



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GLASSMERE FUEL SERVICE, INC.,

Plaintiff,

v.

PRESTON L. BENDER,

Defendant.

Civil Action

No. 04-629-CD

WRIT OF SUMMONS

FILED ON BEHALF OF PLAINTIFF  
GLASSMERE FUEL SERVICE, INC.

COUNSEL OF RECORD FOR THIS PARTY:

ALAN S. MILLER  
PA. ID. NO. 36757  
JAMES W. KRAUS  
PA. ID. NO. 56881  
ANDREW F. SZEFI  
PA. ID. NO. 83747

PICADIO SNEATH MILLER & NORTON, P.C.  
4710 U.S. STEEL TOWER  
600 GRANT STREET  
PITTSBURGH, PA 15219  
(412) 288-4000

DAVID J. HOPKINS  
PA. ID. NO. 42519

HOPKINS HELTZEL, LLP  
900 BEAVER DRIVE  
DUBOIS, PA 15801  
(814) 375-0300

FILED

MAY 06 2004

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GLASSMERE FUEL SERVICE, INC.,	)	
	)	
Plaintiff,	)	No.
	)	
v.	)	
	)	
PRESTON L. BENDER,	)	
	)	
Defendant.	)	


**PRAECIPE FOR WRIT OF SUMMONS**

TO: Prothonotary

Please prepare and issue a Writ of Summons against Preston L. Bender, the above named Defendant.

Respectfully submitted,

Hopkins Heltzel, LLP

  
\_\_\_\_\_  
David J. Hopkins

Pa. Id. No. 42519

Hopkins Heltzel, LLP

900 Beaver Drive

Dubois, PA 15801

(814) 375-0300

Co-Counsel for Plaintiff

**IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY PENNSYLVANIA  
CIVIL ACTION**

**SUMMONS**

**Glassmere Fuel Service, Inc.**

**Vs.**

**NO.: 2004-00629-CD**

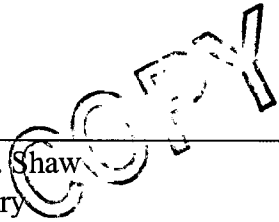
**Preston L. Bender**

**TO: PRESTON L. BENDER**

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 05/06/2004

\_\_\_\_\_  
William A. Shaw  
Prothonotary



Issuing Attorney:

David J. Hopkins  
900 Beaver Drive  
DuBois, PA 15801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GLASSMERE FUEL SERVICE, INC.,

Plaintiff,

v.

PRESTON L. BENDER,

Defendant.

Civil Action

No. 04-629-CJ

PRAECIPE FOR LIS PENDENS

FILED ON BEHALF OF PLAINTIFF  
GLASSMERE FUEL SERVICE, INC.

COUNSEL OF RECORD FOR THIS PARTY:

ALAN S. MILLER  
PA. ID. NO. 36757  
JAMES W. KRAUS  
PA. ID. NO. 56881  
ANDREW F. SZEFI  
PA. ID. NO. 83747

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DAVID J. HOPKINS  
PA. ID. NO. 42519

HOPKINS HELTZEL, LLP  
900 BEAVER DRIVE  
DUBOIS, PA 15801  
(814) 375-0300

**FILED**

**MAY 06 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GLASSMERE FUEL SERVICE, INC.,	)	
	)	
Plaintiff,	)	No.
	)	
v.	)	
	)	
PRESTON L. BENDER,	)	
	)	
Defendant.	)	

**PRAECIPE FOR LIS PENDENS**


To the Prothonotary:

Please index the above-captioned action as a **lis pendens** against the real property described in deed dated March 11, 2004 from Jefferson County Fuels, Inc. to Preston L. Bender recorded in the Office of the Recorder of Deeds of Clearfield County as Instrument No. 2004-03748 and set forth on Exhibit "A".

I hereby certify that this action affects title to or other interest in the above-described real property.

Respectfully submitted,

Hopkins Heltzel, LLP

  
David J. Hopkins  
Pa. Id. No. 42519

Hopkins Heltzel, LLP  
900 Beaver Drive  
Dubois, PA 15801  
(814) 375-0300

Co-Counsel for Plaintiff

# CLEARFIELD COUNTY RECORDER OF DEEDS

**Karen L. Starck, Recorder**

**Maurene Inlow - Chief Deputy**

P.O. Box 361

1 North Second Street, Suite 103

Clearfield, Pennsylvania 16830

**\*RETURN DOCUMENT TO:**

DAVID P. KING  
23 BEAVER DRIVE  
P.O. BOX 1016  
DUBOIS, PA 15801

Instrument Number - 200403748

Recorded On 3/12/2004 At 2:48:50 PM

\* Instrument Type - DEED

\* Total Pages - 5

Invoice Number - 107201

\* Grantor - JEFFERSON COUNTY FUELS INC

\* Grantee - BENDER, PRESTON L

\* Customer - KING, DAVID P.

**\* FEES**

RECORDING FEES -	\$13.00
RECORDER	
COUNTY IMPROVEMENT FUND	\$2.00
RECORDER IMPROVEMENT	\$3.00
FUND	
JCS/ACCESS TO JUSTICE	\$10.00
STATE TRANSFER TAX	\$7.50
STATE WRIT TAX	\$0.50
HUSTON TOWNSHIP	\$3.75
DUBOIS AREA SCHOOLS	\$3.75
TOTAL	\$43.50

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



**Karen L. Starck  
Recorder of Deeds**

THIS IS A CERTIFICATION PAGE

# Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

\* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

EXHIBIT "A"



County Parcel No. \_\_\_\_\_

## This Deed,

MADE the 11th day of March  
in the year two thousand four (2004)

BETWEEN JEFFERSON COUNTY FUELS, INC., a Pennsylvania business  
corporation,

Grantor

AND PRESTON L. BENDER, an individual, of Box 177,  
Winterburne Road, Rockton, PA,

Grantee

WITNESSETH, That in consideration of

Seven Hundred Fifty (\$750.00) ----- Dollars,  
in hand paid, the receipt whereof is hereby acknowledged, the said grantor does hereby grant  
and convey to the said grantee ,

ALL that certain piece, parcel or tract of land situated in the Township of Huston,  
County of Clearfield and State of Pennsylvania, bounded and described as follows,  
to wit:

BEGINNING at a steel stake Northeast from power pole number 89062 a distance of  
seventy-seven and eighty-three hundredths (77.83) feet on the North side of the  
roadway boundary on the North side of the Penn Central Railroad East of Tyler,  
Pennsylvania; thence S 49° 35' 00" W for a distance of two hundred sixty-three and  
twenty hundredths (263.20) feet to a stake; thence N 43° 53' 30" W for a distance of  
two hundred ninety-nine and thirty-three hundredths (299.33) feet to a stake; thence  
N 34° 02' 30" E for a distance of two hundred fifty-two and fifty hundredths  
(252.50) feet to a stake; thence S 40° 00' 00" E for a distance of two hundred  
thirty-two and seventy-five hundredths (232.75) feet to the place of beginning.  
CONTAINING 67,784.4347 square feet or 1.5561 acres, more or less.

BEING the same premises conveyed to the Grantor herein by Deed of Georgino  
Industrial Supply, Inc., et al., dated the 24th day of March, 1998, as recorded in  
Deed Book Volume 1934, Page 503.

UNDER AND SUBJECT to a reservation and exception of coal, natural gas, clay and  
other minerals, together with mining rights, and together with such rights-of-ways  
or easements as may have been contained in prior deeds or conveyances of record.  
The Grantor makes no exception or reservation on its behalf.

N.T.S.



## NOTICE

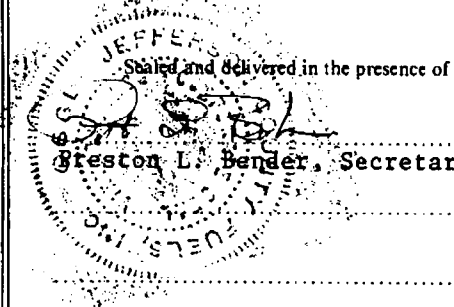
Grantee (hereinafter, whether one or more, called "Grantee") hereby states that he knows that he may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interests in the coal. (THIS NOTICE IS INSERTED HEREIN TO COMPLY WITH THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1996.)

