

05-407-CD  
NBOC Bank vs. Brian J. Marshall

NBOC Bank v. Brian Marshall  
2005-407-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100333  
NO: 05-407-CD  
SERVICE # 1 OF 1  
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: NBOC BANK now FIRST COMMONWEALTH BANK  
vs.  
DEFENDANT: BRIAN L. MARSHALL

SHERIFF RETURN

NOW, April 06, 2005 AT 1:56 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON BRIAN L. MARSHALL DEFENDANT AT RD#2 BOX 33, KIRK ST., CURWENSVILLE, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO BRIAN L. MARSHALL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: DAVIS /

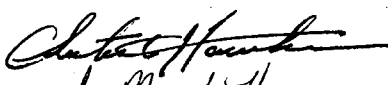
CP FILED  
P/10:30 BT  
APR 25 2005  
William A. Shaw  
Prothonotary/Clerk of Courts

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	FIRST COMM.	116019	10.00
SHERIFF HAWKINS	FIRST COMM.	116019	28.09

Sworn to Before Me This

\_\_\_\_\_ Day of \_\_\_\_\_ 2005

So Answers,

  
by Mandy Hamer  
Chester A. Hawkins  
Sheriff

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

NBOC BANK, now FIRST  
COMMONWEALTH BANK,

PLAINTIFF

VS.

BRIAN L. MARSHALL,

DEFENDANT

NO. 05-407-C.D.

TYPE OF CASE: MORTGAGE  
FORECLOSURE

TYPE OF PLEADING: COMPLAINT

FILED ON BEHALF OF: PLAINTIFF

COUNSEL OF RECORD:  
CHRISTOPHER E. MOHNEY, ESQUIRE

SUPREME COURT NO.: 63494

90 BEAVER DRIVE, SUITE 111B  
DUBOIS, PA 15801  
(814) 375-1044

*ESU*  
**FILED**

*PHF pd 85.00*  
*014:0001*  
MAR 22 2005

*ICC to Atty*  
*ICC to SHff*  
William A. Shaw  
Prothonotary/Clerk of Courts

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

NBOC BANK, now FIRST  
COMMONWEALTH BANK,

PLAINTIFF

VS.

BRIAN L. MARSHALL,

DEFENDANT

NO. 05 - C.D.

TYPE OF CASE: MORTGAGE  
FORECLOSURE

**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 CLAIM SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

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

COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
1 NORTH SECOND STREET  
CLEARFIELD, PA 16830  
(814) 765-2641

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

NBOC BANK, now FIRST  
COMMONWEALTH BANK,

PLAINTIFF

VS.

BRIAN L. MARSHALL,

DEFENDANT

NO. 05 - C.D.

TYPE OF CASE: MORTGAGE  
FORECLOSURE

**COMPLAINT**

AND NOW, comes the Plaintiff, **NBOC BANK, now FIRST COMMONWEALTH BANK**, who files the following Complaint in Mortgage Foreclosure and in support thereof, the following is averred:

1. Plaintiff **NBOC BANK, now FIRST COMMONWEALTH BANK**, is a Pennsylvania banking corporation, with a branch office place of business at 2 East Long Avenue, P.O. Box 607A, DuBois, Clearfield County, Pennsylvania 15801.

2. Defendant **BRIAN L. MARSHALL**, is an adult individual with a last known address at RD#2, Box 33, Kirk Street, Curwensville, Clearfield County, Pennsylvania 16833.

3. On October 15, 1996, Defendant executed and delivered to Plaintiff a Mortgage and a Promissory Note upon the premises hereinafter described, which Mortgage was recorded on October 15, 1996 in Clearfield County Deed and Records

Book Volume 1794, page 555. True and correct copies of the Mortgage and Promissory Note are attached hereto as Exhibits "A" and "B" respectively, and are incorporated herein by reference.

4. Said mortgage has not been assigned.

5. The 30-day Notice required by Act No. 6, 41 P.S. Section 403 and the Notice of Homeowners' Emergency Mortgage Assistance Act of 1983 were mailed to the Defendant on December 13, 2004, by certified mail, return receipt requested and by regular first class mail, postage prepaid. True and correct copies of said Notices and copies of return receipts are attached hereto as Exhibits "C" and "D", respectively, and are incorporated herein by reference.

6. More than thirty (30) days have elapsed since the Notice of Homeowner's Emergency Mortgage Assistance was mailed to the Defendant and the Defendant has not requested a face to face meeting with the Plaintiff, nor has Plaintiff received notice that the Defendant has requested such a meeting with a consumer credit counseling agency or applied for assistance under the Act.

7. The premises subject to the Mortgage is the property located at RD#2, Box 33, Kirk Street, Curwensville, Clearfield County, Pennsylvania, and is described on Exhibit "E" attached hereto and made a part hereof.

8. Said Mortgage is in default because the principal payments due upon said Mortgage are overdue and in default for a period of more than thirty (30) days and, by the terms of said Mortgage and Promissory Note secured thereby, the whole of said unpaid balance of principal is immediately due and payable.

9. The unpaid balance of the indebtedness due Plaintiff under the terms of the said Mortgage and Promissory Note secured thereby is:

Current Balance -	\$16,042.24
Interest payoff (as of 2/1/05) -	\$ 804.92
Late Fees -	<u>\$ 501.64</u>
TOTAL:	\$17,348.80

WHEREFORE, Plaintiff demands judgment in the amount of \$17,348.80, plus interest thereon at a per diem rate of \$5.26 on unpaid principal balance from February 1, 2005, and any escrows, late fees and costs, and for foreclosure and sale of the mortgaged property against the Defendant **BRIAN L. MARSHALL**.

Respectfully submitted,

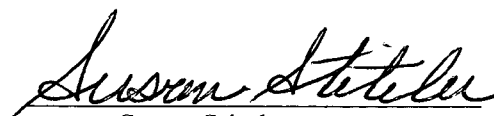
BY: 

\_\_\_\_\_  
Christopher E. Mohny, Esquire  
Attorney for the Plaintiff  
90 Beaver Drive, Suite 111B  
DuBois, PA 15801  
(814) 375-1044

**VERIFICATION**

I, SUSAN STITELER, Assistant Vice President of NBOC BANK, now FIRST COMMONWEALTH BANK, being duly authorized to make this verification, have read the foregoing Complaint. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.

