Debtor and/or Owner, or any of them, to Lender, whether arising from this or any other transaction, or of the same or different kinds or classes of indebtedness; and

3. full and complete performance by Owner of all warranties and representations, covenants and agreements and other obligations under this Mortgage.

C. **WARRANTIES AND REPRESENTATIONS:** Until the Obligations are paid and performed in full, Owner warrants and represents as follows:

1. **Purchase Money Mortgage:** ☒ If checked, this is a Purchase Money Mortgage and the proceeds of the Instrument will be utilized by Owner primarily to purchase the Property.

2. **Payments:** All payments on or secured by the Instrument will be made when and where due, including payments due by acceleration of maturity or on demand. All Obligations will be paid promptly and performed in full in accordance with their terms.

3. **Title:** Owner has fee simple title to the Property and the right to mortgage the Property. Owner will defend Owner's title against any person claiming any right in the Property prior to or superior to the lien of this Mortgage.

4. **Hazardous Conditions and Substances:** While Owner has been in possession of the Property, there has been no use, manufacture, storage, treatment, disposal or release of any hazardous substance or waste on, under or about the Property, nor is Owner aware of the existence of any such activities occurring on the Property prior to Owner's possession of the Property, which activities have not previously been disclosed in writing to Lender. Neither Owner nor the Property is the subject of pending or threatened litigation or regulatory proceedings regarding any hazardous substances or waste, or other activities conducted on or about the Property, which have not previously been disclosed in writing to Lender. As used in this Mortgage, "hazardous substance or waste" means any substance which does not occur naturally on the Property and which, if released into the environment, could or would pose a real and substantial threat to the public health, safety and welfare.

D. **COVENANTS AND AGREEMENTS:** Until the Obligations are paid and performed in full, Owner covenants and agrees as follows:

1. **Insurance:** Owner will maintain insurance on the Property of such kinds, in such amounts, with such companies and with such mortgagee or loss-payable clauses as are satisfactory to Lender. At Lender's request, Owner will promptly provide evidence of such policies, including paid receipts, to Lender. Owner shall not engage in nor permit any lessee of all or any part of the Property to engage in any activity on the Property which, if resulting in loss or damage to the Property, would not be covered by such insurance. Owner shall notify Lender of any loss or damage to the Property, submit to such insurers a proof or proofs of loss, and apply the proceeds of any such insurance to the repair of the Property or to reduce the outstanding balance of the Obligations, at Lender's election. Lender is hereby authorized, without notice to Owner, to file such proof or proofs of loss on behalf of Owner, if Owner fails or refuses to do so, and to sign Owner's name to any check, draft or other instrument in payment of insurance proceeds.

2. **Taxes:** Owner will pay all taxes, assessments, ground rents and governmental charges when they come due, and all other charges of any kind which are levied on the Property at any time and which, if unpaid, would result in a lien or other security interest in the Property superior to that of Lender's. Owner will deliver to Lender, on request, all receipts evidencing such payments. Neither Debtor nor Owner will claim a credit under the Instrument or this Mortgage for such payments.

3. **Use, Condition and Repair:** Owner will maintain the Property in good repair, order and condition. Owner will not commit nor permit any strip, waste, nuisance, impairment or deterioration of the Property. Lender's representatives may inspect the Property at any reasonable time or times. Owner will not bring, nor permit any lessee of all or part of the Property to bring any hazardous substance or waste onto the Property, for storage, processing, distillation, treatment, manufacturing, disposal, release or any other purpose, unless with Lender's prior specific written approval. Owner will comply with all applicable laws, regulations and ordinances, federal, state and local, relating to the use and possession of the Property.

4. **Escrow:** At Lender's written request, Lender will be paid, with each payment of Principal or Interest on the Instrument, an additional sum equal to one-twelfth of the aggregate annual amount which will become due for the payment of all taxes to be levied and assessed on the Property, land, water and sewer rents, and any insurance required to be placed on the Property, as reasonably estimated initially and from time to time by Lender. If the sums held by Lender shall not be sufficient to pay such charges as they fall due, any deficiency shall be paid within 15 days from the date notice is mailed by Lender to Owner. All sums so deposited may be commingled with other funds held by Lender, shall NOT be held in trust for Owner, shall NOT bear interest, and are pledged as additional security for the sums secured by this Mortgage.

5. **Transfers:** Owner will not sell, assign or transfer the Property or any portion thereof, voluntarily or involuntarily, to any other person, nor grant anyone rights in the Property, without Lender's prior written consent. If the Property has been leased in whole or in part, Owner will comply with the provisions of such leases, but Owner will not collect more than one month's rent, exclusive of any security deposit for non-payment of rentals or damage to the Property, in advance.

6. **Judgments:** Owner assigns all judgments or awards for damage to the Property, or otherwise, in their entirety, to Lender, and Lender may apply the same to the Obligations secured by this Mortgage. Lender is authorized by Owner to institute or defend such actions and to appeal from any such judgments. If all or any part of the Property is subject to condemnation by any public authority, any award granted in such proceedings shall be paid to Lender as its interest shall then appear.

7. **Assignments:** Owner will not assign the rents, profits or income from the Property without first obtaining the written consent of Lender.

8. **Suits:** Owner shall not permit any action to enforce any other lien or claim against the Property prior to the lien of this Mortgage to be commenced and not discontinued and withdrawn within 10 days.

9. **Restrictions:** Owner shall comply with all restrictions or governmental regulations affecting the use, title or possession of the Property, and shall not make use of the Property or engage in any activity as a result of which the Property may be forfeited to any person.

E. **EVENTS OF DEFAULT.** Each of the following shall constitute an "Event of Default" under this Mortgage:

1. Debtor and/or Owner fails to make any payment on the Instrument as and when due or on demand;
2. Debtor and/or Owner fails to pay or perform any of the Obligations as and when due; or
3. Any warranty or representation or covenant or agreement contained in this Mortgage, in the Instrument, or in any document or instrument evidencing any of the Obligations, is breached.

F. **REMEDIES.** On the occurrence of any Event of Default, Lender may do any or all of the following:

1. At its sole discretion, cure the Event of Default and add the costs of such cure to the principal sum then due on the Obligations. Lender may charge interest on such payment, from the date of such payment, at a rate equal to the greater of 15% per annum or the rate provided in the Instrument.
2. On providing any timely notice of default and of Owner's right to cure the default as may then be provided by law, and failing appropriate and timely cure by Owner, accelerate and declare immediately due and payable all amounts due under the Instrument and under any or all of the Obligations.
3. Refer this Mortgage to an attorney for collection and/or to foreclose on the Property, or to take such other action at law or in equity for the enforcement of this Mortgage as the law may allow, for the entire unpaid balance thereof, together with Lender's costs in curing any Event of Default, with interest thereon at the greater of 15% per annum or the rate charged on the Instrument, and all costs of suit and Lender's reasonable attorney's fees.

EXHIBIT "B"

ALL that certain piece or parcel of land situate in the Borough of Clearfield, Clearfield County, Pennsylvania, bounded and described as follows:

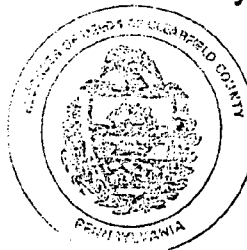
BEGINNING at a post corner at corner of alley and Third Street; thence along Third Street South four (4) degrees, thirty (30) minutes West, eighty-six (86) feet and one (1) inch to a post at center line of lot and corner now or formerly of Maggie T. Hoover property; thence North eighty-five (85) degrees thirty (30) minutes West along the line now or formerly of Maggie T. Hoover lot, fifty-five (55) feet and five (5) inches to line of Lot Number 107; thence North four (4) degrees thirty (30) minutes East, eighty-six (86) feet and one (1) inch along Lot Number 107 to alley; thence South eighty-five (85) degrees thirty (30) minutes East along said alley, fifty (50) feet and five (5) inches to corner at Third Street and place of beginning.

Being the northern one-half of Lot Number 120 in the General Plan of said Borough of Clearfield, as surveyed and divided by E.W. Hess, Civil Engineer, November 22, 1904.

BEING the same premises conveyed to David P. Berry and Lynnette M. Berry, husband and wife, from Charles H. Button and Frances K. Button, husband and wife, by deed dated April 22, 1997, said deed being recorded in Deed and Record Book 1835, Page 439.

ANY DEFAULT IN ANY MORTGAGE SENIOR TO THIS MORTGAGE SHALL BE DEEMED TO BE A DEFAULT OF THIS MORTGAGE AND THEREBY ENTITLE MORTGAGEE HEREIN TO ANY AND ALL REMEDIES PROVIDED BY LAW AND/OR IN THIS MORTGAGE, INCLUDING THE ACCELERATION OF ALL SUMS DUE HEREIN UNDER, THAT IS, THE ENTIRE AMOUNT OF THE PRINCIPAL BALANCE DUE HEREUNDER MAY BE DECLARED BY MORTGAGEE TO BE DUE AND PAYABLE UPON SUCH DEFAULT.

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



4. Enter into possession of the Property, without legal action, and collect all rents, issues, profits and insurance proceeds which Owner hereby assigns to Lender as additional security for the Obligations.

5. At its sole discretion, lease and, at any time and from time to time, on 10 days prior written notice to Owner, which notice Owner acknowledges is commercially reasonable, sell or otherwise dispose of the Property, in whole or in part.

6. After deducting all costs of collection, apply the rents, issues, profits and proceeds of sale of the Property to the payment of taxes, water and sewer rents, insurance premiums and all other charges, and then apply the balance to the Obligations, in such order and amounts as Lender, in Lender's sole discretion, may elect.

G. **WAIVERS.** Owner hereby waives and releases all benefit and relief from any and all appraisal, stay and exemption laws of any state now in force or hereafter passed, either for the benefit or relief of Owner, or limiting the balance due to a sum not in excess of the amount actually paid by a purchaser of the Property at a sale thereof in any judicial proceedings on this Mortgage, or exempting the Property or any other real property or any part of the proceeds of sale thereof, from attachment, levy or sale under execution, or providing for any stay of execution or any process.

H. **CONSENT.** Owner hereby consents: to the extension of the time for payment of the Instrument, this Mortgage or any Obligations; to any compromise or settlement with Debtor or any Owner; to any waiver or failure by Lender to enforce any rights against any person or property; or to any other action which might or could release Owner and/or Debtor from liability.

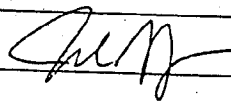
I. **NOTICE.** Any notice required to be given to Lender shall be personally served at Lender's address shown above. Any notice required to be given to Owner may, unless otherwise required by law, be sent by ordinary first class mail addressed to Owner's last known mailing address shown on Lender's books and records. Such notice shall be deemed received as of the next business day after mailing.

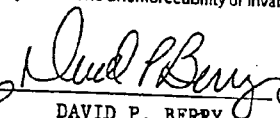
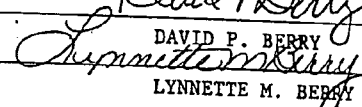
J. **RELEASE.** Lender may release any part of the Property without affecting the lien of this Mortgage on the remainder of the Property for the Obligations then remaining unpaid.

**BUT ALWAYS PROVIDED,** nevertheless, that if this Mortgage and the Obligations it secures are paid and performed in full in the manner provided in the Instrument and in the Obligations, then this Mortgage shall end and become void.