  
Preston L. Bender

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

AND the said grantor will SPECIALLY WARRANT AND FOREVER DEFEND the property hereby conveyed.

IN WITNESS WHEREOF, said grantor has hereunto set his hand and seal, the day and year first above-written.



Sealed and delivered in the presence of  
Preston L. Bender, Secretary

Preston L. Bender, President  
Jefferson County Fuels, Inc.

[Seal]

[Seal]

[Seal]

[Seal]

[Seal]

[Seal]

### CERTIFICATE OF RESIDENCE

I hereby certify, that the precise residence of the grantee herein is as follows:  
Box 177  
Winterburne Road  
Rockton, PA 15856

Attorney or Agent for Grantee

Commonwealth of Pennsylvania

County of Clearfield

ss.

On this, the 11th day of March, 2004, before me, Margaret J. Thompson, the undersigned officer, personally appeared Preston L. Bender, President, Jefferson County Fuels, Inc., known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

My Commission Expires 10/31/06

NOTARIAL SEAL  
MARGARET J. THOMPSON, NOTARY PUBLIC  
CITY OF DUBOIS, CLEARFIELD COUNTY  
MY COMMISSION EXPIRES OCTOBER 31, 2006

State of .....  
County of ..... } ss.

On this, the ..... day of ....., before me  
the undersigned officer, personally appeared  
known to me (or satisfactorily proven) to be the person ..... whose name ..... subscribed to the within  
instrument, and acknowledged that ..... executed the same for the purpose therein  
contained.

IN WITNESS WHEREOF, I have hereunto set my hand and ..... seal.

My Commission Expires .....

Commonwealth of Pennsylvania  
County of ..... } ss.

RECORDED in the Office for Recording of Deeds, etc., in and for the said  
County, in Deed Book No. ...., Page .....

WITNESS my hand and official seal this ..... day of .....,

Recorder of Deeds

**Deed**

WARRANTY DEED  
The Plankenhorn Co., Williamsport, Pa.

JEFFERSON COUNTY FUELS, INC.

TO

PRESTON L. BENDER

Dated ..... March 11, 2004.....  
For 1.5561 Acres ±, Huston.....  
Township, Clearfield County, PA.....

Consideration ..... \$750.00.....

Recorded .....

Entered for Record in the Recorder's  
Office of .....  
County, the ..... day of Tax. \$

Fees, \$

Recorder

DAVID P. KING  
ATTORNEY AT LAW  
23 BEAVER DRIVE  
P.O. BOX 1016  
DUBOIS, PA. 15801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GLASSMERE FUEL SERVICE, INC.,

Plaintiff,

v.

PRESTON L. BENDER,

Defendant.

Civil Action

No. 2004-00629 C.D.

**COMPLAINT IN EQUITY**

FILED ON BEHALF OF PLAINTIFF  
GLASSMERE FUEL SERVICE, INC.

COUNSEL OF RECORD FOR THIS PARTY:

ALAN S. MILLER  
PA. ID. NO. 36757  
JAMES W. KRAUS  
PA. ID. NO. 56881  
ANDREW F. SZEFI  
PA. ID. NO. 83747

PICADIO SNEATH MILLER & NORTON, P.C.  
4710 U.S. STEEL TOWER  
600 GRANT STREET  
PITTSBURGH, PA 15219  
(412) 288-4000

DAVID J. HOPKINS  
PA. ID. NO. 42519

HOPKINS HELTZEL, LLP  
900 BEAVER DRIVE  
DUBOIS, PA 15801  
(814) 375-0300

**FILED**

**MAY 06 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GLASSMERE FUEL SERVICE, INC., )  
)  
Plaintiff, ) No.  
)  
v. )  
)  
PRESTON L. BENDER, )  
)  
Defendant. )

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any 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 OR KNOW A LAWYER, THEN YOU SHOULD  
GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND  
OUT WHERE YOU CAN GET LEGAL HELP.

David S. Meholick, Court Administrator  
Clearfield County Courthouse  
Clearfield, PA 16830  
(814) 765-2641 Ext. 5982

Respectfully submitted,

PICADIO, SNEATH MILLER & NORTON, P.C.



Alan S. Miller  
James W. Kraus  
Andrew F. Szefi  
David J. Hopkins

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GLASSMERE FUEL SERVICE, INC.,	)	
	)	
Plaintiff,	)	No.
	)	
v.	)	
	)	
PRESTON L. BENDER,	)	
	)	
Defendant.	)	

**COMPLAINT IN EQUITY**

AND NOW, comes the Plaintiff, Glassmere Fuel Service, Inc., (hereinafter "Glassmere"), by and through its counsel, Picadio Sneath Miller & Norton, and files the within Complaint in Equity as follows:

1. Plaintiff Glassmere is a Pennsylvania corporation with its principal place of business at 1967 Saxonburg Boulevard, Tarentum, Pennsylvania. Glassmere's business includes wholesale and retail sales of home heating fuel to customers in Western Pennsylvania.

2. Preston L. Bender, (hereinafter "Bender"), is an individual who resides at Box 177 Winterburn Road, Rockton, Clearfield County, Pennsylvania 15856. Mr. Bender also has been at all times relevant hereto the President of a company named Jefferson County Fuels.

3. Jurisdiction and venue are appropriate in this Court because Defendant resides in this County and this action involves real property located in this County.

4. On August 18, 2003, Glassmere and Bender entered into an Option to Buy Agreement (hereinafter "the Agreement") pursuant to which Glassmere purchased an option to buy a parcel of real property located in the municipality of Tyler on Nitrate Street, Clearfield

County, Pennsylvania, (hereinafter "the Property"), free and clear of all liens and encumbrances. A copy of the Agreement is attached as Exhibit A. The Agreement provided that the option to purchase the Property would remain in effect until October 18, 2003, and would expire unless Glassmere exercised the option before that date.

5. By letter dated October 10, 2003, Glassmere exercised its option to purchase the Property. A true and correct copy of said letter is attached hereto as Exhibit B.

6. Thereafter, Bender and Dell Cromie, President of Glassmere, had numerous conversations about the Closing of the sale of the Property.

7. In preparation for Closing, Glassmere engaged and paid for the services of The Hopkins Law Firm to assist with the Closing, including investigating for liens, unpaid taxes, etc. Glassmere Fuel Service also engaged the services of LandAmerica Lawyers Title to perform a title search and provide title insurance for the Property.

8. As a result of its lien investigation, The Hopkins Law Firm received a notice from the Pennsylvania Department of Revenue that Jefferson County Fuels, Inc., a corporation owned by Bender and a prior owner of the real estate, had failed to pay its corporate stock taxes and corporate income taxes for the years 1999, 2000 and 2001. A copy of the notice from the Department of State is attached as Exhibit C.

9. Upon learning of the unpaid taxes and the lien certificate, both Dell Cromie and David Hopkins communicated with Mr. Bender about the need to satisfy the lien for the Closing to proceed. Mr. Bender argued that he did not owe those taxes, that he had paid his accountants to prepare tax returns which allegedly have not been filed and that he otherwise did not owe capital stock taxes. Mr. Bender insisted that the Closing proceed.

10. Glassmere Fuel Service and Mr. Hopkins suggested to Mr. Bender that the amount of money necessary to satisfy the apparent tax liability could be placed in escrow at Closing, allowing Mr. Bender the necessary time and opportunity to clear the matter up with his accountants and the revenue department, after which the amount in escrow would either be used to pay those taxes or be returned to Mr. Bender. See December 3, 2003 letter from Mr. Hopkins to Bender attached hereto as Exhibit D.

11. Bender refused to allow any amount of the purchase price to be placed in escrow to satisfy the tax liability notwithstanding the requirement in the agreement that the Property be free and clear of all liens and encumbrances.

12. Beginning in January, 2004, with Bender's consent, Glassmere began using the Property for its home heating fuel operations in anticipation of Closing and fully expecting Closing to occur shortly. Glassmere Fuel Service has invested over \$60,000 in improvements and equipment at the Property as part of its home heating fuel business.

