

08-460-CD  
Green Tree Con. Vs William D. Smith et al

LAW OFFICES OF GREGORY JAVARDIAN  
BY: GREGORY JAVARDIAN  
ID# 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

FILED  
MAR 14 2018  
William A. Shaw  
Prothonotary/Clerk of Courts  
Att'y pd. 95.00  
JCC Atty  
JCC Sheriff

ATTORNEY FOR PLAINTIFF

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY  
7360 SOUTH KYRENE ROAD  
TEMPE, AZ 85283

PLAINTIFF

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

VS.

NO. 08-460-CD

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH  
ANNETTE GEELLEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

DEFENDANTS

COMPLAINT IN  
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 defense or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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

Daniel J. Nelson,  
Court Administrator  
Clearfield County Courthouse  
Clearfield, PA 16830  
814-765-2641 ext. 5982

IF THIS IS THE FIRST NOTICE THAT YOU HAVE RECEIVED FROM THIS OFFICE, BE ADVISED THAT:

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C § 1692 et seq. (1977), DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S) DO SO IN WRITING WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL OBTAIN AND PROVIDE DEFENDANT(S) WITH WRITTEN VERIFICATION THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED TO BE VALID. LIKEWISE, IF REQUESTED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S) THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM ABOVE.

THE LAW DOES NOT REQUIRE US TO WAIT UNTIL THE END OF THE THIRTY (30) DAY PERIOD FOLLOWING FIRST CONTACT WITH YOU BEFORE SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH THE LAW PROVIDES THAT YOUR ANSWER TO THIS COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.

LAW OFFICES OF GREGORY JAVARDIAN  
BY: GREGORY JAVARDIAN  
ID# 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
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ATTORNEY FOR PLAINTIFF

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
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7360 SOUTH KYRENE ROAD  
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A/K/A WILLIAM D. SMITH,  
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A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

DEFENDANTS

COMPLAINT IN  
MORTGAGE FORECLOSURE

CIVIL ACTION MORTGAGE FORECLOSURE

1. Green Tree Consumer Discount Company, f/k/a Conseco Finance Consumer Discount Company (hereinafter referred to as "Plaintiff") is an Institution, conducting business under the Laws of the Commonwealth of Pennsylvania with a principal place of business at the address indicated in the caption hereof.
2. William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith and Annette Geelen Smith, a/k/a Annette G. Smith, a/k/a Annette Smith (hereinafter referred to as "Defendants") are adult individuals residing at the address indicated in the caption hereof.
3. Plaintiff brings this action to foreclose on the mortgage between the Defendants and itself as Mortgagee by Assignment. The Mortgage, dated March 14, 2002, was recorded on March 19, 2002 in the Office of the Recorder of Deeds in Clearfield County at Instrument Number 200204241. Plaintiff is the Mortgagee by Assignment by virtue of an Assignment of Mortgage recorded on June 17, 2002 in the Office of Recorder of Deeds in Clearfield County at Instrument Number 200209613. A copy of the Mortgage is attached and made a part hereof as Exhibit 'A'.

4. The Mortgage secures the indebtedness of a Note executed by William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith on March 14, 2002 in the original principal amount of \$51,00.00 payable to Plaintiff in monthly installments with an interest rate of 15.50%. A copy of the Note is attached and made a part hereof as Exhibit 'B'.
5. The land subject to the mortgage is 228 Dixon Avenue, Du Bois, PA 15801. A copy of the Legal Description is attached as part of the Mortgage as Exhibit 'A' and incorporated herein.
6. The Defendants are the Record Owners of the mortgaged property located at 228 Dixon Avenue, Du Bois, PA 15801.
7. The Mortgage is now in default due to the failure of the Defendants to make payments as they become due and owing. As a result of the default, the following amounts are due:

Principal Balance	\$49,592.61
Interest to 3/5/2008	\$10,533.36
Accumulated Late Charges	\$2,840.24
Deferred Interest	\$6,113.86
Cost of Suit and Title Search	\$850.00
Attorney's Fees	\$1,250.00
TOTAL	\$71,180.07

plus interest from 3/6/2008 at \$21.11 per day, costs of suit and attorney's fees.

8. The attorney's fees set forth above are in conformity with the Mortgage documents and Pennsylvania Law, and will be collected in the event of a third party purchase at Sheriff's sale. If the Mortgage is reinstated prior to the Sale, reasonable attorney's fees will be charged.
9. Pennsylvania law requires that a plaintiff in mortgage foreclosure provide a defaulting mortgagor with a Notice of Homeowners' Emergency Mortgage Assistance ("Act 91 Notice") 35 P.S. Section 1680.403c.
10. The Notice of Homeowners' Emergency Mortgage Assistance was required and Plaintiff sent the uniform notice as promulgated by the Pennsylvania Housing Finance Agency to the Defendants by regular and certified mail on November 9, 2007. A copy of the Notice is attached and made a part hereof as Exhibit 'C'.

11. The Mortgage is not a residential mortgage under 41 P.S. Section 401 because the principal amount of the Mortgage is in excess of \$50,000.00 and, therefore, Plaintiff was not required to send the Act 6 Notice of Intention to Foreclose.

WHEREFORE, Plaintiff requests the court enter judgment in Mortgage Foreclosure for the sale of the mortgaged property in Plaintiff's favor and against the Defendants, in the sum of \$71,180.07 together with the interest from 3/6/2008 at \$21.11 per day, costs of suit and attorney's fees.

Law offices of Gregory Javardian

BY: 

Gregory Javardian  
Attorney ID No. 55669  
Attorney for Plaintiff

EXHIBIT 'A'

KAREN L. STARCK  
REGISTER AND RECORDER  
CLEARFIELD COUNTY  
Pennsylvania

INSTRUMENT NUMBER  
200204241

RECORDED ON

Mar 19, 2002  
11:52:51 AM

Total Pages: 8

RECORDING FEES - \$21.00

COUNTY IMPROVEMENT FUND \$1.00

RECORDER IMPROVEMENT FUND \$1.00

STATE WRIT TAX \$0.50

TOTAL \$23.50

CUSTOMER

CONSECO FINANCE SERVICES

Commonwealth of Pennsylvania

Space Above This Line For Recording Data

GT-15-39-090 (1/01)

Return To:

## OPEN-END MORTGAGE

Application # 0202280225  
Loan # 6913053036

Conseco Finance  
Attn: Trailing Documents Area  
7360 South Kyrene Road  
Tempe, AZ 85283

This Mortgage secures future advances

1. **DATE AND PARTIES.** The date of this Mortgage (Security Instrument) is March 14, 2002  
and the parties, their addresses and tax identification numbers, if required, are as follows:

MORTGAGOR: William Dennis Smith, Annette Geelen Smith

HUSBAND AND WIFE

.....If checked, refer to the attached Addendum incorporated herein, for additional Mortgagors, their signatures and acknowledgments.

LENDER: Conseco Bank, Inc.  
Cottonwood Corporate Center  
2825 E Cottonwood Prky 230  
Salt Lake City, UT 84121

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Mortgagor's performance under this Security Instrument, Mortgagor grants, bargains, conveys and mortgages to Lender the following described property:

Parcel ID: 7.5-10-2736 TAX ID #07319  
See Exhibit A for the Legal Description

PENNSYLVANIA - MORTGAGE (NOT FOR FNMA, FHLMC, FHA OR VA)

EXPENSE © 1994 Banker's Systems, Inc., St. Cloud, MN Form GTH-MTGLAZPA 1/9/2001

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The property is located in Clearfield at .....  
(County)  
228 Dixon Ave. Du Bois Pennsylvania 15801  
(Address) (City) (ZIP Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, ditches, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount secured by this Security Instrument at any one time shall not exceed \$ 51,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.

4. **SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" is defined as follows:

A. Debt incurred under the terms of all promissory note(s), contract(s), guaranty(s) or other evidence of debt described below and all their extensions, renewals, modifications or substitutions. (When referencing the debts below it is suggested that you include items such as borrowers' names, note amounts, interest rates, maturity dates, etc.)

Note dated March 14, 2002, between Conseco Bank, Inc. and William Dennis Smith, for \$51,000.00, maturing March 19, 2027.

B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt executed by Mortgagor in favor of Lender after this Security Instrument whether or not this Security Instrument is specifically referenced. If more than one person signs this Security Instrument, each Mortgagor agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. All future advances and other future obligations are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing.

C. All obligations Mortgagor owes to Lender, which may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.

D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

This Security Instrument will not secure any other debt if Lender fails to give any required notice of the right of rescission.

5. **PAYMENTS.** Mortgagor agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.

6. **WARRANTY OF TITLE.** Mortgagor warrants that Mortgagor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to grant, bargain, convey, sell, and mortgage the Property. Mortgagor also warrants that the Property is unencumbered, except for encumbrances of record.
7. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagor agrees:
- A. To make all payments when due and to perform or comply with all covenants.
  - B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
  - C. Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.
8. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagor may have against parties who supply labor or materials to maintain or improve the Property.
9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Security Instrument is released.
10. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor shall not commit or allow any waste, impairment, or deterioration of the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims and actions against Mortgagor, and of any loss or damage to the Property. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Mortgagor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.
11. **AUTHORITY TO PERFORM.** If Mortgagor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Mortgagor appoints Lender as attorney-in-fact to sign Mortgagor's name or pay any amount necessary for performance. Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.
12. **LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** Mortgagor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

13. **DEFAULT.** Mortgagor will be in default if any party obligated on the Secured Debt fails to make payment when due. Mortgagor will be in default if a breach occurs under the terms of this Security Instrument or any other document executed for the purpose of creating, securing or guaranteeing the Secured Debt. A good faith belief by Lender that Lender at any time is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment or the value of the Property is impaired shall also constitute an event of default.
14. **REMEDIES ON DEFAULT.** In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Mortgagor is in default. At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the terms of the Secured Debt, this Security Instrument and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.
15. **EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Security Instrument. Mortgagor will also pay on demand amounts incurred by Lender for insuring, inspecting, preserving or otherwise protecting the Property and Lender's security interest. These expenses will bear interest from the date of the payment until paid in full at the highest interest rate in effect as provided in the terms of the Secured Debt. Mortgagor agrees to pay all costs and expenses incurred by Lender in collecting, enforcing or protecting Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, attorneys' fees, court costs, and other legal expenses. This Security Instrument shall remain in effect until released. Mortgagor agrees to pay for any recordation costs of such release.
16. **ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), and all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that:
- Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance is or will be located, stored or released on or in the Property. This restriction does not apply to small quantities of Hazardous Substances that are generally recognized to be appropriate for the normal use and maintenance of the Property.
  - Except as previously disclosed and acknowledged in writing to Lender, Mortgagor and every tenant have been, are, and shall remain in full compliance with any applicable Environmental Law.

- C. Mortgagor shall immediately notify Lender if a release or threatened release of a Hazardous Substance occurs on, under or about the Property or there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor shall take all necessary remedial action in accordance with any Environmental Law.
- D. Mortgagor shall immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any pending or threatened investigation, claim, or proceeding relating to the release or threatened release of any Hazardous Substance or the violation of any Environmental Law.
17. **CONDEMNATION.** Mortgagor will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.
18. **INSURANCE.** Mortgagor shall keep Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Security Instrument. All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor. Unless otherwise agreed in writing, all insurance proceeds shall be applied to the restoration or repair of the Property or to the Secured Debt, whether or not then due, at Lender's option. Any application of proceeds to principal shall not extend or postpone the due date of the scheduled payment nor change the amount of any payment. Any excess will be paid to the Mortgagor. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.
19. **ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.
20. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Security Instrument and Lender's lien status on the Property.
21. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Security Instrument are joint and individual. If Mortgagor signs this Security Instrument but does not sign an evidence of debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured

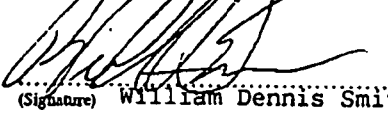
Debt. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws. Mortgagor agrees that Lender and any party to this Security Instrument may extend, modify or make any change in the terms of this Security Instrument or any evidence of debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Security Instrument. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Mortgagor and Lender.

22. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Security Instrument is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. Any provision that appoints Lender as an agent is not subject to the provisions of 20 Pa.C.S.A. Section 5601 et seq. (Chapter 56; Decedents, Estates and Fiduciaries Code). Lender, by exercising any of its rights under this Security Instrument, does so for its sole benefit. This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any section in this Security Instrument, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. Time is of the essence in this Security Instrument.
23. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Security Instrument, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.
24. **WAIVERS.** Except to the extent prohibited by law, Mortgagor waives any right to appraisal relating to the Property.
25. **OTHER TERMS.** If checked, the following are applicable to this Security Instrument:
- ..... **Line of Credit.** The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until released.
  - ..... **Construction Loan.** This Security Instrument secures an obligation incurred for the construction of an improvement on the Property.
  - ..... **Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property. This Security Instrument suffices as a financing statement and any carbon, photographic or other reproduction may be filed of record for purposes of Article 9 of the Uniform Commercial Code.
  - ..... **Purchase Money.** This Security Instrument secures advances by Lender used in whole or in part to acquire the Property. Accordingly, this Security Instrument, and the lien hereunder, is and shall be construed as a purchase money mortgage with all of the rights, priorities and benefits thereof under the laws of the Commonwealth of Pennsylvania.
  - ..... **NOTICE TO BORROWER: THIS DOCUMENT CONTAINS PROVISIONS FOR A VARIABLE INTEREST RATE.**

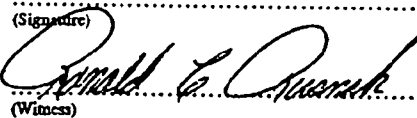
.....Riders. The covenants and agreements of each of the riders checked below are incorporated into and supplement and amend the terms of this Security Instrument. [Check all applicable items]  
..... Condominium Rider ..... Planned Unit Development Rider ..... Other .....

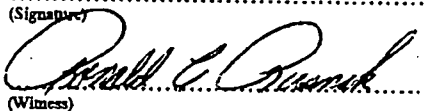
N/A Additional Terms.

**SIGNATURES:** By signing below, Mortgagor, intending to be legally bound hereby, agrees to the terms and covenants contained in this Security Instrument and in any attachments. Mortgagor also acknowledges receipt of a copy of this Security Instrument on the date stated on page 1.

 3/14/02  
(Signature) William Dennis Smith (Date)

 3-14-02  
(Signature) Annette Geelen Smith (Date)

  
(Witness) (Date)

  
(Witness) (Date)

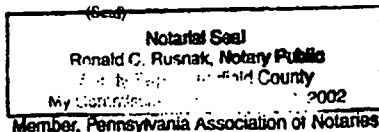
**ACKNOWLEDGMENT:**

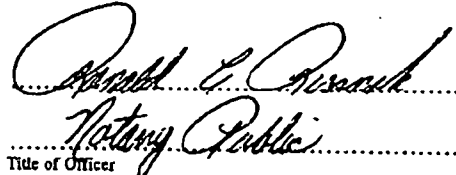
COMMONWEALTH OF PENNSYLVANIA COUNTY OF CLEARFIELD } SS.  
(Individual) On this, the 14<sup>th</sup> day of MARCH, 2002, before me RONALD C. RUSNAK,  
the undersigned officer, personally appeared William Dennis Smith, Annette Geelen Smith

known to me (or satisfactorily proven) to be the person(s) whose name(s) is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained.