The rights and remedies of Lender provided in this Mortgage, in the Instrument and in the Obligations shall be cumulative and concurrent. They may be pursued singly, successively, or together against Owner and the Property, at the sole discretion of Lender. The failure of Lender to exercise any right or remedy shall not be construed as a waiver or release of that or any other right or remedy. The words "Debtor," "Owner" and "Lender" shall be deemed and construed to include their respective heirs, personal representatives, successors and assigns. If there is more than one Owner, the obligations of each shall be joint and several. This Mortgage shall be governed by and construed according to the laws of the Commonwealth of Pennsylvania. The unenforceability or invalidity of any provision of this Mortgage shall not render any other provision unenforceable or invalid.

OWNER HAS DULY EXECUTED THIS MORTGAGE under seal on the date indicated on the front.

Witness: 

Owner:  (SEAL)  
 By:  (SEAL)  
 Lynnette M. BERRY  
 By or Attest: \_\_\_\_\_ (SEAL)  
 (Assistant) Secretary

(Affix Corporate Seal Here)

## ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Clearfield

: SS.

On this, the 20 day of August, 19 97, before me, the subscriber, a notary public of the above State, personally appeared David P. Berry and Lynnette M. Berry, known or satisfactorily proven to me to be the person(s) whose name(s) is (are) subscribed to the above Mortgage, who acknowledged that he/she/they executed the same as his/her/their voluntary act and deed and desired it to be recorded as such, or who acknowledged himself/herself/themselves to be the (Vice) President(s) of the Owner (if a Corporation) or General Partner(s) of the Owner (if a Partnership) and that, being authorized so to do, he/she/they executed the above Mortgage as and for the act and deed of the Corporation or Partnership, as applicable, by signing the name of the Corporation or Partnership by himself/herself/themselves as (Vice) President(s) or General Partner(s) and causing the Corporation seal, if applicable, to be applied thereto, and desired it to be recorded as such.

Witness my hand and official seal the day and year aforesaid.

**NOTARY SEAL**  
 JOHN R. RYAN, Notary Public  
 Clearfield Boro, Clearfield County, Pa.  
 My Commission Expires June 8, 2000

Notary Public

My commission expires:

I hereby certify that the precise address of the within named Mortgagee, CSB BANK

is P.O. Box 29, Curwensville, Pennsylvania 16833

Officer on behalf of Mortgagee

(JOHN R. RYAN, ESQUIRE)

CLEARFIELD COUNTY  
 ENTERED OF RECORD

TIME 2:29 PM 8-20-97

BY J. Ryan

FEES 13.50

Karen L. Starck, Recorder

BANCORPUS FORM PA 183 (9/90)

Curwensville, PA 16833

P.O. Box 29

CSB Bank

Recorder: Please return this Mortgage to:

CSB BANK

TO

Mortgagee

DAVID P. BERRY and LYNNETTE M. BERRY

MORTGAGE

Entered of Record Aug 20 1997

ALL that certain piece or parcel of land situate in the Borough of Clearfield, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a post corner at corner of alley and Third Street; thence along Third Street South four (4) degrees, thirty (30) minutes West, eighty-six (86) feet and one (1) inch to a post at center line of lot and corner now or formerly of Maggie T. Hoover property; thence North eighty-five (85) degrees thirty (30) minutes West along the line now or formerly of Maggie T. Hoover lot, fifty-five (55) feet and five (5) inches to line of Lot Number 107; thence North four (4) degrees thirty (30) minutes East, eighty-six (86) feet and one (1) inch along Lot Number 107 to alley; thence South eighty-five (85) degrees thirty (30) minutes East along said alley, fifty (50) feet and five (5) inches to corner at Third Street and place of beginning.

Being the northern one-half of Lot Number 120 in the General Plan of said Borough of Clearfield, as surveyed and divided by E.W. Hess, Civil Engineer, November 22, 1904.

BEING the same premises conveyed to David P. Berry and Lynnette M. Berry, husband and wife, from Charles H. Button and Frances K. Button, husband and wife, by deed dated April 22, 1997, said deed being recorded in Deed and Record Book 1835, Page 439.

# PROMISSORY NOTE

Principal	Loan Date	Maturity	Loan No.	Call	Collateral	Account	Officer	Initials
\$136,120.72	05-20-2000	05-20-2020	141718		0020	109930	026	

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. Any item above containing \*\*\*\*\* has been omitted due to text length limitations.

**Borrower:** David P. Berry  
Lynnette M. Berry  
112 N 3rd St.  
Clearfield, PA 16830

**Lender:** CSB BANK  
Curwensville Office  
434 State Street  
P.O. Box 29  
Curwensville, PA 16833

**Principal Amount:** \$136,120.72

**Date of Note:** May 20, 2000

**PROMISE TO PAY.** David P. Berry and Lynnette M. Berry ("Borrower") jointly and severally promise to pay to CSB BANK ("Lender"), or order, in lawful money of the United States of America, the principal amount of One Hundred Thirty Six Thousand One Hundred Twenty & 72/100 Dollars (\$136,120.72), together with interest on the unpaid principal balance from May 20, 2000, until paid in full.

**PAYMENT.** Subject to any payment changes resulting from changes in the Index or margin or both, Borrower will pay this loan in accordance with the following payment schedule: 239 monthly consecutive payments in the initial amount of \$1,326.94 each, beginning June 20, 2000, with interest calculated on the unpaid principal balances at an interest rate of 10.000% per annum; and one payment of \$1,323.55 on May 20, 2020, based on the assumption that all payments will be made exactly as scheduled and that the Index does not change; the actual final payment will be for all principal and accrued interest not yet paid, together with any other unpaid amounts under this Note. 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. Borrower will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

**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 Wall Street Journal Published Prime Rate (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 Borrower. Lender will tell Borrower the current Index rate upon Borrower's request. The interest rate change will not occur more often than each five years. Borrower understands that Lender may make loans based on other rates as well. The Index currently is 9.000% per annum. The interest rate or rates to be applied to the unpaid principal balance of this Note will be the rate or rates set forth herein in the "Payment" section. Notwithstanding any other provision of this Note, after the first payment stream, the interest rate for each subsequent payment stream will be effective as of the last payment date of the just-ending payment stream. **NOTICE:** Under no circumstances will the interest rate on this Note be more than the maximum rate allowed by applicable law. Whenever increases occur in the interest rate, Lender, at its option, may do one or more of the following: (A) increase Borrower's payments to ensure Borrower's loan will pay off by its original final maturity date, (B) increase Borrower's payments to cover accruing interest, (C) increase the number of Borrower's payments, and (D) continue Borrower's payments at the same amount and increase Borrower's final payment.

**PREPAYMENT; MINIMUM INTEREST CHARGE.** In any event, even upon full prepayment of this Note, Borrower understands that Lender is entitled to a minimum interest charge of \$5.00. Other than Borrower's obligation to pay any minimum interest charge, Borrower 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 Borrower of Borrower's obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in Borrower's making fewer payments. Borrower agrees not to send Lender payments marked "paid in full", "without recourse", or similar language. If Borrower sends such a payment, Lender may accept it without losing any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: CSB BANK, Curwensville Office, 434 State Street, P.O. Box 29, Curwensville, PA 16833.

**LATE CHARGE.** If a payment is 16 days or more late, Borrower will be charged 5.000% of the unpaid portion of the regularly scheduled payment or \$999.99, whichever is less.

**INTEREST AFTER DEFAULT.** Upon default, including failure to pay upon final maturity, Lender, at its option, may, if permitted under applicable law, increase the variable interest rate on this Note by 4.000 percentage points. The interest rate will not exceed the maximum rate permitted by applicable 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.

**DEFAULT.** Each of the following shall constitute an event of default ("Event of Default") under this Note:

**Payment Default.** Borrower fails to make any payment when due under this Note.

**Other Defaults.** Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Note or in any of the related documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Note or the related documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Death or Insolvency.** The death of Borrower or the dissolution or termination of Borrower's existence as a going business, the insolvency of Borrower, the appointment of a receiver for any part of Borrower'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 Borrower.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or by any governmental agency against any collateral securing the loan. This includes a garnishment of any of Borrower's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the indebtedness or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the indebtedness. In the event of a death, 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.

## PROMISSORY NOTE (Continued)

Page 2

any Event of Default.

**Adverse Change.** A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of this Note is impaired.

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

**Cure Provisions.** If any default, other than a default in payment, is curable and if Borrower has 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 Borrower, after receiving written notice from Lender demanding cure of such default: (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes 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 Borrower will pay that amount.

**ATTORNEYS' FEES; EXPENSES.** Lender may hire or pay someone else to help collect the loan if Borrower does not pay. Borrower 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, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, Borrower also will pay any court costs, in addition to all other sums provided by law.

**RIGHT OF SETOFF.** To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any and all such accounts, and, at Lender's option, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights provided in this paragraph.

**COLLATERAL.** Borrower acknowledges this Note is secured by a Mortgage dated April 22, 1997, and recorded April 22, 1997, in Volume 1835, Page 442 and a Mortgage dated August 20, 1997, and recorded August 20, 1997, in Volume 1865, Page 519, 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.

**SUCCESSOR INTERESTS.** The terms of this Note shall be binding upon Borrower, and upon Borrower's heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and Lender's successors and assigns.

**GENERAL PROVISIONS.** Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. Each Borrower understands and agrees that, with or without notice to Borrower, Lender may with respect to any other Borrower (a) make one or more additional secured or unsecured loans or otherwise extend additional credit; (b) alter, compromise, renew, extend, accelerate, or otherwise change one or more times the time for payment or other terms any indebtedness, including increases and decreases of the rate of interest on the indebtedness; (c) exchange, enforce, waive, subordinate, fail or decide not to perfect, and release any security, with or without the substitution of new collateral; (d) apply such security and direct the order or manner of sale thereof, including without limitation, any non-judicial sale permitted by the terms of the controlling security agreements, as Lender in its discretion may determine; (e) release, substitute, agree not to sue, or deal with any one or more of Borrower's sureties, endorsers, or other guarantors on any terms or in any manner Lender may choose; and (f) determine how, when and what application of payments and credits shall be made on any other indebtedness owing by such other Borrower. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, 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; and take any other action deemed necessary by Lender without the consent of or notice to anyone. 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. If any portion of this Note is for any reason determined to be unenforceable, it will not affect the enforceability of any other provisions of this Note.