13. Bender even brought to Glassmere a pump and meter for Glassmere to install on the rack located at the Property long after Glassmere had exercised its option, a clear manifestation of his intention to close on the sale long after the option period had elapsed.

14. During February and March of 2004, Glassmere continually insisted that the deal close. Bender represented on various occasions that he intended to close, but manufactured a series of excuses to postpone Closing. Initially, Bender asked that he be given the opportunity to resolve the tax issue with his accountant, who Mr. Bender alleged was in Florida and would not return until April. Bender then requested delay of the Closing until sometime towards the end of the home heating fuel season, purportedly because Bender wanted to realize the greatest amount of profits from his job delivering heating fuel and had no time to attend a Closing.



15. Glassmere acquiesced in Mr. Bender's request to delay the Closing until sometime towards the end of the home heating fuel season.

16. During late March of 2004, Glassmere Fuel Service again pressed Mr. Bender to set a specific Closing date. Bender continued to refuse to satisfy the tax lien prior to Closing. In response, Glassmere Fuel Service agreed to close without insisting that Mr. Bender place the required funds in escrow or satisfy the lien prior to Closing. Mr. Bender then agreed to close.

17. Another Closing was then scheduled for the offices of The Hopkins Law Firm for Thursday, April 1, 2004 at 5:00 p.m.

18. Glassmere called Mr. Bender everyday beginning the week of Monday, March 29, 2004, to remind him of the Closing. Mr. Bender did not return those calls.

19. The morning of the scheduled Closing, Bender contacted Glassmere and postponed the Closing using as an excuse his busy schedule.

20. Thereafter, Glassmere attempted on numerous occasions to reschedule the Closing, but Bender refused to return numerous phone calls, as was his custom.

21. On or about April 28, 2004, Glassmere Fuel Service received a letter dated April 26, 2004, authored by Mr. Gregory M. Kruk, stating that he represented Bender. The letter asked Glassmere to supply proof that its letter exercising the option to purchase had been sent certified mail, and indicated that Bender would "pursue other options" if such proof was not forthcoming. A copy of said letter is attached hereto as Exhibit E.

22. Consequently, Bender is now unlawfully attempting to repudiate his obligation to close on the Property in accordance with the Agreement to the detriment of Glassmere.

## COUNT I – SPECIFIC PERFORMANCE

23. Paragraphs 1 through 22, above, are hereby incorporated as though set forth fully herein.

24. The Agreement attached hereto as Exhibit A provides Glassmere with an option to purchase the Property.

25. Glassmere notified Bender of its exercise of that option by letter attached hereto as Exhibit B.

26. Pursuant to the Agreement, Bender is obligated to consummate the sale of the Property to Glassmere.

27. Glassmere has materially fulfilled all of its obligations under the Agreement.

28. Mr. Bender has refused to consummate the sale of the Property to Glassmere.

29. Specific performance of the Agreement is required as the Property and Glassmere's investment in the Property is unique and cannot by its nature be duplicated.

30. The facts clearly establish Plaintiff's right to specific performance, Plaintiff has no adequate remedy at law, and justice requires enforcement of the Agreement's clear terms.

WHEREFORE, Plaintiff Glassmere Fuel Service respectfully requests that this Honorable Court grant judgment in its favor and against Defendant Preston L. Bender compelling Defendant to consummate the sale of the Property to Plaintiff forthwith.

Respectfully submitted,

PICADIO SNEATH MILLER & NORTON, P.C.

A handwritten signature in black ink, appearing to read "Alan S. Miller", is written over a horizontal line.

Alan S. Miller  
Pa. Id. No. 36757  
James W. Kraus  
Pa. Id. No. 56881  
Andrew F. Szefi  
Pa. Id. No. 83747  
4710 U.S. Steel Tower  
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David J. Hopkins  
Pa. Id. No. 42519

Hopkins Heltzel, LLP  
900 Beaver Drive  
Dubois, PA 15801  
(814) 375-0300

Counsel for Plaintiff

## OPTION TO BUY AGREEMENT

AGREEMENT by and between Preston Bender, of Box 177 Winterburn Rd. Rockton, Pa. 15856, (Owner) and Glassmere Fuel Service, Incorporated, of 1967 Saxonburg Blvd, Tarentum, PA 15084 (Buyer).

1. Buyer hereby pays to Owner the sum of \$500.00 in consideration for this Option, which Option shall be credited to the purchase price if option is exercised. Should this option lapse without being exercised by Buyer, Owner shall retain the sum of \$500.00 paid by the Buyer.
2. Buyer has the option and the right to buy approximately one and one half acres of real estate owned by Owner located at Nitrate Street, Clearfield County, Tyler, Pennsylvania, \* along with the following equipment now located on said property:
  - A. 3- 20,000 gallon single wall above ground tanks on saddles;
  - B. 1- steel loading rack with awning;
  - C. 2- electric pumps;
  - D. 2- loading arms;
  - E. 1- lot associated valves, piping, etc.
3. This Option will remain in effect until 10-18, 2003, and thereupon expire unless sooner exercised.
4. To exercise the Option, Buyer must notify Owner of same by certified mail within the Option period.
5. If Buyer exercises the Option, the Buyer and Owner agree to sign a completed contract of sale, and consummate the sale on the above terms.
6. This option agreement shall be binding upon and insure to the benefit of the parties, their successors, assigns and personal representatives. All legal disputes regarding this instrument shall be governed by current Pennsylvania State law.

Signed this 18 day of August 2003.

In the presence of:

Lynard R. Skaffer  
Witness

Preston Bender  
Preston Bender, Owner

Lynard R. Skaffer  
Witness

Dell M. Cromie  
Glassmere Fuel Service, Inc., Buyer  
Dell M. Cromie, President

\* FREE OF ALL LIENS AND ENCUMBRANCES SB

DMC



1967 SAXONBURG BLVD.  
TARENTUM, PA 15084  
PHONES: (724) 265-4646  
TOLL FREE 1 - 800 - 235-9054  
FAX: (724) 265-4588

October 10, 2003

Preston Bender  
Box 177 Winterburn Road  
Rockton PA 15856

Dear Mr. Bender

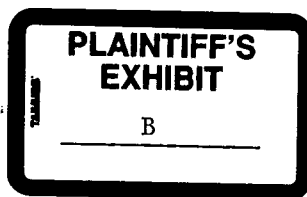
This letter serves as written notice of Glassmere Fuel Service Inc.'s intention to purchase the property located at Nitrate Street in Pennfield PA. As directed by item 4 of the option to buy agreement we are exercising our option to purchase this location.

If you have any questions I can be contacted at 724-265-4646 ext# 1220.

Sincerely,

A handwritten signature in dark ink, appearing to read 'David W. Kaniecki'.

David W. Kaniecki  
Assistant Controller



DEPARTMENT OF REVENUE  
BUREAU OF COMPLIANCE  
LIEN SECTION  
DEPT. 280948  
HARRISBURG, PA 17128-0948

5  
**LIEN  
CERTIFICATE**

28961019



Request of

THE HOPKINS LAW FIRM  
900 BEAVER DR  
DUBOIS PA 15801

**PLAINTIFF'S  
EXHIBIT**

C

for a Lien Certificate under Section 213 of the Act of April 9, 1929, P.L. 343.