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

My commission expires:



  
Notary Public  
Title of Officer

It is hereby certified that the address of the Lender within named is: Consoco Bank, Inc.  
Cottonwood Corporate Center, 2825 E Cottonwood Prky 230, Salt Lake City, UT 84121



EXHIBIT A

Legal Description:

ALL THAT CERTAIN PROPERTY SITUATED IN THE CITY OF DUBOIS, COUNTY OF CLEARFIELD,  
AND COMMONWEALTH OF PENNSYLVANIA, BEING MORE FULLY DESCRIBED IN DEED DATED  
06/21/88, RECORDED 06/28/88, APPEARING AMONG THE LAND RECORDS OF THE COUNTY AND  
STATE, SET FORTH ABOVE IN DEED BOOK 1230, PAGE 242.

Parcel ID: 7.5-10-2736 TAX ID #07319



EXHIBIT 'B'

Conaeco Bank, Inc.  
Cottonwood Corporate Center  
2825 E Cottonwood Prky 230  
Salt Lake City, UT 84121

LENDER'S NAME AND ADDRESS  
"You" means the Lender,  
its successors and assigns.

William Dennis Smith  
228 Dixon Avenue  
Du Bois, PA 15801

BORROWER'S NAME AND ADDRESS  
"I" includes each Borrower above,  
jointly and severally.

Application # 0202280225

Loan Number 6913053036  
Date March 14, 2002  
Maturity Date 03/19/2027  
Loan Amount \$ 51,000.00  
Renewal Of N/A

TERMS FOLLOWING A      APPLY ONLY IF  
CHECKED

     Secondary Mortgage Loan

     This agreement is subject to the provisions of the Secondary Mortgage Loan Act.

For value received, I promise to pay to you at your address listed above the PRINCIPAL sum of Fifty One  
Thousand and No/100

☒ Single Advance: I will receive all of this principal sum on March 19, 2002 Dollars \$ 51,000.00  
contemplated under this note. No additional advances are

☒ Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note.  
On      I will receive the amount of \$      and future principal advances are contemplated.  
You and I agree that I may borrow up to the maximum only one time (and subject to all other conditions).  
Conditions: The conditions for future advances are     

INTEREST: I agree to pay interest on the outstanding principal balance from March 19, 2002

**COPY**

at the rate of

per year until March 19, 2027 15.500 %

☒ Variable Rate: Notice to borrower: This document contains provisions for a variable interest rate. This rate may  
then change as stated below.

Change Dates: Each date on which the interest rate may change is called a Change Date. The interest rate may  
change      and on every      thereafter.

The Index: Beginning with the first Change Date, the interest rate will be based on the following Index:     

The most recent Index value available as of the date 45 days  
before each Change Date is called the "Current Index."

Calculation of Change: Before each Change Date, the Lender will calculate the interest rate, which will be       
     the Current Index. The result of this calculation will be rounded     

rate will become effective on each Change Date. Subject to any limitations below, this will be the new interest rate  
until the next Change Date.

Limitations: The interest rate will never be greater than      % or less than      %.

The interest rate will never change on any single Change Date by more than      %.

Effect of Variable Rate: A change in the interest rate will have the effect of changing the amount of the scheduled  
payments:

ACCRUAL METHOD: Interest will be calculated on a 30/360 day basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in  
full, as stated below:

☒ on the same fixed or variable rate basis in effect before maturity (as indicated above).

☒ at a rate equal to     

☒ LATE CHARGE: I agree to pay a late charge on the portion of any payment made more than 10 days after it is  
due equal to 10% of payment

☒ NSF FEE: If any instrument which I submit to you is returned unpaid for any reason, I will pay you a fee of \$25.00

☒ ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which ☒ are      are not  
included in the principal amount above: See Addendum A

**PAYMENTS:** I agree to pay this note as follows:

300 payments of \$673.07 starting on April 19, 2002  
and on the 19th day of each month thereafter.

**SECURITY:** This note is secured by (describe separate document by type (e.g., mortgage) and date):  
Mortgage Deed dated March 14, 2002

**GENERALLY** - The headings at the beginning of each section are for convenience only and are not to be used in interpreting the text of the section.

**DEFINITIONS** - "I," "me" or "my" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agree to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns. The "parties" shall mean the Borrower and Lender, together.

**APPLICABLE LAW** - The interest to be charged on this loan is governed by the laws of the state of Utah

All other terms of this transaction are governed by the laws of the state of Pennsylvania

The fact that any part of this note cannot be enforced will not affect the rest of this note. Any change to this note or any agreement securing this note must be in writing and signed by you and me.

I agree to cooperate with you regarding any requests after closing to correct errors made concerning this contract or the transaction and to provide any and all additional documentation deemed necessary by you to complete this transaction. I agree that you may enforce this agreement by judicial process and are entitled to attorney's fees, costs and disbursements incident to such enforcement.

**PAYMENTS** - Each payment I make on this loan will be applied first to any charges I owe other than principal and interest, then to interest that is due, and finally to principal that is due. No late charge will be assessed on any payment when the only delinquency is due to late fees assessed on earlier payments and the payment is otherwise a full payment. The actual amount of my final payment will depend on the interest rates (if variable) and my payment record. If any payment due under this loan does not equal or exceed the amount of interest due, you may, at your option, increase the amount of the payment due and all future payments to an amount that will pay off this loan in equal payments over the remaining term of this loan.

**PREPAYMENT** - I may prepay this loan in whole or in part at any time. I will not pay a penalty upon prepayment unless otherwise stated in the next sentence. If I prepay in full within N/A months of the date of this note, I will pay you a penalty of N/A

Partial payments will not excuse or reduce any later scheduled payment until this note is paid in full.

**INTEREST** - Interest accrues on the principal remaining unpaid from time to time, until paid in full. If this is a

multiple advance loan, interest will accrue: N/A

If "Variable Rate" is checked on page 1, I will pay interest at the rates in effect from time to time. The interest rate(s) and other charges on this loan will never exceed the highest rate or charge allowed by law for this loan. If the index specified on page 1 ceases to exist, I agree that you may substitute a similar index for the original.

**INDEX** - If you and I have agreed that the interest rate on this note will be variable and will be related to an index, then the index you select will function only as a tool for setting the rate on this note. You do not guaranty, by selecting any index, that the interest rate on this note will have a particular relationship to the interest rate you charge on any other loans or any type or class of loans with your other customers.

**ACCRUAL METHOD** - The amount of interest that I will pay on this loan will be calculated using the interest rate and accrual method stated on page 1. For interest calculation, the accrual method will determine the number of days in a year. If no accrual method is stated, then you may use any reasonable accrual method for calculating interest.

**SINGLE ADVANCE LOANS** - If this is a single advance loan you and I expect that you will only make one advance of principal. However, you may add other amounts to the principal if you make any payments described in the **PAYMENTS BY LENDER** section below.

**MULTIPLE ADVANCE LOANS** - If this is a multiple advance loan, you and I expect that you will make more than one advance of principal, subject to the conditions of any separate agreement.

**PAYMENTS BY LENDER** - If you are authorized to pay, on my behalf, charges I am obligated to pay (such as property insurance premiums), then you may treat those payments made by you as advances and add them to the unpaid principal under this note, or you may demand immediate payment of the charges.

**POST-MATURITY INTEREST** - Interest will accrue on the principal balance remaining unpaid after final maturity at the rate specified on page 1. For purposes of this section, final maturity occurs:

- On the date of the last scheduled payment of principal; or
- On the date you accelerate the due date of this loan (demand immediate payment).

**REAL ESTATE OR RESIDENCE SECURITY** - If this loan is secured by real estate or a residence that is personal property, the existence of a default and your remedies for such a default will be determined by applicable law, by the terms of any separate instrument creating the security interest and, to the extent not prohibited by law and not contrary to the terms of the separate security instrument, by this agreement.

**ASSUMPTION** - This note and any document securing it cannot be assumed by someone buying the secured property from me. This will be true unless you agree in

writing to the contrary. Without such an agreement, if I try to transfer any interest in the property securing this note, I will be in default on this loan. You may proceed against me under any due on sale clause in the security agreement, which is incorporated by reference.

**DEFAULT** - Subject to any limitations in the "REAL ESTATE OR RESIDENCE SECURITY" paragraph above, I will be in default on this loan and any agreement securing this loan if any one or more of the following occurs:

- (a) I fail to make a payment in full when due;
- (b) I die, am declared incompetent, or become insolvent;
- (c) I fail to keep any promise I have made in connection with this loan;
- (d) I fail to pay, or keep any other promise on, any other loan or agreement I have with you;
- (e) I make any written statement or provide any financial information that is untrue or inaccurate at the time it is provided;
- (f) Any creditor of mine attempts to collect any debt I owe through court proceedings, set-off or self-help repossession;
- (g) The property securing this Loan is damaged, destroyed or stolen;
- (h) I fail to provide any additional security that you may require;
- (i) Any legal entity (such as a partnership or corporation) that has agreed to pay this note merges, dissolves, reorganizes, ends its business or existence, or a partner or majority stockholder dies or is declared incompetent; or
- (j) Anything else happens that causes you to believe that you will have difficulty collecting the amount I owe you.

If any of us are in default on this note or any security agreement, you may exercise your remedies against any or all of us.

**REMEDIES** - Subject to any limitations in the "REAL ESTATE OR RESIDENCE SECURITY" paragraph on page 2, and after giving any appropriate notice, if I am in default on this loan or any agreement securing this loan, you may:

- (a) Make unpaid principal, earned interest and all other agreed charges I owe you under this loan immediately due;
- (b) Use the right of set-off as explained below;
- (c) Demand more security or new parties obligated to pay this loan (or both) in return for not using any other remedy;
- (d) Make a claim for any and all insurance benefits or refunds that may be available on my default;
- (e) Use any remedy you have under state or federal law; and
- (f) Use any remedy given to you in any agreement securing this loan.

By choosing any one or more of these remedies you do not give up your right to use another remedy later. By deciding not to use any remedy should I be in default, you do not give up your right to consider the event a default if it happens again.

**COSTS OF COLLECTION AND ATTORNEYS' FEES** - I agree to pay you all reasonable costs you incur to collect this debt or realize on any security. This includes, unless prohibited by law, reasonable attorneys' fees. This provision also shall apply if I file a petition or any other claim for relief under any bankruptcy rule or law of the United States, or if such petition or other claim for relief is filed against me by another.

**SET-OFF** - I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

- (a) Any deposit account balance I have with you;
- (b) Any money owed to me on an item presented to you or in your possession for collection or exchange; and

(c) Any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand under the terms of this note at the time you exercise your right of set off. This total includes any balance the due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights arise only in a representative capacity. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right of set-off.

**OTHER SECURITY** - Any present or future agreement securing any other debt I owe you also will secure the payment of this loan. Property securing another debt will not secure this loan if such property is my principal dwelling and you fail to provide any required notice of right of rescission. Also, property securing another debt will not secure this loan to the extent such property is in household goods.

**ARBITRATION** - All disputes, claims, or controversies arising from or relating to this note or the relationships which result from this note, or the validity of this arbitration clause or the entire note, shall be resolved by binding arbitration by one arbitrator selected by you with my consent. This arbitration agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act, Title 9 of the United States Code. Judgment upon the award rendered may be entered in any court having jurisdiction. The parties agree and understand that they choose arbitration instead of litigation to resolve disputes. The parties understand that they have a right or opportunity to litigate disputes in court, but that they prefer to resolve their disputes through arbitration, except as provided herein.

**THE PARTIES VOLUNTARILY AND KNOWINGLY WAIVE ANY RIGHT THEY HAVE TO A JURY TRIAL, EITHER PURSUANT TO ARBITRATION UNDER THIS CLAUSE OR PURSUANT TO A COURT ACTION BY YOU (AS PROVIDED HEREIN).** The parties agree and understand that all disputes arising under case law, statutory law, and all other laws including, but not limited to, all contract, tort, and property disputes, will be subject to binding arbitration in accord with this agreement. I agree that I shall not have the right to participate as a representative or a member of any class of claimants pertaining to any claim arising from or relating to this note. The parties agree and understand that the arbitrator shall have all powers provided by law and the note. These powers shall include all legal and equitable remedies, including, but not limited to, money damages, declaratory relief, and injunctive relief. Notwithstanding anything hereunto the contrary, you retain an option to use judicial or non-judicial relief to enforce a security agreement relating to the collateral secured in a transaction underlying this arbitration agreement, to enforce the monetary obligation or to foreclose on the collateral. Such judicial relief would take the form of a lawsuit. The institution and maintenance of an action for judicial relief in a court to foreclose upon any collateral, to obtain a monetary judgment or to enforce the security agreement, shall not constitute a waiver of the right of any party to compel arbitration in this note, including the filing of a counterclaim in a suit brought by you pursuant to this provision.

**OBLIGATIONS INDEPENDENT** - I understand that my obligation to pay this loan is independent of the obligation of any other person who has also agreed to pay it. You may, without notice, release me or any of us, give up any right you may have against any of us, extend new credit to any of us, or renew or change this note one or more times and for any term, and I will still be obligated to pay this loan. You may, without notice, fail to perfect your security interest in, impair, or release any security and I will still be obligated to pay this loan.

**WAIVER** - I waive (to the extent permitted by law) demand, presentment, protest, notice of dishonor and notice of protest.

**PRIVACY** - I agree that from time to time you may receive credit information about me from others, including other lenders and credit reporting agencies. I agree that you may furnish on a regular basis credit and experience information regarding my loan to others seeking such information. To the extent permitted by law, I agree that you will not be liable for any claim arising from the use of information provided to you by others or for providing such information to others.

**FINANCIAL STATEMENTS** - I will give you any financial statements or information that you feel is necessary. All financial statements and information I give you will be correct and complete.

**PURCHASE MONEY LOAN** - If this is a Purchase Money Loan, you may include the name of the seller on the check or draft for this loan.

**PURPOSE:** The purpose of this loan is Refinance

**ADDITIONAL TERMS:**

Any prepaid finance charge up to 5% of the original principle amount of the loan is nonrefundable in the event of prepayment. Upon prepayment, prepaid finance charges in excess of 5% of the original principal amount of the loan will be refunded on a pro-rata basis.

Signature for Lender

By: [Signature] 3/14/02  
Signature Date

Its: [Signature]

**NOTICE TO COSIGNER**

You (the cosigner) are being asked to guaranty this debt. Think carefully before you do. If the borrower doesn't pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount of the debt if the borrower does not pay. You also may have to pay late fees or collection costs, which increase this amount.