**CONFESSION OF JUDGMENT.** BORROWER HEREBY IRREVOCABLY AUTHORIZES AND EMPOWERS ANY ATTORNEY OR THE PROTHONOTARY OR CLERK OF ANY COURT IN THE COMMONWEALTH OF PENNSYLVANIA, OR ELSEWHERE, TO APPEAR AT ANY TIME FOR BORROWER AFTER A DEFAULT UNDER THIS NOTE AND WITH OR WITHOUT COMPLAINT FILED, CONFESS OR ENTER JUDGMENT AGAINST BORROWER FOR THE ENTIRE PRINCIPAL BALANCE OF THIS NOTE AND ALL ACCRUED INTEREST, LATE CHARGES AND ANY AND ALL AMOUNTS EXPENDED OR ADVANCED BY LENDER RELATING TO ANY COLLATERAL SECURING THIS NOTE, TOGETHER WITH COSTS OF SUIT, AND AN ATTORNEY'S COMMISSION OF TEN PERCENT (10%) OF THE UNPAID PRINCIPAL BALANCE AND ACCRUED INTEREST FOR COLLECTION, BUT IN ANY EVENT NOT LESS THAN FIVE HUNDRED DOLLARS (\$500) ON WHICH JUDGMENT OR JUDGMENTS ONE OR MORE EXECUTIONS MAY ISSUE IMMEDIATELY; AND FOR SO DOING, THIS NOTE OR A COPY OF THIS NOTE VERIFIED BY AFFIDAVIT SHALL BE SUFFICIENT WARRANT. THE AUTHORITY GRANTED IN THIS NOTE TO CONFESS JUDGMENT AGAINST BORROWER SHALL NOT BE EXHAUSTED BY ANY EXERCISE OF THAT AUTHORITY, BUT SHALL CONTINUE FROM TIME TO TIME AND AT ALL TIMES UNTIL PAYMENT IN FULL OF ALL AMOUNTS DUE UNDER THIS NOTE. BORROWER HEREBY WAIVES ANY RIGHT BORROWER MAY HAVE TO NOTICE OR TO A HEARING IN CONNECTION WITH ANY SUCH CONFESSION OF JUDGMENT AND STATES THAT EITHER A REPRESENTATIVE OF LENDER SPECIFICALLY CALLED THIS CONFESSION OF JUDGMENT PROVISION TO BORROWER'S ATTENTION OR BORROWER HAS BEEN REPRESENTED BY INDEPENDENT LEGAL COUNSEL.

PROMISSORY NOTE  
(Continued)

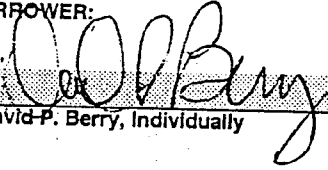
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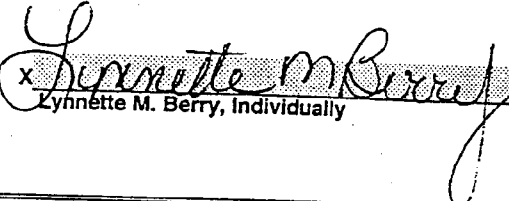
PRIOR TO SIGNING THIS NOTE, EACH BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE, INCLUDING THE VARIABLE INTEREST RATE PROVISIONS. EACH BORROWER AGREES TO THE TERMS OF THE NOTE.

BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE.

THIS NOTE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS NOTE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.

BORROWER:

X  (Seal)  
David P. Berry, Individually

X  (Seal)  
Lynnette M. Berry, Individually

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

\*\*\*\*\*

IN RE: : BANKRUPTCY NO: 99-24093-BM  
:   
DAVID AND LYNNETTE BERRY d/b/a : Chapter 11  
COUSIN'S BAKERY, :   
Debtor :   
\*\*\*\*\*

PLAN OF REORGANIZATION  
DATED NOVEMBER 29, 1999

AND NOW this 29th day of November, 1999, comes the Movants, David and Lynnette Berry d/b/a Cousin's Bakery, Debtors-in-Possession in the above-referenced Chapter 11 case, by and through their attorneys, Spence, Custer, Saylor, Wolfe & Rose, and Thomas W. Cartwright, Esquire, and do file the within Plan of Reorganization dated November 29, 1999 upon a cause whereof the following is a statement:

I. INTRODUCTION

The instant case was commenced by the filing of a voluntary petition for relief pursuant to Chapter 11 of Title 11 of the Bankruptcy Code, 11 U.S.C. Section 101, et seq. by the Debtors-in-Possession, David Paul Berry and Lynnette Berry with the United States Bankruptcy Court for the Western District of Pennsylvania on June 1, 1999. As Debtors-in-Possession pursuant to Section 1107 of the Code, the debtors have remained in control of their assets, subject to Court approval of extra-ordinary transactions and the "oversight" provided by the Office of the United States Trustee.

The goal of the filing is the formulation and development of a Plan of Reorganization confirmable pursuant to 11 U.S.C. Section 1129.

Upon the commencement of the case, the debtors sought and obtained authority by Order dated August 6, 1999 at Motion No. 99-3695M to retain Thomas W. Cartwright, Esquire, of Spence, Custer, Saylor, Wolfe and Rose to represent them and assist them in their Chapter 11 case. Due to a lack of response from parties in interest, no Official Committee of Unsecured Creditors was appointed and organized pursuant to Section 1102 of the Code.

Said case has progressed to the point that the debtors have proposed a Plan of Reorganization dated as of November 29, 1999, as well as the Disclosure Statement filed in accord with Section 1125 of the Code, in furtherance of said Plan.

The purpose of the within Plan of Reorganization is to provide creditors with sufficient detail and information that a hypothetical creditor/investor, typical of the holders of claims and interests in this case, can make a knowing and informed decision as to whether to vote in favor of or against the pending Plan of Reorganization.

## II. CLASSES OF CREDITORS

The Plan of Reorganization of the Debtors is an approach for reorganization by refinancing the major mortgage debt and surrendering certain collateral back to secured creditors. The Debtors would surrender the property known as 304 Meyers Circle back to the secured creditors, Norwest and Beneficial. This would relieve the Debtors of the mortgage debt service on that particular parcel. The major lien holders, Curwensville National Bank and County National Bank, will be paid from the rents from the remaining properties and the proceeds from the business. The disposable income at the end of the month after paying their necessities of life in the range of approximately \$100.00 to \$125.00 to be paid into a pool of money to pay unsecured creditors. The Debtors would suggest a three year plan of payment resulting in a pool of money of approximately \$3,600.00. This would result in approximately a 16% payout to the unsecured creditors having a total of \$22,285.09. The unsecured creditors amount does not include any unsecured amount as determined by any Motion to Determine Secured Status whereby a mortgage lien under-secured to a parcel resulting in a deficiency on the mortgage would be placed into the general unsecured class. The total amount of the unsecured mortgage debt that may be considered a general unsecured claim is unknown at this time.

More specifically, the Plan of Reorganization involves nine classes of creditors.

1. CLASS 1 - Class 1 consists of the property tax claims of Clearfield County Tax Claim Bureau on differing parcels owned by the Debtors for 1997 and 1998 taxes. Total amount due to the Clearfield County Tax Claim Bureau is \$3,974.55.

2. CLASS 2 - Class 2 consists of the secured mortgage claim of Curwensville State Bank holding first, second and third mortgage liens on the parcels known as 112-124 Third Street in Clearfield, Pennsylvania. The amount due as scheduled by the Debtors on the outstanding indebtedness is \$134,000.00. The Debtors value the underlying collateral at \$168,500.00. Part of this

property is the primary principle residence of the Debtors. But this parcel also includes the residential rental properties as well as the business of the bakery and other store front rental properties. The Bank has renegotiated this mortgage and also forgiven some interest in order to help the Debtors reorganize. Curwensville will be paid \$1,326.00 per month on the mortgage total at 10% over a period of 20 years.

3. CLASS 3 - Class 3 consists of the allowed secured claim of County National Bank. County National Bank is a first lien holder on the parcels known as 1616 Lincoln Avenue in Hyde, Pennsylvania and the parcel known as the Kermoor Homestead (R.D. #2, Curwensville). The Debtors list the amount due on the first mortgage as \$52,000.00. The underlying collateral is listed as having a value of \$67,500.00. These two parcels are not the primary principle residence of the Debtors. County National Bank also holds a second mortgage on the 1616 Lincoln Avenue, Hyde, Pennsylvania property and the Kermoor Homestead (R.D. #2, Curwensville) but in addition to the real property on this mortgage, there is also an outstanding lien against the Debtors 1990 Plymouth Voyager and 1993 Chevy Lumina and other collateral. The amount due on this particular claim is listed as \$26,000.00. The underlying collateral is listed as being an addition of \$12,500.00. These parcels are not the principle primary residence of the Debtors. To the extent that the second mortgage exceeds the value of the underlying collateral the balance due over and above the fair market value will be treated as an unsecured creditor. These particular mortgages may be subject to Section 506 Motions to Determine Secured Status as well as Section 1129 Mortgage Modification. County National Bank will be paid \$722.00 per month on an \$88,000.00 mortgage which results in payments over a 20 years period.

4. CLASS 4 - Class 4 consists of the allowed secured claims of Clearfield Consumer Company which has a lien against a 1984 Cadillac and a claim amount listed as \$3,023.00. The Debtors list the value of the vehicle as \$1,000.00. This claim may be subject to a Motion to Determine Secured Status as the balance due on the loan exceeds the value of the collateral it shall be treated as a general unsecured claim.

5. CLASS 5 - Class 5 consists of the allowed secured claim of Norwest Mortgage, Inc. and Beneficial Finance. Norwest holds a first mortgage lien on the property known as 304 Meyers Circle in Clearfield. The amount of the first mortgage is listed as being \$75,000.00 with the value of the property being listed as \$70,500.00. Attempts to renegotiate the mortgage on this particular property have been fruitless. Beneficial is a second mortgage lien holder on this property. The value of the Beneficial claim is listed as \$8,400.00. Because the Debtor intends to surrender the collateral supporting these two mortgages, the Debtor



The alternative to confirmation of this proposed Plan, the Debtors believe, is conversion to a Chapter 7 case, in which the only benefit to creditors in Classes 1 through 5 would be the immediate receipt, through liquidation, of any proceeds received from the liquidation of the collateral under the absolute priority rule provisions.

It is the belief of the Debtors that if the realty was sold at sheriff's sale, rather than through negotiated sales at full fair market value, the sale of the property would result in the generation of less than the appraised value for the commercial property and the farm and equipment.

Conversion of the case would also result in a substantial decrease in the amount realized to pay the creditors. The Debtors do not believe there would be enough proceeds from a distress type sale to pay the unsecured creditors.

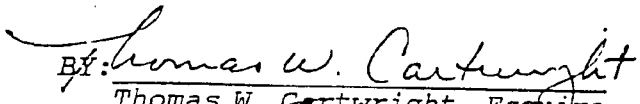
Also, if the case were converted, it is believed that the Chapter 7 trustee would incur the costs and expenses that would have to be paid prior to distribution to creditors. This further depletes the amount of funds available to pay creditors.

It is the Debtor's belief that all parties, the Debtor, secured creditors and unsecured creditors will maximize their returns by the confirmation and consummation of the above Plan, and each will receive more than it would receive in a liquidation following conversion.

It is therefore the Debtor's conclusion that the confirmation of the proposed Plan provides a greater distribution to the creditors, much quicker and more cheaply, than a distribution following conversion and distribution in a Chapter 7 case.

Respectfully submitted,

SPENCE, CUSTER, SAYLOR, WOLFE  
& ROSE

BY:   
Thomas W. Cartwright, Esquire  
400 U.S. Bank Building  
P.O. Box 280  
Johnstown, PA 15907-0280  
(814) 536-0735  
PA I.D. #56660

RECEIVED MAR 20 2000

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:

DAVID PAUL BERRY and  
LYNNETTE M. BERRY d/b/a  
COUSIN'S BAKERY  
Debtors

BANKRUPTCY NO. 99-24093BM  
CHAPTER 11

ORDER OF COURT CONFIRMING  
PLAN OF REORGANIZATION DATED  
NOVEMBER 29, 1999

AND NOW, this 16<sup>th</sup> day of March, 2000, after conducting a hearing on the Confirmation of the Plan of Reorganization dated November 29, 1999 filed by the Debtors in the above-captioned case and the Court having considered the Confirmation issues, all responses and the arguments of counsel, it is hereby

ORDERED, ADJUDGED and DETERMINED and DECREED THAT:

1. The Chapter 11 Plan of Reorganization dated November 29, 1999 of the Debtors-in-Possession, David and Lynnette Berry d/b/a Cousin's Bakery d/b/a Berry's Bakery and More, attached hereto as "Exhibit A" complies with the provisions of §1129 of the Code.