THIS CERTIFICATE IS A TRUE AND CORRECT STATEMENT OF CORPORATE TAX LIENS OF RECORD IN THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF REVENUE, AGAINST

JEFFERSON COUNTY FUELS INC

3255-967

SETTLEMENT DATE	TAX YEAR	TYPE OF TAX	AMOUNT
10 24 03	12-00	CAPITAL STOCK - TAX 01	920.00
10 24 03	12-00	CAPITAL STOCK - PENALTY 201	100.00
10 24 03	12-00	LOANS - TAX 03	1000.00
10 24 03	12-00	LOANS - PENALTY 203	100.00
10 24 03	12-00	CORPORATE NET INCOME - TAX 04	1000.00
10 24 03	12-00	CORPORATE NET INCOME - PENALTY 204	100.00
10 24 03	12-01	CAPITAL STOCK - TAX 01	1000.00
10 24 03	12-01	CAPITAL STOCK - PENALTY 201	100.00
10 24 03	12-01	LOANS - TAX 03	1000.00
10 24 03	12-01	LOANS - PENALTY 203	100.00
10 24 03	12-01	CORPORATE NET INCOME - TAX 04	1000.00
10 24 03	12-01	CORPORATE NET INCOME - PENALTY 204	100.00

**NOTE: INTEREST CHARGES ARE ASSESSED ON UNPAID TAXES AT TIME OF PAYMENT.**

The Commonwealth reserves the right to make collection of any additional amount of Corporate Net Income Tax which may arise as a result of changes made by the Federal Government.

CERTIFICATE INCLUDES TRANSACTIONS AS OF: NOV 05 03

Please direct all inquiries to the above address, ATTN: Lien Section or telephone (717) 772-6940 or (717) 783-6253.  
TDD # 1-800-447-3020 (Services for Special Hearing and Speaking Needs Only).

## EXPLANATION OF AMOUNTS DUE ON THE FACE OF THIS LIEN CERTIFICATE

By statute (Section 213 of the Fiscal Code, Act of 1929, April 9, P.L. 343, 72 P.S. Section 213), the Department, upon payment of a \$2 fee, will certify settled obligations owed to the Commonwealth. As the statute is restricted to settled deficiencies, no mention is made of credits (if any) that may be available in the tax account.

### TRANSFER OF CREDIT

A tax obligation may be satisfied via the transfer of available credit within the corporate account. **Estimated Prepayments** of Capital Stock, Franchise, Corporate Net Income and Mutual Thrift taxes are available for refund, transfer or assignment at any time. **Tentative Tax Prepayments** are available for transfer **only** after receipt by the Department of the annual report for the year in which the overpayment occurred.

To transfer credits, use the preprinted REV-855, Custom Refund/Transfer coupon, which is provided as part of the REV-857I, PA Corporation Tax Estimated Payment Coupon Book. Available credit for any tax paid into the General Fund also may be transferred in payment of Corporation Taxes. The sale or exchange (assignment) of credit between corporate entities will be considered provided a REV-774, Assignment of Tax Credit, is submitted in duplicate.

### ESTIMATED TAX SETTLEMENTS

As required, the Department will make an estimate of the tax due by a delinquent corporation. Estimates generally are made for failure to file tax reports. Estimated tax settlements are removed when a report in processible form is filed and settled. (Section 804 of the Fiscal Code and Section 407 (d) of the Tax Reform Code, Act of 1971, March 4, P.L. 6, 72 P.S. Section 7407 (d)).

### Article XIV of the Pennsylvania Fiscal Code Provides the Following for Collection of Taxes:

#### Section 1401 Liens of Taxes, Interest, Penalties and Other Accounts Due the Commonwealth

"All state taxes imposed under the authority of any law of this Commonwealth, now existing or that may hereafter be enacted, and unpaid bonus, penalties and all public accounts settled, assessed or determined against any corporation, association or person, including interest thereupon, shall be a first lien upon the franchises and property, both real and personal, of such corporation..."

#### Section 1404 Entry of Tax Liens; Scire Facias

"The Department of Revenue may, at any time, transmit to the prothonotaries of the respective counties of the Commonwealth, to be by them entered of record, certified copies of all liens for state taxes, unpaid bonus, interest and penalties...upon which record it shall be lawful for writs of scire facias to issue and be prosecuted to judgment and execution..."

# THE HOPKINS LAW FIRM

900 Beaver Drive • DuBois, PA 15801

**David J. Hopkins**  
Licensed in PA & NJ  
Masters in Taxation

**Lea Ann Heltzel**  
Licensed in PA

- Voice: (814) 375 - 0300
- Fax: (814) 375 - 5035
- Email: hopkins@penn.com

December 3, 2003

Mr. Preston Bender  
Jefferson County Fuels, Inc.  
R.R. #1, Box 51  
Rockton, PA 15856

Re: Jefferson County Fuels, Inc.  
Entity No. 1594987

Dear Mr. Bender:

Some time ago I forwarded to you a lien certificate from the Department of Revenue wherein they assessed Jefferson County Fuels, Inc. \$6,520.00 for various corporate taxes for the years 2000 and 2001. I recently spoke with the lien department and they advised these taxes were assessed because Jefferson County Fuels, Inc. has not filed corporate returns for the years 2000, 2001 and 2002.

Based upon my conversations with the lien department, it is my believe that if you file returns, little or no cash will be due, assuming Jefferson County Fuels, Inc. is a minimal filer. To close this loan, however, \$9,780.00 needs to be escrowed, representing payment of corporate taxes and penalties for the years 2000, 2001, and 2002.

The lien department advised that if you file returns, you should file them with:

PA Department of Revenue  
Bureau of Corporate Taxes  
Department of 280703  
Harrisburg, PA 17128-0703  
Attn: Jeffery A. Creveling

You should ask him to expedite the return to strike off the outstanding lien. You may also want to provide him with a photocopy of the lien certificate.

**PLAINTIFF'S  
EXHIBIT**

D



1  
Mr. Preston Bender  
December 3, 2003  
Page 2

If you have any questions, please feel free to contact me.

Very truly yours,

David J. Hopkins  
Attorney at Law

DJH/jsc  
Enclosure

cc: Alan Miller (by facsimile: (412)-288-2402<sup>5</sup>)  
Mr. Del Cromie, Glassmere, Inc.

**R. EDWARD FERRARO**  
ATTORNEY AT LAW

R. EDWARD FERRARO  
DAVID L. YOUNG

GREGORY M. KRUK  
ROSS F. FERRARO

690 MAIN STREET  
BROCKWAY, PENNSYLVANIA 15824

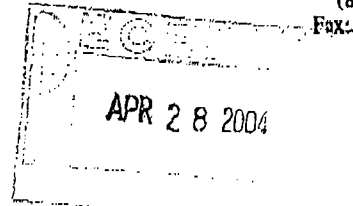
(814) 268-2202  
Fax: (814) 265-8740

April 26, 2004  
Brockway, PA

306 W. MAHONING STREET  
PUNXSUTAWNEY, PENNSYLVANIA 15767

(814) 938-8881  
Fax: (814) 938-2953

David J. Hopkins, Esquire  
900 Beaver Drive  
DuBois, PA 15801



**In re: Preston Bender – Glassmere Fuel Service, Inc.**

Dear Dave:

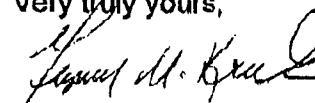
Preston Bender of Rockton, PA, consulted with us concerning an Option to Buy Agreement, copy of which is enclosed with this letter, dated August 18, 2003.

Mr. Bender informs us that you are attempting on behalf of Glassmere Fuel Service, Inc. to set up a closing involving the property which is the subject of the Option, being approximately 1 ½ acres.

The Agreement specifically states in paragraph 4 that in order to exercise the Option, Glassmere Fuel Service, Inc. had to notify Mr. Bender of their exercise of the Option by **CERTIFIED MAIL**, within the Option period. The Option period remained in effect only until October 18, 2003. It is our further understanding that no certified mail was received by Mr. Bender and no notification occurred.

If Glassmere Fuel Service, Inc. is in possession of any evidence indicating that it properly exercised the Option within the allowable period of time, please forward it to us within the next ten (10) days. Otherwise, Mr. Bender intends to pursue other business opportunities concerning the 1 ½ acres and will consider the Option Agreement terminated, no longer valid and of no effect.

Very truly yours,

  
Gregory M. Kruk

GMK/cgm  
enclosure  
cc: Preston Bender



VERIFICATION

I, Dell M Cromie, do hereby verify that I am authorized to make this verification on behalf of Glassmere Fuel Service, Inc., and that the statements contained in the foregoing COMPLAINT IN EQUITY are true and correct to the best of my knowledge, information and belief.