  
Susan Stiteler



**RECORDATION REQUESTED BY:**

NBOC BANK  
1800 Daisy St  
Clearfield, PA 16830

**WHEN RECORDED MAIL TO:**

NBOC BANK  
Loan Servicing Center  
P. O. Box 400  
Indiana, PA 15701-0400

**SEND TAX NOTICES TO:**

Brian L Marshall  
309 Turnpike Ave  
Clearfield, PA 16830

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CLEARFIELD COUNTY  
ENTERED OF RECORD  
TIME 2:52pm 10-15-96  
BY PO Hendrix  
FEES 17.50  
Karen L. Starck, Recorder

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

**MORTGAGE  
THIS IS A PURCHASE MONEY MORTGAGE**

**THIS MORTGAGE IS DATED OCTOBER 15, 1996, between Brian L Marshall, a single individual, whose address is 309 Turnpike Ave, Clearfield, PA 16830 (referred to below as "Grantor"); and NBOC BANK, whose address is 1800 Daisy St, Clearfield, PA 16830 (referred to below as "Lender").**

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

**ALL THAT CERTAIN PARCEL SITUATED IN THE BOROUGH OF LUMBER CITY, COUNTY OF CLEARFIELD, COMMONWEALTH OF PENNSYLVANIA, BEING THE SAME PREMISES WHICH VESTED IN THE MORTGAGOR BY DEED DATED October 15, 1996, OF RECORD IN CLEARFIELD COUNTY, DEED BOOK VOLUME 1794, PAGE 550, AND BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO.**

**The Real Property or its address is commonly known as RD 2 Box 33, Curwensville, PA 16833.**

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

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

**Grantor.** The word "Grantor" means **Brian L Marshall**. The Grantor is the mortgagor under this Mortgage.

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

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

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

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

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

**Purchase Money Mortgage.** If any of the debt secured by this Security Instrument is lent to Borrower to acquire title to the Real Property, this Security Instrument shall be a purchase money mortgage under 42 P.S. Section 8141.

**Note.** The word "Note" means the promissory note or credit agreement dated October 15, 1996, in the original principal amount of **\$25,000.00** from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The maturity date of this Mortgage is November 1, 2012.

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

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

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

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

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

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

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

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

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

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

**Hazardous Substances.** The terms "hazardous substances," "disposal," "release," "environmental remediation," and "SARA", the Hazardous Materials Transportation Act, shall have the same meanings as set forth in the amended, 42 U.S.C. Section 9601; et seq.

**EXHIBIT**

"A"

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Section 6901, et seq., or other applicable state or Federal laws, rules, or regulations adopted pursuant to any of the foregoing. The terms "hazardous waste" and "hazardous substance" shall also include, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos. Grantor represents and warrants to Lender that: (a) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any person on, under, about or from the Property; (b) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (i) any use, generation, manufacture, storage, treatment, disposal, release, or threatened release of any hazardous waste or substance on, under, about or from the Property by any prior owners or occupants of the Property or (ii) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (c) Except as previously disclosed to and acknowledged by Lender in writing, (i) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of, or release any hazardous waste or substance on, under, about or from the Property and (ii) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation those laws, regulations, and ordinances described above. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for hazardous waste and hazardous substances. Grantor hereby (a) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws, and (b) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds \$2,500.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default hereunder. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to prepay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor.

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

**EXPENDITURES BY LENDER.** If Grantor fails to comply with any provision of this Mortgage, or if any action or proceeding is commenced that would materially affect Lender's interests in the Property, Lender on Grantor's behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance

*ALL* that certain piece of land, with improvements thereon, situate in Borough of Lumber City, County of Clearfield and State of Pennsylvania, bounded and described as follows:

*BEGINNING* at a locust post at the public road apparently not numbered; thence south by said road one hundred thirty-five (135) feet to a locust post to the corner of lot formerly of a person by the name of Gray, now of Harbison-Walker Refractories Company; thence east one hundred sixty (160) feet by said Harbison-Walker Refractories Company lot to a locust post; thence by lands formerly of Alma Hepfer, now of John Vincent Ferguson, one hundred thirty-five (135) feet north to a locust post; thence by land formerly of Alma Hepfer, now of John Vincent Ferguson, west one hundred sixty (160) feet to the place of beginning. Containing one-half (½) acre, more or less.

Being further described as follows:

*BEGINNING* at a point on the easterly right-of-way line of Kirk Street, at the westerly corner of the land hereby conveyed and at the northerly corner of the U.S. Government lands; thence along the easterly right-of-way line of Kirk Street by an arc of a curve to the right the long chord being North 52 degrees 03 minutes 40 seconds East a distance of 38.20 feet to a point; thence along same North 54 degrees 00 minutes 00 seconds East a distance of 179.73 feet to a point at the northerly corner of the land hereby conveyed and corner of John Vincent Ferguson; thence along John Vincent Ferguson South 56 degrees 24 minutes 00 seconds East a distance of 147.14 feet to an iron pin at the easterly corner of the land hereby conveyed said line passing through an iron pin set 8.64 feet from the right-of-way of Kirk Street; thence along the same South 25 degrees 28 minutes 20 seconds West a distance of 201.20 feet to an iron pin on the line of Harbison-Walker Refractories Company and at the southerly corner of the land hereby conveyed; thence along Harbison-Walker Refractories Company North 57 degrees 40 minutes 00 seconds west a distance of 250.38 feet to a point and place of beginning. Containing 0.922 acres.

*BEING* the same premises as were conveyed to the Mortgagor herein by Deed of Charles D. McCracken, et ux dated October 15, 1996 and entered for record in the Recorder's Office of Clearfield County in Deeds & Records Book Volume 1794, Page 550.

policy or (ii) the remaining term of the Note, or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had. Grantor's obligation to Lender for all such expenses shall survive the entry of any mortgage foreclosure judgment.

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

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Compliance Default.** Failure of Grantor to comply with any other term, obligation, covenant or condition contained in this Mortgage, the Note or in any of the Related Documents.

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

**Defective Collateralization.** This Mortgage or any of the Related Documents ceases to be in full force and effect (including failure of any collateral documents to create a valid and perfected security interest or lien) at any time and for any reason.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**ARBITRATION:**

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

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

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

provisions of this Mortgage.

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

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

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

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

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

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

GRANTOR:

X Brian L. Marshall (SEAL)  
Brian L. Marshall

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

Signed, acknowledged and delivered in the presence of:

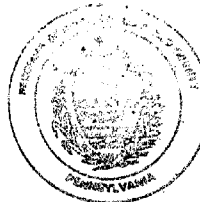
X Jennifer A. Cutler  
Witness

X \_\_\_\_\_  
Witness

Signed, acknowledged and delivered in the presence of:

X \_\_\_\_\_  
Witness

X \_\_\_\_\_  
Witness



Karen L. Starck  
Karen L. Starck  
Recorder of Deeds

### CERTIFICATE OF RESIDENCE

I hereby certify, that the precise address of the mortgagee, NBOC BANK, herein is as follows:

1800 Daisy St, Clearfield, PA 16830

[Signature]  
Attorney or Agent for Mortgagee

### INDIVIDUAL ACKNOWLEDGMENT

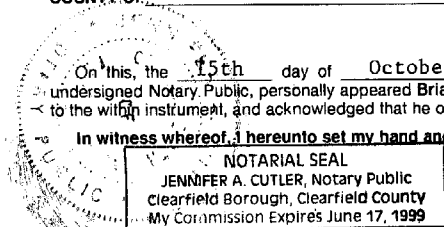
STATE OF PENNSYLVANIA )

) SS

COUNTY OF CLEARFIELD )

On this, the 15th day of October, 1996, before me Jennifer A. Cutler, the undersigned Notary Public, personally appeared Brian L. Marshall, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he or she executed the same for the purposes therein contained.