2. The Plan of Reorganization dated November 29, 1999 as identified in "Exhibit A" is approved and confirmed with the following corrective language regarding the lien positions of the lenders on the real property identified in the Plan by the Debtors-in-Possession.

A. The parcel identified at 112-124 Third Street, Clearfield, Pennsylvania having a fair market value of \$168,500.00 is lienied by Curwensville State Bank in first lien position by mortgage dated 4/22/97 found at RBV 1835/42 in the face amount of \$100,000.00, by Curwensville State Bank in second lien position by mortgage dated 8/20/97 found at RBV 1865/519 in the face amount of \$26,375.00 and by County National Bank in third lien position by mortgage dated 8/13/98 found at RBV 1966/140 in the face amount of \$25,735.31. The third position CNB mortgage also includes the parcels of Lincoln Avenue (Hyde) and 304 Meyers Circle.

B. The parcel known as 1616 Lincoln Avenue, Hyde, Pennsylvania with a fair market value of \$67,500.00 is lienied by

CNB as a first position mortgage lien holder by mortgage dated 12/27/96 at RBV 1812/327 with a face amount of \$53,200.00 and CNB in second lien position by mortgage dated 8/13/98 found at RBV 1966/140. CNB's first mortgage on this parcel is combined with the Curwensville parcel. CNB's second mortgage on this parcel is combined with the Third Avenue and Meyers Circle parcels.

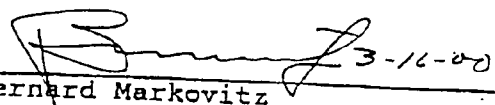
C. The parcel known at 304 Meyers Circle has a fair market value of \$70,500.00. The first position mortgage lien holder is Prudential Realty with the assignment to Norwest Financial by assignment dated 8/23/96 on the mortgage found at RBV 1680/95 with a face amount of \$65,550.00 and Beneficial Finance being the second position mortgage lien holder by mortgage dated 4/3/96 at RBV 1748/44 in the face amount of \$7,500.00 and CNB in a third position mortgage lien by mortgage dated 8/13/98 found at RBV 1966/140 in the face amount of \$25,735.31. The third position mortgage lien of CNB is combined with the Third Avenue and Lincoln Avenue (Hyde) parcels. This parcel is to be surrendered to the lien holders.

D. Parcel known at R.D. #2, Curwensville (Kermore Homestead) has a fair market value of the Debtors 1/4 interest of \$9,750.00. CNB has a first position mortgage lien by mortgage dated 12/27/96 at RBV 1812/327 in the face amount of \$53,200.00. This CNB mortgage is combined with the Lincoln Avenue (Hyde) parcel.

3. Although the lien positions are correctly identified in this Order which changes the identification of the lien positions as identified in the Plan the fully secured position of both Curwensville State Bank and County National Bank remain the same on their outstanding indebtedness which will be paid under the Plan provisions.

4. All objections filed thereto are denied and dismissed.

By the Court:

  
Bernard Markovitz  
Judge  
United States Bankruptcy Court  
Western District of Pennsylvania

DISC "B": B:\BERRY,BK\PLAN.ORD

**FILED**

MAR 17 2000

CLERK, U.S. BANKRUPTCY COURT  
WEST DIST OF PENNSYLVANIA



NOTICE OF INTENTION TO FORECLOSE MORTGAGE

David P. Berry  
80 Griffith Avenue  
Curwensville, PA 16833

RE: Account 141718

Dear Mr. Berry,

The mortgage held by CSB Bank (hereinafter we, us or ours) on your property located at 112-124 N. 3<sup>rd</sup>. St., Clearfield, Clearfield County, PA, IS IN SERIOUS DEFAULT because you have not made the monthly payments for October, November, & December of 2003. Late charges and other charges have also accrued to this date in the amount of \$199.02. The total amount now required to cure this default, or in other words, get caught up in your payments, as of the date of this letter, is \$4,179.84 (Four thousand one hundred seventy nine dollars and eighty four cents).

You may cure this default within THIRTY (30) DAYS of the date of this letter, by paying to us the above amount of \$4,179.84 plus any additional monthly payments and late charges which may fall due during this period. Such payment must be made either by cash, cashier's check, certified check or money order, and made at any office of CSB Bank.

If you do not cure the default within THIRTY (30) DAYS, we intend to exercise our right to accelerate the mortgage payments. This means that whatever is owing on the original amount borrowed will be considered due immediately and you may lose the chance to pay off the original mortgage monthly installments. If full payment of the amount of default is not made within THIRTY (30) DAYS, we also intend to instruct our attorneys to start a lawsuit to foreclose your mortgaged property. If the mortgage is foreclosed, your mortgaged property will be sold by the Sheriff to pay off the mortgage debt. If we refer your case to our attorneys, but you cure the default before they begin legal proceedings against you, you will still have to pay the reasonable attorney's fees, actually incurred, up to \$50.00. However, if legal proceedings are started against you, you will have to pay the reasonable attorney's fees even if they are over \$50.00. Any attorney's fees will be added to whatever you owe us, which may also include our reasonable costs. If you cure the default within the thirty day period, you will not be required to pay attorney's fees.

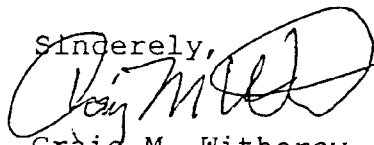
We may also sue you personally for the unpaid principal balance and all other sums due under the mortgage. If you have not cured the default within the thirty-day period and foreclosure proceedings have begun, you still have the right to cure the default and prevent the sale at any time up to one hour before the Sheriff's foreclosure sale. You may do so by paying the total amount of the unpaid monthly payments plus any late or other charges then due, as well as the reasonable attorney's fees and costs connected with the foreclosure sale and perform any other requirements under the mortgage. You also have the right to assert in the foreclosure proceeding the non-existence of a default or any other defense you may have to acceleration and foreclosure. It is estimated that the earliest date that such a Sheriff's sale could be held would be approximately May of 2003. A notice of the date of the Sheriff's sale will be sent to you before the sale. Of course, the amount needed to cure the default will increase the longer you wait. You may find out at any time exactly what the required payment will be by calling us at the following number: 814-236-2550. This payment must be in cash, cashier's check, certified check or money order and made payable to us at the address stated above.

You should realize that a Sheriff's sale will end your ownership of the mortgaged property and your right to remain in it. If you continue to live in the property after the Sheriff's sale, a lawsuit could be started to evict you.

You have additional rights to help protect your interest in the property. YOU HAVE THE RIGHT TO SELL THE PROPERTY TO OBTAIN MONEY TO PAY OFF THE MORTGAGE DEBT, OR TO BORROW MONEY FROM ANOTHER LENDING INSTITUTION TO PAY OFF THIS DEBT. (YOU MAY HAVE THE RIGHT TO SELL OR TRANSFER THE PROPERTY SUBJECT TO THE MORTGAGE TO A BUYER OR TRANSFEREE WHO WILL ASSUME THE MORTGAGE DEBT, PROVIDED THAT ALL THE OUTSTANDING PAYMENTS, CHARGES AND ATTORNEY'S FEES AND COSTS ARE PAID PRIOR TO OR AT THE SALE), AND THAT THE OTHER REQUIREMENTS UNDER THE MORTGAGE ARE SATISFIED. CONTACT US TO DETERMINE UNDER WHAT CIRCUMSTANCES THIS RIGHT MIGHT EXIST. YOU HAVE THE RIGHT TO HAVE THIS DEFAULT CURED BY ANY THIRD PARTY ACTING ON YOUR BEHALF.

If you cure the default, the mortgage will be restored to the same position as if no default has occurred. However, you are not entitled to this right to cure your default more than three times in any calendar year.

Sincerely,



Craig M. Witherow  
Collection Manager

COMPLETE THIS SECTION ON DELIVERY

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

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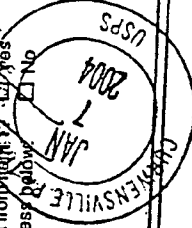
David P. Berry  
80 Griffith Ave  
Corwensville, PA 16833

A. Signature [Signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) Lynette M Berry

C. Date of Delivery 1/17/04

D. Is delivery address different from item 1? ☐ Yes ☐ No  
If YES, enter delivery address below



3. Service Type

- ☒ Certified Mail ☐ Express Mail  
☐ Registered ☒ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number

(Transfer from service label) 7003 1010 0001 6348 5003

PS Form 3811, August 2001

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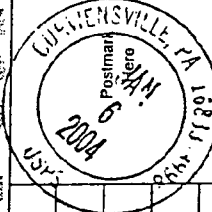
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Sent To David P. Berry  
Street, Apt. No. 80 Griffith Ave.  
or PO Box No.   
City, State, ZIP+4 Corwensville, PA 16833

PS Form 3811, August 2001



NOTICE OF INTENTION TO FORECLOSE MORTGAGE

Lynette M. Berry  
80 Griffith Avenue  
Curwensville, PA 16833

RE: Account 141718

Dear Mrs. Berry,

The mortgage held by CSB Bank (hereinafter we, us or ours) on your property located at 112-124 N. 3<sup>rd</sup>. St., Clearfield, Clearfield County, PA, IS IN SERIOUS DEFAULT because you have not made the monthly payments for October, November, & December of 2003. Late charges and other charges have also accrued to this date in the amount of \$199.02. The total amount now required to cure this default, or in other words, get caught up in your payments, as of the date of this letter, is \$4,179.84 (Four thousand one hundred seventy nine dollars and eighty four cents).

You may cure this default within THIRTY (30) DAYS of the date of this letter, by paying to us the above amount of \$4,179.84 plus any additional monthly payments and late charges which may fall due during this period. Such payment must be made either by cash, cashier's check, certified check or money order, and made at any office of CSB Bank.

If you do not cure the default within THIRTY (30) DAYS, we intend to exercise our right to accelerate the mortgage payments. This means that whatever is owing on the original amount borrowed will be considered due immediately and you may lose the chance to pay off the original mortgage monthly installments. If full payment of the amount of default is not made within THIRTY (30) DAYS, we also intend to instruct our attorneys to start a lawsuit to foreclose your mortgaged property. If the mortgage is foreclosed, your mortgaged property will be sold by the Sheriff to pay off the mortgage debt. If we refer your case to our attorneys, but you cure the default before they begin legal proceedings against you, you will still have to pay the reasonable attorney's fees, actually incurred, up to \$50.00. However, if legal proceedings are started against you, you will have to pay the reasonable attorney's fees even if they are over \$50.00. Any attorney's fees will be added to whatever you owe us, which may also include our reasonable costs. If you cure the default within the thirty day period, you will not be required to pay attorney's fees.

