

05-1693-CD
Louis Boccia vs Pennwest

Louis Boccia vs. Pennwest Commodities, Inc.
2005-1693-CD

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

LOUIS T. BOCCIA,
Plaintiff

vs.

PENNWEST COMMODITIES, INC.,
Defendant

No. 2005-1693-CV

Type of Pleading: Complaint

Filed on behalf of: Louis T. Boccia,
Plaintiff

Counsel of Record for this party:

HOPKINS HELTZEL LLP

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED

OCT 31 2005

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William A. Shaw
Prothonotary

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

LOUIS T. BOCCIA,

Plaintiff

vs.

PENNWEST COMMODITIES, INC.,

Defendant

:
:
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:
:
:
:
:

No.

NOTICE

TO DEFENDANT:

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

Office of the Court Administrator
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830
(814) 765-2641, Ext. 5982

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

LOUIS T. BOCCIA,	:	
Plaintiff	:	
	:	
vs.	:	No.
	:	
PENNWEST COMMODITIES, INC.,	:	
Defendant	:	

COMPLAINT

AND NOW, come Louis T. Boccia, by and through his attorneys, Hopkins, Heltzel LLP, and sets forth the following facts:

COUNT I

1. Plaintiff Louis Boccia is an adult individual who resides at 434 Robbins Avenue, Niles, Ohio 44446.
2. The defendant is Pennwest Commodities, Inc. whose address is 301 Aspen Way, DuBois, Pennsylvania 15801.
3. Plaintiff is the owner of real property and improvements known as the "Wilson School" located in Sandy Township, Clearfield, Pennsylvania.
4. By agreement dated May 13, 2005, Plaintiff and Defendant agreed to sell, purchase and convey real property and improvements located in Sandy Township, Clearfield County, Pennsylvania generally known as the "Wilson School." A photocopy of the agreement is attached hereto as Exhibit "A" and is incorporated as if set forth at length herein.

5. The agreement obligated Defendant to purchase the property without any contingencies on or before August 15, 2005. Section 3(A)(1) of the agreement obligated Defendant to pay a deposit of \$10,000.00 at the time Defendant executed the agreement, May 13, 2005.

6. At all material times prior to September 1, 2005, Plaintiff believed Defendant had deposited \$10,000.00 with the real estate brokerage firm of Hoffer Realty Associates.

7. Defendant failed to close the transaction on August 15, 2005 and the parties agreed to extend the closing date to September 30, 2005.

8. Plaintiff has taken all steps necessary to close this transaction and is ready, willing and able to transfer good and marketable title to the Defendant.

9. The Defendant failed to close the transaction and purchase the property on September 30, 2005.

10. Defendant's actions constitute breach of the May 13, 2005 contract.

11. Paragraph 27(c) of the agreement limits Plaintiff's damages to the \$10,000.00 deposit.

12. As a result of Defendant's breach of the contract, Plaintiff has incurred legal fees and expenses estimated to be \$5,000.00.

WHEREFORE, Plaintiff demands judgment against Defendant Pennwest Commodities, Inc. in the amount of \$10,000.00 together with pre-judgment interest, post-judgment interest, attorney's fees, and such other and further relief as the Court shall deem fair, just and equitable.

COUNT II

13. Plaintiff repeats each of the allegations in Count I as if set forth at length herein.

14. Defendant's execution of the May 13, 2005 contract that required a \$10,000.00 deposit at the signing of the contract and Defendant's failure to deposit said money constituted a fraud upon the Plaintiff.

15. Defendant's actions were undertaken with the intent that Plaintiff execute the contract relying that the \$10,000.00 deposit was available in the event of Defendant's breach; Plaintiff did rely upon the deposit when executing the contract; and as a result Plaintiff has suffered damages in the amount of the deposit (\$10,000.00) and has been forced to institute this lawsuit inasmuch as Defendant failed to post the \$10,000.00 deposit.

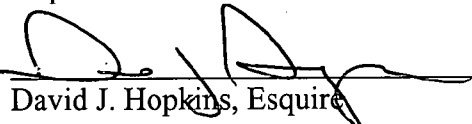
16. The actions of Defendant constitute common law fraud.

17. The actions of Defendant were done maliciously and wantonly entitling Plaintiff to an award of punitive damages.

WHEREFORE, Plaintiff demands judgment against Defendant, Pennwest Commodities, Inc, for compensatory damages in the amount of \$10,000.00, punitive damages, attorney's fees, pre-judgment interest, post-judgment interest, and such other and further relief as the Court deems fair, just and equitable.

Respectfully submitted,

Hopkins Heltzel LLP


David J. Hopkins, Esquire

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STANDARD AGREEMENT FOR THE SALE OF REAL ESTATE

A/S-2K

This form recommended and approved for, but not restricted to use by, the members of the Pennsylvania Association of REALTORS® (PAR).

SELLER'S BUSINESS RELATIONSHIP WITH PA LICENSED BROKER	
BROKER (Company) <u>Hoffer Realty Associates</u>	PHONE <u>814 371 2100</u>
ADDRESS <u>700 Liberty Blvd., DuBois PA 15801</u>	FAX <u>814 371 1651</u>
BROKER IS THE AGENT FOR SELLER. Designated Agent(s) for Seller, if applicable:	
OR	
Broker is NOT the Agent for Seller and is a/an: <input type="checkbox"/> AGENT FOR BUYER <input type="checkbox"/> TRANSACTION LICENSEE	

BUYER'S BUSINESS RELATIONSHIP WITH PA LICENSED BROKER	
BROKER (Company) _____	PHONE _____
ADDRESS <u>SAME AS ABOVE</u>	FAX _____
BROKER IS THE AGENT FOR BUYER. Designated Agent(s) for Buyer, if applicable:	
OR	
Broker is NOT the Agent for Buyer and is a/an: <input type="checkbox"/> AGENT FOR SELLER <input type="checkbox"/> SUBAGENT FOR SELLER <input type="checkbox"/> TRANSACTION LICENSEE	

When the same Broker is Agent for Seller and Agent for Buyer, Broker is a Dual Agent. All of Broker's licensees are also Dual Agents UNLESS there are separate Designated Agents for Buyer and Seller. If the same Licensee is designated for Seller and Buyer, the Licensee is a Dual Agent.

1. This Agreement, dated May 13, 2005, is between
 SELLER(S): Louis Boccia
434 Robins Avenue
Niles Ohio 44446, called "Seller;" and
 BUYER(S): Penn West Commodities
301 Aspen Way
DuBois PA 15801, called "Buyer."

2. PROPERTY (1-98) Seller hereby agrees to sell and convey to Buyer, who hereby agrees to purchase:
 ALL THAT CERTAIN lot or piece of ground with buildings and improvements thereon erected, if any, known as:
Wilson School

In the Township of Sandy
 County of Clearfield In the Commonwealth of Pennsylvania, Zip Code 15801
 Identification (e.g., Tax ID #: Parcel #: Lot, Block; Deed Book, Page, Recording Date) _____
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

3. TERMS (1-02)

(A) Purchase Price Forty-five thousand dollars U.S. Dollars
 which will be paid to Seller by Buyer as follows:
 1. Cash or check at signing this Agreement: _____ \$ 10,000.00
 2. Cash or check within _____ days of the execution of this Agreement: _____ \$ _____
 3. _____ \$ _____
 4. Cash, cashier's or certified check at time of settlement: _____ \$ 35,000.00
TOTAL \$ 45,000.00

(B) Deposits paid on account of purchase price to be held by Broker for Seller, unless otherwise stated here: _____

(C) Seller's written approval to be on or before: May 25, 2005

(D) Settlement to be on August 15, 2005, or before if Buyer and Seller agree.