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



Jennifer A. Cutler  
Notary Public in and for the State of PA

# PROMISSORY NOTE

Principal	Loan Date	Maturity	Loan No	Call	Collateral	Account	Officer	Initials
\$25,000.00	10-15-1996	11-01-2012	0164731	m020	01		MLS	

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

**Borrower:** Brian L Marshall (SSN: 211-62-9379)  
309 Turnpike Ave  
Clearfield, PA 16830

**Lender:** NBOC BANK  
Clearfield Mail Office  
1800 Daisy St  
Clearfield, PA 16830

**Principal Amount:** \$25,000.00

**Date of Note:** October 15, 1996

**Maturity Date:** November 1, 2012

**PROMISE TO PAY.** I promise to pay to NBOC BANK ("Lender"), or order, in lawful money of the United States of America, the principal amount of Twenty Five Thousand & 00/100 Dollars (\$25,000.00), together with interest on the unpaid principal balance from October 15, 1996, until paid in full.

**PAYMENT.** I will pay this loan in accordance with the following payment schedule:

24 consecutive monthly principal and interest payments of \$245.98 each, beginning December 1, 1996, with interest calculated on the unpaid principal balances at an interest rate of 2.000% per annum; and 168 consecutive monthly principal and interest payments of \$245.92 each, beginning December 1, 1998, with interest calculated on the unpaid principal balances at an interest rate of 11.970% per annum. My final payment of \$245.92 will be due on November 1, 2012. This estimated final payment is based on the assumption that all payments will be made exactly as scheduled; the actual final payment will be for all principal and accrued interest not yet paid, together with any other unpaid amounts under this Note.

I will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing. Unless otherwise agreed or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs and late charges.

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

**LATE CHARGE.** If a payment is 16 days or more late, I will be charged 5.000% of the regularly scheduled payment.

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

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

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

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

**COLLATERAL.** This Note is secured by a Mortgage dated October 15, 1996, to Lender on real property located in Clearfield County, Commonwealth of Pennsylvania, all the terms and conditions of which are hereby incorporated and made a part of this Note.

## ARBITRATION:

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

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

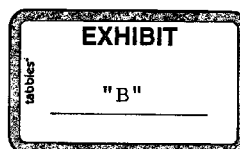
**DEFERRED ORIGATION FEES.** Lender has deferred payment of origination fees equal to 5.0% of the Principal Amount relating to this loan until pay-off of the loan. These fees will be waived by Lender when Borrower makes 60 monthly payments on the scheduled payment dates.

**GENERAL PROVISIONS.** Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. I and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, protest and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan, or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral; 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.

**PRIOR TO SIGNING THIS NOTE, I READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. I AGREE TO THE TERMS OF THE NOTE AND ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THE NOTE.**

**BORROWER:**

X Brian L Marshall (SEAL)  
Brian L Marshall



Date: December 10, 2004

# ACT 91 NOTICE TAKE ACTION TO SAVE YOUR HOME FROM FORECLOSURE

This is an official notice that the mortgage on your home is in default, and the lender intends to foreclose. Specific information about the nature of the default is provided in the attached pages.

The HOMEOWNER'S MORTGAGE ASSISTANCE PROGRAM (HEMAP) may be able to help to save your home. This Notice explains how the program works.

To see if HEMAP can help, you must MEET WITH A CONSUMER CREDIT COUNSELING AGENCY WITHIN 30 DAYS OF THE DATE OF THIS NOTICE. Take this Notice with you when you meet with the Counseling Agency.

The name, address and phone number of Consumer Credit Counseling Agencies serving your County are listed at the end of this Notice. If you have any questions, you may call the Pennsylvania Housing Finance

Agency toll free at 1-800-342-2397. (Persons with impaired hearing can call (717) 780-1869).

This Notice contains important legal information. If you have any questions, representatives at the Consumer Credit Counseling Agency may be able to help explain it. You may also want to contact an attorney in your area. The local bar association may be able to help you find a lawyer.

LA NOTIFICACION EN ADJUNTO ES DE SUMA IMPORTANCIA, PUES AFECTA SU DERECHO A CONTINUAR VIVIENDO EN SU CASA. SI NO COMPRENDE EL CONTENIDO DE ESTA NOTIFICACION OBTENGA UNA TRADUCCION INMEDITAMENTE LLAMANDO ESTA AGENCIA (PENNSYLVANIA HOUSING FINANCE AGENCY) SIN CARGOS AL NUMERO MENCIONADO ARRIBA. PUEDES SER ELEGIBLE PARA UN PRESTAMO POR EL PROGRAMA LLAMADO "HOMEOWNER'S EMERGENCY MORTGAGE ASSISTANCE PROGRAM" EL CUAL PUEDE SALVAR SU CASA DE LA PERDIDA DEL DERECHO A REDIMIR SU HIPOTECA.

\* (Must be at least 30 point type)

HOMEOWNER'S NAME(S): Brian L. Marshall

PROPERTY ADDRESS: RD 2, Box 33, Curwensville, PA 16833

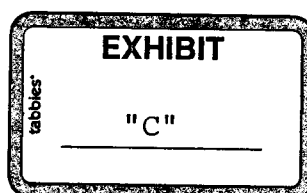
LOAN ACCT. NO.: 0160164731

ORIGINAL LENDER: NBOC

CURRENT LENDER/SERVICER: First Commonwealth Bank

HOMEOWNER'S EMERGENCY MORTGAGE ASSISTANCE PROGRAM

YOU MAY BE ELIGIBLE FOR FINANCIAL ASSISTANCE WHICH CAN SAVE YOUR HOME FROM FORECLOSURE AND HELP YOU MAKE FUTURE MORTGAGE PAYMENTS





**IF YOU COMPLY WITH THE PROVISIONS OF THE HOMEOWNER'S EMERGENCY MORTGAGE ASSISTANCE ACT OF 1983 (THE "ACT"), YOU MAY BE ELIGIBLE FOR EMERGENCY MORTGAGE ASSISTANCE:**

- **IF YOUR DEFAULT HAS BEEN CAUSED BY CIRCUMSTANCES BEYOND YOUR CONTROL,**
- **IF YOU HAVE A REASONABLE PROSPECT OF BEING ABLE TO PAY YOUR MORTGAGE PAYMENTS, AND**
- **IF YOU MEET OTHER ELIGIBILITY REQUIREMENTS ESTABLISHED BY THE PENNSYLVANIA HOUSING FINANCE AGENCY.**

**TEMPORARY STAY OF FORECLOSURE** – Under the Act, you are entitled to a temporary stay of foreclosure on your mortgage for thirty (30) days from the date of this Notice. During that time you must arrange and attend a "face-to-face" meeting with one of the consumer credit counseling agencies listed at the end of this Notice. **THIS MEETING MUST OCCUR WITHIN THE NEXT (30) DAYS. IF YOU DO NOT APPLY FOR EMERGENCY MORTGAGE ASSISTANCE, YOU MUST BRING YOUR MORTGAGE UP TO DATE. THE PART OF THIS NOTICE CALLED "HOW TO CURE YOUR MORTGAGE DEFAULT", EXPLAINS HOW TO BRING YOUR MORTGAGE UP TO DATE.**

**CONSUMER CREDIT COUNSELING AGENCIES** – If you meet with one of the consumer credit counseling agencies listed at the end of this notice, the lender may NOT take action against you for thirty (30) days after the date of this meeting. The names, addresses and telephone numbers of designated consumer credit counseling agencies for the county in which the property is located are set forth at the end of this Notice. It is only necessary to schedule one face-to-face meeting. Advise your lender immediately of your intentions.