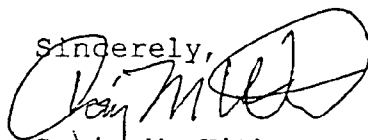
We may also sue you personally for the unpaid principal balance and all other sums due under the mortgage. If you have not cured the default within the thirty-day period and foreclosure proceedings have begun, you still have the right to cure the default and prevent the sale at any time up to one hour before the Sheriff's foreclosure sale. You may do so by paying the total amount of the unpaid monthly payments plus any late or other charges then due, as well as the reasonable attorney's fees and costs connected with the foreclosure sale and perform any other requirements under the mortgage. You also have the right to assert in the foreclosure proceeding the non-existence of a default or any other defense you may have to acceleration and foreclosure. It is estimated that the earliest date that such a Sheriff's sale could be held would be approximately May of 2003. A notice of the date of the Sheriff's sale will be sent to you before the sale. Of course, the amount needed to cure the default will increase the longer you wait. You may find out at any time exactly what the required payment will be by calling us at the following number: 814-236-2550. This payment must be in cash, cashier's check, certified check or money order and made payable to us at the address stated above.

You should realize that a Sheriff's sale will end your ownership of the mortgaged property and your right to remain in it. If you continue to live in the property after the Sheriff's sale, a lawsuit could be started to evict you.

You have additional rights to help protect your interest in the property. YOU HAVE THE RIGHT TO SELL THE PROPERTY TO OBTAIN MONEY TO PAY OFF THE MORTGAGE DEBT, OR TO BORROW MONEY FROM ANOTHER LENDING INSTITUTION TO PAY OFF THIS DEBT. (YOU MAY HAVE THE RIGHT TO SELL OR TRANSFER THE PROPERTY SUBJECT TO THE MORTGAGE TO A BUYER OR TRANSFEREE WHO WILL ASSUME THE MORTGAGE DEBT, PROVIDED THAT ALL THE OUTSTANDING PAYMENTS, CHARGES AND ATTORNEY'S FEES AND COSTS ARE PAID PRIOR TO OR AT THE SALE), AND THAT THE OTHER REQUIREMENTS UNDER THE MORTGAGE ARE SATISFIED. CONTACT US TO DETERMINE UNDER WHAT CIRCUMSTANCES THIS RIGHT MIGHT EXIST. YOU HAVE THE RIGHT TO HAVE THIS DEFAULT CURED BY ANY THIRD PARTY ACTING ON YOUR BEHALF.

If you cure the default, the mortgage will be restored to the same position as if no default has occurred. However, you are not entitled to this right to cure your default more than three times in any calendar year.

Sincerely,



Craig M. Witherow  
Collection Manager



**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
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1. Article Addressed to:

Lynette M. Barry  
80 Griffith Ave.  
Curtisville, PA 16833

2. Article Number

(Transfer from service label)

7003 1010 0001 6348 7519

PS Form 3811, August 2001

Domestic Return Receipt

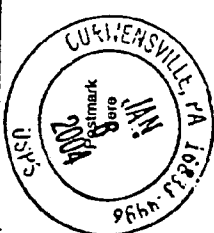
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CERTIFIED MAIL™ RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Postage	\$ 1.37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.42



Sent To

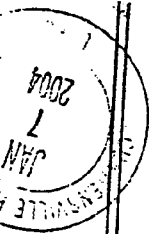
Lynette M. Barry  
Street, Apt. No., or PO Box No. 80 Griffith Ave.  
City, State, ZIP+4 Curtisville, PA 16833

PS Form 3800, June 2002

See Reverse for Instructions

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature *Lynette M. Barry* ☐ Agent ☐ Addressee  
B. Received by (Printed Name) *Lynette M. Barry* ☐ Addressee  
C. Date of Delivery *1/7/04*  
D. Is delivery address different from item 1? ☐ Yes ☐ No  
If YES, enter delivery address below: \_\_\_\_\_



3. Service Type

- ☐ Certified Mail
- ☐ Registered
- ☐ Insured Mail
- ☐ Express Mail
- ☐ Return Receipt for Merchandise
- ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes



NOTICE OF INTENTION TO FORECLOSE MORTGAGE

David P. Berry  
80 Griffith Avenue  
Curwensville, PA 16833

RE: Account 141718

Dear Mr. Berry,

The mortgage held by CSB Bank (hereinafter we, us or ours) on your property located at 112-124 N. 3<sup>rd</sup>. St., Clearfield, Clearfield County, PA, IS IN SERIOUS DEFAULT because you have not made the monthly payments for October, November, & December of 2003. Late charges and other charges have also accrued to this date in the amount of \$199.02. The total amount now required to cure this default, or in other words, get caught up in your payments, as of the date of this letter, is \$4,179.84 (Four thousand one hundred seventy nine dollars and eighty four cents).

You may cure this default within THIRTY (30) DAYS of the date of this letter, by paying to us the above amount of \$4,179.84 plus any additional monthly payments and late charges which may fall due during this period. Such payment must be made either by cash, cashier's check, certified check or money order, and made at any office of CSB Bank.

If you do not cure the default within THIRTY (30) DAYS, we intend to exercise our right to accelerate the mortgage payments. This means that whatever is owing on the original amount borrowed will be considered due immediately and you may lose the chance to pay off the original mortgage monthly installments. If full payment of the amount of default is not made within THIRTY (30) DAYS, we also intend to instruct our attorneys to start a lawsuit to foreclose your mortgaged property. If the mortgage is foreclosed, your mortgaged property will be sold by the Sheriff to pay off the mortgage debt. If we refer your case to our attorneys, but you cure the default before they begin legal proceedings against you, you will still have to pay the reasonable attorney's fees, actually incurred, up to \$50.00. However, if legal proceedings are started against you, you will have to pay the reasonable attorney's fees even if they are over \$50.00. Any attorney's fees will be added to whatever you owe us, which may also include our reasonable costs. If you cure the default within the thirty day period, you will not be required to pay attorney's fees.

CURWENSVILLE - Main Office  
P.O. Box 29  
Curwensville, PA 16833-0029  
814-236-2550

TARGET SQUARE DRIVE THRU  
Route 879  
Clearfield, PA 16830

COALPORT OFFICE  
P.O. Box 354  
Coalport, PA 16627  
814-672-5396

K MART PLAZA OFFICE  
R.D. Box 257 A-1  
Clearfield, PA 16830  
814-765-1781

DuBOIS OFFICE  
P.O. Box 465  
DuBois, PA 15801  
814-371-3066

ST. MARYS OFFICE  
1379 Bucktail Village  
St Marys, PA 15857  
814-834-4020

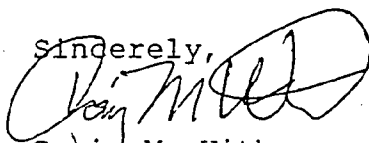
We may also sue you personally for the unpaid principal balance and all other sums due under the mortgage. If you have not cured the default within the thirty-day period and foreclosure proceedings have begun, you still have the right to cure the default and prevent the sale at any time up to one hour before the Sheriff's foreclosure sale. You may do so by paying the total amount of the unpaid monthly payments plus any late or other charges then due, as well as the reasonable attorney's fees and costs connected with the foreclosure sale and perform any other requirements under the mortgage. You also have the right to assert in the foreclosure proceeding the non-existence of a default or any other defense you may have to acceleration and foreclosure. It is estimated that the earliest date that such a Sheriff's sale could be held would be approximately May of 2003. A notice of the date of the Sheriff's sale will be sent to you before the sale. Of course, the amount needed to cure the default will increase the longer you wait. You may find out at any time exactly what the required payment will be by calling us at the following number: 814-236-2550. This payment must be in cash, cashier's check, certified check or money order and made payable to us at the address stated above.

You should realize that a Sheriff's sale will end your ownership of the mortgaged property and your right to remain in it. If you continue to live in the property after the Sheriff's sale, a lawsuit could be started to evict you.


You have additional rights to help protect your interest in the property. YOU HAVE THE RIGHT TO SELL THE PROPERTY TO OBTAIN MONEY TO PAY OFF THE MORTGAGE DEBT, OR TO BORROW MONEY FROM ANOTHER LENDING INSTITUTION TO PAY OFF THIS DEBT. (YOU MAY HAVE THE RIGHT TO SELL OR TRANSFER THE PROPERTY SUBJECT TO THE MORTGAGE TO A BUYER OR TRANSFEREE WHO WILL ASSUME THE MORTGAGE DEBT, PROVIDED THAT ALL THE OUTSTANDING PAYMENTS, CHARGES AND ATTORNEY'S FEES AND COSTS ARE PAID PRIOR TO OR AT THE SALE), AND THAT THE OTHER REQUIREMENTS UNDER THE MORTGAGE ARE SATISFIED. CONTACT US TO DETERMINE UNDER WHAT CIRCUMSTANCES THIS RIGHT MIGHT EXIST. YOU HAVE THE RIGHT TO HAVE THIS DEFAULT CURED BY ANY THIRD PARTY ACTING ON YOUR BEHALF.

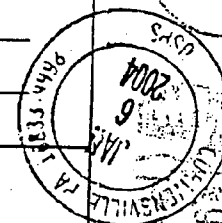
If you cure the default, the mortgage will be restored to the same position as if no default has occurred. However, you are not entitled to this right to cure your default more than three times in any calendar year.

Sincerely,



Craig M. Witherow  
Collection Manager

U.S. POSTAL SERVICE		CERTIFICATE OF MAILING	
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT PROVIDE FOR INSURANCE—POSTMASTER			
Received From:			
		 CBS BANK	
		PO BOX 29	
		CURWENSVILLE, PA 16833	
One piece of ordinary mail addressed to:			
David P. Berry			
80 GREENHILL AVE			
CURWENSVILLE, PA 16833			



PS Form 3817, Mar. 1989



NOTICE OF INTENTION TO FORECLOSE MORTGAGE

Lynette M. Berry  
80 Griffith Avenue  
Curwensville, PA 16833

RE: Account 141718

Dear Mrs. Berry,

The mortgage held by CSB Bank (hereinafter we, us or ours) on your property located at 112-124 N. 3<sup>rd</sup>. St., Clearfield, Clearfield County, PA, IS IN SERIOUS DEFAULT because you have not made the monthly payments for October, November, & December of 2003. Late charges and other charges have also accrued to this date in the amount of \$199.02. The total amount now required to cure this default, or in other words, get caught up in your payments, as of the date of this letter, is \$4,179.84 (Four thousand one hundred seventy nine dollars and eighty four cents).

You may cure this default within THIRTY (30) DAYS of the date of this letter, by paying to us the above amount of \$4,179.84 plus any additional monthly payments and late charges which may fall due during this period. Such payment must be made either by cash, cashier's check, certified check or money order, and made at any office of CSB Bank.

If you do not cure the default within THIRTY (30) DAYS, we intend to exercise our right to accelerate the mortgage payments. This means that whatever is owing on the original amount borrowed will be considered due immediately and you may lose the chance to pay off the original mortgage monthly installments. If full payment of the amount of default is not made within THIRTY (30) DAYS, we also intend to instruct our attorneys to start a lawsuit to foreclose your mortgaged property. If the mortgage is foreclosed, your mortgaged property will be sold by the Sheriff to pay off the mortgage debt. If we refer your case to our attorneys, but you cure the default before they begin legal proceedings against you, you will still have to pay the reasonable attorney's fees, actually incurred, up to \$50.00. However, if legal proceedings are started against you, you will have to pay the reasonable attorney's fees even if they are over \$50.00. Any attorney's fees will be added to whatever you owe us, which may also include our reasonable costs. If you cure the default within the thirty day period, you will not be required to pay attorney's fees.