(E) Conveyance from Seller will be by fee simple deed of special warranty unless otherwise stated here: _____

(F) Payment of transfer taxes will be divided equally between Buyer and Seller unless otherwise stated here: _____

(G) At time of settlement, the following will be adjusted pro-rata on a daily basis between Buyer and Seller, reimbursing where applicable: taxes (see Information Regarding Tax Proration); rents; interest on mortgage assumptions; condominium fees and homeowner association fees, if any; water and/or sewer fees, if any, together with any other lienable municipal service. The charges are to be pro-rated for the period(s) covered: Seller will pay up to and including the date of settlement; Buyer will pay for all days following settlement, unless otherwise stated here: _____

4. FIXTURES & PERSONAL PROPERTY (1-00)

(A) INCLUDED In this sale and purchase price are all existing items permanently installed in the Property, free of liens, including plumbing; heating; lighting fixtures (including chandeliers and ceiling fans); water treatment systems; pool and spa equipment; garage door openers and transmitters; television antennas; shrubbery, plantings and unpotted trees; any remaining heating and cooking fuels stored on the Property at the time of settlement; wall to wall carpeting; window covering hardware, shades and blinds; built-in air conditioners; built-in appliances; and the range/oven unless otherwise stated. Also included: _____

(B) LEASED items (not owned by Seller): _____

(C) EXCLUDED fixtures and items: _____

5. DATES/TIME IS OF THE ESSENCE (1-02)

(A) The said date for settlement and all other dates and times referred to for the performance of any of the obligations of this Agreement are agreed to be of the essence of this Agreement and are binding.

(B) For the purposes of this Agreement, number of days will be counted from the date of execution, by excluding the day this Agreement was executed and including the last day of the time period.

(C) The date of settlement is not extended by any other provision of this Agreement and may only be extended by mutual written agreement of the parties.

(D) Certain time periods are pre-printed in this Agreement as a convenience to the Buyer and Seller. Any pre-printed time periods are negotiable and may be changed by striking out the pre-printed text and inserting a different time period acceptable to all parties.

Buyer Initials: _____

A/S-2K Page 1 of 8

Seller Initials: LTB

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 The Union for Real Estate® in Pennsylvania

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 01/02

EXHIBIT "A"

☐ ELECTED

(A) This sale is contingent upon Buyer obtaining mortgage financing as follows:

1. Amount of mortgage loan \$ _____
2. Minimum Term _____ years
3. Type of mortgage _____
4. Interest rate _____ %; however, Buyer agrees to accept the interest rate as may be committed by the mortgage lender, not to exceed a maximum interest rate of _____ %
5. Discount points, loan origination, loan placement and other fees charged by the lender as a percentage of the mortgage loan (excluding any mortgage insurance premiums or VA funding fee) not to exceed _____ % (0% if not specified) of the mortgage loan.

The interest rate and fees provisions required by Buyer are satisfied if a mortgage lender makes available to Buyer the right to guarantee an interest rate at or below the Maximum Interest Rate specified herein with the percentage fees at or below the amount specified herein. Buyer gives Seller the right, at Seller's sole option and as permitted by the mortgage lender and applicable laws, to contribute financially, without promise of reimbursement, to the Buyer and/or the mortgage lender to make the above terms available to Buyer.

(B) Within _____ DAYS (10 days if not specified) of the execution of this Agreement, Buyer will make a completed, written mortgage application for the mortgage terms specified above to a responsible mortgage lender. The Broker for Buyer, if any, otherwise the Broker for Seller, is authorized to communicate with the mortgage lender for the purposes of assisting in the mortgage loan process.

(C) 1. Mortgage commitment date _____. If a written commitment is not received by Seller by the above date, Buyer and Seller agree to extend the mortgage commitment date until Seller terminates this Agreement in writing by notice to Buyer.

2. Upon receipt of a mortgage commitment, Buyer will promptly deliver a copy of the commitment to Seller.

3. Seller has the option to terminate this Agreement in writing, after the mortgage commitment date if the mortgage commitment:

- a. Is not valid until the date of settlement, OR
- b. Is conditioned upon the sale and settlement of any other property, OR
- c. Contains any other condition not specified in this Agreement that is not satisfied and/or removed in writing by the mortgage lender within _____ DAYS after the mortgage commitment date in paragraph 6 (C) (1).

4. If this Agreement is terminated as specified in paragraphs 6 (C) (1) or (3), or the mortgage loan is not obtained for settlement, all deposit monies paid on account of purchase price will be returned to Buyer. Buyer will be responsible for any premiums for mechanics' lien insurance and/or title search, or fee for cancellation of same, if any; AND/OR any premiums for flood insurance, mine subsidence insurance and/or fire insurance with extended coverage, or cancellation fee, if any; AND/OR any appraisal fees and charges paid in advance to the mortgage lender.

(D) If the mortgage lender requires repairs to the Property, Buyer will, upon receipt, deliver a copy of the mortgage lender's requirements to Seller. Seller will, within _____ DAYS of receipt of the mortgage lender's requirements, notify Buyer whether Seller will make the required repairs at Seller's expense.

1. If Seller chooses to make the required repairs, Buyer will accept the Property and agree to the RELEASE set forth in paragraph 25 of this Agreement.

2. If Seller chooses not to make the required repairs, or if Seller fails to respond within the time given, Buyer will, within _____ DAYS, notify Seller in writing of Buyer's choice to terminate this Agreement OR make the required repairs at Buyer's expense and with Seller's permission, which will not be unreasonably withheld. If Seller denies Buyer permission to make the required repairs, Buyer may, within _____ DAYS of Seller's denial, terminate this Agreement, in which case all deposit monies paid on account of purchase price will be returned promptly to Buyer and this Agreement will be VOID.

(E) Seller Assist

☒ NOT APPLICABLE

☐ APPLICABLE. Seller will pay:

☐ \$ _____, maximum, toward Buyer's costs as permitted by the mortgage lender.

FHA/VA, IF APPLICABLE

(F) It is expressly agreed that notwithstanding any other provisions of this contract, Buyer will not be obligated to complete the purchase of the Property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise unless Buyer has been given, in accordance with HUD/FHA or VA requirements, a written statement by the Federal Housing Commissioner, Veterans Administration, or a Direct Endorsement Lender setting forth the appraised value of the Property of not less than \$ _____ (the dollar amount to be inserted is the sales price as stated in this Agreement). Buyer will have the privilege and option of proceeding with consummation of the contract without regard to the amount of the appraised valuation. The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value nor the condition of the Property. Buyer should satisfy himself/herself that the price and condition of the Property are acceptable.

Warning: Section 1010 of Title 18, U.S.C., Department of Housing and Urban Development and Federal Housing Administration Transactions, provides, "Whoever for the purpose of . . . influencing in any way the action of such Department, makes, passes, utters or publishes any statement, knowing the same to be false . . . shall be fined under this title or imprisoned not more than two years, or both."

(G) U.S. Department of Housing and Urban Development (HUD) NOTICE TO PURCHASERS: Buyer's Acknowledgement

☐ Buyer has received the HUD Notice "For Your Protection: Get a Home Inspection" (see Notices and Information on Property Condition Inspections). Buyer understands the importance of getting an independent home inspection and has thought about this before signing this Agreement. Buyer understands that FHA will not perform a home inspection nor guarantee the price or condition of the Property.

Buyer's Initials _____ Date _____

(H) Certification We the undersigned, Seller(s) and Buyer(s) party to this transaction each certify that the terms of this contract for purchase are true to the best of our knowledge and belief, and that any other agreement entered into by any of these parties in connection with this transaction is attached to this Agreement.

7. INSPECTIONS (1-02)

(A) Seller agrees to permit inspections by authorized appraisers, reputable certifiers, insurer's representatives, surveyors, municipal officials and/or Buyer as may be required by the mortgage lender, if any, or insuring agencies. Seller further agrees to permit any other inspections required by or provided for in the terms of this Agreement. Buyer has the right to attend all inspections.

(B) Buyer reserves the right to make a pre-settlement walk-through inspection of the Property. Buyer's right to make this inspection is not waived by any other provision of this Agreement.

(C) Seller will have heating and all utilities (including fuel(s)) on for the inspections.