This statement is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Date: 5-5-04

By: Dell M Cromie

As: President

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GLASSMERE FUEL SERVICE, INC.,

Plaintiff,

v.

PRESTON L. BENDER,

Defendant.

Civil Action

No. 2004-00629 C.D.

**MOTION FOR PRELIMINARY INJUNCTION**

FILED ON BEHALF OF PLAINTIFF  
GLASSMERE FUEL SERVICE, INC.

COUNSEL OF RECORD FOR THIS PARTY:

ALAN S. MILLER  
PA. ID. NO. 36757  
JAMES W. KRAUS  
PA. ID. NO. 56881  
ANDREW F. SZEFI  
PA. ID. NO. 83747

PICADIO SNEATH MILLER & NORTON, P.C.  
4710 U.S. STEEL TOWER  
600 GRANT STREET  
PITTSBURGH, PA 15219  
(412) 288-4000

DAVID J. HOPKINS  
PA. ID. NO. 42519

HOPKINS HELTZEL, LLP  
900 BEAVER DRIVE  
DUBOIS, PA 15801  
(814) 375-0300

**FILED**

**MAY 06 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
GLASSMERE FUEL SERVICE, INC.,

Plaintiff,

v.

PRESTON L. BENDER,

Defendant.

**MOTION FOR PRELIMINARY INJUNCTION**

Plaintiff Glassmere Fuel Services, Inc., by and through its counsel, Picadio Sneath Miller & Norton, P.C. hereby files the following Motion for Preliminary Injunction as follows:

1. Plaintiff respectfully moves this Court for a Preliminary Injunction pursuant to Rule 1531 of the Pennsylvania Rules of Civil Procedure.
2. Contemporaneously with the filing of this Motion, Plaintiff filed its verified Complaint seeking specific performance of an Option to Buy Agreement, (hereinafter “the Agreement”). A copy of Plaintiff’s Complaint is attached hereto as Exhibit A.
3. The parties entered into the Agreement on August 13, 2003. Pursuant to the terms of the Agreement, Plaintiff was granted an option to purchase property owned by Defendant, located in the municipality of Tyler on Nitrate Street, Clearfield County, Pennsylvania, (hereinafter “the Property”). See Exhibit A to Plaintiff’s Complaint.
4. By letter dated October 3, 2003, Glassmere timely exercised its option to purchase the Property. See Exhibit B to Plaintiff’s Complaint.

5. Thereafter, Defendant and Del Cromie, President of Glassmere, had numerous conversations about the closing of sale on the Property. Defendant expressed to Mr. Cromie and other persons his intention to close on the sale.

6. Defendant requested several delays of the Closing, giving various excuses.

7. Closing was initially delayed by the fact that tax liens existed against the Property, and the Agreement required the property to be sold free and clear of all liens and encumbrances. After extended negotiations and delays, Plaintiff agreed to close without insisting that Defendant place funds sufficient to satisfy those tax liens in escrow prior to closing.

8. Defendant also requested delays of the Closing until the end of the home heating fuel season purportedly because he wanted to realize the greatest amount of profits from his employment delivering heating fuel and asserted he could not afford to spend time at a Closing.

9. Once Plaintiff agreed to close without requiring the escrow of funds sufficient to satisfy the outstanding tax liens, Defendant agreed to close. Closing was scheduled for April 1, 2004 at 5:00 p.m. at the offices of The Hopkins Law Firm in DuBois.

10. The week of the Closing, Glassmere called Defendant every day to ensure he would appear. Defendant did not return any of the phone calls, as was his custom.

11. On Thursday morning, March 25, 2004, Defendant called to postpone the closing citing his busy schedule as justification.

12. On or about April 28, 2004, Glassmere received a letter dated April 26, 2004, authored by Mr. Gregory Kruk who stated that he represented Defendant. The letter asked Glassmere to supply proof that its letter exercising the option to purchase had been sent certified

mail, and indicated that Defendant would “pursue other options” if such proof was not provided. See Exhibit F to Plaintiff’s Complaint.

13. Plaintiff brings this Motion for Preliminary Injunction to enforce the terms of the parties’ Agreement and to prevent Defendant from selling, transferring or otherwise encumbering title to the Property.

14. For the reasons stated herein and in Plaintiff’s Complaint, unless and until Defendant is enjoined from selling, transferring or otherwise encumbering the property at issue in contrivance to his duties under the Agreement, Plaintiff will be irreparably harmed as the property is unique and cannot by its nature be duplicated.

15. Plaintiff is likely to succeed on the merits of its Complaint seeking specific performance.

16. Plaintiff has no adequate remedy at law as the real property at issue is unique and by its nature cannot be duplicated.

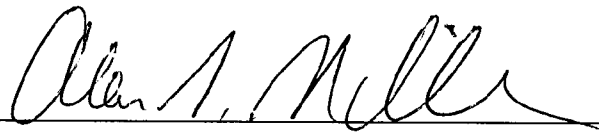
WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter a Preliminary Injunction upon the entry of an appropriate bond by Plaintiff, enjoining and restraining Defendant, his agents, servants, employees, employers, consultants, officers, directors, attorneys, affiliates, successors and assigns, and any other individual or entity within his control or supervision and all other persons or entities action in concert with him or on his behalf or participating with him, until hearing on the matter or until further Order of Court from, directly or indirectly:

- a. Selling or otherwise transferring title to the property which is the subject of the Agreement;

- b. Mortgaging or otherwise encumbering title to the property which is the subject of the Agreement;
- c. Removing, damaging, or otherwise altering the property which is the subject of the Agreement, as well as any fixtures or personal property located thereon;
- d. Any and all such other relief as the Court deems appropriate for injunctive relief.

Respectfully submitted,

PICADIO SNEATH MILLER & NORTON, P.C.

A handwritten signature in black ink, appearing to read "Alan S. Miller", written over a horizontal line.

Alan S. Miller  
Pa. Id. No. 36757  
James W. Kraus  
Pa. Id. No. 56881  
Andrew F. Szefi  
Pa. Id. No. 83747  
4710 U.S. Steel Tower  
600 Grant Street  
Pittsburgh, PA 15219  
(412) 288-4000

David J. Hopkins  
Pa. Id. No. 42519

Hopkins Heltzel, LLP  
900 Beaver Drive  
Dubois, PA 15801  
(814) 375-0300

Counsel for Plaintiff



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GLASSMERE FUEL SERVICE, INC.,

Civil Action

Plaintiff,

No.

v.

PRESTON L. BENDER,

**COMPLAINT IN EQUITY**

Defendant.

FILED ON BEHALF OF PLAINTIFF  
GLASSMERE FUEL SERVICE, INC.

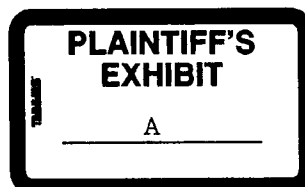
COUNSEL OF RECORD FOR THIS PARTY:

ALAN S. MILLER  
PA. ID. NO. 36757  
JAMES W. KRAUS  
PA. ID. NO. 56881  
ANDREW F. SZEFI  
PA. ID. NO. 83747

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PITTSBURGH, PA 15219  
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DAVID J. HOPKINS  
PA. ID. NO. 42519

HOPKINS HELTZEL, LLP  
900 BEAVER DRIVE  
DUBOIS, PA 15801  
(814) 375-0300



GLASSMERE FUEL SERVICE, INC.,	)	
	)	
Plaintiff,	)	No.
	)	
v.	)	
	)	
PRESTON L. BENDER,	)	
	)	
Defendant.	)	

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 claim or relief requested by the Plaintiff.

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

*Mark*

Alan S. Miller  
James W. Kraus  
Andrew F. Szefi  
David J. Hopkins

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GLASSMERE FUEL SERVICE, INC.,	)	
	)	
Plaintiff,	)	No.
	)	
v.	)	
	)	
PRESTON L. BENDER,	)	
	)	
Defendant.	)	

**COMPLAINT IN EQUITY**

AND NOW, comes the Plaintiff, Glassmere Fuel Service, Inc., (hereinafter "Glassmere"), by and through its counsel, Picadio Sneath Miller & Norton, and files the within Complaint in Equity as follows:

1. Plaintiff Glassmere is a Pennsylvania corporation with its principal place of business at 1967 Saxonburg Boulevard, Tarentum, Pennsylvania. Glassmere's business includes wholesale and retail sales of home heating fuel to customers in Western Pennsylvania.