The creditor can collect this debt from you without first trying to collect from the borrower. The creditor can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become part of your credit record.

This notice is not the contract that makes you liable for the debt.

**SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGES 1, 2, 3 AND 4). I have received a copy on today's date.**

X [Signature] 3/14/02  
Signature William Dennis Smith Date

X  
Signature Date

X  
Signature Date

X  
Signature Date

**ADDENDUM A**  
**Additional Finance Charges to Note**

This Addendum supplements the provisions of that Note dated 03/14/2002 by and between Conseco Bank, Inc. and William Dennis Smith; This Addendum shall be incorporated into and shall become a part of said Note.

HUD Line	Description	Amount
801	Loan Origination Fee	\$1,531.68
809	Application Fee	\$400.00
810	Flood Cert (life of loan)	\$8.50
1101	Settlement or Closing fee	\$120.00
<b>TOTAL</b>		<b>\$2,060.18</b>

Borrower:

  
William Dennis Smith

Date

EXHIBIT 'C'

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

November 9, 2007

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
437 TREASURE LAKE  
DU BOIS, PA 15801

ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH  
437 TREASURE LAKE  
DU BOIS, PA 15801

THIS FIRM IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. THIS NOTICE IS SENT TO YOU IN AN ATTEMPT TO COLLECT THE INDEBTEDNESS REFERRED TO HEREIN AND ANY INFORMATION OBTAINED FROM YOU WILL BE USED FOR THAT PURPOSE. IF YOU HAVE PREVIOUSLY RECEIVED A DISCHARGE IN BANKRUPTCY, THIS CORRESPONDENCE IS NOT AND SHOULD NOT BE CONSTRUED TO BE AN ATTEMPT TO COLLECT A DEBT, BUT ONLY ENFORCEMENT OF A LIEN AGAINST PROPERTY.

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 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. IS 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 "HOMEOWNERS EMERGENCY MORTGAGE ASSISTANCE PROGRAM" EL CUAL PUEDE SALVAR SU CASA DE LA PERDIDA DEL DERECHO A REDIMIR SU HIPOTECA.

## STATEMENTS OF POLICY

HOMEOWNER'S NAME(S): WILLIAM DENNIS SMITH, A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH AND ANNETTE GEELEN  
SMITH, A/K/A ANNETTE G. SMITH, A/K/A ANNETTE  
SMITH  
PROPERTY ADDRESS: 228 DIXON AVENUE, DU BOIS, PA 15801  
LOAN ACCT. NO.: 88350003  
ORIGINAL LENDER: CONSECO BANK, INC.  
CURRENT LENDER/SERVICER: GREEN TREE CONSUMER DISCOUNT COMPANY

**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 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 PURPOSE 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 228 DIXON AVENUE, DU BOIS, PA 15801 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 4/19/2007 through 10/19/2007 at \$ 673.07 per month.

Monthly payments plus late charges accrued:	\$ 7,215.23
Suspense:	(\$ 0.00)
<b>TOTAL AMOUNT TO CURE DEFAULT</b>	<b>\$ 7,215.23</b>

B. YOU HAVE FAILED TO TAKE THE FOLLOWING ACTIONS (Do not use if not applicable):  
N/A

**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 \$ 7,215.23 PLUS ANY MORTGAGE PAYMENTS AND LATE CHARGES WHICH BECOME DUE DURING THE THIRTY (30) DAY PERIOD. Payment must be made either by cashier's check, certified check or money order made payable and sent to: Green Tree Consumer Discount Company 7360 S. Kyrene Road, Tempe, AZ 85283. Contact: YOLANDA NELSON

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) N/A.

**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 attorney to start legal action to foreclosure upon your mortgage property.

**IF THE MORTGAGE IS FORECLOSED UPON-** The mortgage property will be sold by the Sheriff to pay off the mortgage debt. If the lender refers your case to its attorney, 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 attorneys' 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 mortgage property could be held would be approximately SIX (6) 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            Green Tree Consumer Discount Company  
Address        7360 S. Kyrene Road  
City and State: Tempe, AZ 85283

Tel no.         1-480-333-6000 ext. 36090

Contact name: YOLANDA NELSON

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   XX   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 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 IS ATTACHED.

Very truly yours,

*Gregory Javardian*  
ATTORNEY FOR LENDER

IF THIS IS THE FIRST NOTICE THAT YOU HAVE RECEIVED FROM THIS OFFICE, BE ADVISED THAT:

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C § 1692 et seq. (1977), DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S) DO SO IN WRITING WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL OBTAIN AND PROVIDE DEFENDANT(S) WITH WRITTEN VERIFICATION THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED TO BE VALID. LIKEWISE, IF REQUESTED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S) THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM ABOVE.

THE LAW DOES NOT REQUIRE US TO WAIT UNTIL THE END OF THE THIRTY (30) DAY PERIOD FOLLOWING FIRST CONTACT WITH YOU BEFORE SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH THE LAW PROVIDES THAT YOUR ANSWER TO THIS COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.

**CLEARFIELD COUNTY**

**CCCS of Northeastern PA**

202 W. Hamilton Avenue  
State College, PA 16801  
814.238.3668  
800.922.9537

**CCCS of Western PA**

Royal Remax Plaza  
Altoona, PA 16602  
917 A Logan Boulevard  
888.511.2227

**CCCS of Western PA**

219.A College Park Plaza  
Johnstown, PA 15904  
888.511.2227

**Indiana Co. Community Action Program**

827 Water Street  
Indiana, PA 15701  
Box 187  
724.465.2657

**Keystone Economic Development Corp.**

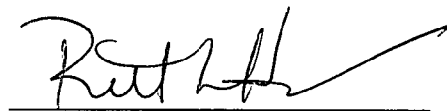
1954 Mary Grace Lane  
Johnstown, PA 15901  
814.535.6556

**The NORCAM Group**

4200 Crawford Avenue  
Northern Cambria, PA 15714  
Suite 200  
814.948.4444

**VERIFICATION**

The undersigned hereby states that the statements made in the foregoing pleading are true and correct to the best of his/her knowledge, information and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read "Ruth L. H.", is written over a horizontal line.

Green Tree Consumer Discount Company, f/k/a  
Conseco Finance Consumer Discount Company

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

GREEN TREE CONSUMER DISCOUNT  
COMPANY, f/k/a CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY  
7360 SOUTH KYRENE ROAD  
TEMPE, AZ 85283,

Plaintiff

vs.

WILLIAM DENNIS SMITH  
a/k/a WILLIAM D. SMITH,  
a/k/a WILLIAM SMITH,  
ANNETTE GELEN SMITH,  
a/k/a ANNETTE G. SMITH,  
a/k/a ANNETTE SMITH,  
228 Dixon Avenue  
DuBois, PA 15801,

Defendants

**FILED** 

MAY 02 2008  
M/1200/W  
William A. Shaw  
Prothonotary/Clerk of Courts  
No. 08-460

No. 08-460 C.D.

Type of Pleading: Answer to Complaint  
and New Matter

Filed on behalf of William Dennis Smith,  
and Annette Geelen Smith, Defendants

Counsel of Record for this party:  
HOPKINS HELTZEL LLP

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

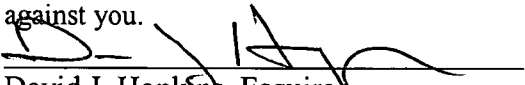
LEA ANN HELTZEL, Esquire  
Attorney at Law  
Supreme Court No. 83998

100 Meadow Lane, Suite 5  
DuBois, Pennsylvania 15801

(814) 375-0300

NOTICE TO PLEAD

You are hereby notified to plead  
to the within pleading within  
twenty (20) days of service thereof  
or default judgment may be entered  
against you.

  
David J. Hopkins, Esquire

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

GREEN TREE CONSUMER DISCOUNT  
COMPANY, f/k/a CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY  
7360 SOUTH KYRENE ROAD  
TEMPE, AZ 85283,

Plaintiff

vs.

No. 08-460 C.D.

WILLIAM DENNIS SMITH  
a/k/a WILLIAM D. SMITH,  
a/k/a WILLIAM SMITH,  
ANNETTE GEELEN SMITH,  
a/k/a ANNETTE G. SMITH,  
a/k/a ANNETTE SMITH,  
228 Dixon Avenue  
DuBois, PA 15801,

Defendants

**ANSWER TO COMPLAINT AND NEW MATTER**

AND NOW, comes Defendants, William Dennis Smith and Annette Geelen Smith, by and through their attorneys, Hopkins Heltzel LLP and files the within Answer to Mortgage Foreclosure Complaint and New Matter and in support thereof says as follows:

**ANSWER**

1. Admitted.
2. Admitted.
3. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, same is admitted.

4. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, same is admitted.

5. Admitted.

6. Admitted.

7. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, Defendants deny a foreclosure action is the appropriate course of action. Defendants cannot admit or deny the allegations set forth in paragraph 7 and strict proof is demanded at trial.

8. No answer is required of this paragraph inasmuch as it calls for a legal conclusion.

9. No answer is required of this paragraph inasmuch as it calls for a legal conclusion.

10. Admitted.

11. No answer is required of this paragraph inasmuch as it calls for a legal conclusion.

WHEREFORE, Plaintiff respectfully requests this Honorable Court enter judgment in favor of the Defendants and against Plaintiff and for such other and further relief as the Court deems fair, just and equitable.


**NEW MATTER**

12. Defendants incorporate answers to paragraphs 1 through 11 as if set forth at length herein.

13. Plaintiff's claims are barred by the doctrine of illegality on behalf of the Defendants in charging a usury rate.

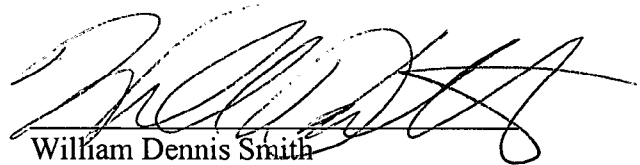
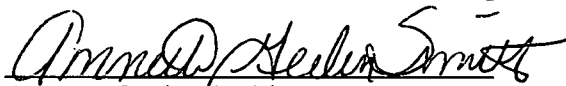
WHEREFORE, Plaintiff respectfully requests this Honorable Court enter judgment in favor of the Defendants and against Plaintiff and for such other and further relief as the Court deems fair, just and equitable.

Respectfully submitted,

  
David J. Hopkins, Esquire  
Attorney for Defendants

**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.

  
William Dennis Smith  
  
Annette Geelen Smith

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

GREEN TREE CONSUMER DISCOUNT  
COMPANY, f/k/a CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY  
7360 SOUTH KYRENE ROAD  
TEMPE, AZ 85283,

Plaintiff

vs.

No. 08-460 C.D.

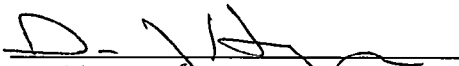
WILLIAM DENNIS SMITH  
a/k/a WILLIAM D. SMITH,  
a/k/a WILLIAM SMITH,  
ANNETTE GEELEN SMITH,  
a/k/a ANNETTE G. SMITH,  
a/k/a ANNETTE SMITH,  
228 Dixon Avenue  
DuBois, PA 15801,

Defendants

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of Defendants' Answer to Complaint and New Matter, filed on behalf of Defendants, William Dennis Smith and Annette Geelen Smith, was forwarded by first class mail, postage prepaid, on the 15 day of May, 2008, to all counsel of record, addressed as follows:

Gregory Javardian, Esquire  
Law Offices of Gregory Javardian  
1310 Industrial Boulevard  
1<sup>st</sup> Floor, Suite 101  
Southampton, PA 18966

  
David J. Hopkins, Esquire  
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

PENNSYLVANIA

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY,  
Plaintiff

vs.

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH,  
ANNETTE GELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH,  
Defendants

Dated: 5/19/2008

CIVIL ACTION-LAW

No. 08-460-CD

MORTGAGE FORECLOSURE

PLAINTIFF'S ANSWER TO  
DEFENDANTS' NEW MATTER

Filed on behalf of: Plaintiff,  
GREEN TREE CONSUMER  
DISCOUNT COMPANY, F/K/A  
CONSECO FINANCE CONSUMER  
DISCOUNT COMPANY

Counsel for Record for this Party:  
Gregory Javardian, Esquire  
P.A. ID# 55669  
Law Offices of Gregory Javardian  
1310 Industrial Boulevard  
1<sup>st</sup> Floor, Suite 101  
Southampton, PA 18966  
(215) 942-9690

FILED No cc  
m/12/35/301  
MAY 20 2008 (64)

William A. Shaw  
Prothonotary/Clerk of Courts

LAW OFFICES OF GREGORY JAVARDIAN  
By: GREGORY JAVARDIAN, ESQUIRE  
IDENTIFICATION NO. 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

ATTORNEY FOR PLAINTIFF

---

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY,  
Plaintiff

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

vs.

No. 08-460-CD

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH,  
ANNETTE GELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH,  
Defendants

---

PLAINTIFF'S ANSWER TO  
DEFENDANTS' NEW MATTER

12. Plaintiff incorporates Paragraphs 1 through 11 of the Complaint as if more fully set forth at length herein.

13. Denied. The allegations contained in paragraph thirteen (13) of Defendants' New Matter are conclusions of law and no response is required.

WHEREFORE, Plaintiff prays for judgment in its favor and against Defendants.

Date: 5/19/2008

  
Gregory Javardian, Esquire  
Attorney for Plaintiff

LAW OFFICES OF GREGORY JAVARDIAN  
By: GREGORY JAVARDIAN, ESQUIRE  
IDENTIFICATION NO. 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

ATTORNEY FOR PLAINTIFF

---

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY,  
Plaintiff

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

vs.

No. 08-460-CD

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH,  
ANNETTE GEELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH,  
Defendants

---

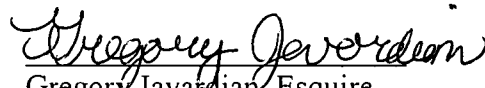
CERTIFICATE OF SERVICE

TO THE PROTHONOTARY:

I hereby certify that a copy of Plaintiff's Answer to Defendants' New Matter was mailed to the following individual(s) by regular mail, first class United States mail, postage prepaid on the date set forth below.

David J. Hopkins, Esquire  
Lea Ann Heltzel, Esquire  
100 Medow Lane, Suite 5  
DuBois, PA 15801  
Attorneys for Defendants

Date: 5/19/2008

  
Gregory Javardian, Esquire  
Attorney for Plaintiff

THE LAW OFFICES OF GREGORY JAVARDIAN  
BY: GREGORY JAVARDIAN  
ATTORNEY I.D. # 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

Attorney for Plaintiff

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY,  
Plaintiff

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

vs.