(D) All inspectors, including home inspection, are authorized by Buyer to provide a copy of any reports to Broker for Buyer

8. PROPERTY INSPECTION CONTINGENCY (7-04)

Other provisions of this Agreement may provide for inspections and/or certifications that are not waived or altered by Buyer's election here.

☒ WAIVED. Buyer understands that Buyer has the option to request inspections of the Property (see Property Inspection Notices and Environmental Notices). BUYER WAIVES THIS OPTION and agrees to the RELEASE set forth in paragraph 25 of this Agreement.

☐ ELECTED

(A) Within _____ DAYS (15 days if not specified) of the execution of this Agreement, Buyer, at Buyer's expense, may choose to have inspections and/or certifications completed by licensed or otherwise qualified professionals (see Property Inspection Notices and Environmental Notices). This contingency does not apply to the following existing conditions and/or items:

(B) Should Buyer elect to have a home inspection of the Property, as defined in the Pennsylvania Home Inspection Law, (see Information Regarding the Home Inspection Law) such home inspection shall be performed by a full member in good standing of a national home inspection association, or by a person supervised by a full member of a national home inspection association, in accordance with the ethical standards and code of conduct or practice of that association, a licensed or registered professional engineer, or a licensed or registered architect.

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☐ Option 1. Within the time given for completing inspections:

1. Accept the Property with the information stated in the report(s) and agree to the RELEASE set forth in paragraph 25 of this Agreement, OR
2. Terminate this Agreement in writing by notice to Seller, in which case all deposit monies paid on account of purchase price will be returned promptly to Buyer and this Agreement will be VOID, OR
3. Enter into a mutually acceptable written agreement with Seller providing for any repairs or improvements to the Property and/or any credit to Buyer at settlement, as may be acceptable to the mortgage lender, if any.

Should efforts to reach a mutually acceptable agreement fail, Buyer must choose to accept the Property or terminate this Agreement within the time given for completing inspections and according to the provisions in paragraph 8(C) (Option 1) 1 and 2.

☐ Option 2. Within the time given for completing inspections:

1. Accept the Property with the information stated in the report(s) and agree to the RELEASE set forth in paragraph 25 of this Agreement, UNLESS the total cost to correct the conditions contained in the report(s) is more than \$ _____.
2. If the total cost to correct the conditions contained in the report(s) EXCEEDS the amount specified in paragraph 8(C) (Option 2) 1, Buyer will deliver the report(s) to Seller within the time given for inspection.

a. Seller will, within 7 DAYS of receiving the report(s), inform Buyer in writing of Seller's choice to:

- (1) Make repairs before settlement so that the remaining cost to repair conditions contained in the report(s) is less than or equal to the amount specified in paragraph 8 (C) (Option 2) 1.
- (2) Credit Buyer at settlement for the difference between the estimated cost of repairing the conditions contained in the report(s) and the amount specified in paragraph 8 (C) (Option 2) 1. This option must be acceptable to the mortgage lender, if any.
- (3) Not make repairs and not credit Buyer at settlement for any costs to repair conditions contained in the report(s).

b. If Seller chooses to make repairs or credit Buyer at settlement as specified in paragraph 8 (C) (Option 2) 2, Buyer will accept the Property and agree to the RELEASE set forth in paragraph 25 of this Agreement.

c. If Seller chooses not to make repairs and not to credit Buyer at settlement, or if Seller fails to choose any option within the time given, Buyer will, within 5 DAYS:

- (1) Accept the Property with the information stated in the report(s) and agree to the RELEASE set forth in paragraph 25 of this Agreement, OR
- (2) Terminate this Agreement in writing by notice to Seller, in which case all deposit monies paid on account of purchase price will be returned promptly to Buyer and this Agreement will be VOID.

9. WOOD INFESTATION INSPECTION CONTINGENCY (1-02)

☒ WAIVED. Buyer understands that Buyer has the option to request that the Property be inspected for wood infestation by a certified Pest Control Operator. BUYER WAIVES THIS OPTION and agrees to the RELEASE set forth in paragraph 25 of this Agreement.

☐ ELECTED

(A) Within _____ DAYS (15 days if not specified) of the execution of this Agreement, Buyer, at Buyer's expense, will obtain a written "Wood-Destroying Insect Infestation Inspection Report" from a certified Pest Control Operator and will deliver it and all supporting documents and drawings provided by the Pest Control Operator to Seller. The report is to be made satisfactory to and in compliance with applicable laws, mortgage lenders, and/or Federal Insuring and Guaranteeing Agency requirements, if any. The inspection will include all readily visible and accessible areas of all structures on the Property except the following structures, which will not be inspected: _____

(B) If the inspection reveals evidence of active infestation(s), Seller agrees, at Seller's expense and before settlement, to treat for active infestation(s), in accordance with applicable laws.

(C) If the inspection reveals damage from active infestation(s) or previous infestation(s), Buyer, at Buyer's expense, has the option to obtain a written report by a professional contractor, home inspection service, or structural engineer that is limited to structural damage to the Property caused by wood-destroying organisms and a proposal to repair the damage. Buyer will deliver the structural damage report and corrective proposal to Seller within 7 DAYS of delivering the original inspection report.

(D) Within 5 DAYS of receiving the structural damage report and corrective proposal, Seller will advise Buyer whether Seller will repair, at Seller's expense and before settlement, any structural damage from active or previous infestation(s).

(E) If Seller chooses to repair structural damage revealed by the report, Buyer agrees to accept the Property as repaired and agrees to the RELEASE set forth in paragraph 25 of this Agreement.

(F) If Seller chooses not to repair structural damage revealed by the report or fails to respond within the time given, Buyer, within 5 DAYS, will notify Seller in writing of Buyer's choice to:

1. Accept the Property with the defects revealed by the inspection, without abatement of price, and agree to the RELEASE set forth in paragraph 25 of this Agreement, OR
2. Make the repairs before settlement, if required by the mortgage lender, if any, at Buyer's expense and with Seller's permission, which will not be unreasonably withheld, in which case Buyer accepts the Property and agrees to the RELEASE set forth in paragraph 25 of this Agreement. If Seller denies Buyer permission to make the repairs, Buyer may, within 5 DAYS of Seller's denial, terminate this Agreement in writing, in which case all deposit monies paid on account of purchase price will be returned promptly to Buyer and this Agreement will be VOID, OR
3. Terminate this Agreement, in which case all deposit monies paid on account of purchase price will be returned promptly to Buyer and this Agreement will be VOID.

10. RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT NOTICE REQUIRED FOR PROPERTIES BUILT BEFORE 1978 (1-02)

☐ NOT APPLICABLE☒ APPLICABLE

(A) Seller represents that Seller has no knowledge concerning the presence of lead-based paint and/or lead-based paint hazards in or about the Property, unless checked below.

☐ Seller has knowledge of the presence of lead-based paint and/or lead-based paint hazards in or about the Property. (Provide the basis for determining that lead-based paint and/or hazards exist, the location(s), the condition of the painted surfaces, and other available information concerning Seller's knowledge of the presence of lead-based paint and/or lead-based paint hazards.) _____

(B) Records/Reports: Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in or about the Property, unless checked below.

☐ Seller has provided Buyer with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in or about the Property. (List documents) _____

(C) Buyer's Acknowledgement: Buyer has received the pamphlet *Protect Your Family from Lead in Your Home* and has read the Lead Warning Statement contained in this Agreement (see Environmental Notices). Buyer has reviewed Seller's disclosure of known lead-based paint and/or lead-based paint hazards identified in paragraph 10(A) and has received the records and reports pertaining to lead-based paint and/or lead-based paint hazards identified in paragraph 10(B).

Buyer's Initials _____ Date _____

(D) RISK ASSESSMENT/INSPECTION: Buyer acknowledges that before Buyer is obligated to buy a residential dwelling built before 1978, Buyer has 10 DAYS to conduct a risk assessment or inspection of the Property for the presence of lead-based paint and/or lead-based paint hazards. BUYER WAIVES. Buyer understands that Buyer has the right to conduct a risk assessment or inspection of the Property to determine the presence of lead-based paint and/or lead-based paint hazards. BUYER WAIVES THIS RIGHT and agrees to the RELEASE set forth in paragraph 25 of this Agreement.