CURWENSVILLE - Main Office  
P.O. Box 29  
Curwensville, PA 16833-0029  
814-236-2550

TARGET SQUARE DRIVE THRU  
Route 879  
Clearfield, PA 16830

COALPORT OFFICE  
P.O. Box 354  
Coalport, PA 16627  
814-672-5396

K MART PLAZA OFFICE  
R.D. Box 257 A-1  
Clearfield, PA 16830  
814-765-1781

DuBOIS OFFICE  
P.O. Box 465  
DuBois, PA 15801  
814-371-3066

ST. MARYS OFFICE  
1379 Bucktail Village  
St. Marys, PA 15857  
814-834-4020

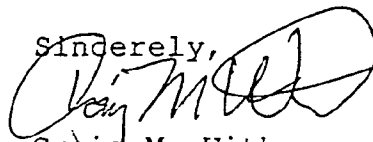
We may also sue you personally for the unpaid principal balance and all other sums due under the mortgage. If you have not cured the default within the thirty-day period and foreclosure proceedings have begun, you still have the right to cure the default and prevent the sale at any time up to one hour before the Sheriff's foreclosure sale. You may do so by paying the total amount of the unpaid monthly payments plus any late or other charges then due, as well as the reasonable attorney's fees and costs connected with the foreclosure sale and perform any other requirements under the mortgage. You also have the right to assert in the foreclosure proceeding the non-existence of a default or any other defense you may have to acceleration and foreclosure. It is estimated that the earliest date that such a Sheriff's sale could be held would be approximately May of 2003. A notice of the date of the Sheriff's sale will be sent to you before the sale. Of course, the amount needed to cure the default will increase the longer you wait. You may find out at any time exactly what the required payment will be by calling us at the following number: 814-236-2550. This payment must be in cash, cashier's check, certified check or money order and made payable to us at the address stated above.

You should realize that a Sheriff's sale will end your ownership of the mortgaged property and your right to remain in it. If you continue to live in the property after the Sheriff's sale, a lawsuit could be started to evict you.

You have additional rights to help protect your interest in the property. YOU HAVE THE RIGHT TO SELL THE PROPERTY TO OBTAIN MONEY TO PAY OFF THE MORTGAGE DEBT, OR TO BORROW MONEY FROM ANOTHER LENDING INSTITUTION TO PAY OFF THIS DEBT. (YOU MAY HAVE THE RIGHT TO SELL OR TRANSFER THE PROPERTY SUBJECT TO THE MORTGAGE TO A BUYER OR TRANSFEREE WHO WILL ASSUME THE MORTGAGE DEBT, PROVIDED THAT ALL THE OUTSTANDING PAYMENTS, CHARGES AND ATTORNEY'S FEES AND COSTS ARE PAID PRIOR TO OR AT THE SALE), AND THAT THE OTHER REQUIREMENTS UNDER THE MORTGAGE ARE SATISFIED. CONTACT US TO DETERMINE UNDER WHAT CIRCUMSTANCES THIS RIGHT MIGHT EXIST. YOU HAVE THE RIGHT TO HAVE THIS DEFAULT CURED BY ANY THIRD PARTY ACTING ON YOUR BEHALF.

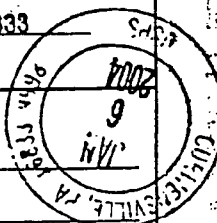
If you cure the default, the mortgage will be restored to the same position as if no default has occurred. However, you are not entitled to this right to cure your default more than three times in any calendar year.

Sincerely,



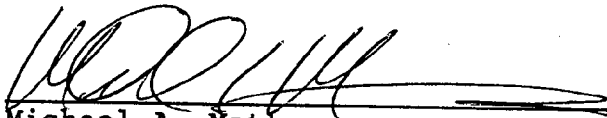
Craig M. Witherow  
Collection Manager

U.S. POSTAL SERVICE		CERTIFICATE OF MAILING	
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT PROVIDE FOR INSURANCE—POSTMASTER			
Received From:			
		CSB BANK	
		PO BOX 29	
		CURLEWENSVILLE, PA 16833	
One piece of ordinary mail addressed to:			
Lynette M. Berry			
80 Griffith Ave.			
Curlewsville, PA 16833			



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

I, MICHAEL A. MATTEN, Senior Vice-President and Senior Lending Officer of CSB BANK, verify that the statements made in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I the undersigned understand that false statements made herein are subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.

  
Michael A. Matten,  
Senior Vice-President and  
Senior Lending Officer,  
CSB BANK

Date:

4-23-04



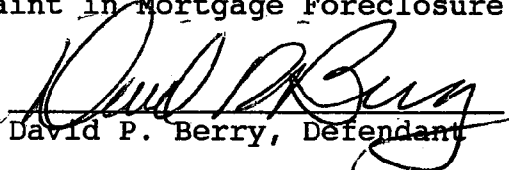
William A. Shaw  
Prothonotary/Clerk of Courts

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

CSB BANK,	:	
Plaintiff	:	No. 04 - 567 - CD
	:	
-vs-	:	IN MORTGAGE FORECLOSURE
	:	
DAVID P. BERRY and LYNNETTE	:	
M. BERRY, Defendants	:	

ACCEPTANCE OF SERVICE

I accept service of the Complaint in Mortgage Foreclosure.

  
David P. Berry, Defendant

Date: 6/1/08

FILED  
01:49 PM  
JUN 15 2004  
cc

William A. Shaw  
Prothonotary/Clerk of Courts

CSB BANK,  
Plaintiff

-vs-

DAVID P. BERRY and LYNNETTE  
M. BERRY,  
Defendants

No. 04 - 567 -CD

Type of Case: Civil Action

Type of Pleading: Praecipe  
For Default Judgment

Filed on behalf of:  
Plaintiff

Counsel of Record for this  
Party: Andrew P. Gates

Supreme Court No.: 36604

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

FILED

JUL 09 2004

William A. Shaw

Prothonotary/Clerk of Courts

NOTICE TO DEFFS

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

CSB BANK, Plaintiff : No. 04 - 567 - CD  
:   
-vs- : IN MORTGAGE FORECLOSURE  
:   
DAVID P. BERRY and LYNNETTE :   
M. BERRY, :   
Defendants :

PRAECIPE FOR DEFAULT JUDGMENT

TO: WILLIAM A. SHAW, PROTHONOTARY:

Enter Judgment in favor of CSB BANK, Plaintiff herein, and against Defendants herein, David P. Berry and Lynnette M. Berry, for their failure to file a timely Answer to the Complaint which was served upon them as indicated in the Sheriff's Affidavit of Service and the undersigned's Affidavit of Acceptance of Service filed of record, in the following amounts:

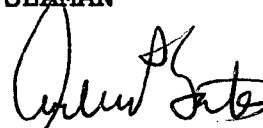
(a) Outstanding principal balance, including accrued interest through March 8, 2004	\$132,284.46
(b) Late fees (as provided for in Promissory Note of 5/20/00) as of March 8, 2004	\$ 265.36
(c) Attorney fees (as provided for in Promissory Note and Mortgages)	\$ 1,000.00
TOTAL	\$133,549.82**

plus per diem interest from March 8, 2004 of \$35.0886 per day

Furthermore, the undersigned attorney certifies that said Defendants were also served with the Notice specified in Pa. R.C.P. §237.1 by regular first class mail, postage prepaid, on June 22, 2004. A copy of the Notices mailed to the Defendants and U. S. Postal Service Form 3817 for said mailings are attached hereto and made a part hereof, collectively, as Exhibit "A".

GATES & SEAMAN

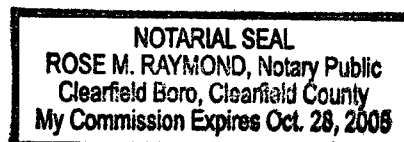
By:

  
\_\_\_\_\_  
Andrew P. Gates, Esquire  
Attorney for Plaintiff

Date: July 9, 2004

Sworn to and subscribed before me  
this 9th day of July, 2004

  
\_\_\_\_\_  
Rose M. Raymond



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

CSB BANK, Plaintiff

-vs-

DAVID P. BERRY and LYNNETTE  
M. BERRY, Defendants

: No. 04 - 567 - CD  
:  
: IN MORTGAGE FORECLOSURE  
:  
:  
:

TO: David P. Berry  
4630 Magnolia Cove Drive,  
Apt. 914  
Kingwood, TX 77345

David P. Berry  
c/o Jennifer Berry  
114 North Third Street, Apt. #2  
Clearfield, PA 16830

DATE OF NOTICE: June 22, 2004


**IMPORTANT NOTICE**

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN 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 PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

David S. Meholick, Court Administrator  
CLEARFIELD COUNTY COURTHOUSE  
Clearfield, PA 16830  
(814) 765-2641



Andrew P. Gates, Esquire,  
Attorney for Plaintiff

P. O. Box 846  
Clearfield, PA 16830  
(814) 765-1766

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

CSB BANK, Plaintiff

-vs-

DAVID P. BERRY and LYNNETTE  
M. BERRY, Defendants

: No. 04 - 567 - CD  
:  
: IN MORTGAGE FORECLOSURE  
:  
:  
:

TO: David P. Berry  
4630 Magnolia Cove Drive,  
Apt. 914  
Kingwood, TX 77345

David P. Berry  
c/o Jennifer Berry  
114 North Third Street, Apt. #2  
Clearfield, PA 16830

DATE OF NOTICE: June 22, 2004

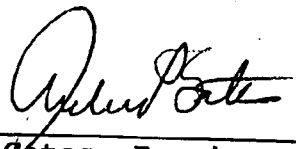
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David S. Meholick, Court Administrator  
CLEARFIELD COUNTY COURTHOUSE  
Clearfield, PA 16830  
(814) 765-2641

  
\_\_\_\_\_  
Andrew P. Gates, Esquire,  
Attorney for Plaintiff

P. O. Box 846  
Clearfield, PA 16830  
(814) 765-1766

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

CSB BANK, Plaintiff

-vs-

DAVID P. BERRY and LYNNETTE  
M. BERRY, Defendants

: No. 04 - 567 - CD  
:  
: IN MORTGAGE FORECLOSURE  
:  
:  
:

TO: Lynette M. Berry  
80 Griffith Avenue  
Curwensville, Pa 16833

DATE OF NOTICE: June 22, 2004


**IMPORTANT NOTICE**

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN 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.