**APPLICATION FOR MORTGAGE ASSISTANCE** – Your mortgage is in default for the reasons set forth later in this Notice (see following pages for specific information about the nature of your default.) If you have tried and are unable to resolve this problem with the lender, you have the right to apply for financial assistance from the Homeowner's Emergency Mortgage Assistance Program. To do so, you must fill out, sign and file a completed Homeowner's Emergency Assistance Program Application with one of the designated consumer credit counseling agencies listed at the end of this Notice. Only consumer credit counseling agencies have applications for the program and they will assist you in submitting a complete application to the Pennsylvania Housing Finance Agency. Your application **MUST** be filed or postmarked within thirty (30) days of your face-to-face meeting.

**YOU MUST FILE YOUR APPLICATION PROMPTLY. IF YOU FAIL TO DO SO OR IF YOU DO NOT FOLLOW THE OTHER TIME PERIODS SET FORTH IN THIS LETTER, FORECLOSURE MAY PROCEED AGAINST YOUR HOME IMMEDIATELY AND YOUR APPLICATION FOR MORTGAGE ASSISTANCE WILL BE DENIED.**

**AGENCY ACTION** -- Available funds for emergency mortgage assistance are very limited. They will be disbursed by the Agency under the eligibility criteria established by the Act. The Pennsylvania Housing Finance Agency has sixty (60) days to make a decision after it receives your application. During that time, no foreclosure proceedings will be pursued against you if you have met the time requirements set forth above. You will be notified directly by the Pennsylvania Housing Finance Agency of its decision on your application.

**NOTE: IF YOU ARE CURRENTLY PROTECTED BY THE FILING OF A PETITION IN BANKRUPTCY, THE FOLLOWING PART OF THIS NOTICE IS FOR INFORMATION PURPOSES ONLY AND SHOULD NOT BE CONSIDERED AS AN ATTEMPT TO COLLECT THE DEBT.**

**(If you have filed bankruptcy you can still apply for Emergency Mortgage Assistance.)**

**HOW TO CURE YOUR MORTGAGE DEFAULT (Bring it up to date).**

**NATURE OF THE DEFAULT** -- The MORTGAGE debt held by the above lender on your property located

at: -RD 2, Box 33, Curwensville, PA 16833

IS SERIOUSLY IN DEFAULT because:

A. YOU HAVE NOT MADE MONTHLY MORTGAGE PAYMENTS for the following months and the following amounts are now past due: **October 1, 2004 thru December 1, 2004 totaling \$737.76**

Other charges (explain/itemize): **Late fees of \$477.04**

**TOTAL AMOUNT PAST DUE: \$1,214.80**

B. YOU HAVE FAILED TO TAKE THE FOLLOWING ACTION (**Do not use if not applicable**):

**HOW TO CURE THE DEFAULT** -- You may cure the default within THIRTY (30) DAYS of the date of this notice **BY PAYING THE TOTAL AMOUNT PAST DUE TO THE LENDER, WHICH IS \$1,214.80, PLUS ANY MORTGAGE PAYMENTS AND LATE CHARGES WHICH BECOME DUE DURING THE THIRTY (30) DAY PERIOD.** Payments must be made either by cash, cashier's check, certified check or money order made payable and sent to:

**FIRST COMMONWEALTH BANK  
PO BOX 400, FCP-LOWER LEVEL  
INDIANA PA 15701**

You can cure any other default by taking the following action within THIRTY (30) DAYS of the date of this letter: (**Do not use if not applicable.**)

**IF YOU DO NOT CURE THE DEFAULT--** If you do not cure the default within THIRTY (30) DAYS of the date of this Notice, **the lender intends to exercise its rights to accelerate the mortgage debt.** This means that the entire outstanding balance of this debt will be considered due immediately and you may lose the chance to pay the mortgage in monthly installments. If full payment of the total amount past due is not made within THIRTY (30) DAYS, the lender also intends to instruct its attorneys to start legal action to **foreclose upon your mortgaged property.**

**IF THE MORTGAGE IS FORECLOSED UPON** -- The mortgaged property will be sold by the Sheriff to pay off the mortgage debt. If the lender refers your case to its attorneys, but you cure the delinquency before the lender begins legal proceedings against you, you will still be required to pay the reasonable attorney's fees that were actually incurred, up to \$50.00. However, if legal proceedings are started against you, you will have to pay all reasonable attorney's fees actually incurred by the lender even if they exceed \$50.00. Any attorney's fees will be added to the amount you owe the lender, which may also include other reasonable costs. **If you cure the default within the THIRTY (30) DAY period, you will not be required to pay attorney's fees.**

**OTHER LENDER REMEDIES** -- The lender may also sue you personally for the unpaid principal balance and all other sums due under the mortgage.

**RIGHT TO CURE THE DEFAULT PRIOR TO SHERIFF'S SALE** -- If you have not cured the default within the THIRTY (30) 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 Sale. You may do so by paying the total amount then past due, plus any late or other charges then due, reasonable attorney's fees and costs connected with the foreclosure sale and any other costs connected with the Sheriff's Sale--as specified in writing by the lender and by performing any other requirements under the mortgage. **Curing your default in the manner set forth in this notice will restore your mortgage to the same position as if you had never defaulted.**

**EARLIEST POSSIBLE SHERIFF'S SALE DATE** -- It is estimated that the earliest date that such a Sheriff's Sale of the mortgaged property could be held would be **approximately three (3) months from the date of this Notice**. A notice of the actual 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 or action will be by contacting the lender.

**HOW TO CONTACT THE LENDER:**

**Name of Lender:** NBOC

**Address:** PO Box 400, Indiana PA 15701

**Phone Number:** 1-800-221-8605

**Fax Number:** (724) 463-5665

**Contact Person:** Ray Clawson

**EFFECT OF SHERIFF'S SALE** -- You should realize that a Sheriff's Sale will end your ownership of the mortgaged property and your right to occupy it. If you continue to live in the property after the Sheriff's Sale, a lawsuit to remove you and your furnishings and other belongings could be started by the lender at any time.