☐ ELECTED

1. Buyer, at Buyer's expense, chooses to obtain a risk assessment and/or inspection of the Property for lead-based paint and/or lead-based paint hazards. The risk assessment and/or inspection will be completed within 10 DAYS of the execution of this Agreement.

Buyer Initials: RMH

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Seller Initials: [Signature]

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lead-based paint hazards, Buyer may deliver to Seller a written list of the specific hazardous conditions and the corrective actions requested by Buyer, along with a copy of the risk assessment and/or inspection report.

3. Seller may, within 7 DAYS of receiving the list and report(s), submit a written corrective proposal to Buyer. The corrective proposal will include, but not be limited to, the name of the remediation company and a projected completion date for corrective measures. Seller will provide certification from a risk assessor or inspector that corrective measures have been satisfactorily completed on or before the projected completion date.
4. Upon receiving the corrective proposal, Buyer, within 5 DAYS, will:
- Accept the corrective proposal and the Property in writing, and agree to the RELEASE set forth in paragraph 25 of this Agreement, OR
 - Terminate this Agreement in writing, in which case all deposit monies paid on account of purchase price will be returned promptly to Buyer and this Agreement will be VOID.
5. Should Seller fail to submit a written corrective proposal within the time set forth in paragraph 10(D)3 of this Agreement, Buyer, within 5 DAYS, will:
- Accept the Property in writing, and agree to the RELEASE set forth in paragraph 25 of this Agreement, OR
 - Terminate this Agreement in writing, in which case all deposit monies paid on account of purchase price will be returned promptly to Buyer and this Agreement will be VOID.
6. Buyer's failure to exercise any of Buyer's options within the time limits specified in this paragraph will constitute a WAIVER of this contingency and Buyer accepts the Property and agrees to the RELEASE set forth in paragraph 25 of this Agreement.

(B) Certification: By signing this Agreement, Buyer and Seller certify the accuracy of their respective statements, to the best of their knowledge.

11. STATUS OF RADON (1-02)

(A) Seller represents that Seller has no knowledge concerning the presence or absence of radon unless checked below.

- ☐ 1. Seller has knowledge that the Property was tested on the dates, by the methods (e.g., charcoal canister, alpha track, etc.), and with the results of all tests indicated below:

DATE	TYPE OF TEST	RESULTS (picocuries/liter or working levels)
------	--------------	--

COPIES OF ALL AVAILABLE TEST REPORTS will be delivered to Buyer with this Agreement. SELLER DOES NOT WARRANT EITHER THE METHODS OR RESULTS OF THE TESTS.

- ☐ 2. Seller has knowledge that the Property underwent radon reduction measures on the date(s) and by the method(s) indicated below:

DATE	RADON REDUCTION METHOD
------	------------------------

(B) RADON INSPECTION CONTINGENCY

WAIVED. Buyer understands that Buyer has the option to request that the Property be inspected for radon by a certified inspector (see Environmental Notices: Radon). BUYER WAIVES THIS OPTION and agrees to the RELEASE set forth in paragraph 25 of this Agreement.

- ☐ ELECTED. Buyer, at Buyer's expense, has the option to obtain, from a certified inspector, a radon test of the Property, and will deliver a copy of the test report to Seller within DAYS (15 days if not specified) of the execution of this Agreement. (See Environmental Notices: Radon)

1. If the test report reveals the presence of radon below 0.02 working levels (4 picocuries/liter), Buyer accepts the Property and agrees to the RELEASE set forth in paragraph 25 of this Agreement.

2. If the test report reveals the presence of radon at or exceeding 0.02 working levels (4 picocuries/liter), Buyer will, within 7 DAYS of receipt of the test results:

- ☐ Option 1

a. Accept the Property in writing and agree to the RELEASE set forth in paragraph 25 of this Agreement, OR

b. Terminate this Agreement in writing, in which case all deposit monies paid on account of purchase price will be returned promptly to Buyer and this Agreement will be VOID, OR

c. Submit a written, corrective proposal to Seller. The corrective proposal will include, but not be limited to, the name of the certified mitigation company; provisions for payment, including retests; and a projected completion date for corrective measures.

(1) Within 5 DAYS of receiving the corrective proposal, Seller will:

(a) Agree to the terms of the corrective proposal in writing, in which case Buyer accepts the Property and agrees to the RELEASE set forth in paragraph 25 of this Agreement, OR

(b) Not agree to the terms of the corrective proposal.

(2) Should Seller not agree to the terms of the corrective proposal or if Seller fails to respond within the time given, Buyer will, within 5 DAYS, elect to:

(a) Accept the Property in writing and agree to the RELEASE set forth in paragraph 25 of this Agreement, OR

(b) Terminate this Agreement in writing, in which case all deposit monies paid on account of purchase price will be returned promptly to Buyer and this Agreement will be VOID.

- ☐ Option 2

a. Accept the Property in writing and agree to the RELEASE set forth in paragraph 25 of this Agreement, OR

b. Submit a written, corrective proposal to Seller. The corrective proposal will include, but not be limited to, the name of the certified mitigation company; provisions for payment, including retests; and a projected completion date for corrective measures. Seller will pay a maximum of \$ toward the total cost of remediation and retests, which will be completed by settlement.

(1) If the total cost of remediation and retests EXCEEDS the amount specified in paragraph 11(B) (Option 2) b, Seller will, within 5 DAYS of receipt of the cost of remediation, notify Buyer in writing of Seller's choice to:

(a) Pay for the total cost of remediation and retests, in which case Buyer accepts the Property and agrees to the RELEASE set forth in paragraph 25 of this Agreement, OR

(b) Contribute toward the total cost of remediation and retests only the amount specified in paragraph 11(B) (Option 2) b.

(2) If Seller chooses not to pay for the total cost of remediation and retests, or if Seller fails to choose either option within the time given, Buyer will, within 5 DAYS, notify Seller in writing of Buyer's choice to:

(a) Pay the difference between Seller's contribution to remediation and retests and the actual cost thereof, in which case Buyer accepts the Property and agrees to the RELEASE set forth in paragraph 25 of this Agreement, OR

(b) Terminate this Agreement, in which case all deposit monies paid on account of purchase price will be returned promptly to Buyer and this Agreement will be VOID.

12. STATUS OF WATER (1-02)

(A) Seller represents that the Property is served by:

- ☒ Public Water
- ☐ On-site Water
- ☐ Community Water
- ☐ None

(B) WATER SERVICE INSPECTION CONTINGENCY

WAIVED. Buyer acknowledges that Buyer has the option to request an inspection of the water service for the Property. BUYER WAIVES THIS OPTION and agrees to the RELEASE set forth in paragraph 25 of this Agreement.

- ☐ ELECTED

1. Buyer has the option, within DAYS (15 days if not specified) of the execution of this Agreement and at Buyer's expense, to deliver to Seller a written inspection report by a qualified, professional water testing company of the quality and/or quantity of the water service.

Buyer Initials: RMH

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Seller Initials: LTB

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- 324 inspection company. Seller also agrees to restore the Property, at Seller's expense, to the condition it was in prior to the inspection. If the report reveals that the water service does not meet the minimum standards of any applicable governmental authority and/or fails to
325 satisfy the requirements for quality and/or quantity set by the mortgage lender, if any, then Seller will, within 7 DAYS of receipt of
326 the report, notify Buyer in writing of Seller's choice to:
327
328 a. Upgrade the water service to the minimum acceptable levels, before settlement, in which case Buyer accepts the Property and agrees
329 to the RELEASE set forth in paragraph 25 of this Agreement, OR
330
331 b. Not upgrade the water service.
332
333 4. If Seller chooses not to upgrade the service to minimum acceptable levels, or fails to respond within the time given, Buyer will, within
334 5 DAYS, either:
335
336 a. Accept the Property and the water service and, if required by the mortgage lender, if any, and/or any governmental authority, upgrade
337 the water service before settlement or within the time required by the mortgage lender, if any, and/or any governmental authority, at
338 Buyer's expense and with Seller's permission, which will not be unreasonably withheld, and agree to the RELEASE set forth in para-
339 graph 25 of this Agreement. If Seller denies Buyer permission to upgrade the water service, Buyer may, within 5 DAYS of
340 Seller's denial, terminate this Agreement in writing, in which case all deposit monies paid on account of purchase price will be
341 returned promptly to Buyer and this Agreement will be VOID, OR
342
343 b. Terminate this Agreement in writing, in which case all deposit monies paid on account of purchase price will be returned promptly
344 to Buyer and this Agreement will be VOID.