No. 08-460-CD

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH,  
ANNETTE GELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH,  
Defendants

RULE

AND NOW, this 27 day of June, 2008, a Rule is  
entered upon Defendant(s) to show cause why this Motion for Summary Judgment should  
not be GRANTED as set forth in the attached motion.

Rule Returnable the \_\_\_\_\_ day of \_\_\_\_\_, 2008 County  
Courthouse, Clearfield, PA.

Hearing Date: July 10, 2008

Time: 9:00 AM

Place: Ct. Rm # 1

**FILED**

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JUN 27 2008

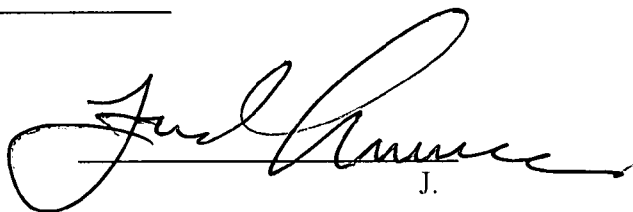
William A. Shaw  
Prothonotary/Clerk of Courts

ICC Atty Javardian

ICC Atty Hopkins

(per C/A)

610

  
J.

THE LAW OFFICES OF GREGORY JAVARDIAN  
BY: GREGORY JAVARDIAN  
ATTORNEY I.D. # 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

Attorney for Plaintiff

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY,  
Plaintiff

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

vs.

No. 08-460-CD

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH,  
ANNETTE GELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH,  
Defendants

**FILED** *icc*  
*m/18:31 AD Any*  
**JUN 26 2008**  
*Javardian*  
William A. Shaw  
Prothonotary/Clerk of Courts

PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT AGAINST DEFENDANTS

Plaintiff, by its attorney, Gregory Javardian, Esquire, hereby respectfully moves this Court for Summary Judgment in its favor and against the Defendants, William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith and Annette Geelen Smith, a/k/a Annette G. Smith, a/k/a Annette Smith. In support of this Motion, Plaintiff submits the accompanying Memorandum of Law, Proposed Order, and Affidavit and avers as follows:

1. On March 14, 2002, the Defendants, William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith and Annette Geelen Smith, a/k/a Annette G. Smith, a/k/a Annette Smith, (hereinafter referred to as "Defendants"), executed a Mortgage in favor of Plaintiff's predecessor in interest that was

recorded on March 19, 2002, in the Office of the Recorder of Deeds in Clearfield County at Instrument Number 200204241. A true and correct copy of the Mortgage is attached hereto and incorporated as part of Exhibit "C," the Complaint.

2. The Plaintiff, Green Tree Consumer Discount Company, f/k/a Conseco Finance Consumer Discount Company, (hereinafter referred to as "Plaintiff"), is now the legal owner of the Mortgage by virtue of an Assignment of Mortgage recorded on June 17, 2002, in the Office of the Recorder of Deeds in Clearfield County at Instrument Number 200209613.
3. On March 14, 2002, the Defendant, William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith, executed a Note in the original principal amount of \$51,000.00, with an interest rate of 15.50%, the indebtedness of which is secured by the Mortgage. A true and correct copy of the Note is attached hereto and incorporated as part of Exhibit "C," the Complaint.
4. The real property subject to the Mortgage is: 228 Dixon Avenue, Du Bois, PA 15801.
5. The Defendants are the record owners of the property subject to the Mortgage located at 228 Dixon Avenue, Du Bois, PA 15801.
6. The Defendants are in default of the Mortgage and Note by failing to make payments when due and owing.

7. Plaintiff's Affidavit and accompanying payment history, attached hereto and marked as Exhibits "A" and "B" respectively, demonstrate that the Defendants are in default and the amounts set forth are correct.
8. On November 9, 2007, Plaintiff sent the Defendants Notice of Homeowners' Emergency Mortgage Assistance by regular and certified mail to the Defendants' last known address. A true and correct copy of the Notice is attached hereto and incorporated as part of Exhibit "C," the Complaint. A true and correct copy of the certified mail receipts are attached hereto as Exhibit "F."
9. The Mortgage is not a residential mortgage under 41 P.S. § 401 because on the date the Mortgage was executed the principal amount was in excess of \$50,000, therefore the Plaintiff was not required to send Act 6 Notice of Intention to Foreclose to the Defendants.
10. Despite demand, the Defendants have failed to cure the default and reinstate the mortgage.
11. On March 14, 2008, Plaintiff filed the underlying Complaint in Mortgage Foreclosure. A true and correct copy of the Complaint is attached hereto and marked as Exhibit "C."
12. On or about May 1, 2008, the Defendants filed an Answer and New Matter to the Complaint. A true and correct copy of the Answer and New Matter is attached hereto and marked as Exhibit "D."

13. Plaintiff filed an Answer to Defendants' New Matter on May 20, 2008. A true and correct copy of Plaintiff's Answer to Defendants' New Matter is attached hereto and marked as Exhibit "E."
14. In the Answer the Defendants admit to being the record owners of the property subject to the mortgage and to Plaintiff sending Notice of Homeowners' Emergency Mortgage Assistance by regular and certified mail to the Defendants' last known address. See Exhibit "D," Defendants' Answer, at paragraphs 6 and 10.
15. With respect to the issues of the Assignment of Mortgage and executing the Mortgage and Note, the Defendants merely presents general denials by stating that they are legal conclusions of law and no Answer is required. See Exhibit "D," Defendant's Answer, at paragraphs 3-4.
16. It is well established that in Pennsylvania averments in pleadings to which a responsive pleading is required are admitted when not denied specifically or by necessary implication. Pa.R.C.P. 1029(b); First Wisconsin Trust Co. v Strausser, 653 A.2d 688, 692 (Pa.Super. 1995).
17. Accordingly, the Defendants' general denials concerning the Assignment of Mortgage and execution of the Note and Mortgage are considered admissions of those facts.
18. In terms of default, the Defendants' deny default by stating it is a legal conclusion of law and no answer is required and to the extent a response is required the Defendants deny that a foreclosure suit is the appropriate course of action. See Exhibit "D," Defendants' Answer, at paragraph 7.

19. Furthermore, the Defendants claim that they cannot admit or deny default. See Exhibit "D," Defendants' Answer, at paragraph 7.
20. The Defendants' responses to default are merely general denials, as the Defendants do not present any specific facts or information which admit or deny the Mortgage and Note are in default.
21. Courts have determined that general denials by mortgagors involving principal and interest owed act as admissions. N.Y. Guardian Mortgage Corp. v. Dietzel, 524 A.2d 951,952 (Pa.Super. 1987); First Wisconsin Trust Co. v. Strausser, 653 A.2d 688, 692 (Pa.Super. 1995).
22. Also, with regard to the Defendants claim that a foreclosure action is not the appropriate action upon default, the Mortgage Instrument, specifically at paragraph fourteen (14), permits the Plaintiff to pursue a foreclosure action upon default. See the Mortgage attached hereto as part of Exhibit "C," the Complaint.
23. Moreover, the Affidavit and payment history confirm that the Defendants are in default. See Exhibits "A" and "B."
24. In relation to the amounts claimed for attorney's fees and cost of suit the Defendants also offer a general denial by claiming it is a conclusion of law to which no response is required. See Exhibit "D," Defendants' Answer, at paragraphs 8.

25. In Pennsylvania, a mortgagee is permitted on foreclosure to recover reasonable expenses including attorney fees. 41 P.S. § 406; Citicorp Mortgage, Inc. v. Morrisville Hampton Village Realty Ltd. Partnership, 662 A.2d 1120 (Pa.Super. 1995).
26. Courts have concluded that claims for attorney's fees in the amount of five-percent (5%) of the principal balance is reasonable. See Foulke v. Hatfield Fair Grounds Bazaar, Inc., 173 A.2d 703 (Pa.Super. 1961).
27. Furthermore, claims for attorney fees are not limited to actual attorney fees but may be awarded to cover the additional costs of proceeding to foreclosure. Influential S&L Assoc. v. Valentine, 25 D. & C. 3d 760 (1982).
28. Here, Plaintiff seeks costs of suit of \$550.00 for title search, tax certification, filing of the Complaint and service of the Complaint and attorney's fees in the amount of \$1,000.00, less then five percent of the outstanding principal balance.
29. With regard to Act 6 Notice of Intention to Foreclose, the Defendants offer a general denial by claiming the allegation is a conclusions of law to which no response is required. See Exhibit "D," Defendants' Answer, at paragraph 11.
30. Under 41 P.S. § 401, a Mortgage does not qualify as a residential Mortgage when on the date the Mortgage is executed the principal amount of the Mortgage is in excess of \$50,000.

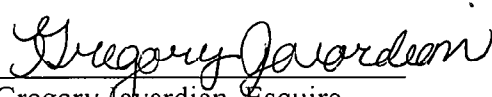
31. Here, on the date the Mortgage was executed the principal amount of the Mortgage was in excess of \$50,000 and as a result, the Mortgage was not a residential Mortgage and Plaintiff was not required to send Act 6 Notice of Intention to Foreclose to the Defendants.
32. In New Matter, the Defendants allege that the Plaintiff's claim is barred by the doctrine of illegality because the interest rate of the note exceeds the usury rate. See Exhibit "D," Defendants' New Matter, at paragraph 13.
33. The note at issue in this matter is a secondary mortgage loan with a fixed interest rate of 15.50 percent per annum. See the Note attached hereto as part of Exhibit "C," the Complaint.
34. The Secondary Mortgage Loan Act, 7 P.S. § 6601, provides that the maximum interest rate is 22.2 percent per annum.
35. As a result, the fixed 15.50 percent per annum interest rate charged to the Defendants does not exceed the usury rate of 22.2 percent per annum, under the Secondary Mortgage Loan Act.
36. Since the Defendants admitted executing the Mortgage and Note, to being the record owners of the property subject to the Mortgage and default; the Affidavit and payment history confirm the Mortgage and Note are in default; attorney's fees and costs are reasonable; there was sufficient Notice; and the Defendants' New Matter does not set forth a genuine issue of fact there is no genuine issue as to any material fact regarding default.

37. Thus, pursuant to Rule 1031.5 et seq. of the Pennsylvania Rules of Civil Procedure, there is no genuine issue as to any material fact and Plaintiff is entitled to Judgment in Foreclosure as a matter of law. *See Cunningham v. McWilliams*, 714 A.2d 1054, 1057 (Pa.Super. 1998) (summary judgment is appropriate where it is admitted that the mortgage is in default, the defendant has failed to pay interest on the obligation, and the mortgage is in the amount specified).

WHEREFORE, Plaintiff respectfully requests that its Motion for Summary Judgment be granted and entered in Plaintiff's favor and against the Defendants, William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith and Annette Geelen Smith, a/k/a Annette G. Smith, a/k/a Annette Smith, in the amount of \$71,180.07, plus interest, from March 6, 2008 at \$21.11 per day, until the date of judgment and legal interest thereafter.

Dated:

6/25/2008

  
Gregory Javardian, Esquire

**Exhibit "A"**

THE LAW OFFICES OF GREGORY JAVARDIAN  
BY: GREGORY JAVARDIAN  
ATTORNEY I.D. # 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>st</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

Attorney for Plaintiff

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY,  
Plaintiff

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

vs.

No. 08-460-CD

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH,  
ANNETTE GEELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH,  
Defendants

**AFFIDAVIT IN SUPPORT OF PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT AGAINST DEFENDANTS**

I, Ruth Hernandez , of full age being duly sworn according to law, depose and say that:

1. I am a/an Foreclosure Manager at Green Tree Consumer Discount Company, f/k/a Conseco Finance Consumer Discount Company, (hereinafter referred to as "Plaintiff"), and have personal knowledge of the facts set forth in this Affidavit.
2. The attached payment history is a true and correct copy of the Defendants' payment history.

3. On March 14, 2002, the Defendants, William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith and Annette Geelen Smith, a/k/a Annette G. Smith, a/k/a Annette Smith, (hereinafter referred to as "Defendants"), executed a Mortgage in favor of Plaintiff's predecessor in interest that was recorded on March 19, 2002, in the Office of the Recorder of Deeds in Clearfield County at Instrument Number 200204241.

4. The Plaintiff is now the legal owner of the Mortgage by virtue of an Assignment of Mortgage recorded on June 17, 2002, in the Office of the Recorder of Deeds in Clearfield County at Instrument Number 200209613.

5. On March 14, 2002, the Defendant, William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith, executed a Note in the original principal amount of \$51,000.00, with an interest rate of 15.50%, the indebtedness of which is secured by the Mortgage.

6. The land subject to the mortgage is: 228 Dixon Avenue, Du Bois, PA 15801.

7. The Defendants are the Record Owners of the property subject to the Mortgage located at 228 Dixon Avenue, Du Bois, PA 15801.

8. Notice of Homeowners' Emergency Mortgage Assistance was sent by the Plaintiff by regular and certified mail to the Defendants' last known address on November 9, 2007.

9. The Mortgage is now in default due to the failure of the Defendants to make payments as they became due and owing.

10. As a result of the default, in accordance with the filed Complaint, the following amounts are owed on said Mortgage:

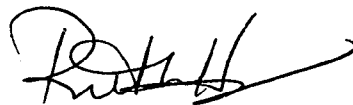
Principal Balance	\$ 49,592.61
Interest to 03/05/2008	\$ 10,533.36
Accumulated Late Charges	\$ 2,840.24
Deferred Interest	\$ 6,113.86
Costs of Suit and Title Report	\$ 850.00
<u>Attorney Fees</u>	<u>\$ 1,250.00</u>
<b>TOTAL</b>	<b>\$ 71,180.07</b>

11. The per diem interest rate is \$21.11 from March 6, 2008, until the date of judgment plus costs of suit and attorney fees.

12. The Defendants have been credited with every payment made and received by Plaintiff and/or its assignors. Proper amortization of the principal and interest amounts have been calculated.

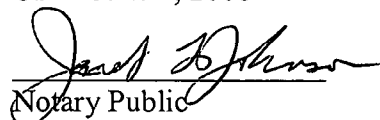
13. All interest calculations have been correctly calculated from the date of the default and all accumulated late charges and fees have been properly assessed.