**ASSUMPTION OF MORTGAGE** -- You ☒ **may** or ☐ **may not** (CHECK ONE) sell or transfer your home 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 of the mortgage are satisfied.

**YOU MAY ALSO 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.
- TO HAVE THIS DEFAULT CURED BY ANY THIRD PARTY ACTING ON YOUR BEHALF.
- TO HAVE THE MORTGAGE RESTORED TO THE SAME POSITION AS IF NO DEFAULT HAD OCCURRED, IF YOU CURE THE DEFAULT. (HOWEVER, YOU DO NOT HAVE THIS RIGHT TO CURE YOUR DEFAULT MORE THAN THREE TIMES IN ANY CALENDAR YEAR.)
- TO ASSERT THE NONEXISTENCE OF A DEFAULT IN ANY FORECLOSURE PROCEEDING OR ANY OTHER LAWSUIT INSTITUTED UNDER THE MORTGAGE DOCUMENTS,
- TO ASSERT ANY OTHER DEFENSE YOU BELIEVE YOU MAY HAVE TO SUCH ACTION BY THE LENDER.
- TO SEEK PROTECTION UNDER THE FEDERAL BANKRUPTCY LAW.

**CONSUMER CREDIT COUNSELING AGENCIES SERVING YOUR COUNTY**

*(Fill in a list of all Counseling Agencies listed in Appendix C, FOR THE COUNTY in which the property is located, using additional pages if necessary)*

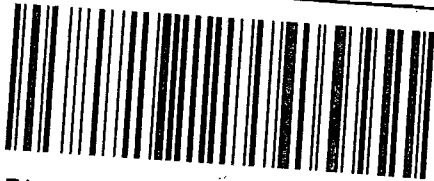
**CLEARFIELD COUNTY**

**Keystone Economic Development  
Corporation  
1954 Mary Grace Lane  
Johnstown, PA 15901  
(814) 535-6556  
FAX # (814) 539-1688**

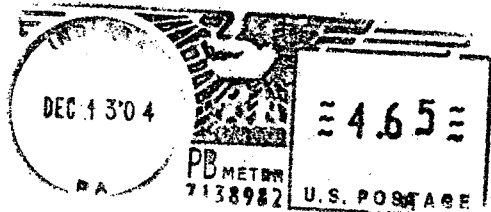
**Indiana County Community  
Action Program  
827 Water Street, Box 187  
Indiana, PA 15701  
(724) 465-2657  
FAX # (724) 465-5118**

**Consumer Credit Counseling Service  
of Western Pennsylvania, Inc.  
500-02 3rd Avenue  
P.O. Box 278  
Duncansville, PA 16635  
(814) 696-3546**

**CERTIFIED MAIL™**



7004 0550 0000 3481 4098



BRIAN L MARSHALL  
RR 2 BOX 33  
CURWENSVILLE PA 16833

- ☐ A ☐ INSUFFICIENT ADDRESS  
☐ C ☐ ATTEMPTED NOT KNOWN  
☐ S ☐ NO SUCH NUMBER/ STREET  
☐ NOT DELIVERABLE AS ADDRESSED  
- UNABLE TO FORWARD

☒ OTHER



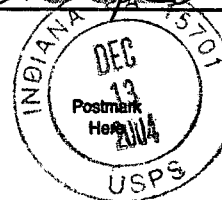
7004 0550 0000 3481 4098

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

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

*MANUEL TO K. N. ALLORE*

Postage	\$ .60
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.65



Sent To	<i>Brian L. Marshall</i>
Street, Apt. No., or PO Box No.	<i>RR 2 BOX 33</i>
City, State, ZIP+4	<i>CURWENSVILLE PA 16833</i>

PS Form 3800, June 2002

See Reverse for Instructions

**EXHIBIT**

"D"

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

**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:

Brian L. Marshall  
RD 2 Box 33  
Curtisville PA  
16833

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

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

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

7004 0550 0000 3481 4098

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

**PROPERTY DESCRIPTION OF**  
**BRIAN L. MARSHALL**

VOL **1794** PAGE **556**

**LEGAL DESCRIPTION**

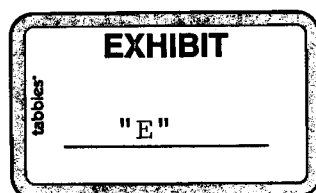
*ALL* that certain piece of land, with improvements thereon, situate in Borough of Lumber City, County of Clearfield and State of Pennsylvania, bounded and described as follows:

*BEGINNING* at a locust post at the public road apparently not numbered; thence south by said road one hundred thirty-five (135) feet to a locust post to the corner of lot formerly of a person by the name of Gray, now of Harbison-Walker Refractories Company; thence east one hundred sixty (160) feet by said Harbison-Walker Refractories Company lot to a locust post; thence by lands formerly of Alma Hepfer, now of John Vincent Ferguson, one hundred thirty-five (135) feet north to a locust post; thence by land formerly of Alma Hepfer, now of John Vincent Ferguson, west one hundred sixty (160) feet to the place of beginning. Containing one-half (1/2) acre, more or less.

Being further described as follows:

*BEGINNING* at a point on the easterly right-of-way line of Kirk Street, at the westerly corner of the land hereby conveyed and at the northerly corner of the U.S. Government lands; thence along the easterly right-of-way line of Kirk Street by an arc of a curve to the right the long chord being North 52 degrees 03 minutes 40 seconds East a distance of 38.20 feet to a point; thence along same North 54 degrees 00 minutes 00 seconds East a distance of 179.73 feet to a point at the northerly corner of the land hereby conveyed and corner of John Vincent Ferguson; thence along John Vincent Ferguson South 56 degrees 24 minutes 00 seconds East a distance of 147.14 feet to an iron pin at the easterly corner of the land hereby conveyed said line passing through an iron pin set 8.64 feet from the right-of-way of Kirk Street; thence along the same South 25 degrees 28 minutes 20 seconds West a distance of 201.20 feet to an iron pin on the line of Harbison-Walker Refractories Company and at the southerly corner of the land hereby conveyed; thence along Harbison-Walker Refractories Company North 57 degrees 40 minutes 00 seconds west a distance of 250.38 feet to a point and place of beginning. Containing 0.922 acres.

*BEING* the same premises as were conveyed to the Mortgagor herein by Deed of Charles D. McCracken, et ux dated October 15, 1996 and entered for record in the Recorder's Office of Clearfield County in Deeds & Records Book Volume 1794, Page 550.



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

NBOC BANK, now FIRST  
COMMONWEALTH BANK,

PLAINTIFF

VS.