13. STATUS OF SEWER (1-02)

(A) Seller represents that the Property is served by:

- 345 ☒ Public Sewer
346 ☐ Individual On-lot Sewage Disposal System (See Sewage Notice 1)
347 ☐ Individual On-lot Sewage Disposal System in Proximity to Well (See Sewage Notice 1; see Sewage Notice 4, if applicable)
348 ☐ Community Sewage Disposal System
349 ☐ Ten-acre Permit Exemption (See Sewage Notice 2)
350 ☐ Holding Tank (See Sewage Notice 3)
351 ☐ None (See Sewage Notice 1)
352 ☐ None Available/Permit Limitations in Effect (See Sewage Notice 5)

(B) INDIVIDUAL ON-LOT SEWAGE DISPOSAL INSPECTION CONTINGENCY

353 ☐ WAIVED. Buyer acknowledges that Buyer has the option to request an individual on-lot sewage disposal inspection of the Property. BUYER
354 WAIVES THIS OPTION and agrees to the RELEASE set forth in paragraph 25 of this Agreement.

☐ ELECTED

- 355 1. Buyer has the option, within _____ DAYS (15 days if not specified) of the execution of this Agreement and at Buyer's expense, to
356 deliver to Seller a written inspection report by a qualified, professional inspector of the individual on-lot sewage disposal system.
357
358 2. Seller, at Seller's expense, agrees, if and as required by the inspection company, to locate, provide access to and empty the individual on-
359 lot sewage disposal system. Seller also agrees to restore the Property, at Seller's expense, prior to settlement.
360
361 3. If the report reveals defects that do not require expansion or replacement of the existing sewage disposal system, Seller will, within
362 7 DAYS of receipt of the report, notify Buyer in writing of Seller's choice to:
363
364 a. Correct the defects before settlement, including retests, at Seller's expense, in which case Buyer accepts the Property and agrees to
365 the RELEASE set forth in paragraph 25 of this Agreement, OR
366
367 b. Not correct the defects.
368
369 4. If Seller chooses not to correct the defects, or if Seller fails to respond within the time given, Buyer will, within 5 DAYS, either:
370
371 a. Accept the Property and the system and, if required by the mortgage lender, if any, and/or any governmental authority, correct the
372 defects before settlement or within the time required by the mortgage lender, if any, and/or any governmental authority, at Buyer's
373 sole expense and with Seller's permission, which will not be unreasonably withheld, and agree to the RELEASE set forth in para-
374 graph 25 of this Agreement. If Seller denies Buyer permission to correct the defects, Buyer may, within 5 DAYS of Seller's
375 denial, terminate this Agreement in writing, in which case all deposit monies paid on account of purchase price will be returned
376 promptly to Buyer and this Agreement will be VOID, OR
377
378 b. Terminate this Agreement in writing, in which case all deposit monies paid on account of purchase price will be returned
379 promptly to Buyer and this Agreement will be VOID.
380
381 5. If the report reveals the need to expand or replace the existing individual on-lot sewage disposal system, Seller may, within 21 DAYS
382 of receipt of the report, submit a corrective proposal to Buyer. The corrective proposal will include, but not be limited to, the name of the
383 remediation company; provisions for payment, including retests; and a projected completion date for corrective measures. Within
384 5 DAYS of receiving Seller's corrective proposal, or if no corrective proposal is received within the time given, Buyer will:
385
386 a. Agree to the terms of the corrective proposal, if any, in writing, in which case Buyer accepts the Property and agrees to the RELEASE
387 set forth in paragraph 25 of this Agreement, OR
388
389 b. Accept the Property and the system and, if required by the mortgage lender, if any, and/or any governmental authority, correct the
390 defects before settlement or within the time required by the mortgage lender, if any, and/or any governmental authority, at Buyer's
391 sole expense and with Seller's permission, which will not be unreasonably withheld, and agree to the RELEASE set forth in para-
392 graph 25 of this Agreement. If Seller denies Buyer permission to correct the defects, Buyer may, within 5 DAYS of Seller's
393 denial, terminate this Agreement in writing, in which case all deposit monies paid on account of purchase price will be returned
394 promptly to Buyer and this Agreement will be VOID, OR
395
396 c. Terminate this Agreement in writing, in which case all deposit monies paid on account of purchase price will be returned promptly
397 to Buyer and this Agreement will be VOID.

14. NOTICES, ASSESSMENTS & CERTIFICATES OF OCCUPANCY (7-04)

398 (A) Seller represents, as of Seller's execution of this Agreement, that no public improvement, condominium or homeowner association assessments
399 have been made against the Property which remain unpaid, and that no notice by any government or public authority has been served upon
400 Seller or anyone on Seller's behalf, including notices relating to violations of zoning, housing, building, safety or fire ordinances which remain
401 uncorrected, and that Seller knows of no condition that would constitute violation of any such ordinances which remains uncorrected, unless
402 otherwise specified here: _____

403 (B) Seller knows of no other potential notices (including violations) and assessments except as follows: _____

404 (C) In the event any notices (including violations) and assessments are received after execution of this Agreement and before settlement, Seller will
405 notify Buyer in writing, within 5 DAYS of receiving the notice or assessment, that Seller will:

- 406 1. Comply with notices and assessments at Seller's expense, in which case Buyer accepts the Property and agrees to the RELEASE set forth
407 in paragraph 25 of this Agreement, OR
408
409 2. Not comply with notices and assessments at Seller's expense.
410
411 3. If Seller chooses not to comply with notices and assessments, or fails within the time given to notify Buyer if Seller will comply, Buyer
412 will notify Seller within 5 DAYS in writing that Buyer will either:
413
414 a. Comply with notices and assessments at Buyer's expense and agree to the RELEASE set forth in paragraph 25 of this Agreement, OR
415
416 b. Terminate this Agreement, in which case all deposit monies paid on account of purchase price will be returned promptly to Buyer
417 and this Agreement will be VOID.
418 If Buyer fails to notify Seller within the time given, Buyer accepts the Property and agrees to the RELEASE set forth in para-
419 graph 25 of this Agreement.

420 (D) Buyer is advised that access to a public road may require issuance of a highway occupancy permit from the Department of Transportation.

Buyer Initials: RMH

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Seller Initials: [Signature]

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1. A certification from the appropriate municipal department or departments disclosing notice of any uncorrected violations of zoning, housing, building, safety or fire ordinances, AND/OR
2. A certificate permitting occupancy of the Property. In the event repairs/improvements are required for the issuance of the certificate, Seller will, within 5 DAYS of Seller's receipt of the requirements, notify Buyer of the requirements and whether Seller will make the required repairs/improvements at Seller's expense.

If Seller chooses to make the required repairs/improvements, Buyer agrees to accept the Property as repaired and agrees to the RELEASE set forth in paragraph 25 of this Agreement. If Seller chooses not to make the required repairs/improvements, Buyer will, within 5 DAYS, notify Seller in writing of Buyer's choice to terminate this Agreement OR make the repairs/improvements at Buyer's expense and with Seller's permission, which will not be unreasonably withheld. If Seller denies Buyer permission to make the required repairs or if Seller fails to respond within the time given, Buyer may, within 5 DAYS, terminate this Agreement in writing, in which case all deposit monies paid on account of purchase price will be returned promptly to Buyer and this Agreement will be VOID.