2. Preston L. Bender, (hereinafter "Bender"), is an individual who resides at Box 177 Winterburn Road, Rockton, Clearfield County, Pennsylvania 15856. Mr. Bender also has been at all times relevant hereto the President of a company named Jefferson County Fuels.

3. Jurisdiction and venue are appropriate in this Court because Defendant resides in this County and this action involves real property located in this County.

4. On August 18, 2003, Glassmere and Bender entered into an Option to Buy Agreement (hereinafter "the Agreement") pursuant to which Glassmere purchased an option to buy a parcel of real property located in the municipality of Tyler on Nitrate Street, Clearfield

County, Pennsylvania, (hereinafter "the Property"), free and clear of all liens and encumbrances. A copy of the Agreement is attached as Exhibit A. The Agreement provided that the option to purchase the Property would remain in effect until October 18, 2003, and would expire unless Glassmere exercised the option before that date.

5. By letter dated October 10, 2003, Glassmere exercised its option to purchase the Property. A true and correct copy of said letter is attached hereto as Exhibit B.

6. Thereafter, Bender and Dell Cromie, President of Glassmere, had numerous conversations about the Closing of the sale of the Property.

7. In preparation for Closing, Glassmere engaged and paid for the services of The Hopkins Law Firm to assist with the Closing, including investigating for liens, unpaid taxes, etc. Glassmere Fuel Service also engaged the services of LandAmerica Lawyers Title to perform a title search and provide title insurance for the Property.

8. As a result of its lien investigation, The Hopkins Law Firm received a notice from the Pennsylvania Department of Revenue that Jefferson County Fuels, Inc., a corporation owned by Bender and a prior owner of the real estate, had failed to pay its corporate stock taxes and corporate income taxes for the years 1999, 2000 and 2001. A copy of the notice from the Department of State is attached as Exhibit C.

9. Upon learning of the unpaid taxes and the lien certificate, both Dell Cromie and David Hopkins communicated with Mr. Bender about the need to satisfy the lien for the Closing to proceed. Mr. Bender argued that he did not owe those taxes, that he had paid his accountants to prepare tax returns which allegedly have not been filed and that he otherwise did not owe capital stock taxes. Mr. Bender insisted that the Closing proceed.

10. Glassmere Fuel Service and Mr. Hopkins suggested to Mr. Bender that the amount of money necessary to satisfy the apparent tax liability could be placed in escrow at Closing, allowing Mr. Bender the necessary time and opportunity to clear the matter up with his accountants and the revenue department, after which the amount in escrow would either be used to pay those taxes or be returned to Mr. Bender. See December 3, 2003 letter from Mr. Hopkins to Bender attached hereto as Exhibit D.

11. Bender refused to allow any amount of the purchase price to be placed in escrow to satisfy the tax liability notwithstanding the requirement in the agreement that the Property be free and clear of all liens and encumbrances.

12. Beginning in January, 2004, with Bender's consent, Glassmere began using the Property for its home heating fuel operations in anticipation of Closing and fully expecting Closing to occur shortly. Glassmere Fuel Service has invested over \$60,000 in improvements and equipment at the Property as part of its home heating fuel business.

13. Bender even brought to Glassmere a pump and meter for Glassmere to install on the rack located at the Property long after Glassmere had exercised its option, a clear manifestation of his intention to close on the sale long after the option period had elapsed.

14. During February and March of 2004, Glassmere continually insisted that the deal close. Bender represented on various occasions that he intended to close, but manufactured a series of excuses to postpone Closing. Initially, Bender asked that he be given the opportunity to resolve the tax issue with his accountant, who Mr. Bender alleged was in Florida and would not return until April. Bender then requested delay of the Closing until sometime towards the end of the home heating fuel season, purportedly because Bender wanted to realize the greatest amount of profits from his job delivering heating fuel and had no time to attend a Closing.

15. Glassmere acquiesced in Mr. Bender's request to delay the Closing until sometime towards the end of the home heating fuel season.

16. During late March of 2004, Glassmere Fuel Service again pressed Mr. Bender to set a specific Closing date. Bender continued to refuse to satisfy the tax lien prior to Closing. In response, Glassmere Fuel Service agreed to close without insisting that Mr. Bender place the required funds in escrow or satisfy the lien prior to Closing. Mr. Bender then agreed to close.

17. Another Closing was then scheduled for the offices of The Hopkins Law Firm for Thursday, April 1, 2004 at 5:00 p.m.

18. Glassmere called Mr. Bender everyday beginning the week of Monday, March 29, 2004, to remind him of the Closing. Mr. Bender did not return those calls.

19. The morning of the scheduled Closing, Bender contacted Glassmere and postponed the Closing using as an excuse his busy schedule.

20. Thereafter, Glassmere attempted on numerous occasions to reschedule the Closing, but Bender refused to return numerous phone calls, as was his custom.

21. On or about April 28, 2004, Glassmere Fuel Service received a letter dated April 26, 2004, authored by Mr. Gregory M. Kruk, stating that he represented Bender. The letter asked Glassmere to supply proof that its letter exercising the option to purchase had been sent certified mail, and indicated that Bender would "pursue other options" if such proof was not forthcoming. A copy of said letter is attached hereto as Exhibit E.

22. Consequently, Bender is now unlawfully attempting to repudiate his obligation to close on the Property in accordance with the Agreement to the detriment of Glassmere.

## COUNT I – SPECIFIC PERFORMANCE

23. Paragraphs 1 through 22, above, are hereby incorporated as though set forth fully herein.

24. The Agreement attached hereto as Exhibit A provides Glassmere with an option to purchase the Property.

25. Glassmere notified Bender of its exercise of that option by letter attached hereto as Exhibit B.

26. Pursuant to the Agreement, Bender is obligated to consummate the sale of the Property to Glassmere.

27. Glassmere has materially fulfilled all of its obligations under the Agreement.

28. Mr. Bender has refused to consummate the sale of the Property to Glassmere.

29. Specific performance of the Agreement is required as the Property and Glassmere's investment in the Property is unique and cannot by its nature be duplicated.

30. The facts clearly establish Plaintiff's right to specific performance, Plaintiff has no adequate remedy at law, and justice requires enforcement of the Agreement's clear terms.

WHEREFORE, Plaintiff Glassmere Fuel Service respectfully requests that this Honorable Court grant judgment in its favor and against Defendant Preston L. Bender compelling Defendant to consummate the sale of the Property to Plaintiff forthwith.

Respectfully submitted,

PICADIO SNEATH MILLER & NORTON, P.C.

A handwritten signature in black ink, appearing to read "Alan S. Miller", is written over a horizontal line.

Alan S. Miller  
Pa. Id. No. 36757  
James W. Kraus  
Pa. Id. No. 56881  
Andrew F. Szefi  
Pa. Id. No. 83747  
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David J. Hopkins  
Pa. Id. No. 42519

Hopkins Heltzel, LLP  
900 Beaver Drive  
Dubois, PA 15801  
(814) 375-0300

Counsel for Plaintiff



OPTION TO BUY AGREEMENT

AGREEMENT by and between Preston Bender, of Box 177 Winterburn Rd. Rockton, Pa. 15856, (Owner) and Glassmere Fuel Service, Incorporated, of 1967 Saxonburg Blvd, Tarentum, PA 15084 (Buyer).