14. Despite demand, the Defendants have failed to cure the debt as it is presently due and owing.



GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY

Sworn to and Subscribed  
Before me this 9 day  
Of June, 2008

  
Notary Public



**Exhibit “B”**

Smith, William  
88350003

Complete Payment History

TranDate	TranAmt	Code	Desc	DueDate	Total	PrinDue	Interest	Insurance	Escrow	Lic/Fees	BackDate
04/17/2008	-625.00	211	INS Insurance Disbursement		-625.00	0.00	0.00	0.00	0.00	-625.00	
	-200.00	211	INS Insurance Disbursement		-200.00	0.00	0.00	0.00	0.00	-200.00	
02/14/2008	-2,000.00	211	INS Insurance Disbursement		-2,000.00	0.00	0.00	0.00	0.00	-2,000.00	
01/22/2008	-685.00	211	INS Insurance Disbursement		-685.00	0.00	0.00	0.00	0.00	-685.00	
	-675.00	211	INS Insurance Disbursement		-675.00	0.00	0.00	0.00	0.00	-675.00	
04/12/2007	673.07	112	PMT Regular Payment Mellon C	03/19/2007	673.07	32.08	640.99	0.00	0.00	0.00	
02/26/2007	0.00	082	Defer Payment	01/19/2007	0.00	0.00	0.00	0.00	0.00	0.00	
01/25/2007	673.07	109	PMT Regular Payment SpeedP4	12/19/2006	673.07	31.68	641.39	0.00	0.00	0.00	01/24/2007
11/29/2006	673.07	109	PMT Regular Payment SpeedP4	11/19/2006	673.07	31.27	641.80	0.00	0.00	0.00	
11/15/2006	2,030.21	109	PMT Regular Payment SpeedP4	10/19/2006	673.07	30.87	642.20	0.00	0.00	0.00	
		109	PMT Regular Payment SpeedP4	09/19/2006	673.07	30.48	642.59	0.00	0.00	0.00	
		109	PMT Regular Payment SpeedP4	08/19/2006	684.07	30.09	642.98	0.00	0.00	11.00	
08/31/2006	684.07	109	PMT Regular Payment SpeedP4	07/19/2006	684.07	29.71	643.36	0.00	0.00	11.00	
07/31/2006	684.07	109	PMT Regular Payment SpeedP4	06/19/2006	684.07	29.33	643.74	0.00	0.00	11.00	
06/30/2006	744.14	109	PMT Regular Payment SpeedP4	05/19/2006	684.07	21.49	651.58	0.00	0.00	11.00	
		109	PMT Regular Payment SpeedP4	04/19/2006	60.07	0.00	49.07	0.00	0.00	11.00	
05/31/2006	624.00	109	PMT Regular Payment SpeedP4	04/19/2006	624.00	20.38	603.62	0.00	0.00	0.00	
04/29/2006	684.07	109	PMT Regular Payment SpeedP4	03/19/2006	684.07	20.12	652.95	0.00	0.00	11.00	
02/23/2006	0.00	082	Defer Payment	12/19/2005	0.00	0.00	0.00	0.00	0.00	0.00	
02/22/2006	630.95	120	PRN Principal Only Payment C4	02/16/2006	630.95	630.95	0.00	0.00	0.00	0.00	02/16/2006
	11.00	150	INS Insurance Only Payment C4		11.00	0.00	0.00	0.00	0.00	11.00	02/16/2006
	20.12	120	PRN Principal Only Payment C4	02/16/2006	20.12	20.12	0.00	0.00	0.00	0.00	02/16/2006
	22.00	150	INS Insurance Only Payment C4		22.00	0.00	0.00	0.00	0.00	22.00	02/16/2006
	-684.07	500	REV Regular Payment Cash	12/19/2005	-684.07	-20.12	-652.95	-11.00	0.00	0.00	02/16/2006
02/16/2006	684.07	109	PMT Regular Payment SpeedP4	12/19/2005	684.07	20.12	652.95	0.00	0.00	11.00	
01/30/2006	1,357.14	109	PMT Regular Payment SpeedP4	11/19/2005	684.07	19.86	653.21	0.00	0.00	11.00	

Smith, William  
88350003

Complete Payment History

		109	PMT Regular Payment SpeedP	10/19/2005	673.07	19.61	653.46	0.00	0.00	0.00		
11/01/2005	573.07	109	PMT Regular Payment SpeedP	09/19/2005	573.07	0.00	573.07	0.00	0.00	0.00		10/31/2005
10/12/2005	-110.00	211	INS Insurance Disbursement		-110.00	0.00	0.00	0.00	0.00	-110.00		
09/28/2005	773.07	100	PMT Regular Payment Cash	09/19/2005	100.00	19.36	80.64	0.00	0.00	0.00		08/22/2005
		100	PMT Regular Payment Cash	08/19/2005	673.07	19.11	653.96	0.00	0.00	0.00		08/22/2005
09/27/2005	-773.07	500	REV Regular Payment Cash	08/19/2005	-773.07	-19.11	-653.96	0.00	0.00	-100.00		08/22/2005
08/22/2005	773.07	112	PMT Regular Payment Mellon Q	08/19/2005	773.07	19.11	653.96	0.00	0.00	100.00		
08/04/2005	673.07	112	PMT Regular Payment Mellon Q	07/19/2005	673.07	18.87	654.20	0.00	0.00	0.00		
12/19/2004	0.00	91005	Due Date Event		1.00	1.00	0.00	0.00	0.00	0.00		12/19/2004
12/10/2004	1,086.33	2020	Deferred Int Assessment		0.00	0.00	0.00	0.00	0.00	0.00		12/10/2004
	189.46	3011	Accrued Interest Adj Cr		189.46	0.00	189.46	0.00	0.00	0.00		12/10/2004
12/09/2004	1,086.33	34	Loan Forbearance		654.51	0.00	654.51	0.00	0.00	0.00		12/09/2004
		34	Loan Forbearance		431.82	0.00	431.82	0.00	0.00	0.00		12/09/2004
	36.88	34	Loan Forbearance		18.32	18.32	0.00	0.00	0.00	0.00		12/09/2004
		34	Loan Forbearance		18.56	18.56	0.00	0.00	0.00	0.00		12/09/2004
11/30/2004	286.00	1017	Verbal Payment by Phone		222.93	0.00	222.93	0.00	0.00	0.00		11/30/2004
		1017	Verbal Payment by Phone		63.07	18.32	44.75	0.00	0.00	0.00		11/30/2004
11/29/2004	0.00	91080	Loan Create Receivable		673.07	18.80	654.27	0.00	0.00	0.00		11/29/2004
	0.00	91004	Delinquent Loans		0.00	0.00	0.00	0.00	0.00	0.00		11/29/2004
	-67.30	2001	Late Charge Assessed		0.00	0.00	0.00	0.00	0.00	0.00		11/29/2004
11/19/2004	0.00	91005	Due Date Event		18.56	18.56	0.00	0.00	0.00	0.00		11/19/2004
10/31/2004	610.00	1017	Verbal Payment by Phone		610.00	0.00	610.00	0.00	0.00	0.00		10/31/2004
10/30/2004	0.00	91080	Loan Create Receivable		673.07	18.56	654.51	0.00	0.00	0.00		10/30/2004
10/29/2004	0.00	91004	Delinquent Loans		0.00	0.00	0.00	0.00	0.00	0.00		10/29/2004
	-67.30	2001	Late Charge Assessed		0.00	0.00	0.00	0.00	0.00	0.00		10/29/2004
10/19/2004	0.00	91005	Due Date Event		18.32	18.32	0.00	0.00	0.00	0.00		10/19/2004
09/29/2004	0.00	91080	Loan Create Receivable		673.07	18.32	654.75	0.00	0.00	0.00		09/29/2004

### Complete Payment History

Compendium of Payment History															
		0.00	91004	Delinquent Loans		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	09/29/2004
		-67.30	2001	Late Charge Assessed		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	09/29/2004
09/27/2004															
		654.98	2020	Deferred Int Assessment		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	09/27/2004
09/25/2004															
		654.98	33	PULSE Loan Extension		654.98	0.00	654.98	0.00	0.00	0.00	0.00	0.00	0.00	09/25/2004
		18.09	33	PULSE Loan Extension		18.09	18.09	0.00	0.00	0.00	0.00	0.00	0.00	0.00	09/25/2004
09/19/2004															
		0.00	91005	Due Date Event		18.32	18.32	0.00	0.00	0.00	0.00	0.00	0.00	0.00	09/19/2004
08/31/2004															
		673.07	1017	Verbal Payment by Phone		673.07	17.99	655.08	0.00	0.00	0.00	0.00	0.00	0.00	08/31/2004
08/30/2004															
		0.00	91080	Loan Create Receivable		673.07	18.32	654.75	0.00	0.00	0.00	0.00	0.00	0.00	08/30/2004
08/29/2004															
		0.00	91004	Delinquent Loans		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	08/29/2004
		-67.30	2001	Late Charge Assessed		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	08/29/2004
08/19/2004															
		0.00	91005	Due Date Event		18.09	18.09	0.00	0.00	0.00	0.00	0.00	0.00	0.00	08/19/2004
07/30/2004															
		0.00	91080	Loan Create Receivable		673.07	18.09	654.98	0.00	0.00	0.00	0.00	0.00	0.00	07/30/2004
07/29/2004															
		0.00	91004	Delinquent Loans		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	07/29/2004
		-67.30	2001	Late Charge Assessed		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	07/29/2004
07/19/2004															
		0.00	91005	Due Date Event		17.99	17.99	0.00	0.00	0.00	0.00	0.00	0.00	0.00	07/19/2004
06/29/2004															
		1,310.21	2020	Deferred Int Assessment		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	06/29/2004
		0.00	91080	Loan Create Receivable		673.07	17.99	655.08	0.00	0.00	0.00	0.00	0.00	0.00	06/29/2004
06/28/2004															
		1,310.21	33	PULSE Loan Extension		654.99	0.00	654.99	0.00	0.00	0.00	0.00	0.00	0.00	06/28/2004
		33		PULSE Loan Extension		655.22	0.00	655.22	0.00	0.00	0.00	0.00	0.00	0.00	06/28/2004
		35.93	33	PULSE Loan Extension		17.85	17.85	0.00	0.00	0.00	0.00	0.00	0.00	0.00	06/28/2004
		33		PULSE Loan Extension		18.08	18.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	06/28/2004
06/19/2004															
		0.00	91005	Due Date Event		18.08	18.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	06/19/2004
06/31/2004															
		673.07	1017	Verbal Payment by Phone		673.07	17.63	655.44	0.00	0.00	0.00	0.00	0.00	0.00	05/31/2004
05/30/2004															
		0.00	91080	Loan Create Receivable		673.07	18.08	654.99	0.00	0.00	0.00	0.00	0.00	0.00	05/30/2004
05/29/2004															
		0.00	91004	Delinquent Loans		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	05/29/2004
		-67.30	2001	Late Charge Assessed		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	05/29/2004

### Complete Payment History

Company Symptom History												
		91005	Duedate Event		17.85	17.85	0.00	0.00	0.00	0.00	0.00	
05/19/2004												05/19/2004
04/30/2004	673.07	1017	Verbal Payment by Phone		673.07	17.40	655.67	0.00	0.00	0.00	0.00	04/30/2004
04/29/2004												
	0.00	91080	Loan Create Receivable		673.07	17.85	655.22	0.00	0.00	0.00	0.00	04/29/2004
	0.00	91004	Deliquent Loans		0.00	0.00	0.00	0.00	0.00	0.00	0.00	04/29/2004
	-67.30	2001	Late Charge Assessed		0.00	0.00	0.00	0.00	0.00	0.00	0.00	04/29/2004
04/19/2004												
	0.00	91005	Duedate Event		17.63	17.63	0.00	0.00	0.00	0.00	0.00	04/19/2004
03/30/2004												
	0.00	91080	Loan Create Receivable		673.07	17.63	655.44	0.00	0.00	0.00	0.00	03/30/2004
03/29/2004												
	0.00	91004	Deliquent Loans		0.00	0.00	0.00	0.00	0.00	0.00	0.00	03/29/2004
	-67.30	2001	Late Charge Assessed		0.00	0.00	0.00	0.00	0.00	0.00	0.00	03/29/2004
03/19/2004												
	0.00	91005	Duedate Event		17.40	17.40	0.00	0.00	0.00	0.00	0.00	03/19/2004
03/18/2004												
	673.07	1017	Verbal Payment by Phone		673.07	17.18	655.89	0.00	0.00	0.00	0.00	03/18/2004
	67.30	1024	Late Chg Verbal Payment		67.30	0.00	0.00	0.00	0.00	67.30		03/18/2004
02/29/2004												
	0.00	91004	Deliquent Loans		0.00	0.00	0.00	0.00	0.00	0.00	0.00	02/29/2004
	-67.30	2001	Late Charge Assessed		0.00	0.00	0.00	0.00	0.00	0.00	0.00	02/29/2004
02/28/2004												
	0.00	91080	Loan Create Receivable		673.07	17.40	655.67	0.00	0.00	0.00	0.00	02/28/2004
02/19/2004												
	0.00	91005	Duedate Event		17.18	17.18	0.00	0.00	0.00	0.00	0.00	02/19/2004
02/02/2004												
	673.07	1017	Verbal Payment by Phone		673.07	16.96	656.11	0.00	0.00	0.00	0.00	02/02/2004
01/30/2004												
	0.00	91080	Loan Create Receivable		673.07	17.18	655.89	0.00	0.00	0.00	0.00	01/30/2004
01/29/2004												
	0.00	91004	Deliquent Loans		0.00	0.00	0.00	0.00	0.00	0.00	0.00	01/29/2004
	-67.30	2001	Late Charge Assessed		0.00	0.00	0.00	0.00	0.00	0.00	0.00	01/29/2004
01/27/2004												
	673.07	1017	Verbal Payment by Phone		673.07	16.74	656.33	0.00	0.00	0.00	0.00	01/27/2004
01/19/2004												
	0.00	91005	Duedate Event		16.96	16.96	0.00	0.00	0.00	0.00	0.00	01/19/2004
12/31/2003												
	673.07	1017	Verbal Payment by Phone		673.07	16.53	656.54	0.00	0.00	0.00	0.00	12/31/2003
12/30/2003												
	0.00	91080	Loan Create Receivable		673.07	16.96	656.11	0.00	0.00	0.00	0.00	12/30/2003
12/29/2003												
	0.00	91004	Deliquent Loans		0.00	0.00	0.00	0.00	0.00	0.00	0.00	12/29/2003

## Complete Payment History

[illegible]