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David S. Meholick, Court Administrator  
CLEARFIELD COUNTY COURTHOUSE  
Clearfield, PA 16830  
(814) 765-2641

  
\_\_\_\_\_  
Andrew P. Gates, Esquire,  
Attorney for Plaintiff

P. O. Box 846  
Clearfield, PA 16830  
(814) 765-1766



U.S. POSTAL SERVICE		CERTIFICATE OF MAILING	
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT PROVIDE FOR INSURANCE-POSTMASTER			
Received From:		<b>GATES &amp; SEAMAN</b> <b>2 North Front Street</b> <b>P.O. Box 846</b> <b>Clearfield, PA 16830</b>	
One piece of ordinary mail addressed to:		<b>David P. Berry</b> <b>4630 Magnolia Cove Drive, Apartment #</b> <b>Kingwood, TX 77345</b>	

PS Form 3817, January 2001

U.S. POSTAL SERVICE		CERTIFICATE OF MAILING	
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT PROVIDE FOR INSURANCE-POSTMASTER			
Received From:		<b>GATES &amp; SEAMAN</b> <b>2 North Front Street</b> <b>P.O. Box 846</b> <b>Clearfield, PA 16830</b>	
One piece of ordinary mail addressed to:		<b>David P. Berry</b> <b>c/o Jennifer Berry</b> <b>114 North Third Street, Apt. #2</b> <b>Clearfield, PA 16830</b>	

PS Form 3817, January 2001

U.S. POSTAL SERVICE		CERTIFICATE OF MAILING	
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT PROVIDE FOR INSURANCE-POSTMASTER			
Received From		<b>GATES &amp; SEAMAN</b> <b>2 North Front Street</b> <b>P.O. Box 846</b> <b>Clearfield, PA 16830</b>	
One piece of ordinary mail addressed to:		<b>Lynnette M. Berry</b> <b>80 Griffith Avenue</b> <b>Curwensville, PA 16833</b>	

PS Form 3817, January 2001

FILED

JUL 09 2004

William A. St.  
Prothonotary/Clerk of Courts

Notice to Address  
in PA + TX

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

CSB BANK, Plaintiff

No. 04-567-CD

vs

DAVID P. BERRY and LYNNETTE M.

BERRY, Defendants

TO: David P. Berry  
4630 Magnolia Cove Drive,  
Apt. 914  
Kingwood, TX 77345

Notice is given that a JUDGMENT in the above captioned  
matter has been entered against you in the amount of  
\$133,549.82\*\* on July 9, 2004.

\*\*plus per diem interest from March 8, 2004 of \$35.0886 per  
day.

William A. Shaw, Prothonotary

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

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

CSB Bank  
Plaintiff(s)

No.: 2004-00567-CD

Real Debt: \$133,549.82

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

David P. Berry  
Lynnette M. Berry  
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: July 9, 2004

Expires: July 9, 2009

Certified from the record this July 9, 2004

\_\_\_\_\_  
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

NOTICE OF JUDGMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

CIVIL DIVISION

CSB Bank

Vs.

No. 2004-00567-CD

David P. Berry Lynnette M. Berry

To: DEFENDANT(S)

NOTICE is given that a JUDGMENT in the above captioned matter has been entered against you in the amount of \$133,549.82 on the July 9, 2004.

William A. Shaw  
Prothonotary

---

William A. Shaw

2004-557-

David P. Berry  
4630 Magnolia Cove Drive,  
Apt. 914  
Kingwood, TX 77345

David P. Berry  
c/o Jennifer Berry  
114 North Third Street, Apt. #2  
Clearfield, PA 16830

Lynnette M. Berry  
80 Griffith Avenue  
Curwensville, PA 16833

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

CSB BANK, Plaintiff : No. 04- 567- CD  
:   
-vs- : IN MORTGAGE FORECLOSURE  
:   
DAVID P. BERRY and LYNNETTE M. :   
BERRY, Defendants :

PRAECIPE FOR WRIT OF EXECUTION

(Mortgage Foreclosure)

TO WILLIAM A. SHAW, PROTHONOTARY:

Issue writ of execution in the above matter:

Amount due (as per judgment \$ 133,549.82  
entered July 9, 2004, which  
includes per diem interest  
to March 8, 2004)

Interest at \$35.0886 per day from  
March 8, 2004 to date of  
Sheriff's Sale

\$ \_\_\_\_\_

SUBTOTAL

\$

*Prothonotary Costs*

*132.00*

[Costs to be added]

\$ \_\_\_\_\_

TOTAL

\$ \_\_\_\_\_

GATES & SEAMAN

By


*Charles P. Gates*  
Attorneys for Plaintiff,  
CSB Bank

Date: July 30 , 2004

FILED

AUG 02 2004

William A. Shaw  
Prothonotary/Clerk of Courts

  
FILED Aug pd. 20.00  
8/11-2284 ICC 6 units  
AUG 02 2004 to SHG  
William A. Shaw  
Prothonotary/Clerk of Courts



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

CSB BANK, Plaintiff	:	No. 04- 567- CD
	:	
-vs-	:	IN MORTGAGE FORECLOSURE
	:	
DAVID P. BERRY and LYNNETTE M.	:	
BERRY, Defendants	:	

AFFIDAVIT PURSUANT TO RULE 3129.1

CSB BANK, Plaintiff in the above action, sets forth as of the date the Praecipe for the writ of execution was filed, the following information concerning the real property located in Clearfield Borough, Clearfield County, Pennsylvania with said parcel being further described in Exhibit "A", which is attached hereto and made a part hereof).

1. Name and address of Owner(s) or Reputed Owner(s):

<u>Name</u>	<u>Address</u>
David P. Berry	4630 Magnolia Cove Drive Apartment 914 Kingwood, Texas 77345
Lynnette M. Berry	80 Griffith Avenue Curwensville, PA 16833

2. Name and address of Defendant(s):

<u>Name</u>	<u>Address</u>
David P. Berry	4630 Magnolia Cove Drive Apartment 914 Kingwood, Texas 77345
Lynnette M. Berry	80 Griffith Avenue Curwensville, PA 16833

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

(a) CSB Bank	P. O. Box 29 Curwensville, PA 16833
--------------	--

(b) PPL Gas Utilities Corporation  
1 Piper Way  
P. O. Box 508  
Lock Haven, PA 17745

(c) Commonwealth of Pennsylvania  
Department of Revenue  
Bureau of Compliance  
Dept. 280946  
Harrisburg, PA 17128

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

<u>Name</u>	<u>Address</u>
(a) CSB Bank	P. O. Box 29 Curwensville, PA 16833
(b) County National Bank	P. O. Box 42 Clearfield, PA 16830

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

Clearfield County Tax Claim Bureau  
230 E. Market Street  
Clearfield, PA 1830

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.

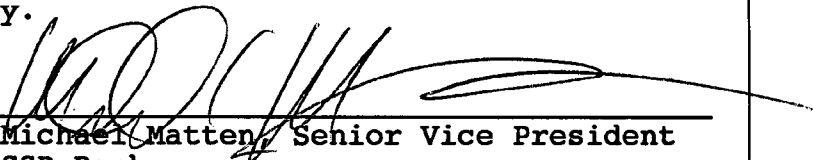
Northwest Mortgage Inc.  
405 S.W. Fifth Street  
Des Moines, Iowa 55039

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:

Chris Crago,  
Clearfield Borough Tax Collector  
138 West Market Street  
Clearfield, PA 16830

3

The undersigned verifies that he is authorized to make this verification on behalf of CSB Bank, Plaintiff named herein; and that the statements made herein are true and correct to the best of his personal knowledge or information and belief. I understand that false statements herein are subject to the penalties of 18 Pa. C.S. Section 4904, related to unsworn falsification to authority.

  
\_\_\_\_\_  
Michael Matten, Senior Vice President  
CSB Bank

Dated: \_\_\_\_\_

July 30, 2004

ALL that certain piece or parcel of land situate in the Borough of Clearfield, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a post corner at corner of alley and Third Street; thence along Third Street South four (4) degrees, thirty (30) minutes West, eighty-six (86) feet and one (1) inch to a post at center line of lot and corner now or formerly of Maggie T. Hoover property; thence North eighty-five (85) degrees thirty (30) minutes West along the line now or formerly of Maggie T. Hoover lot, fifty-five (55) feet and five (5) inches to line of Lot #107; thence North four (4) degrees thirty (30) minutes East, eighty-six (86) feet and one (1) inch along Lot #107 to alley; thence South eighty-five (85) degrees thirty (30) minutes East along said alley, fifty (50) feet and five (5) inches to corner at Third Street and place of beginning. Being the northern one-half of Lot #120 in the General Plan of said Borough of Clearfield, as surveyed and divided by E. W. Hess, Civil Engineer, November 22, 1904.

BEING the same premises conveyed to David P. Berry and Lynnette M. Berry, husband and wife, from Charles H. Button and Frances K. Button, husband and wife, by deed dated April 22, 1997 and appearing of record in Clearfield County Deeds and Records Book 1835, Page 439.

ALSO being identified as 2 buildings and  $\frac{1}{2}$  of Lot No. 120 with Clearfield County Assessment Map No. 4.1-K8-216-79.

EXHIBIT "A"

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

CSB BANK, Plaintiff : No. 04- 567- CD  
:   
-vs- : IN MORTGAGE FORECLOSURE  
:   
DAVID P. BERRY and LYNNETTE M. :   
BERRY, Defendants :

WRIT OF EXECUTION

COMMONWEALTH OF PENNSYLVANIA :   
: SS:   
COUNTY OF CLEARFIELD :

TO THE SHERIFF OF CLEARFIELD COUNTY:

To satisfy the judgment, interest and costs in the above matter you are directed to levy upon and sell the following described property: See attached Exhibit "A"

Amount due (as per judgment entered July 9, 2004, which includes per diem interest to March 8, 2004) \$ 133,549.82

Interest at \$35.0886 per day from March 8, 2004 to date of Sheriff's Sale

\$ \_\_\_\_\_

SUBTOTAL

\$ 132.00

[Costs to be added]

\$ \_\_\_\_\_

TOTAL

\$ \_\_\_\_\_

Seal of the Court

Date: 8/2/04

ALL that certain piece or parcel of land situate in the Borough of Clearfield, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a post corner at corner of alley and Third Street; thence along Third Street South four (4) degrees, thirty (30) minutes West, eighty-six (86) feet and one (1) inch to a post at center line of lot and corner now or formerly of Maggie T. Hoover property; thence North eighty-five (85) degrees thirty (30) minutes West along the line now or formerly of Maggie T. Hoover lot, fifty-five (55) feet and five (5) inches to line of Lot #107; thence North four (4) degrees thirty (30) minutes East, eighty-six (86) feet and one (1) inch along Lot #107 to alley; thence South eighty-five (85) degrees thirty (30) minutes East along said alley, fifty (50) feet and five (5) inches to corner at Third Street and place of beginning. Being the northern one-half of Lot #120 in the General Plan of said Borough of Clearfield, as surveyed and divided by E. W. Hess, Civil Engineer, November 22, 1904.

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

CSB BANK, Plaintiff : No. 04- 567- CD  
:   
-vs- : IN MORTGAGE FORECLOSURE  
:   
DAVID P. BERRY and LYNNETTE M. :   
BERRY, Defendants :

AFFIDAVIT PURSUANT TO RULE 3129.1

CSB BANK, Plaintiff in the above action, sets forth as of the date the Praeipe for the writ of execution was filed, the following information concerning the real property located in Clearfield Borough, Clearfield County, Pennsylvania with said parcel being further described in Exhibit "A", which is attached hereto and made a part hereof).