BRIAN L. MARSHALL,

DEFENDANT

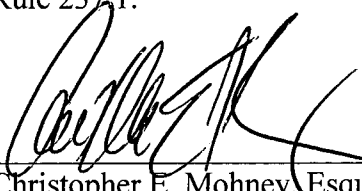
: NO. 05 - 407 C.D.  
:  
: TYPE OF CASE: MORTGAGE  
: FORECLOSURE  
:  
: TYPE OF PLEADING: PRAECIPE  
: FOR DEFAULT JUDGMENT  
:  
: FILED ON BEHALF OF: PLAINTIFF  
:  
: COUNSEL OF RECORD:  
: CHRISTOPHER E. MOHNEY, ESQUIRE  
:  
: SUPREME COURT NO.: 63494  
:  
: 90 BEAVER DRIVE, SUITE 111B  
: DUBOIS, PA 15801  
: (814) 375-1044

**FILED** *Piff pd. 20.00*  
*9/2:52/01*  
JUN 23 2005 *Notice to Def.*  
William A. Shaw *Statement to*  
Prothonotary/Clerk of Courts *No cc* *Att*  
*62*

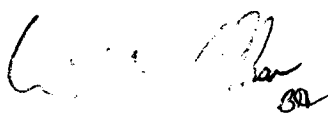


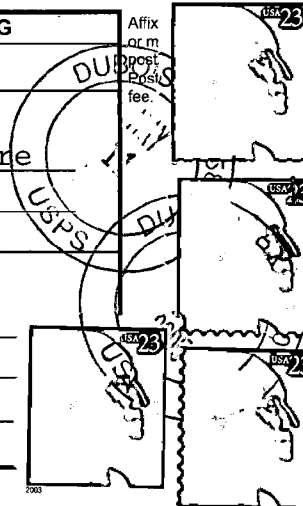
The undersigned certifies that written notice of intention to file this Praecipe for Default judgment in the form attached hereto was mailed to the Defendant by first class regular mail on May 11, 2005, as required by Pa. R.C.P. Rule 237.1.

BY:

  
Christopher E. Mohney, Esquire

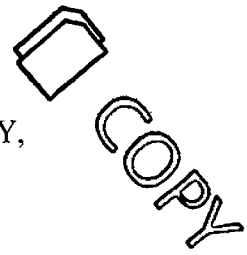
NOW, this 23<sup>rd</sup> day of June, 2005, damages are assessed in the amount of \$17,348.80.

  
William A. Shaw, Sr., Prothonotary

U.S. POSTAL SERVICE		CERTIFICATE OF MAILING	
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT PROVIDE FOR INSURANCE-POSTMASTER			
Received From:		Affix or m post Post fee.	
Christopher E. Mohny, Esquire			
90 Beaver Drive, Suite 111B			
DuBois, PA 15801			
One piece of ordinary mail addressed to:			
Brian L. Marshall			
RD#2, Box 33			
Kirk Street			
Curwensville, PA 16833			

PS Form 3817, January 2001

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

COPY

NBOC BANK, now FIRST	:	NO. 05 - 407 C.D.
COMMONWEALTH BANK,	:	
	:	
PLAINTIFF	:	TYPE OF CASE: MORTGAGE
	:	FORECLOSURE
	:	
VS.	:	
	:	
BRIAN L. MARSHALL,	:	
	:	
DEFENDANT	:	

Notice is given that a JUDGMENT in the above captioned matter has been  
entered against you in the amount of \$17,348.80 on June 23, 2005.

WILLIAM A. SHAW, PROTHONOTARY

By: \_\_\_\_\_, Deputy

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

COPY

NBOC Bank  
Plaintiff(s)

No.: 2005-00407-CD

Real Debt: \$17,348.80

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Brian L. Marshall  
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: June 23, 2005

Expires: June 23, 2010

Certified from the record this 23rd day of June, 2005.

\_\_\_\_\_  
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

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

NBOC BANK, now FIRST  
COMMONWEALTH BANK,

PLAINTIFF

VS.

BRIAN L. MARSHALL,

DEFENDANT

: NO. 05 - 407 C.D.  
:  
:  
: TYPE OF CASE: MORTGAGE  
: FORECLOSURE  
:  
: TYPE OF PLEADING: PRAECIPE  
: FOR WRIT OF EXECUTION  
:  
: FILED ON BEHALF OF: PLAINTIFF  
:  
: COUNSEL OF RECORD:  
: CHRISTOPHER E. MOHNEY, ESQUIRE  
:  
: SUPREME COURT NO.: 63494  
:  
: 90 BEAVER DRIVE, SUITE 111B  
: DUBOIS, PA 15801  
: (814) 375-1044

FILED 1cc & low nts  
013:02/01 wldeser.  
JUN 23 2005 to Shff  
William A. Shaw  
Prothonotary/Clerk of Courts Pff pd. 20.00  
6K

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

NBOC BANK, now FIRST	:	NO. 05 - 407 C.D.
COMMONWEALTH BANK,	:	
	:	TYPE OF CASE: MORTGAGE
PLAINTIFF	:	FORECLOSURE
	:	
VS.	:	
	:	
BRIAN L. MARSHALL,	:	
	:	
DEFENDANT	:	

**PRAECIPE FOR WRIT OF EXECUTION**

TO: WILLIAM A. SHAW, SR., PROTHONOTARY

Issue Writ of Execution in the above matter:

1. Directed to the Sheriff of Clearfield County;
2. Against the Defendant in the above captioned matter; and
3. Index this Writ against the Defendant and as a Lis Pendens against real property of the Defendant described on Schedule "A" attached hereto;

4. Amount due: \$17,348.80

5. Costs: \$ \_\_\_\_\_

Total: \$ \_\_\_\_\_

**Prothonotary costs** 125.00

BY: 

Christopher E. Mohrney, Esquire  
Attorney for Plaintiff

PROPERTY DESCRIPTION OF  
BRIAN L. MARSHALL

VOL **1794** PAGE **556**

LEGAL DESCRIPTION

*ALL* that certain piece of land, with improvements thereon, situate in Borough of Lumber City, County of Clearfield and State of Pennsylvania, bounded and described as follows:

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Being further described as follows:

*BEGINNING* at a point on the easterly right-of-way line of Kirk Street, at the westerly corner of the land hereby conveyed and at the northerly corner of the U.S. Government lands; thence along the easterly right-of-way line of Kirk Street by an arc of a curve to the right the long chord being North 52 degrees 03 minutes 40 seconds East a distance of 38.20 feet to a point; thence along same North 54 degrees 00 minutes 00 seconds East a distance of 179.73 feet to a point at the northerly corner of the land hereby conveyed and corner of John Vincent Ferguson; thence along John Vincent Ferguson South 56 degrees 24 minutes 00 seconds East a distance of 147.14 feet to an iron pin at the easterly corner of the land hereby conveyed said line passing through an iron pin set 8.64 feet from the right-of-way of Kirk Street; thence along the same South 25 degrees 28 minutes 20 seconds West a distance of 201.20 feet to an iron pin on the line of Harbison-Walker Refractories Company and at the southerly corner of the land hereby conveyed; thence along Harbison-Walker Refractories Company North 57 degrees 40 minutes 00 seconds west a distance of 250.38 feet to a point and place of beginning. Containing 0.922 acres.