- (F) The Property is not a "recreational cabin" as defined in the Pennsylvania Construction Code Act unless otherwise stated here (see Notice Regarding Recreational Cabins).

15. TITLE, SURVEYS & COSTS (1-02)

- (A) The Property is to be conveyed free and clear of all liens, encumbrances, and easements, EXCEPTING HOWEVER the following: existing deed restrictions, historic preservation restrictions or ordinances, building restrictions, ordinances, easements of roads, easements visible upon the ground, easements of record, privileges or rights of public service companies, if any; otherwise the title to the above described real estate will be good and marketable and such as will be insured by a reputable Title Insurance Company at the regular rates.
- (B) Buyer will pay for the following: (1) Title search, title insurance and/or mechanics lien insurance, or fee for cancellation of same, if any; (2) Flood insurance, fire insurance with extended coverage, mine subsidence insurance, or fee for cancellation of same, if any; (3) Appraisal fees and charges paid in advance to mortgage lender, if any; (4) Buyer's customary settlement costs and accruals.
- (C) Any survey or surveys which may be required by the Title Insurance Company or the abstracting attorney for the preparation of an adequate legal description of the Property (or the correction thereof) will be secured and paid for by Seller. Any survey or surveys desired by Buyer or required by the mortgage lender will be secured and paid for by Buyer.
- (D) In the event Seller is unable to give a good and marketable title and such as will be insured by a reputable Title Company at the regular rates, as specified in paragraph 15(A), Buyer will have the option of: (1) taking such title as Seller can give with no change to the purchase price; or (2) being repaid all monies paid by Buyer to Seller on account of purchase price and being reimbursed by Seller for any costs incurred by Buyer for any inspections or certifications obtained according to the terms of the Agreement, and for those items specified in paragraph 15(B) items (1), (2), (3) and in paragraph 15(C), in which case there will be no further liability or obligation on either of the parties hereto and this Agreement will become VOID.

16. ZONING CLASSIFICATION (1-02)

Failure of this Agreement to contain the zoning classification (except in cases where the property (and each parcel thereof, if subdividable) is zoned solely or primarily to permit single-family dwellings) will render this Agreement voidable at the option of the Buyer, and, if voided, any deposits tendered by the Buyer will be returned to the Buyer without any requirement for court action.

Zoning Classification: Commercial

- ☐ ELECTED. Within 15 DAYS of the execution of this Agreement, Buyer will verify that the existing use of the Property as permitted is permitted. In the event the use is not permitted, Buyer will, within the time given for verification, notify Seller in writing that the existing use of the Property is not permitted and this Agreement will be VOID, in which case all deposit monies paid on account of purchase price will be returned promptly to Buyer. Buyer's failure to respond within the time given will constitute a WAIVER of this contingency and all other terms of this Agreement remain in full force and effect.

17. COAL NOTICE

- ☐ NOT APPLICABLE
- ☐ APPLICABLE

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHTS OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL SUCH COAL AND IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. (This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P.L. 984.) "Buyer acknowledges that he may not be obtaining the right of protection against subsidence resulting from coal mining operations, and that the property described herein may be protected from damage due to mine subsidence by a private contract with the owners of the economic interests in the coal. This acknowledgement is made for the purpose of complying with the provisions of Section 14 of the Bituminous Mine Subsidence and the Land Conservation Act of April 27, 1966." Buyer agrees to sign the deed from Seller which deed will contain the aforesaid provision.

18. POSSESSION (1-02)

- (A) Possession is to be delivered by deed, keys and:
- Physical possession to vacant Property free of debris, with all structures broom-clean, at day and time of settlement, AND/OR
 - Assignment of existing lease(s), together with any security deposits and interest, at time of settlement, if Property is leased at the execution of this Agreement or unless otherwise specified herein. Buyer will acknowledge existing lease(s) by initialing said lease(s) at time of execution of this Agreement.

(B) Seller will not enter into any new leases, written extension of existing leases, if any, or additional leases for the Property without the written consent of Buyer.

19. RECORDING (3-85)

This Agreement will not be recorded in the Office for the Recording of Deeds or in any other office or place of public record and if Buyer causes or permits this Agreement to be recorded, Seller may elect to treat such act as a breach of this Agreement.

20. ASSIGNMENT (3-85)

This Agreement will be binding upon the parties, their respective heirs, personal representatives, guardians and successors, and to the extent assignable, on the assigns of the parties hereto, it being expressly understood, however, that Buyer will not transfer or assign this Agreement without the written consent of Seller.

21. DEPOSIT & RECOVERY FUND (1-02)

- (A) Deposits paid by Buyer within 30 DAYS of settlement will be by cash, cashier's or certified check. Deposits, regardless of the form of payment and the person designated as payee, will be paid in U.S. Dollars to Broker or party identified in paragraph 3(B), who will retain them in an escrow account until consummation or termination of this Agreement in conformity with all applicable laws and regulations. Any uncashed check tendered as deposit monies may be held pending the acceptance of this offer.
- (B) Upon termination of this Agreement, the Broker holding the deposit monies will release the deposit monies in accordance with the terms of a fully executed written agreement between Buyer and Seller.
- (C) In the event of a dispute over entitlement to deposit monies, a broker holding the deposit monies is required by the Rules and Regulations of the State Real Estate Commission (49 Pa. Code §35.327) to retain the monies in escrow until the dispute is resolved. In the event of litigation for the return of deposit monies, a broker will distribute the monies as directed by a final order of court or the written Agreement of the parties. Buyer and Seller agree that, in the event any broker or affiliated licensee is joined in litigation for the return of deposit monies, the attorneys' fees and costs of the broker(s) and licensee(s) will be paid by the party joining them.
- (D) A Real Estate Recovery Fund exists to reimburse any persons who have obtained a final civil judgment against a Pennsylvania real estate licensee owing to fraud, misrepresentation, or deceit in a real estate transaction and who have been unable to collect the judgment after exhausting all legal and equitable remedies. For complete details about the Fund, call (717) 783-3658, or (800) 822-2113 (within Pennsylvania) and (717) 783-4854 (outside Pennsylvania).

22. CONDOMINIUM/PLANNED COMMUNITY (HOMEOWNER ASSOCIATION) RESALE NOTICE (1-02)

☐ NOT APPLICABLE

☐ APPLICABLE: CONDOMINIUM. Buyer acknowledges that the Property is a unit of a condominium that is primarily run by a unit owners' association. §3407 of the Uniform Condominium Act of Pennsylvania requires Seller to furnish Buyer with a Certificate of Resale and copies of the condominium declaration (other than plats and plans), the bylaws, and the rules and regulations of the association.

☐ APPLICABLE: PLANNED COMMUNITY (HOMEOWNER ASSOCIATION). Buyer acknowledges that the Property is part of a planned community as defined by the Uniform Planned Community Act. (See Definition of Planned Community Notice, §3407(a) of the Act requires Seller to furnish Buyer with a copy of the Declaration (other than plats and plans), the bylaws, the rules and regulations of the association, and a Certificate containing the provisions set forth in §3407(a) of the Act.

Buyer Initials: RAH

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Seller Initials: [Signature]

THE FOLLOWING APPLIES TO PROPERTIES THAT ARE PART OF A CONDOMINIUM OR A PLANNED COMMUNITY.