## Complete Payment History

Complete Payment History															
Date	Amount	Code	Description	Due Date	Balance Due	Paid Amount	Interest	Fees	Total Paid	Outstanding Balance	Days Delinquent	Status	Next Due Date	Payment Method	Notes
06/29/2003	0.00	91080	Loan Create Receivable		370.20		1.00	369.20	0.00	0.00	0.00		06/29/2003		
06/25/2003	47.80	3011	Accrued Interest Adj Cr		47.80	0.00		47.80	0.00	0.00	0.00		06/25/2003		
06/24/2003	1,747.74	2020	Deferred Int Assessment		0.00	0.00		0.00	0.00	0.00	0.00		06/24/2003		
06/23/2003	1,747.74	34	Loan Forbearance		656.58	0.00		656.58	0.00	0.00	0.00		06/23/2003		
		34	Loan Forbearance		656.37	0.00		656.37	0.00	0.00	0.00		06/23/2003		
		34	Loan Forbearance		434.79	0.00		434.79	0.00	0.00	0.00		06/23/2003		
	49.47	34	Loan Forbearance		16.70	16.70	0.00	0.00	0.00	0.00	0.00		06/23/2003		
		34	Loan Forbearance		16.49	16.49	0.00	0.00	0.00	0.00	0.00		06/23/2003		
		34	Loan Forbearance		16.28	16.28	0.00	0.00	0.00	0.00	0.00		06/23/2003		
06/19/2003	0.00	91005	Due Date Event		16.70	16.70	0.00	0.00	0.00	0.00	0.00		06/19/2003		
06/17/2003	222.00	1017	Verbal Payment by Phone		222.00	0.00		222.00	0.00	0.00	0.00		06/17/2003		
05/31/2003	673.07	1017	Verbal Payment by Phone		673.07	16.07		657.00	0.00	0.00	0.00		05/31/2003		
05/30/2003	0.00	91080	Loan Create Receivable		673.07	16.70		656.37	0.00	0.00	0.00		05/30/2003		
05/29/2003	0.00	91004	Deliquent Loans		0.00	0.00		0.00	0.00	0.00	0.00		05/29/2003		
	-67.30	2001	Late Charge Assessed		0.00	0.00		0.00	0.00	0.00	0.00		05/29/2003		
05/19/2003	0.00	91005	Due Date Event		16.49	16.49	0.00	0.00	0.00	0.00	0.00		05/19/2003		
04/29/2003	0.00	91080	Loan Create Receivable		673.07	16.49		656.58	0.00	0.00	0.00		04/29/2003		
	0.00	91004	Deliquent Loans		0.00	0.00		0.00	0.00	0.00	0.00		04/29/2003		
	-67.30	2001	Late Charge Assessed		0.00	0.00		0.00	0.00	0.00	0.00		04/29/2003		
04/19/2003	0.00	91005	Due Date Event		16.28	16.28	0.00	0.00	0.00	0.00	0.00		04/19/2003		
03/30/2003	0.00	91080	Loan Create Receivable		673.07	16.28		656.79	0.00	0.00	0.00		03/30/2003		
03/29/2003	0.00	91004	Deliquent Loans		0.00	0.00		0.00	0.00	0.00	0.00		03/29/2003		
	-67.30	2001	Late Charge Assessed		0.00	0.00		0.00	0.00	0.00	0.00		03/29/2003		
03/19/2003	0.00	91005	Due Date Event		16.07	16.07	0.00	0.00	0.00	0.00	0.00		03/19/2003		
03/17/2003	673.07	1017	Verbal Payment by Phone		673.07	15.87		657.20	0.00	0.00	0.00		03/17/2003		
03/01/2003	0.00	91004	Deliquent Loans		0.00	0.00		0.00	0.00	0.00	0.00		03/01/2003		
	-67.30	2001	Late Charge Assessed		0.00	0.00		0.00	0.00	0.00	0.00		03/01/2003		

## Complete Payment History

[illegible]

Smith, William  
88350003

Complete Payment History

08/30/2002	0.00	91080	Loan Create Receivable	673.07	15.27	657.80	0.00	0.00	0.00	0.00	08/30/2002
08/27/2002	673.07	1017	Verbal Payment by Phone	673.07	15.07	658.00	0.00	0.00	0.00	0.00	08/27/2002
08/19/2002	0.00	91005	Due Date Event	15.07	15.07	0.00	0.00	0.00	0.00	0.00	08/19/2002
07/30/2002	0.00	91080	Loan Create Receivable	673.07	15.07	658.00	0.00	0.00	0.00	0.00	07/30/2002
07/29/2002	673.07	1017	Verbal Payment by Phone	673.07	14.88	658.19	0.00	0.00	0.00	0.00	07/29/2002
07/19/2002	0.00	91005	Due Date Event	14.88	14.88	0.00	0.00	0.00	0.00	0.00	07/19/2002
06/29/2002	0.00	91080	Loan Create Receivable	673.07	14.88	658.19	0.00	0.00	0.00	0.00	06/29/2002
06/24/2002	740.37	1017	Verbal Payment by Phone	673.07	14.69	658.38	0.00	0.00	0.00	0.00	06/24/2002
		1017	Verbal Payment by Phone	67.30	0.00	0.00	0.00	0.00	0.00	67.30	06/24/2002
06/19/2002	0.00	91005	Due Date Event	14.69	14.69	0.00	0.00	0.00	0.00	0.00	06/19/2002
05/30/2002	673.07	1017	Verbal Payment by Phone	673.07	14.50	658.57	0.00	0.00	0.00	0.00	05/30/2002
	0.00	91080	Loan Create Receivable	673.07	14.69	658.38	0.00	0.00	0.00	0.00	05/30/2002
05/29/2002	0.00	91004	Delinquent Loans	0.00	0.00	0.00	0.00	0.00	0.00	0.00	05/29/2002
	-67.30	2001	Late Charge Assessed	0.00	0.00	0.00	0.00	0.00	0.00	0.00	05/29/2002
05/19/2002	0.00	91005	Due Date Event	14.50	14.50	0.00	0.00	0.00	0.00	0.00	05/19/2002
04/29/2002	0.00	91080	Loan Create Receivable	673.07	14.50	658.57	0.00	0.00	0.00	0.00	04/29/2002
04/20/2002	673.07	1017	Verbal Payment by Phone	673.07	14.32	658.75	0.00	0.00	0.00	0.00	04/20/2002
04/19/2002	0.00	91005	Due Date Event	14.32	14.32	0.00	0.00	0.00	0.00	0.00	04/19/2002
03/30/2002	0.00	91080	Loan Create Receivable	673.07	14.32	658.75	0.00	0.00	0.00	0.00	03/30/2002
03/20/2002	51,000.00	1	New Loan Disbursement	51,000.00	51,000.00	0.00	0.00	0.00	0.00	0.00	03/19/2002

**Exhibit “C”**

LAW OFFICES OF GREGORY JAVARDIAN  
BY: GREGORY JAVARDIAN  
ID# 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

ATTORNEY FOR PLAINTIFF

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY  
7360 SOUTH KYRENE ROAD  
TEMPE, AZ 85283

PLAINTIFF

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

VS.

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH  
ANNETTE GELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

DEFENDANTS

NO. 08-460-CD  
COMPLAINT IN  
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 defense or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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

Daniel J. Nelson,  
Court Administrator  
Clearfield County Courthouse  
Clearfield, PA 16830  
814-765-2641 ext. 5982

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

MAR 14 2008

Attest.

*William A. Brown*  
Prothonotary/  
Clerk of Courts

IF THIS IS THE FIRST NOTICE THAT YOU HAVE RECEIVED FROM THIS OFFICE, BE ADVISED THAT:

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C § 1692 et seq. (1977), DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S) DO SO IN WRITING WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL OBTAIN AND PROVIDE DEFENDANT(S) WITH WRITTEN VERIFICATION THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED TO BE VALID. LIKEWISE, IF REQUESTED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S) THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM ABOVE.

THE LAW DOES NOT REQUIRE US TO WAIT UNTIL THE END OF THE THIRTY (30) DAY PERIOD FOLLOWING FIRST CONTACT WITH YOU BEFORE SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH THE LAW PROVIDES THAT YOUR ANSWER TO THIS COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.

LAW OFFICES OF GREGORY JAVARDIAN  
BY: GREGORY JAVARDIAN  
ID# 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

ATTORNEY FOR PLAINTIFF

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY  
7360 SOUTH KYRENE ROAD  
TEMPE, AZ 85283

PLAINTIFF

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

VS.

NO.

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH  
ANNETTE GEELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

DEFENDANTS

COMPLAINT IN  
MORTGAGE FORECLOSURE

CIVIL ACTION MORTGAGE FORECLOSURE

1. Green Tree Consumer Discount Company, f/k/a Conesco Finance Consumer Discount Company (hereinafter referred to as "Plaintiff") is an Institution, conducting business under the Laws of the Commonwealth of Pennsylvania with a principal place of business at the address indicated in the caption hereof.
2. William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith and Annette Geelen Smith, a/k/a Annette G. Smith, a/k/a Annette Smith (hereinafter referred to as "Defendants") are adult individuals residing at the address indicated in the caption hereof.
3. Plaintiff brings this action to foreclose on the mortgage between the Defendants and itself as Mortgagee by Assignment. The Mortgage, dated March 14, 2002, was recorded on March 19, 2002 in the Office of the Recorder of Deeds in Clearfield County at Instrument Number 200204241. Plaintiff is the Mortgagee by Assignment by virtue of an Assignment of Mortgage recorded on June 17, 2002 in the Office of Recorder of Deeds in Clearfield County at Instrument Number 200209613. A copy of the Mortgage is attached and made a part hereof as Exhibit 'A'.

4. The Mortgage secures the indebtedness of a Note executed by William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith on March 14 , 2002 in the original principal amount of \$51,00.00 payable to Plaintiff in monthly installments with an interest rate of 15.50%. A copy of the Note is attached and made a part hereof as Exhibit 'B'.
5. The land subject to the mortgage is 228 Dixon Avenue, Du Bois, PA 15801. A copy of the Legal Description is attached as part of the Mortgage as Exhibit 'A' and incorporated herein.
6. The Defendants are the Record Owners of the mortgaged property located at 228 Dixon Avenue, Du Bois, PA 15801.
7. The Mortgage is now in default due to the failure of the Defendants to make payments as they become due and owing. As a result of the default, the following amounts are due:

Principal Balance	\$49,592.61
Interest to 3/5/2008	\$10,533.36
Accumulated Late Charges	\$2,840.24
Deferred Interest	\$6,113.86
Cost of Suit and Title Search	\$850.00
Attorney's Fees	\$1,250.00
TOTAL	\$71,180.07

plus interest from 3/6/2008 at \$21.11 per day, costs of suit and attorney's fees.

8. The attorney's fees set forth above are in conformity with the Mortgage documents and Pennsylvania Law, and will be collected in the event of a third party purchase at Sheriff's sale. If the Mortgage is reinstated prior to the Sale, reasonable attorney's fees will be charged.
9. Pennsylvania law requires that a plaintiff in mortgage foreclosure provide a defaulting mortgagor with a Notice of Homeowners' Emergency Mortgage Assistance ("Act 91 Notice") 35 P.S. Section 1680.403c.
10. The Notice of Homeowners' Emergency Mortgage Assistance was required and Plaintiff sent the uniform notice as promulgated by the Pennsylvania Housing Finance Agency to the Defendants by regular and certified mail on November 9, 2007. A copy of the Notice is attached and made a part hereof as Exhibit 'C'.

11. The Mortgage is not a residential mortgage under 41 P.S. Section 401 because the principal amount of the Mortgage is in excess of \$50,000.00 and, therefore, Plaintiff was not required to send the Act 6 Notice of Intention to Foreclose.

WHEREFORE, Plaintiff requests the court enter judgment in Mortgage Foreclosure for the sale of the mortgaged property in Plaintiff's favor and against the Defendants, in the sum of \$71,180.07 together with the interest from 3/6/2008 at \$21.11 per day, costs of suit and attorney's fees.

Law offices of Gregory Javardian

BY: 

Gregory Javardian  
Attorney ID No. 55669  
Attorney for Plaintiff

EXHIBIT 'A'

KAREN L. STARCK  
REGISTER AND RECORDER  
CLEARFIELD COUNTY  
Pennsylvania

INSTRUMENT NUMBER  
200204241  
RECORDED ON  
Mar 19, 2002  
11:52:51 AM  
Total Pages: 8

RECORDING FEES - \$21.00  
REORDER  
COUNTY IMPROVEMENT \$1.00  
FUND  
REORDER  
IMPROVEMENT FUND \$1.00  
STATE WRIT TAX \$0.50  
TOTAL \$23.50  
CUSTOMER  
CONSECO FINANCE SERVICES

Commonwealth of Pennsylvania \_\_\_\_\_ Space Above This Line For Recording Data \_\_\_\_\_

GT-15-39-090 (1/01) Return To: **OPEN-END MORTGAGE** Application # 0202280225  
Conseco Finance Attn: Trailing Documents Area This Mortgage secures future advances Loan # 6913053036  
7360 South Kyrene Road  
Tempe, AZ 85283

1. **DATE AND PARTIES.** The date of this Mortgage (Security Instrument) is March 14, 2002  
and the parties, their addresses and tax identification numbers, if required, are as follows:

MORTGAGOR: William Dennis Smith, Annette Geelen Smith  
HUSBAND AND WIFE

.....If checked, refer to the attached Addendum incorporated herein, for additional Mortgagors, their signatures and acknowledgments.

LENDER: Conseco Bank, Inc.  
Cottonwood Corporate Center  
2825 E Cottonwood Prky 230  
Salt Lake City, UT 84121

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Mortgagor's performance under this Security Instrument, Mortgagor grants, bargains, conveys and mortgages to Lender the following described property:

Parcel ID: 7.5-10-2736 TAX ID #07319  
See Exhibit A for the Legal Description

PENNSYLVANIA - MORTGAGE (NOT FOR FNMA, FHLMC, FHA OR VA)

Exempt © 1994 Banker's Systems, Inc., St. Cloud, MN Form GTH-MTGLAZPA 1/9/2001

GT-15-39-090 (1/01) (page 1 of 7)

The property is located in Clearfield at .....  
228 Dixon Ave. (County) Du Bois, Pennsylvania 15801  
(Address) (City) (ZIP Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, ditches, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount secured by this Security Instrument at any one time shall not exceed \$ 51,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.

4. **SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" is defined as follows:  
A. Debt incurred under the terms of all promissory note(s), contract(s), guaranty(s) or other evidence of debt described below and all their extensions, renewals, modifications or substitutions. (When referencing the debts below it is suggested that you include items such as borrowers' names, note amounts, interest rates, maturity dates, etc.)

Note dated March 14, 2002, between Conseco Bank, Inc. and William Dennis Smith, for \$51,000.00, maturing March 19, 2027.

- B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt executed by Mortgagor in favor of Lender after this Security Instrument whether or not this Security Instrument is specifically referenced. If more than one person signs this Security Instrument, each Mortgagor agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. All future advances and other future obligations are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing.
- C. All obligations Mortgagor owes to Lender, which may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.
- D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Security Instrument.
- This Security Instrument will not secure any other debt if Lender fails to give any required notice of the right of rescission.

5. **PAYMENTS.** Mortgagor agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.