*BEING* the same premises as were conveyed to the Mortgagor herein by Deed of Charles D. McCracken, et ux dated October 15, 1996 and entered for record in the Recorder's Office of Clearfield County in Deeds & Records Book Volume 1794, Page 550.

COPY

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

NBOC BANK, now FIRST : NO. 05 - 407 C.D.  
COMMONWEALTH BANK, :  
 :  
 : TYPE OF CASE: MORTGAGE  
PLAINTIFF : FORECLOSURE  
 :  
VS. :  
 :  
BRIAN L. MARSHALL, :  
 :  
DEFENDANT :

**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 property described on Schedule A attached hereto.

Amount due: \$17,348.80

Costs: \$ \_\_\_\_\_

Total: \$ \_\_\_\_\_

Prothonotary costs 125.00

BY: William A. Shaw  
William A. Shaw, Prothonotary

DATE: 6/23/05



PROPERTY DESCRIPTION OF  
BRIAN L. MARSHALL

VOL **1794** PAGE **556**

LEGAL DESCRIPTION

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

NBOC BANK, now FIRST  
COMMONWEALTH BANK,

PLAINTIFF,

vs.

BRIAN L. MARSHALL,

DEFENDANT.

: NO. 05 - 407 C.D.  
:  
:  
: TYPE OF CASE: MORTGAGE  
: FORECLOSURE  
:  
: TYPE OF PLEADING: PRAECIPE TO  
: SETTLE, DISCONTINUE AND END  
:  
: FILED ON BEHALF OF: PLAINTIFF  
:  
: COUNSEL OF RECORD:  
: CHRISTOPHER E. MOHNEY, ESQUIRE  
:  
: SUPREME COURT NO.: 63494  
:  
: 90 BEAVER DRIVE, SUITE 111B  
: DUBOIS, PA 15801  
: (814) 375-1044

FILED NoCC  
SEP 02 2005  
Cert. of Disc.  
to Atty

William A. Shaw  
Prothonotary/Clerk of Courts  
Copy to CIA  
@

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

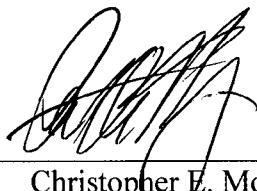
NBOC BANK, now FIRST	:	NO. 05 - 407 C.D.
COMMONWEALTH BANK,	:	
	:	TYPE OF CASE: MORTGAGE
PLAINTIFF	:	FORECLOSURE
	:	
VS.	:	
	:	
BRIAN L. MARSHALL,	:	
	:	
DEFENDANT	:	

**PRAECIPE TO SETTLE, DISCONTINUE AND END**

TO: PROTHONOTARY OF CLEARFIELD COUNTY

Kindly mark the above captioned case settled, discontinued and ended.

BY: \_\_\_\_\_



Christopher E. Mohnhey  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PA  
CIVIL DIVISION  
NO. 05-407 C.D.

NBOC BANK, now FIRST  
COMMONWEALTH BANK,

PLAINTIFF

VS.

BRIAN L. MARSHALL,

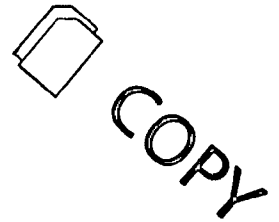
DEFENDANT

PRAECIPE TO SETTLE  
DISCONTINUE AND END

LAW OFFICES  
**CHRISTOPHER E. MOHNEY**  
90 BEAVER DRIVE - SUITE 111B  
DUBOIS, PA 15801  
(814) 376-1014

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

**CIVIL DIVISION**

 COPY

**NBOC Bank**

**Vs.**

**No. 2005-00407-CD**

**Brian L. Marshall**

**CERTIFICATE OF DISCONTINUATION**

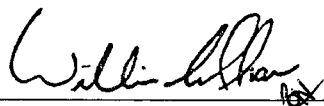
Commonwealth of PA  
County of Clearfield

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 September 2, 2005, marked:

Settled, Discontinued and Ended

Record costs in the sum of \$125.00 have been paid in full by NBOC Bank.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 2nd day of September A.D. 2005.

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20198  
NO: 05-407-CD

PLAINTIFF: NBOC BANK, NOW FIRST COMMONWEALTH BANK  
vs.  
DEFENDANT: BRIAN L. MARSHALL

Execution REAL ESTATE

SHERIFF RETURN

DATE RECEIVED WRIT: 06/23/2005

LEVY TAKEN 09/16/2005 @ 9:50 AM

POSTED 09/16/2005 @ 9:50 AM

SALE HELD

SOLD TO

SOLD FOR AMOUNT PLUS COSTS

WRIT RETURNED 02/06/2006

DATE DEED FILED **NOT SOLD**

**FILED**  
01 11:01 AM  
FEB 06 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

DETAILS

09/16/2005 @ 1:20 PM SERVED BRIAN L. MARSHALL

SERVED BRIAN L. MARSHALL, DEFENDANT, AT THE CLEARFIELD COUNTY JAIL 115 21ST STREET, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO BRIAN L. MARSHALL

A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION, NOTICE OF SALE, AND COPY OF THE LEVY AND BY MAKING KNOW TO HIM / HER THE CONTENTS THEREOF.

@ SERVED

NOW, SEPTEMBER 20, 2005 RECEIVED A LETTER FROM THE PLAINTIFF'S ATTORNEY TO CANCEL THE SHERIFF SALE SCHEDULED FOR NOVEMBER 4, 2005, BECAUSE THE DEFENDANT CURED HIS ACCOUNT.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20198  
NO: 05-407-CD

PLAINTIFF: NBOC BANK, NOW FIRST COMMONWEALTH BANK

vs.

DEFENDANT: BRIAN L. MARSHALL

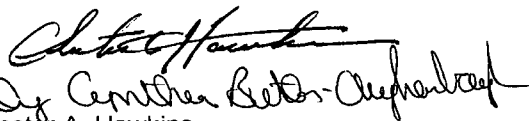
Execution REAL ESTATE

SHERIFF RETURN

SHERIFF HAWKINS \$187.22

SURCHARGE \$20.00 PAID BY PLAINTIFF

So Answers,

  
Chester A. Hawkins  
Sheriff

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

NBOC BANK, now FIRST : NO. 05 - 407 C.D.  
COMMONWEALTH BANK, :  
 :  
 : TYPE OF CASE: MORTGAGE  
PLAINTIFF : FORECLOSURE  
 :  
VS. :  
 :  
BRIAN L. MARSHALL, :  
 :  
 :  
DEFENDANT :

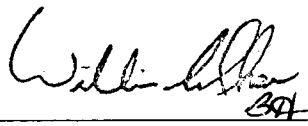
**WRIT OF EXECUTION**

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 property described on Schedule A attached hereto.