1. Name and address of Owner(s) or Reputed Owner(s):

<u>Name</u>	<u>Address</u>
David P. Berry	4630 Magnolia Cove Drive Apartment 914 Kingwood, Texas 77345
Lynnette M. Berry	80 Griffith Avenue Curwensville, PA 16833

2. Name and address of Defendant(s):

<u>Name</u>	<u>Address</u>
David P. Berry	4630 Magnolia Cove Drive Apartment 914 Kingwood, Texas 77345
Lynnette M. Berry	80 Griffith Avenue Curwensville, PA 16833

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

(a) CSB Bank

P. O. Box 29  
Curwensville, PA 16833

**FILED**

OCT 14 2004

0/2:30/c  
William A. Shaw

Prothonotary/Clerk of Courts

1 Cent to Att

(b) PPL Gas Utilities Corporation  
1 Piper Way  
P. O. Box 508  
Lock Haven, PA 17745

(c) Commonwealth of Pennsylvania  
Department of Revenue  
Bureau of Compliance  
Dept. 280946  
Harrisburg, PA 17128

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

<u>Name</u>	<u>Address</u>
(a) CSB Bank	P. O. Box 29 Curwensville, PA 16833
(b) County National Bank	P. O. Box 42 Clearfield, PA 16830

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

Clearfield County Tax Claim Bureau  
230 E. Market Street  
Clearfield, PA 1830

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.

Northwest Mortgage Inc.  
405 S.W. Fifth Street  
Des Moines, Iowa 55039

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:

Chris Crago,  
Clearfield Borough Tax Collector  
138 West Market Street  
Clearfield, PA 16830



The undersigned verifies that he is authorized to make this verification on behalf of CSB Bank, Plaintiff named herein; and that the statements made herein are true and correct to the best of his personal knowledge or information and belief. I understand that false statements herein are subject to the penalties of 18 Pa. C.S. Section 4904, related to unsworn falsification to authority.

  
Michael Matten, Senior Vice President  
CSB Bank

Dated: 7 - 30 - 2004

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

CSB BANK, Plaintiff

No. 04- 567- CD

-vs-

IN MORTGAGE FORECLOSURE

DAVID P. BERRY and LYNNETTE M.  
BERRY, Defendants

REVISED AFFIDAVIT PURSUANT TO RULE 3129.1

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<u>Name</u>	<u>Address</u>
David P. Berry	4630 Magnolia Cove Drive Apartment 914 Kingwood, Texas 77345
Lynnette M. Berry	80 Griffith Avenue Curwensville, PA 16833

FILED  
09:26 AM 11/15/04  
NOV 15 2004

2. Name and address of Defendant(s):

<u>Name</u>	<u>Address</u>
David P. Berry	4630 Magnolia Cove Drive Apartment 914 Kingwood, Texas 77345
Lynnette M. Berry	80 Griffith Avenue Curwensville, PA 16833

W. H. PROTHMAN, Esq.  
Prothonotary

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(a) CSB Bank	P. O. Box 29 Curwensville, PA 16833
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405 S.W. Fifth Street  
Des Moines, Iowa 55039

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Chris Crago,  
Clearfield Borough Tax Collector  
138 West Market Street  
Clearfield, PA 16830

Ethan's Café, Terre Tenant  
112-124 North Third Street  
Clearfield, Pennsylvania 16830

Chris Augenbaugh, Terre Tenant  
112-124 North Third Street  
Clearfield, Pennsylvania 16830

Jennifer Berry, Terre Tenant  
114 North Third Street, Apt. #2  
Clearfield, Pennsylvania 16830

ALL that certain piece or parcel of land situate in the Borough of Clearfield, Clearfield County, Pennsylvania, bounded and described as follows:

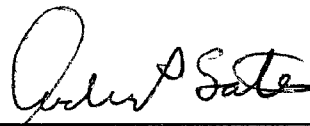
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ALSO being identified as 2 buildings and  $\frac{1}{2}$  of Lot No. 120 with Clearfield County Assessment Map No. 4.1-K8-216-79.

EXHIBIT "A"

The undersigned verifies that he is authorized to make this verification on behalf of CSB Bank, Plaintiff named herein; and that the statements made herein are true and correct to the best of his personal knowledge or information and belief. I understand that false statements herein are subject to the penalties of 18 Pa. C.S. Section 4904, related to unsworn falsification to authority.

A handwritten signature in cursive script, appearing to read "Andrew P. Gates".

---

Andrew P. Gates, Esquire, Assistant Solicitor for  
Plaintiff, CSB Bank

Dated: Nov 11, 2004

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

CSB BANK, Plaintiff

No. 04- 567- CD

-vs-

IN MORTGAGE FORECLOSURE

DAVID P. BERRY and LYNNETTE M.  
BERRY, Defendants

FILED  
O 9:26 AM, Nov 04

AFFIDAVIT OF SERVICE

86k NOV 13 2004

COMMONWEALTH OF PENNSYLVANIA

:  
:SS.  
:

COUNTY OF CLEARFIELD

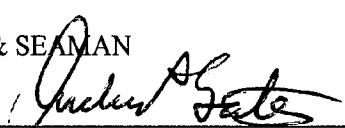
WILL  
Produce

ANDREW P. GATES, the Attorney for Plaintiff, being duly sworn according to law, says that the following entities were served with a Notice of Sheriff's Sale on October 27, 2004, by regular mail. Attached hereto collectively as Exhibit "A" is a photocopy of the undersigned's letters dated October 27, 2004, a photocopy of Notice of Sheriff Sale and the original Certificates of Mailing.

- |   |  |
|---|--|
| (a) PPL Gas Utilities Corporation<br>1 Piper Way<br>P. O. Box 508<br>Lock Haven, PA 17745                                 | (f) Chris Crago, Clearfield Borough<br>Tax Collector<br>138 West Market Street<br>Clearfield, PA 16830 |
| (b) Commonwealth of Pennsylvania<br>Department of Revenue<br>Bureau of Compliance<br>Dept. 280946<br>Harrisburg, PA 17128 | (g) Ethan's Café, Terre Tenant<br>112-124 North Third Street<br>Clearfield, PA 16830                   |
| (c) County National Bank<br>P. O. Box 42<br>Clearfield, PA 16830  | (h) Chris Augenbaugh, Terre Tenant<br>112-124 North Third Street<br>Clearfield, PA 16830               |
| (d) Clearfield County Tax Claim Bureau<br>230 E. Market Street<br>Clearfield, PA 16830                                    | (i) Jennifer Berry, Terre Tenant<br>114 North Third Street, Apt. #2<br>Clearfield, PA 16830            |
| (e) Northwest Mortgage Inc.<br>405 S.W. Fifth Street<br>Des Moines, Iowa 55039  |  |

GATES & SEAMAN

By

  
Andrew P. Gates, Esquire

Sworn to and subscribed before me this  
day of November, 2004.



NOTARIAL SEAL  
ROSE M. RAYMOND, Notary Public  
Clearfield Boro, Clearfield County  
My Commission Expires Oct. 28, 2005

LAURANCE B. SEAMAN  
ANDREW P. GATES

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

JOHN B. GATES  
(1917-1984)

(814) 765-1766  
FAX (814) 765-1488

October 27, 2004

PPL Gas Utilities Corporation  
1 Piper Way  
P. O. Box 508  
Lock Haven, PA 17745

Re: CSB Bank, Plaintiff vs. David P. Berry and  
Lynnette M. Berry, Defendants  
No. 04-567-CD

Gentlemen:

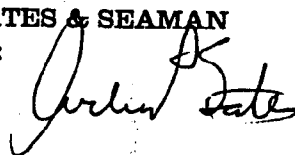
Kindly be advised that this office represents CSB Bank in regard to the aforementioned Mortgage Foreclosure Action. In that regard, a default judgment was entered against David P. Berry and Lynnette M. Berry with the Prothonotary of Clearfield County on July 9, 2004. Furthermore, I thereafter had a Writ of Execution issued and a Sheriff's Sale of the real property of David P. Berry and Lynnette M. Berry has been scheduled by the Clearfield County Sheriff for Friday, December 3, 2004 at 10:00 o'clock A.M.

In regard to the aforementioned Sheriff's Sale, please find herewith enclosed a Notice of Sheriff Sale which specifically identifies the real estate to be sold.

Very truly yours,

GATES & SEAMAN

By:



Andrew P. Gates

APG/rmr  
Enclosure

EXHIBIT "A" (12 pages)



LAURANCE B. SEAMAN  
ANDREW P. GATES

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

JOHN B. GATES  
(1917-1984)

(814) 765-1766  
FAX (814) 765-1488

October 27, 2004

Commonwealth of Pennsylvania  
Department of Revenue  
Bureau of Compliance  
Dept. 280946  
Harrisburg, PA 17128

Re: CSB Bank, Plaintiff vs. David P. Berry and  
Lynnette M. Berry, Defendants  
No. 04-567-CD

Gentlemen:

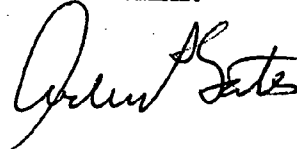
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GATES & SEAMAN

By:



Andrew P. Gates

APG/rmr  
Enclosure

LAURANCE B. SEAMAN  
ANDREW P. GATES

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

JOHN B. GATES  
(1917-1984)

(814) 765-1766  
FAX (814) 765-1488

October 27, 2004

County National Bank  
P. O. Box 42  
Clearfield, PA 16830

Re: CSB Bank, Plaintiff vs. David P. Berry and  
Lynnette M. Berry, Defendants  
No. 04-567-CD

Gentlemen:

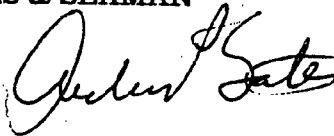
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GATES & SEAMAN

By:



Andrew P. Gates

APG/rmr  
Enclosure

LAURANCE B. SEAMAN  
ANDREW P. GATES

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

JOHN B. GATES  
(1917-1984)

(814) 765-1766  
FAX (814) 765-1488

October 27, 2004

Clearfield County Tax Claim Bureau  
230 E. Market Street  
Clearfield, PA 16830

Re: CSB Bank, Plaintiff vs. David P. Berry and  
Lynnette M. Berry, Defendants  
No. 04-587-CD

Gentlemen:

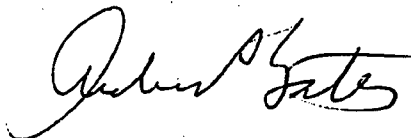
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GATES & SEAMAN

By:



Andrew P. Gates

APG/rmr  
Enclosure

LAURANCE B. SEAMAN  
ANDREW P. GATES

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

JOHN B. GATES  
(1917-1984)

(814) 765-1766  
FAX (814) 765-1488

October 27, 2004

Northwest Mortgage Inc.  
405 S.W. Fifth Street  
Des Moines, Iowa 55039

Re: CSB Bank, Plaintiff vs. David P. Berry and  
Lynnette M. Berry, Defendants  
No. 04-567-CD

Gentlemen:

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GATES & SEAMAN

By:



Andrew P. Gates

APG/rmr  
Enclosure

LAURANCE B. SEAMAN  
ANDREW P. GATES

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

(814) 765-1766  
FAX (814) 765-1488

JOHN B. GATES  
(1917-1984)

October 27, 2004

Chris Crago,  
Clearfield Borough Tax Collector  
138 West Market Street  
Clearfield, PA 16830

Re: CSB Bank, Plaintiff vs. David P. Berry and  
Lynnette M. Berry, Defendants  
No. 04-567-CD

Dear Mr. Crago:

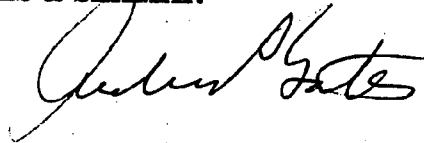
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