6. **WARRANTY OF TITLE.** Mortgagor warrants that Mortgagor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to grant, bargain, convey, sell, and mortgage the Property. Mortgagor also warrants that the Property is unencumbered, except for encumbrances of record.
7. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagor agrees:
- A. To make all payments when due and to perform or comply with all covenants.
  - B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
  - C. Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.
8. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagor may have against parties who supply labor or materials to maintain or improve the Property.
9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Security Instrument is released.
10. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor shall not commit or allow any waste, impairment, or deterioration of the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims and actions against Mortgagor, and of any loss or damage to the Property. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Mortgagor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.
11. **AUTHORITY TO PERFORM.** If Mortgagor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Mortgagor appoints Lender as attorney-in-fact to sign Mortgagor's name or pay any amount necessary for performance. Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.
12. **LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** Mortgagor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

13. **DEFAULT.** Mortgagor will be in default if any party obligated on the Secured Debt fails to make payment when due. Mortgagor will be in default if a breach occurs under the terms of this Security Instrument or any other document executed for the purpose of creating, securing or guaranteeing the Secured Debt. A good faith belief by Lender that Lender at any time is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment or the value of the Property is impaired shall also constitute an event of default.
14. **REMEDIES ON DEFAULT.** In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Mortgagor is in default. At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the terms of the Secured Debt, this Security Instrument and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.
15. **EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Security Instrument. Mortgagor will also pay on demand amounts incurred by Lender for insuring, inspecting, preserving or otherwise protecting the Property and Lender's security interest. These expenses will bear interest from the date of the payment until paid in full at the highest interest rate in effect as provided in the terms of the Secured Debt. Mortgagor agrees to pay all costs and expenses incurred by Lender in collecting, enforcing or protecting Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, attorneys' fees, court costs, and other legal expenses. This Security Instrument shall remain in effect until released. Mortgagor agrees to pay for any recordation costs of such release.
16. **ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), and all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that:
- A. Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance is or will be located, stored or released on or in the Property. This restriction does not apply to small quantities of Hazardous Substances that are generally recognized to be appropriate for the normal use and maintenance of the Property.
  - B. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor and every tenant have been, are, and shall remain in full compliance with any applicable Environmental Law.

- C. Mortgagor shall immediately notify Lender if a release or threatened release of a Hazardous Substance occurs on, under or about the Property or there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor shall take all necessary remedial action in accordance with any Environmental Law.
- D. Mortgagor shall immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any pending or threatened investigation, claim, or proceeding relating to the release or threatened release of any Hazardous Substance or the violation of any Environmental Law.
17. **CONDEMNATION.** Mortgagor will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.
18. **INSURANCE.** Mortgagor shall keep Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Security Instrument. All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor. Unless otherwise agreed in writing, all insurance proceeds shall be applied to the restoration or repair of the Property or to the Secured Debt, whether or not then due, at Lender's option. Any application of proceeds to principal shall not extend or postpone the due date of the scheduled payment nor change the amount of any payment. Any excess will be paid to the Mortgagor. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.
19. **ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.
20. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Security Instrument and Lender's lien status on the Property.
21. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Security Instrument are joint and individual. If Mortgagor signs this Security Instrument but does not sign an evidence of debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured

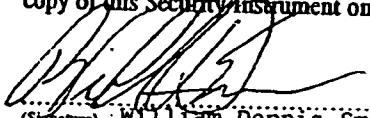
Debt. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws. Mortgagor agrees that Lender and any party to this Security Instrument may extend, modify or make any change in the terms of this Security Instrument or any evidence of debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Security Instrument. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Mortgagor and Lender.

22. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Security Instrument is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. Any provision that appoints Lender as an agent is not subject to the provisions of 20 Pa.C.S.A. Section 5601 et seq. (Chapter 56; Decedents, Estates and Fiduciaries Code). Lender, by exercising any of its rights under this Security Instrument, does so for its sole benefit. This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any section in this Security Instrument, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. Time is of the essence in this Security Instrument.
23. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Security Instrument, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.
24. **WAIVERS.** Except to the extent prohibited by law, Mortgagor waives any right to appraisal relating to the Property.
25. **OTHER TERMS.** If checked, the following are applicable to this Security Instrument:
- ..... **Line of Credit.** The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until released.
  - ..... **Construction Loan.** This Security Instrument secures an obligation incurred for the construction of an improvement on the Property.
  - ..... **Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property. This Security Instrument suffices as a financing statement and any carbon, photographic or other reproduction may be filed of record for purposes of Article 9 of the Uniform Commercial Code.
  - ..... **Purchase Money.** This Security Instrument secures advances by Lender used in whole or in part to acquire the Property. Accordingly, this Security Instrument, and the lien hereunder, is and shall be construed as a purchase money mortgage with all of the rights, priorities and benefits thereof under the laws of the Commonwealth of Pennsylvania.
  - ..... **NOTICE TO BORROWER: THIS DOCUMENT CONTAINS PROVISIONS FOR A VARIABLE INTEREST RATE.**

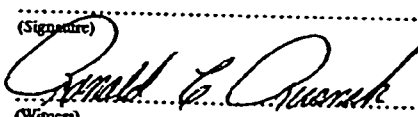
.....Riders. The covenants and agreements of each of the riders checked below are incorporated into and supplement and amend the terms of this Security Instrument. [Check all applicable items]  
..... Condominium Rider ..... Planned Unit Development Rider ..... Other .....

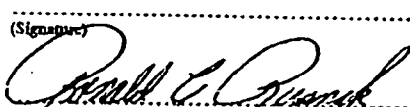
N/A Additional Terms.

**SIGNATURES:** By signing below, Mortgagor, intending to be legally bound hereby, agrees to the terms and covenants contained in this Security Instrument and in any attachments. Mortgagor also acknowledges receipt of a copy of this Security Instrument on the date stated on page 1.

 3/14/02  
(Signature) William Dennis Smith (Date)

 3-14-02  
(Signature) Annette Geelen Smith (Date)

  
(Witness) (Date)

  
(Witness) (Date)

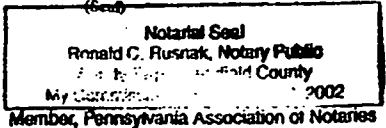
**ACKNOWLEDGMENT:**

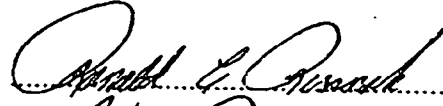
COMMONWEALTH OF PENNSYLVANIA COUNTY OF CLEARFIELD } SS.  
(Individual) On this, the 14<sup>th</sup> day of MARCH, 2002, before me RONALD C. RUSNAK,  
the undersigned officer, personally appeared William Dennis Smith, Annette Geelen Smith

known to me (or satisfactorily proven) to be the person(s) whose name(s) is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained.

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

My commission expires:



  
Notary Public  
Title of Officer

It is hereby certified that the address of the Lender within named is: Conseco Bank, Inc.  
Cottonwood Corporate Center, 2825 E Cottonwood Prky 230, Salt Lake City, UT 84121

EXHIBIT A

Legal Description:

ALL THAT CERTAIN PROPERTY SITUATED IN THE CITY OF DUBOIS, COUNTY OF CLEARFIELD,  
AND COMMONWEALTH OF PENNSYLVANIA, BEING MORE FULLY DESCRIBED IN DEED DATED  
06/21/88, RECORDED 06/28/88, APPEARING AMONG THE LAND RECORDS OF THE COUNTY AND  
STATE, SET FORTH ABOVE IN DEED BOOK 1230, PAGE 242.

Parcel ID: 7.5-10-2736 TAX ID #07319



AS

EXHIBIT 'B'

Conoco Bank, Inc.  
Cottonwood Corporate Center  
2825 E Cottonwood Prky 230  
Salt Lake City, UT 84121

William Dennis Smith  
228 Dixon Avenue  
Du Bois, PA 15801

Application # 0202280225

LENDER'S NAME AND ADDRESS  
"You" means the Lender,  
its successors and assigns.

BORROWER'S NAME AND ADDRESS  
"I" includes each Borrower above,  
jointly and severally.

Loan Number 6913053036  
Date March 14, 2002  
Maturity Date 03/19/2027  
Loan Amount \$ 51,000.00  
Renewal Of N/A

TERMS FOLLOWING A Secondary Mortgage Loan  
CHECKED APPLY ONLY IF

This agreement is subject to the provisions of the Secondary Mortgage Loan Act.  
For value received, I promise to pay to you at your address listed above the PRINCIPAL sum of Fifty One  
Thousand and No/100 Dollars \$ 51,000.00  
☒ Single Advance: I will receive all of this principal sum on March 19, 2002. No additional advances are  
contemplated under this note.

☐ Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note.  
On March 19, 2002 I will receive the amount of \$ 51,000.00 and future principal advances are contemplated.  
You and I agree that I may borrow up to the maximum only one time (and subject to all other conditions).  
Conditions: The conditions for future advances are \_\_\_\_\_

INTEREST: I agree to pay interest on the outstanding principal balance from March 19, 2002 at the rate of \_\_\_\_\_

**COPY**

per year until March 19, 2027 15.500 %  
☐ Variable Rate: Notice to borrower: This document contains provisions for a variable interest rate. This rate may  
then change as stated below.  
Change Dates: Each date on which the interest rate may change is called a Change Date. The interest rate may  
change \_\_\_\_\_ and on every \_\_\_\_\_ thereafter.  
The Index: Beginning with the first Change Date, the interest rate will be based on the following Index: \_\_\_\_\_

The most recent Index value available as of the date 45 days \_\_\_\_\_  
before each Change Date is called the "Current Index."  
Calculation of Change: Before each Change Date, the Lender will calculate the interest rate, which will be \_\_\_\_\_  
\_\_\_\_\_ the Current Index. The result of this calculation will be rounded \_\_\_\_\_  
rate will become effective on each Change Date. Subject to any limitations below, this will be the new interest rate  
until the next Change Date.

Limitations: The interest rate will never be greater than \_\_\_\_\_ % or less than \_\_\_\_\_ %.  
The interest rate will never change on any single Change Date by more than \_\_\_\_\_ %.

Effect of Variable Rate: A change in the interest rate will have the effect of changing the amount of the scheduled  
payments: \_\_\_\_\_

ACCRUAL METHOD: Interest will be calculated on a 30/360 day \_\_\_\_\_ basis.  
POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in  
full, as stated below:

☒ on the same fixed or variable rate basis in effect before maturity (as indicated above).  
☐ at a rate equal to \_\_\_\_\_

☒ LATE CHARGE: I agree to pay a late charge on the portion of any payment made more than 10 days after it is  
due equal to 10% of payment

☒ NSF FEE: If any instrument which I submit to you is returned unpaid for any reason, I will pay you a fee of \$25.00

☒ ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which ☒ are \_\_\_\_\_ are not  
included in the principal amount above: See Addendum A

*[Signature]*

300 payments of \$673.07 starting on April 19, 2002 and on the 19th day of each month thereafter.

**SECURITY:** This note is secured by (describe separate document by type (e.g., mortgage) and date):  
Mortgage Deed dated March 14, 2002

**GENERALLY** - The headings at the beginning of each section are for convenience only and are not to be used in interpreting the text of the section.

**DEFINITIONS** - "I," "me" or "my" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorser, and sureties) who agree to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns. The "parties" shall mean the Borrower and Lender, together.

**APPLICABLE LAW** - The interest to be charged on this loan is governed by the laws of the state of Utah

\_\_\_\_\_. All other terms of this transaction are governed by the laws of the state of Pennsylvania.

The fact that any part of this note cannot be enforced will not affect the rest of this note. Any change to this note or any agreement securing this note must be in writing and signed by you and me.

I agree to cooperate with you regarding any requests after closing to correct errors made concerning this contract or the transaction and to provide any and all additional documentation deemed necessary by you to complete this transaction. I agree that you may enforce this agreement by judicial process and are entitled to attorney's fees, costs and disbursements incident to such enforcement.

**PAYMENTS** - Each payment I make on this loan will be applied first to any charges I owe other than principal and interest, then to interest that is due, and finally to principal that is due. No late charge will be assessed on any payment when the only delinquency is due to late fees assessed on earlier payments and the payment is otherwise a full payment. The actual amount of my final payment will depend on the interest rates (if variable) and my payment record. If any payment due under this loan does not equal or exceed the amount of interest due, you may, at your option, increase the amount of the payment due and all future payments to an amount that will pay off this loan in equal payments over the remaining term of this loan.

**PREPAYMENT** - I may prepay this loan in whole or in part at any time. I will not pay a penalty upon prepayment unless otherwise stated in the next sentence. If I prepay in full within N/A months of the date of this note, I will pay you a penalty of N/A

**Partial payments will not excuse or reduce any later scheduled payment until this note is paid in full.**

**INTEREST** - Interest accrues on the principal remaining unpaid from time to time, until paid in full. If this is a

multiple advance loan, interest will accrue: N/A

If "Variable Rate" is checked on page 1, I will pay interest at the rates in effect from time to time. The interest rate(s) and other charges on this loan will never exceed the highest rate or charge allowed by law for this loan. If the index specified on page 1 ceases to exist, I agree that you may substitute a similar index for the original.

**INDEX -** If you and I have agreed that the interest rate on this note will be variable and will be related to an index, then the index you select will function only as a tool for setting the rate on this note. You do not guaranty, by selecting any index, that the interest rate on this note will have a particular relationship to the interest rate you charge on any other loans or any type or class of loans with your other customers.

**ACCRUAL METHOD** - The amount of interest that I will pay on this loan will be calculated using the interest rate and accrual method stated on page 1. For interest calculation, the accrual method will determine the number of days in a year. If no accrual method is stated, then you may use any reasonable accrual method for calculating interest.

**SINGLE ADVANCE LOANS** - If this is a single advance loan you and I expect that you will only make one advance of principal. However, you may add other amounts to the principal if you make any payments described in the **PAYMENTS BY LENDER** section below.

**MULTIPLE ADVANCE LOANS** - If this is a multiple advance loan, you and I expect that you will make more than one advance of principal, subject to the conditions of any separate agreement.

**PAYMENTS BY LENDER** - If you are authorized to pay, on my behalf, charges I am obligated to pay (such as property insurance premiums), then you may treat those payments made by you as advances and add them to the unpaid principal under this note, or you may demand immediate payment of the charges.

**POST-MATURITY INTEREST** - Interest will accrue on the principal balance remaining unpaid after final maturity at the rate specified on page 1. For purposes of this section, final maturity occurs:

(a) On the date of the last scheduled payment of principal;  
or  
(b) On the date you accelerate the due date of this loan  
(demand immediate payment).

**REAL ESTATE OR RESIDENCE SECURITY** - If this loan is secured by real estate or a residence that is personal property, the existence of a default and your remedies for such a default will be determined by applicable law, by the terms of any separate instrument creating the security interest and, to the extent not prohibited by law and not contrary to the terms of the separate security instrument, by this agreement.

**ASSUMPTION** - This note and any document securing it cannot be assumed by someone buying the secured property from me. This will be true unless you agree in

writing to the contrary. Without such an agreement, if I try to transfer any interest in the property securing this note, I will be in default on this loan. You may proceed against me under any due on sale clause in the security agreement, which is incorporated by reference.