Amount due: \$17,348.80  
Costs: \$ \_\_\_\_\_  
Total: \$ \_\_\_\_\_  
Prothonotary costs 125.00

BY:   
William A. Shaw, Prothonotary

DATE: 6/23/05

Received June 23, 2005 @ 3:45 P.M.  
Chester A. Hanks  
By Cynthia Butler-Arphenberg



PROPERTY DESCRIPTION OF  
BRIAN L. MARSHALL

VOL **1794** PAGE **556**

LEGAL DESCRIPTION

*ALL* that certain piece of land, with improvements thereon, situate in Borough of Lumber City, County of Clearfield and State of Pennsylvania, bounded and described as follows:

*BEGINNING* at a locust post at the public road apparently not numbered; thence south by said road one hundred thirty-five (135) feet to a locust post to the corner of lot formerly of a person by the name of Gray, now of Harbison-Walker Refractories Company; thence east one hundred sixty (160) feet by said Harbison-Walker Refractories Company lot to a locust post; thence by lands formerly of Alma Hepfer, now of John Vincent Ferguson, one hundred thirty-five (135) feet north to a locust post; thence by land formerly of Alma Hepfer, now of John Vincent Ferguson, west one hundred sixty (160) feet to the place of beginning. Containing one-half ( $\frac{1}{2}$ ) acre, more or less.

Being further described as follows:

*BEGINNING* at a point on the easterly right-of-way line of Kirk Street, at the westerly corner of the land hereby conveyed and at the northerly corner of the U.S. Government lands; thence along the easterly right-of-way line of Kirk Street by an arc of a curve to the right the long chord being North 52 degrees 03 minutes 40 seconds East a distance of 38.20 feet to a point; thence along same North 54 degrees 00 minutes 00 seconds East a distance of 179.73 feet to a point at the northerly corner of the land hereby conveyed and corner of John Vincent Ferguson; thence along John Vincent Ferguson South 56 degrees 24 minutes 00 seconds East a distance of 147.14 feet to an iron pin at the easterly corner of the land hereby conveyed said line passing through an iron pin set 8.64 feet from the right-of-way of Kirk Street; thence along the same South 25 degrees 28 minutes 20 seconds West a distance of 201.20 feet to an iron pin on the line of Harbison-Walker Refractories Company and at the southerly corner of the land hereby conveyed; thence along Harbison-Walker Refractories Company North 57 degrees 40 minutes 00 seconds west a distance of 250.38 feet to a point and place of beginning. Containing 0.922 acres.

*BEING* the same premises as were conveyed to the Mortgagor herein by Deed of Charles D. McCracken, et ux dated October 15, 1996 and entered for record in the Recorder's Office of Clearfield County in Deeds & Records Book Volume 1794, Page 550.

**REAL ESTATE SALE  
SCHEDULE OF DISTRIBUTION**

NAME BRIAN L. MARSHALL

NO. 05-407-CD

NOW, February 04, 2006, by virtue of the Writ of Execution hereunto attached, after having given due and legal notice of time and place of sale by publication in a newspaper published in this County and by handbills posted on the premises setting for the date, time and place of sale at the Court House in Clearfield on November 04, 2005, I exposed the within described real estate of Brian L. Marshall to public venue or outcry at which time and place I sold the same to he/she being the highest bidder, for the sum of and made the following appropriations, viz:

**SHERIFF COSTS:**

RDR	15.00
SERVICE	15.00
MILEAGE	15.39
LEVY	15.00
MILEAGE	15.39
POSTING	15.00
CSDS	10.00
COMMISSION	0.00
POSTAGE	4.44
HANDBILLS	15.00
DISTRIBUTION	25.00
ADVERTISING	15.00
ADD'L SERVICE	
DEED	
ADD'L POSTING	
ADD'L MILEAGE	2.00
ADD'L LEVY	
BID/SETTLEMENT AMOUNT	
RETURNS/DEPUTIZE	
COPIES	15.00
	5.00
BILLING/PHONE/FAX	5.00
CONTINUED SALES	
MISCELLANEOUS	
<b>TOTAL SHERIFF COSTS</b>	<b>\$187.22</b>

**DEED COSTS:**

ACKNOWLEDGEMENT	
REGISTER & RECORDER	
TRANSFER TAX 2%	0.00
<b>TOTAL DEED COSTS</b>	<b>\$0.00</b>

**PLAINTIFF COSTS, DEBT AND INTEREST:**

DEBT-AMOUNT DUE	17,348.80
INTEREST @	0.00
FROM TO 11/04/2005	

PROTH SATISFACTION	
LATE CHARGES AND FEES	
COST OF SUIT-TO BE ADDED	
FORECLOSURE FEES	
ATTORNEY COMMISSION	
REFUND OF ADVANCE	
REFUND OF SURCHARGE	20.00
SATISFACTION FEE	
ESCROW DEFICIENCY	
PROPERTY INSPECTIONS	
INTEREST	
MISCELLANEOUS	
<b>TOTAL DEBT AND INTEREST</b>	<b>\$17,368.80</b>

**COSTS:**

ADVERTISING	0.00
TAXES - COLLECTOR	
TAXES - TAX CLAIM	
DUE	
LIEN SEARCH	
ACKNOWLEDGEMENT	
DEED COSTS	0.00
SHERIFF COSTS	187.22
LEGAL JOURNAL COSTS	0.00
PROTHONOTARY	125.00
MORTGAGE SEARCH	
MUNICIPAL LIEN	
<b>TOTAL COSTS</b>	<b>\$312.22</b>

DISTRIBUTION WILL BE MADE IN ACCORDANCE WITH THE ABOVE SCHEDULE UNLESS EXCEPTIONS ARE FILED WITH THIS OFFICE **WITHIN TEN (10) DAYS FROM THIS DATE.**

CHESTER A. HAWKINS, Sheriff

CHRISTOPHER E. MOHNEY

ATTORNEY AT LAW

90 BEAVER DRIVE

SUITE IIIIB

DuBOIS, PA 15801

TELEPHONE: (814) 375-1044

FACSIMILE: (814) 375-1088

September 19, 2005

Cynthia Butler-Aughenbaugh  
Office of the Sheriff of Clearfield County  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830

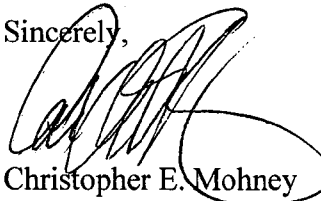
RE: NBOC Bank vs. Brian L. Marshall

Dear Cindy:

Please cancel the Sheriff's Sale in the above matter set for November 4, 2005. Mr. Marshall has cured his account, and enclosed is a Certificate of Discontinuation that I had filed on September 2, 2005. Please issue any refund owing Plaintiff to my office.

Thank you.

Sincerely,



Christopher E. Mohney  
Attorney at Law

CEM:lle  
Enclosure