- (A) Within 15 DAYS of the execution of this Agreement, Seller will submit a request to the association for a Certificate of Resale and the documents necessary to enable Seller to comply with the Act. The Act provides that the association is required to provide these documents within 10 days of Seller's request.
- (B) Seller will promptly deliver to Buyer all documents received from the association. Under the Act, Seller is not liable to Buyer for the failure or delay of the association to provide the Certificate in a timely manner, nor is Seller liable to Buyer for any erroneous information provided by the association and included in the Certificate.
- (C) Buyer may declare this Agreement VOID at any time before Buyer's receipt of the association documents and for 5 days thereafter, OR until settlement, whichever occurs first. Buyer's notice declaring this Agreement void must be in writing; thereafter all deposit monies will be returned to Buyer.
- (D) In the event the association has the right to buy the Property (right of first refusal), and the association exercises that right, Seller will reimburse Buyer for all monies paid by Buyer on account of purchase price and for any costs incurred by Buyer for: (1) Title search, title insurance and/or mechanics lien insurance, or fee for cancellation of same, if any; (2) Flood insurance and/or fire insurance with extended coverage, mine subsidence insurance, or fee for cancellation of same, if any; (3) Appraisal fees and charges paid in advance to mortgage lender, if any.
- 23. MAINTENANCE & RISK OF LOSS (1-02)**
- (A) Seller will maintain the Property, grounds, fixtures, and any personal property specifically scheduled herein in its present condition, normal wear and tear excepted.
- (B) In the event any system or appliance included in the sale of the Property fails and Seller does not repair or replace the item, Seller will promptly notify Buyer in writing of Seller's choice to:
1. Repair or replace the failed system or appliance before settlement or credit Buyer at settlement for the fair market value of the failed system or appliance (this option must be acceptable to the mortgage lender, if any). In each case, Buyer accepts the Property and agrees to the RELEASE set forth in paragraph 25 of this Agreement, OR
 2. Not repair or replace the failed system or appliance, and not credit Buyer at settlement for the fair market value of the failed system or appliance. If Seller does not repair, replace or offer a credit for the failed system or appliance, or if Seller fails to notify Buyer of Seller's choice, Buyer will notify Seller in writing within 5 DAYS or before settlement, whichever is sooner, that Buyer will:
 - a. Accept the Property and agree to the RELEASE set forth in paragraph 25 of this Agreement, OR
 - b. Terminate this Agreement, in which case all deposit monies paid on account of purchase price will be returned promptly to Buyer and this Agreement will be VOID.
- (C) Seller will bear risk of loss from fire or other casualties until time of settlement. In the event of damage by fire or other casualties to any property included in this sale that is not repaired or replaced prior to settlement, Buyer will have the option of rescinding this Agreement and promptly receiving all monies paid on account of purchase price or of accepting the Property in its then condition together with the proceeds of any insurance recovery obtainable by Seller. Buyer is hereby notified that Buyer may insure Buyer's equitable interest in this Property as of the time of execution of this Agreement.
- 24. WAIVER OF CONTINGENCIES (1-02)** If this Agreement is contingent on Buyer's right to inspect and/or repair the Property, Buyer's failure to exercise any of Buyer's options within the time limits set forth in this Agreement will constitute a WAIVER of that contingency and Buyer accepts the Property and agrees to the RELEASE set forth in paragraph 25 of this Agreement.
- 25. RELEASE (1-02)** Buyer hereby releases, quit claims and forever discharges SELLER, ALL BROKERS, their LICENSEES, EMPLOYEES, and any OFFICER or PARTNER of any one of them and any other PERSON, FIRM, or CORPORATION who may be liable by or through them, from any and all claims, losses or demands, including, but not limited to, personal injuries and property damage and all of the consequences thereof, whether now known or not, which may arise from the presence of termites or other wood-boring insects, radon, lead-based paint hazards, environmental hazards, any defects in the individual on-lot sewage disposal system or deficiencies in the on-site water service system, or any defects or conditions on the Property. Should Seller be in default under the terms of this Agreement, this release does not deprive Buyer of any right to pursue any remedies that may be available under law or equity. This release will survive settlement.
- 26. REPRESENTATIONS (1-02)**
- (A) Buyer understands that any representations, claims, advertising, promotional activities, brochures or plans of any kind made by Seller, Brokers, their licensees, employees, officers, or partners are not a part of this Agreement unless expressly incorporated or stated in this Agreement. It is further understood that this Agreement contains the whole agreement between Seller and Buyer and there are no other terms, obligations, covenants, representations, statements or conditions, oral or otherwise of any kind whatsoever concerning this sale. Furthermore, this Agreement will not be altered, amended, changed, or modified except in writing executed by the parties.
- (B) It is understood that Buyer has inspected the Property before signing this Agreement (including fixtures and any personal property specifically scheduled herein), or has waived the right to do so, and has agreed to purchase the Property in its present condition unless otherwise stated in this Agreement. Buyer acknowledges that Brokers, their licensees, employees, officers or partners have not made an independent examination or determination of the structural soundness of the Property, the age or condition of the components, environmental conditions, the permitted uses, or of conditions existing in the locale where the Property is situated; nor have they made a mechanical inspection of any of the systems contained therein.
- (C) Any repairs required by this Agreement will be completed in a workmanlike manner.
- (D) Broker(s) may perform services to assist unrepresented parties in complying with the terms of this Agreement.
- (E) The headings, captions, and line numbers in this Agreement are meant only to make it easier to find the paragraphs.
- 27. DEFAULT (1-02)**
- (A) Seller has the option of retaining all sums paid by Buyer, including the deposit monies, should Buyer:
1. Fail to make any additional payments as specified in paragraph 3; OR
 2. Furnish false or incomplete information to Seller, Broker(s), or the mortgage lender, if any, concerning Buyer's legal or financial status, or fail to cooperate in the processing of the mortgage loan application, which acts would result in the failure to obtain the approval of a mortgage loan commitment; OR
 3. Violate or fail to fulfill and perform any other terms or conditions of this Agreement.
- (B) Unless otherwise checked in paragraph 27 (C), Seller may elect to retain those sums paid by Buyer, including deposit monies, in one of the following manners:
1. On account of purchase price; OR
 2. As monies to be applied to Seller's damages; OR
 3. As liquidated damages for such breach.
- (C) ☒ Seller is limited to retaining sums paid by Buyer, including deposit monies, as liquidated damages.
- (D) If Seller retains all sums paid by Buyer, including deposit monies, as liquidated damages pursuant to paragraph 27 (B) or (C), Buyer and Seller will be released from further liability or obligation and this Agreement will be VOID.
- 28. MEDIATION (7-98)**
- ☐ NOT AVAILABLE
- ☒ WAIVED. Buyer and Seller understand that they may choose to mediate at a later date, should a dispute arise, but that there will be no obligation on the part of any party to do so.
- ☐ ELECTED
- (A) Buyer and Seller will try to resolve any dispute or claim that may arise from this Agreement through mediation, in accordance with the Rules and Procedures of the Home Sellers/Home Buyers Dispute Resolution System. Any agreement reached through a mediation conference and signed by the parties will be binding.
- (B) Buyer and Seller acknowledge that they have received, read, and understand the Rules and Procedures of the Home Sellers/Home Buyers Dispute Resolution System (see Mediation Notice).
- (C) This agreement to mediate disputes arising from this Agreement will survive settlement.

Buyer Initials: RMH

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Seller Initials: LTB

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HUFFER REPLY

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(A) The following are part of this Agreement if checked:

- ☐ Sale & Settlement of Other Property Contingency Addendum (PAR Form SSP)
☐ Sale & Settlement of Other Property Contingency with Right to Continue Marketing Addendum (PAR Form SSP-CM)

- ☐ Settlement of Other Property Contingency Addendum (PAR Form SOP)
☐ Tenant-Occupied Property Addendum (PAR Form TOP)

(B) THIS IS A CASH SALE.

C. THE PROPERTY IS BEING SOLD AS-IS.

D. ALL CONTENTS CURRENTLY IN BUILDING ARE TO REMAIN AT CLOSING.

Buyer and Seller acknowledge receiving a copy of this Agreement at the time of signing.

NOTICE TO PARTIES: WHEN SIGNED, THIS AGREEMENT IS A BINDING CONTRACT. Return by facsimile transmission (FAX) of this Agreement, and all addenda, bearing the signatures of all parties, constitutes acceptance of this Agreement. Parties to this transaction are advised to consult an attorney before signing if they desire legal advice.