1. Buyer hereby pays to Owner the sum of \$500.00 in consideration for this Option, which Option shall be credited to the purchase price if option is exercised. Should this option lapse without being exercised by Buyer, Owner shall retain the sum of \$500.00 paid by the Buyer.
2. Buyer has the option and the right to buy approximately one and one half acres of real estate owned by Owner located at Nitrate Street, Clearfield County, Tyler, Pennsylvania, \* along with the following equipment now located on said property:
  - A. 3- 20,000 gallon single wall above ground tanks on saddles;
  - B. 1- steel loading rack with awning;
  - C. 2- electric pumps;
  - D. 2- loading arms;
  - E. 1- lot associated valves, piping, etc.
3. This Option will remain in effect until 10-18, 2003, and thereupon expire unless sooner exercised.
4. To exercise the Option, Buyer must notify Owner of same by certified mail within the Option period.
5. If Buyer exercises the Option, the Buyer and Owner agree to sign a completed contract of sale, and consummate the sale on the above terms.
6. This option agreement shall be binding upon and insure to the benefit of the parties, their successors, assigns and personal representatives. All legal disputes regarding this instrument shall be governed by current Pennsylvania State law.

Signed this 18 day of August 2003,

In the presence of:

Lyndal R. Sheffer  
Witness

Preston Bender  
Preston Bender, Owner

Lyndal R. Sheffer  
Witness

Dell M. Cromie  
Glassmere Fuel Service, Inc., Buyer  
Dell M. Cromie, President

\* FREE OF ALL LIENS AND ENCUMBRANCES SB  
DWC



1967 SAXONBURG BLVD.  
TARENTUM, PA 15084  
PHONES: (724) 265-4646  
TOLL FREE 1-800-235-9054  
FAX: (724) 265-4588

October 10, 2003

Preston Bender  
Box 177 Winterburn Road  
Rockton PA 15856

Dear Mr. Bender

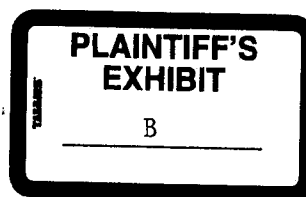
This letter serves as written notice of Glassmere Fuel Service Inc.'s intention to purchase the property located at Nitrate Street in Pennfield PA. As directed by item 4 of the option to buy agreement we are exercising our option to purchase this location.

If you have any questions I can be contacted at 724-265-4646 ext# 1220.

Sincerely,

A handwritten signature in cursive script, appearing to read 'David W. Kaniecki'.

David W. Kaniecki  
Assistant Controller



DEPARTMENT OF REVENUE  
BUREAU OF COMPLIANCE  
LIEN SECTION  
DEPT. 280948  
HARRISBURG, PA 17128-0948

LIEN  
CERTIFICATE

5

28961019



Request of

THE HOPKINS LAW FIRM  
900 BEAVER DR  
DUBOIS PA 15801

PLAINTIFF'S  
EXHIBIT

C

for a Lien Certificate under Section 213 of the Act of April 9, 1929, P.L. 343.

THIS CERTIFICATE IS A TRUE AND CORRECT STATEMENT OF CORPORATE TAX LIENS OF RECORD IN THE  
COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF REVENUE, AGAINST

JEFFERSON COUNTY FUELS INC

3255-967

SETTLEMENT DATE	TAX YEAR	TYPE OF TAX	AMOUNT
10 24 03	12-00	CAPITAL STOCK - TAX 01	920.00
10 24 03	12-00	CAPITAL STOCK - PENALTY 201	100.00
10 24 03	12-00	LOANS - TAX 03	1000.00
10 24 03	12-00	LOANS - PENALTY 203	100.00
10 24 03	12-00	CORPORATE NET INCOME - TAX 04	1000.00
10 24 03	12-00	CORPORATE NET INCOME - PENALTY 204	100.00
10 24 03	12-01	CAPITAL STOCK - TAX 01	1000.00
10 24 03	12-01	CAPITAL STOCK - PENALTY 201	100.00
10 24 03	12-01	LOANS - TAX 03	1000.00
10 24 03	12-01	LOANS - PENALTY 203	100.00
10 24 03	12-01	CORPORATE NET INCOME - TAX 04	1000.00
10 24 03	12-01	CORPORATE NET INCOME - PENALTY 204	100.00

NOTE: INTEREST CHARGES ARE ASSESSED ON UNPAID TAXES AT TIME OF PAYMENT.

The Commonwealth reserves the right to make collection of any additional amount of Corporate Net Income Tax which may arise as a result of changes made by the Federal Government.

CERTIFICATE INCLUDES TRANSACTIONS AS OF: NOV 05 03

Please direct all inquiries to the above address, ATTN: Lien Section or telephone (717) 772-6940 or (717) 783-6253.  
TDD # 1-800-447-3020 (Services for Special Hearing and Speaking Needs Only).

## EXPLANATION OF AMOUNTS DUE ON THE FACE OF THIS LIEN CERTIFICATE

By statute (Section 213 of the Fiscal Code, Act of 1929, April 9, P.L. 343, 72 P.S. Section 213), the Department, upon payment of a \$2 fee, will certify settled obligations owed to the Commonwealth. As the statute is restricted to settled deficiencies, no mention is made of credits (if any) that may be available in the tax account.

## TRANSFER OF CREDIT

A tax obligation may be satisfied via the transfer of available credit within the corporate account. **Estimated Prepayments** of Capital Stock, Franchise, Corporate Net Income and Mutual Thrift taxes are available for refund, transfer or assignment at any time. **Tentative Tax Prepayments** are available for transfer **only** after receipt by the Department of the annual report for the year in which the overpayment occurred.

To transfer credits, use the preprinted REV-855, Custom Refund/Transfer coupon, which is provided as part of the REV-857I, PA Corporation Tax Estimated Payment Coupon Book. Available credit for any tax paid into the General Fund also may be transferred in payment of Corporation Taxes. The sale or exchange (assignment) of credit between corporate entities will be considered provided a REV-774, Assignment of Tax Credit, is submitted in duplicate.

## ESTIMATED TAX SETTLEMENTS

As required, the Department will make an estimate of the tax due by a delinquent corporation. Estimates generally are made for failure to file tax reports. Estimated tax settlements are removed when a report in processable form is filed and settled. (Section 804 of the Fiscal Code and Section 407 (d) of the Tax Reform Code, Act of 1971, March 4, P.L. 6, 72 P.S. Section 7407 (d)).

## Article XIV of the Pennsylvania Fiscal Code Provides the Following for Collection of Taxes:

### Section 1401 Liens of Taxes, Interest, Penalties and Other Accounts Due the Commonwealth

"All state taxes imposed under the authority of any law of this Commonwealth, now existing or that may hereafter be enacted, and unpaid bonus, penalties and all public accounts settled, assessed or determined against any corporation, association or person, including interest thereupon, shall be a first lien upon the franchises and property, both real and personal, of such corporation..."

### Section 1404 Entry of Tax Liens; Scire Facias

"The Department of Revenue may, at any time, transmit to the prothonotaries of the respective counties of the Commonwealth, to be by them entered of record, certified copies of all liens for state taxes, unpaid bonus, interest and penalties...upon which record it shall be lawful for writs of scire facias to issue and be prosecuted to judgment and execution..."

# THE HOPKINS LAW FIRM

900 Beaver Drive • DuBois, PA 15801

**David J. Hopkins**  
Licensed in PA & NJ  
Masters in Taxation

**Lea Ann Heltzel**  
Licensed in PA

- Voice: (814) 375 - 0300
- Fax: (814) 375 - 5035
- Email: hopkins@pcnn.com

December 3, 2003

Mr. Preston Bender  
Jefferson County Fuels, Inc.  
R.R. #1, Box 51  
Rockton, PA 15856

Re: Jefferson County Fuels, Inc.  
Entity No. 1594987

Dear Mr. Bender:

Some time ago I forwarded to you a lien certificate from the Department of Revenue wherein they assessed Jefferson County Fuels, Inc. \$6,520.00 for various corporate taxes for the years 2000 and 2001. I recently spoke with the lien department and they advised these taxes were assessed because Jefferson County Fuels, Inc. has not filed corporate returns for the years 2000, 2001 and 2002.

Based upon my conversations with the lien department, it is my believe that if you file returns, little or no cash will be due, assuming Jefferson County Fuels, Inc. is a minimal filer. To close this loan, however, \$9,780.00 needs to be escrowed, representing payment of corporate taxes and penalties for the years 2000, 2001, and 2002.