- ☐ Buyer has received the Consumer Notice as adopted by the State Real Estate Commission at 49 Pa. Code §35.336.
☐ Buyer has received a statement of Buyer's estimated closing costs before signing this Agreement.
☐ Buyer has read and understands the notices and explanatory information set forth in this Agreement.
☐ Buyer has received a Seller's Property Disclosure Statement before signing this Agreement, if required by law (see Information Regarding the Real Estate Seller Disclosure Law).
☐ Buyer has received the Deposit Money Notice (for cooperative sales when Broker for Seller is holding deposit money) before signing this Agreement.

BUYER'S MAILING ADDRESS: * 301 ASPEN WAY
DUBOIS, PA. 15801

BUYER'S CONTACT NUMBER(S):

WITNESS: Donald Handman BUYER: [Signature] DATE: 05-13-05
SS#

WITNESS: _____ BUYER: _____ DATE: _____
SS#

WITNESS: _____ BUYER: _____ DATE: _____
SS#

Seller hereby approves the above contract this (date) _____
and in consideration of the services rendered in procuring the Buyer, Seller agrees to pay the named Broker for Seller a fee of _____
off from the herein specified sale price. In the event Buyer defaults hereunder, any monies paid on account will be divided _____
Seller, _____, Broker for Seller, but in no event will the sum paid to the Broker for Seller exceed the above specified Broker's fee.

- ☐ Seller has received the Consumer Notice as adopted by the State Real Estate Commission at 49 Pa. Code §35.336.
☐ Seller has received a statement of Seller's estimated closing costs before signing this Agreement.
☐ Seller has read and understands the notices and explanatory information set forth in this Agreement.

SELLER'S MAILING ADDRESS: _____

SELLER'S CONTACT NUMBER(S): _____

WITNESS: _____ SELLER: Louis T. Bocca DATE: 5-75-05
SS#

WITNESS: _____ SELLER: _____ DATE: _____
SS#

WITNESS: _____ SELLER: _____ DATE: _____
SS#

Broker's/Licensees' Certifications (check all that are applicable):

- ☐ Regarding Lead-Based Paint Hazards Disclosure: Required if Property was built before 1978: The undersigned Licensees involved in this transaction, on behalf of themselves and their brokers, certify that their statements are true to the best of their knowledge and belief. Acknowledgement: The Licensees involved in this transaction have informed Seller of Seller's obligations under The Residential Lead-Based Paint Hazard Reduction Act, 42 U.S.C. §4852(d), and are aware of their responsibility to ensure compliance.

- ☐ Regarding FHA Mortgages: The undersigned Licensees involved in this transaction, on behalf of themselves and their brokers, certify that the terms of this contract for purchase are true to the best of their knowledge and belief, and that any other agreement entered into by any of these parties in connection with this transaction is attached to this Agreement.

- ☐ Regarding Mediation: The undersigned ☐ Broker for Seller ☐ Broker for Buyer agree to submit to mediation in accordance with paragraph 28 of this Agreement.

BROKER FOR SELLER (Company Name): Jeffrey Henry Associates
ACCEPTED BY: [Signature] DATE: 5/13/05

BROKER FOR BUYER (Company Name): Jeffrey Henry Associates
ACCEPTED BY: [Signature] DATE: 5/13/05

VERIFICATION

I hereby verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.

Louis T. Boccia

Louis T. Boccia

Dated: OCTOBER 24, 2005

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

LOUIS T. BOCCIA

Plaintiff

vs.

PENNWEST COMMODITIES, INC.,

Defendant

No. 2005-1693 C.D.

Type of Pleading: Demand for
Jury Trial

Filed on behalf of: Louis T. Boccia,
Plaintiff.

Counsel of Record for this party:
HOPKINS HELTZEL LLP

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE
Attorney at Law
Supreme Court No. 83998

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED 2cc
d/157/01
NOV 03 2005
Att'y Hopkins
GR

William A. Shaw
Prothonotary/Clerk of Courts

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

LOUIS T. BOCCIA

Plaintiff

vs.

PENNWEST COMMODITIES, INC.,


Defendant

No. 2005-1693 C.D.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by twelve jurors on all issues presented in his Complaint.

Respectfully submitted,


David J. Hopkins, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100976
NO: 05-1693-CD
SERVICE # 1 OF 1
COMPLAINT; DEMAND FOR JURY TRIAL

PLAINTIFF: LOUIS T. BOCCIA
vs.
DEFENDANT: PENNWEST COMMODITIES, INC.

SHERIFF RETURN

NOW, November 16, 2005 AT 11:15 AM SERVED THE WITHIN COMPLAINT; DEMAND FOR JURY TRIAL ON PENNWEST COMMODITIES INC. DEFENDANT AT 301 ASPEN WAY, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DUSTIN HORCHEN, PRESIDENT/CEO A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT; DEMAND FOR JURY TRIAL AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: DEHAVEN / COUDRIET

FILED
013:046H
FEB 15 2006

William A. Shaw
Prothonotary/Clerk of Courts

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	HOPKINS	15917	10.00
SHERIFF HAWKINS	HOPKINS	15916	36.80

Sworn to Before Me This

_____ Day of _____ 2006

So Answers,

Chester A. Hawkins
by Marilyn Hawk

Chester A. Hawkins
Sheriff

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

LOUIS T. BOCCIA,
Plaintiff

vs.

No. 2005-1693 C.D.

PENN WEST COMMODITIES, INC.

TO: Penn West Commodities, Inc.

DATE OF NOTICE: December 9, 2005


FILED NO CC
012:57/61
FEB 28 2006
William A. Shaw
Prothonotary/Clerk of Courts

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS NOTICE TO A 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.

Office of the Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, Pennsylvania 16830
(814) 765-2641


DAVID J. HOPKINS, ESQUIRE
Attorney for Plaintiff
Supreme Court No. 42519
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

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

LOUIS T. BOCCIA

Plaintiff

vs.

PENNWEST COMMODITIES, INC.,

Defendant

No. 2005-1693 C.D.

Type of Pleading: Praecepto to
Enter Default Judgment

Filed on behalf of: Louis T. Boccia,
Plaintiff.

Counsel of Record for this party:

HOPKINS HELTZEL LLP

DAVID J. HOPKINS, ESQUIRE

Attorney at Law

Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE

Attorney at Law

Supreme Court No. 83998

900 Beaver Drive

DuBois, Pennsylvania 15801

(814) 375-0300

FILED
02:57:01
FEB 28 2006

William A. Shaw
Prothonotary/Clerk of Courts

Att'y pd. 20.00
Notice to Def.
Statement to
Att'y

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

LOUIS T. BOCCIA

Plaintiff

vs.

PENNWEST COMMODITIES, INC.,
Defendant

:
:
:
:
:
:
:

No. 2005-1693 C.D.

PRECIPE TO ENTER DEFAULT JUDGMENT

TO THE PROTHONOTARY:

Kindly enter judgment in favor of Plaintiff, Louis T. Boccia, and against Defendant, Pennwest Commodities, Inc., for failure to file within the required time an answer to a Complaint which contained a Notice to Defend. Judgment should be entered as follows:

Damages	\$15,000.00
Prothonotary	85.00
Prothonotary	9.00
Sheriff fee	75.00
Sheriff fee	<u>10.00</u>
Total Judgment	\$15,179.00


David J. Hopkins, Esquire
Attorney for Plaintiff



CCPY

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

LOUIS T. BOCCIA

Plaintiff

vs.

No. 2005-1693 C.D.

PENNWEST COMMODITIES, INC.,

Defendant

To: Pennwest Commodities, Inc.
301 Aspen Way
DuBois, PA 15801

JUDGMENT NOTICE

Please take note that judgment has been entered against you for \$15,179.00.

William L. Hays 2/28/06
Prothonotary

CCPY

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

Louis T. Boccia
Plaintiff(s)

No.: 2005-01693-CD

Real Debt: \$15,179.00

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Pennwest Commodities, Inc.
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: February 28, 2006

Expires: February 28, 2011

Certified from the record this 28th day of February, 2006.



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