The lien department advised that if you file returns, you should file them with:

PA Department of Revenue  
Bureau of Corporate Taxes  
Department of 280703  
Harrisburg, PA 17128-0703  
Attn: Jeffery A. Creveling

You should ask him to expedite the return to strike off the outstanding lien. You may also want to provide him with a photocopy of the lien certificate.

**PLAINTIFF'S  
EXHIBIT**

D

Mr. Preston Bender  
December 3, 2003  
Page 2

If you have any questions, please feel free to contact me.

Very truly yours,

David J. Hopkins  
Attorney at Law

DJH/jsc  
Enclosure

cc: Alan Miller (by facsimile: (412)-288-240<sup>5</sup>~~2~~)  
Mr. Del Cromie, Glassmere, Inc.

**R. EDWARD FERRARO**  
ATTORNEY AT LAW

R. EDWARD FERRARO  
DAVID L. YOUNG

GREGORY M. KRUK  
ROSS F. FERRARO

690 MAIN STREET  
BROCKWAY, PENNSYLVANIA 15824

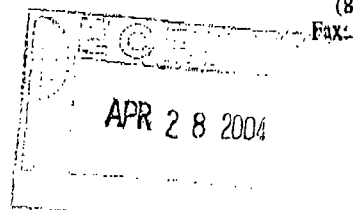
(814) 268-2202  
Fax: (814) 265-8740

April 26, 2004  
Brockway, PA

306 W. MAHONING STREET  
PUNXSUTAWNEY, PENNSYLVANIA 15767

(814) 938-8881  
Fax: (814) 938-2933

David J. Hopkins, Esquire  
900 Beaver Drive  
DuBois, PA 15801



In re: Preston Bender -- Glassmere Fuel Service, Inc.

Dear Dave:

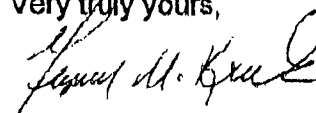
Preston Bender of Rockton, PA, consulted with us concerning an Option to Buy Agreement, copy of which is enclosed with this letter, dated August 18, 2003.

Mr. Bender informs us that you are attempting on behalf of Glassmere Fuel Service, Inc. to set up a closing involving the property which is the subject of the Option, being approximately 1 ½ acres.

The Agreement specifically states in paragraph 4 that in order to exercise the Option, Glassmere Fuel Service, Inc. had to notify Mr. Bender of their exercise of the Option by **CERTIFIED MAIL**, within the Option period. The Option period remained in effect only until October 18, 2003. It is our further understanding that no certified mail was received by Mr. Bender and no notification occurred.

If Glassmere Fuel Service, Inc. is in possession of any evidence indicating that it properly exercised the Option within the allowable period of time, please forward it to us within the next ten (10) days. Otherwise, Mr. Bender intends to pursue other business opportunities concerning the 1 ½ acres and will consider the Option Agreement terminated, no longer valid and of no effect.

Very truly yours,



Gregory M. Kruk

GMK/cgm  
enclosure  
cc: Preston Bender



VERIFICATION

I, Deell M Cromie, do hereby verify that I am authorized to make this verification on behalf of Glassmere Fuel Service, Inc., and that the statements contained in the foregoing COMPLAINT IN EQUITY are true and correct to the best of my knowledge, information and belief.

This statement is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Date: 5-5-04

By: Deell M Cromie  
As: President



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GLASSMERE FUEL SERVICE, INC.

Plaintiff,

v.

PRESTON L. BENDER,

Defendant.

**ORDER OF COURT GRANTING PRELIMINARY INJUNCTION**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2004, upon consideration of Plaintiff's Motion for Preliminary Injunction and Plaintiff's Complaint, filed in conjunction therewith, and having determined that Plaintiff will suffer immediate and irreparable injury, it is hereby ORDERED, ADJUDGED, and DECREED that Defendant, his agents, servants, employees, employers, consultants, officers, directors, attorneys, affiliates, successors and assigns, and any other individual or entity within his control or supervision and all other persons or entities acting in concert with him or on his behalf or participating with him, is enjoined until hearing on the matter or until further Order of Court from, directly or indirectly:

- a. Selling or otherwise transferring title to the property which is the subject of the Agreement;
- b. Mortgaging or otherwise encumbering title to the property which is the subject of the Agreement; and
- c. Removing, damaging, or otherwise altering the property which is the subject of the Agreement, as well as any fixtures or personal property located thereon.

Plaintiff is hereby directed to file a bond with the Court in the amount of  
\$\_\_\_\_\_.

BY THE COURT:

\_\_\_\_\_, J.



Reclamation  
I will sign  
I will set bond  
I need order  
order -

5/17/04  
Botti - I  
left message for  
her to get us a  
Scheduling order

Date: 05/27/2004

Clearfield County Court of Common Pleas

User: JKRUISE

Time: 11:35 AM

ROA Report

Page 1 of 1

Case: 2004-00629-CD

Current Judge: No Judge

Glassmere Fuel Service, Inc. vs. Preston L. Bender

Civil Other

Date

Judge

05/06/2004	Filing: Judgment Paid by: Glassmere Fuel Service, Inc. (plaintiff) Receipt number: 1878635 Dated: 05/06/2004 Amount: \$20.00 (Check)	No Judge
	Filing: Writ of Summons Paid by: Glassmere Fuel Service, Inc. (plaintiff) Receipt number: 1878635 Dated: 05/06/2004 Amount: \$85.00 (Check)	No Judge
	Complaint In Equity. s/Alan S. Miller, Esq. Verification s/Dell McCromie 2 cc to Atty	No Judge

*Please  
place in file*

## THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 16801  
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GLASSMERE FUEL SERVICE, INC.,

Plaintiff,

v.

PRESTON L. BENDER,

Defendant.

Civil Action

No. 2004-00629 C.D.

FILED ON BEHALF OF PLAINTIFF  
GLASSMERE FUEL SERVICE, INC.

COUNSEL OF RECORD FOR THIS PARTY:

ALAN S. MILLER  
PA. ID. NO. 36757  
JAMES W. KRAUS  
PA. ID. NO. 56881  
ANDREW F. SZEFI  
PA. ID. NO. 83747

PICADIO SNEATH MILLER & NORTON, P.C.  
4710 U.S. STEEL TOWER  
600 GRANT STREET  
PITTSBURGH, PA 15219  
(412) 288-4000

DAVID J. HOPKINS  
PA. ID. NO. 42519

HOPKINS HELTZEL, LLP  
900 BEAVER DRIVE  
DUBOIS, PA 15801  
(814) 375-0300

FILED *Ab cc*  
*m/1:58/81* Cert. of Disc.  
JUL 23 2004 to *Atty Hopkins*  
*William A Shaw* Copy to *CLA*  
Prothonotary Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GLASSMERE FUEL SERVICE, INC.,

Civil Action

Plaintiff,

No. 2004-00629 C.D

v.

PRESTON L. BENDER,

Defendant.

**PRAECIPE TO DISCONTINUE**

TO THE PROTHONOTARY:

Kindly mark the above captioned civil action settled and discontinued.

  
David J. Hopkins, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

GLASSMERE FUEL SERVICE, INC.,

Civil Action

Plaintiff,

No. 2004-00629 C.D

v.

PRESTON L. BENDER,

Defendant.

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of Praeipce to Discontinue, filed on behalf of Glassmere Fuel Service, Inc., was forwarded by first class mail, postage prepaid, on the 22<sup>nd</sup> day of July, 2004, to all counsel of record, addressed as follows:

Gregory M. Kruk, Esquire  
690 Main Street  
Brockway, PA 15824

  
David J. Hopkins, Esquire  
Attorney for Plaintiff



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

**CIVIL DIVISION**

COPY

**Glassmere Fuel Service, Inc.**

**Vs.**

**No. 2004-00629-CD**

**Preston L. Bender**

**CERTIFICATE OF DISCONTINUATION**

Commonwealth of PA  
County of Clearfield

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

Settled and Discontinued

Record costs in the sum of \$85.00 have been paid in full by Glassmere Fuel Service, Inc.

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

---

William A. Shaw, Prothonotary