**DEFAULT** - Subject to any limitations in the "REAL ESTATE OR RESIDENCE SECURITY" paragraph above, I will be in default on this loan and any agreement securing this loan if any one or more of the following occurs:

- (a) I fail to make a payment in full when due;
- (b) I die, am declared incompetent, or become insolvent;
- (c) I fail to keep any promise I have made in connection with this loan;
- (d) I fail to pay, or keep any other promise on, any other loan or agreement I have with you;
- (e) I make any written statement or provide any financial information that is untrue or inaccurate at the time it is provided;
- (f) Any creditor of mine attempts to collect any debt I owe through court proceedings, set-off or self-help repossession;
- (g) The property securing this Loan is damaged, destroyed or stolen;
- (h) I fail to provide any additional security that you may require;
- (i) Any legal entity (such as a partnership or corporation) that has agreed to pay this note merges, dissolves, reorganizes, ends its business or existence, or a partner or majority stockholder dies or is declared incompetent; or
- (j) Anything else happens that causes you to believe that you will have difficulty collecting the amount I owe you.

If any of us are in default on this note or any security agreement, you may exercise your remedies against any or all of us.

**REMEDIES** - Subject to any limitations in the "REAL ESTATE OR RESIDENCE SECURITY" paragraph on page 2, and after giving any appropriate notice, if I am in default on this loan or any agreement securing this loan, you may:

- (a) Make unpaid principal, earned interest and all other agreed charges I owe you under this loan immediately due;
- (b) Use the right of set-off as explained below;
- (c) Demand more security or new parties obligated to pay this loan (or both) in return for not using any other remedy;
- (d) Make a claim for any and all insurance benefits or refunds that may be available on my default;
- (e) Use any remedy you have under state or federal law; and
- (f) Use any remedy given to you in any agreement securing this loan.

By choosing any one or more of these remedies you do not give up your right to use another remedy later. By deciding not to use any remedy should I be in default, you do not give up your right to consider the event a default if it happens again.

**COSTS OF COLLECTION AND ATTORNEYS' FEES** - I agree to pay you all reasonable costs you incur to collect this debt or realize on any security. This includes, unless prohibited by law, reasonable attorneys' fees. This provision also shall apply if I file a petition or any other claim for relief under any bankruptcy rule or law of the United States, or if such petition or other claim for relief is filed against me by another.

**SET-OFF** - I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

- (a) Any deposit account balance I have with you;
- (b) Any money owed to me on an item presented to you or in your possession for collection or exchange; and

(c) Any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand under the terms of this note at the time you exercise your right of set off. This total includes any balance the due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights arise only in a representative capacity. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right of set-off.

**OTHER SECURITY** - Any present or future agreement securing any other debt I owe you also will secure the payment of this loan. Property securing another debt will not secure this loan if such property is my principal dwelling and you fail to provide any required notice of right of rescission. Also, property securing another debt will not secure this loan to the extent such property is in household goods.

**ARBITRATION** - All disputes, claims, or controversies arising from or relating to this note or the relationships which result from this note, or the validity of this arbitration clause or the entire note, shall be resolved by binding arbitration by one arbitrator selected by you with my consent. This arbitration agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act, Title 9 of the United States Code. Judgment upon the award rendered may be entered in any court having jurisdiction. The parties agree and understand that they choose arbitration instead of litigation to resolve disputes. The parties understand that they have a right or opportunity to litigate disputes in court, but that they prefer to resolve their disputes through arbitration, except as provided herein.

**THE PARTIES VOLUNTARILY AND KNOWINGLY WAIVE ANY RIGHT THEY HAVE TO A JURY TRIAL, EITHER PURSUANT TO ARBITRATION UNDER THIS CLAUSE OR PURSUANT TO A COURT ACTION BY YOU (AS PROVIDED HEREIN).** The parties agree and understand that all disputes arising under case law, statutory law, and all other laws including, but not limited to, all contract, tort, and property disputes, will be subject to binding arbitration in accord with this agreement. I agree that I shall not have the right to participate as a representative or a member of any class of claimants pertaining to any claim arising from or relating to this note. The parties agree and understand that the arbitrator shall have all powers provided by law and the note. These powers shall include all legal and equitable remedies, including, but not limited to, money damages, declaratory relief, and injunctive relief. Notwithstanding anything hereunto the contrary, you retain an option to use judicial or non-judicial relief to enforce a security agreement relating to the collateral secured in a transaction underlying this arbitration agreement, to enforce the monetary obligation or to foreclose on the collateral. Such judicial relief would take the form of a lawsuit. The institution and maintenance of an action for judicial relief in a court to foreclose upon any collateral, to obtain a monetary judgment or to enforce the security agreement, shall not constitute a waiver of the right of any party to compel arbitration in this note, including the filing of a counterclaim in a suit brought by you pursuant to this provision.

**OBLIGATIONS INDEPENDENT** - I understand that my obligation to pay this loan is independent of the obligation of any other person who has also agreed to pay it. You may, without notice, release me or any of us, give up any right you may have against any of us, extend new credit to any of us, or renew or change this note one or more times and for any term, and I will still be obligated to pay this loan. You may, without notice, fail to perfect your security interest in, impair, or release any security and I will still be obligated to pay this loan.

**WAIVER** - I waive (to the extent permitted by law) demand, presentment, protest, notice of dishonor and notice of protest.

**PRIVACY** - I agree that from time to time you may receive credit information about me from others, including other lenders and credit reporting agencies. I agree that you may furnish on a regular basis credit and experience information regarding my loan to others seeking such information. To the extent permitted by law, I agree that you will not be liable for any claim arising from the use of information provided to you by others or for providing such information to others.

**FINANCIAL STATEMENTS** - I will give you any financial statements or information that you feel is necessary. All financial statements and information I give you will be correct and complete.

**PURCHASE MONEY LOAN** - If this is a Purchase Money Loan, you may include the name of the seller on the check or draft for this loan.

**PURPOSE:** The purpose of this loan is Refinance

**ADDITIONAL TERMS:**

Any prepaid finance charge up to 5% of the original principle amount of the loan is nonrefundable in the event of prepayment. Upon prepayment, prepaid finance charges in excess of 5% of the original principal amount of the loan will be refunded on a pro-rata basis.

**NOTICE TO COSIGNER**

You (the cosigner) are being asked to guaranty this debt. Think carefully before you do. If the borrower doesn't pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount of the debt if the borrower does not pay. You also may have to pay late fees or collection costs, which increase this amount.

The creditor can collect this debt from you without first trying to collect from the borrower. The creditor can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become part of *your* credit record.

This notice is not the contract that makes you liable for the debt.

**SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGES 1, 2, 3 AND 4). I have received a copy on today's date.**

X  
Signature William Dennis Smith Date 3/14/02

X  
Signature \_\_\_\_\_ Date \_\_\_\_\_

X  
Signature \_\_\_\_\_ Date \_\_\_\_\_

X  
Signature \_\_\_\_\_ Date \_\_\_\_\_

Signature for Lender

By: [Signature] Date 3/14/02  
Signature \_\_\_\_\_

Its: [Signature]  
Signature \_\_\_\_\_

**ADDENDUM A**  
**Additional Finance Charges to Note**

This Addendum supplements the provisions of that Note dated 03/14/2002 by and between Conseco Bank, Inc. and William Dennis Smith; This Addendum shall be incorporated into and shall become a part of said Note.

HUD Line	Description	Amount
801	Loan Origination Fee	
809	Application Fee	\$1,531.68
810	Flood Cert (life of loan)	\$400.00
1101	Settlement or Closing fee	\$8.50
		\$120.00
<b>TOTAL</b>		<b>\$2,060.18</b>

Borrower:

  
William Dennis Smith

Date

EXHIBIT 'C'

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

November 9, 2007

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
437 TREASURE LAKE  
DU BOIS, PA 15801

ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH  
437 TREASURE LAKE  
DU BOIS, PA 15801

THIS FIRM IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. THIS NOTICE IS SENT TO YOU IN AN ATTEMPT TO COLLECT THE INDEBTEDNESS REFERRED TO HEREIN AND ANY INFORMATION OBTAINED FROM YOU WILL BE USED FOR THAT PURPOSE. IF YOU HAVE PREVIOUSLY RECEIVED A DISCHARGE IN BANKRUPTCY, THIS CORRESPONDENCE IS NOT AND SHOULD NOT BE CONSTRUED TO BE AN ATTEMPT TO COLLECT A DEBT, BUT ONLY ENFORCEMENT OF A LIEN AGAINST PROPERTY.

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 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. IS 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 "HOMEOWNERS EMERGENCY MORTGAGE ASSISTANCE PROGRAM" EL CUAL PUEDE SALVAR SU CASA DE LA PERDIDA DEL DERECHO A REDIMIR SU HIPOTECA.

## STATEMENTS OF POLICY

HOMEOWNER'S NAME(S): WILLIAM DENNIS SMITH, A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH AND ANNETTE GEELEN  
SMITH, A/K/A ANNETTE G. SMITH, A/K/A ANNETTE  
SMITH  
PROPERTY ADDRESS: 228 DIXON AVENUE, DU BOIS, PA 15801  
LOAN ACCT. NO.: 88350003  
ORIGINAL LENDER: CONSECO BANK, INC.  
CURRENT LENDER/SERVICER: GREEN TREE CONSUMER DISCOUNT COMPANY

**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 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 PURPOSE 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 228 DIXON AVENUE, DU BOIS, PA 15801 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 4/19/2007 through 10/19/2007 at \$ 673.07 per month.

Monthly payments plus late charges accrued:	\$ 7,215.23
Suspense:	(\$ 0.00)
<b>TOTAL AMOUNT TO CURE DEFAULT</b>	<b>\$ 7,215.23</b>

B. YOU HAVE FAILED TO TAKE THE FOLLOWING ACTIONS (Do not use if not applicable):  
N/A

**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 \$ 7,215.23 PLUS ANY MORTGAGE PAYMENTS AND LATE CHARGES WHICH BECOME DUE DURING THE THIRTY (30) DAY PERIOD. Payment must be made either by cashier's check, certified check or money order made payable and sent to: Green Tree Consumer Discount Company 7360 S. Kyrene Road, Tempe, AZ 85283. Contact: YOLANDA NELSON

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) N/A.

**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 attorney to start legal action to foreclosure upon your mortgage property.

**IF THE MORTGAGE IS FORECLOSED UPON-** The mortgage property will be sold by the Sheriff to pay off the mortgage debt. If the lender refers your case to its attorney, 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 attorneys' 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 mortgage property could be held would be approximately SIX (6) 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            Green Tree Consumer Discount Company  
Address        7360 S. Kyrene Road  
City and State: Tempe, AZ 85283

Tel no.            1-480-333-6000 ext. 36090

Contact name: YOLANDA NELSON

**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   XX   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 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 IS ATTACHED.

Very truly yours,

*Gregory Javardian*  
ATTORNEY FOR LENDER

IF THIS IS THE FIRST NOTICE THAT YOU HAVE RECEIVED FROM THIS OFFICE, BE ADVISED THAT:

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C § 1692 et seq. (1977), DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S) DO SO IN WRITING WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL OBTAIN AND PROVIDE DEFENDANT(S) WITH WRITTEN VERIFICATION THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED TO BE VALID. LIKEWISE, IF REQUESTED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S) THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM ABOVE.

THE LAW DOES NOT REQUIRE US TO WAIT UNTIL THE END OF THE THIRTY (30) DAY PERIOD FOLLOWING FIRST CONTACT WITH YOU BEFORE SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH THE LAW PROVIDES THAT YOUR ANSWER TO THIS COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.

**CLEARFIELD COUNTY**

**CCCS of Northeastern PA**

202 W. Hamilton Avenue  
State College, PA 16801  
814.238.3668  
800.922.9537

**CCCS of Western PA**

Royal Remax Plaza  
Altoona, PA 16602  
917 A Logan Boulevard  
888.511.2227

**CCCS of Western PA**

219.A College Park Plaza  
Johnstown, PA 15904  
888.511.2227

**Indiana Co. Community Action Program**

827 Water Street  
Indiana, PA 15701  
Box 187  
724.465.2657

**Keystone Economic Development Corp.**

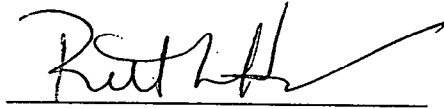
1954 Mary Grace Lane  
Johnstown, PA 15901  
814.535.6556

**The NORCAM Group**

4200 Crawford Avenue  
Northern Cambria, PA 15714  
Suite 200  
814.948.4444

**VERIFICATION**

The undersigned hereby states that the statements made in the foregoing pleading are true and correct to the best of his/her knowledge, information and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read "Ruth H.", is written over a horizontal line.

Green Tree Consumer Discount Company, f/k/a  
Conseco Finance Consumer Discount Company

**Exhibit “D”**

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

GREEN TREE CONSUMER DISCOUNT  
COMPANY, f/k/a CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY  
7360 SOUTH KYRENE ROAD  
TEMPE, AZ 85283,

Plaintiff

vs.

WILLIAM DENNIS SMITH  
a/k/a WILLIAM D. SMITH,  
a/k/a WILLIAM SMITH,  
ANNETTE GEELEN SMITH,  
a/k/a ANNETTE G. SMITH,  
a/k/a ANNETTE SMITH,  
228 Dixon Avenue  
DuBois, PA 15801,

Defendants

No. 08-460 C.D.

Type of Pleading: Answer to Complaint  
and New Matter

Filed on behalf of William Dennis Smith,  
and Annette Geelen Smith, Defendants

Counsel of Record for this party:

HOPKINS HELTZEL LLP

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

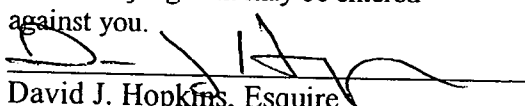
LEA ANN HELTZEL, Esquire  
Attorney at Law  
Supreme Court No. 83998

100 Meadow Lane, Suite 5  
DuBois, Pennsylvania 15801

(814) 375-0300

NOTICE TO PLEAD

You are hereby notified to plead  
to the within pleading within  
twenty (20) days of service thereof  
or default judgment may be entered  
against you.

  
David J. Hopkins, Esquire

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

GREEN TREE CONSUMER DISCOUNT  
COMPANY, f/k/a CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY  
7360 SOUTH KYRENE ROAD  
TEMPE, AZ 85283,

Plaintiff

vs.

No. 08-460 C.D.

WILLIAM DENNIS SMITH  
a/k/a WILLIAM D. SMITH,  
a/k/a WILLIAM SMITH,  
ANNETTE GEELLEN SMITH,  
a/k/a ANNETTE G. SMITH,  
a/k/a ANNETTE SMITH,  
228 Dixon Avenue  
DuBois, PA 15801,

Defendants

**ANSWER TO COMPLAINT AND NEW MATTER**

AND NOW, comes Defendants, William Dennis Smith and Annette Geelen Smith, by and through their attorneys, Hopkins Heltzel LLP and files the within Answer to Mortgage Foreclosure Complaint and New Matter and in support thereof says as follows:

**ANSWER**

1. Admitted.
2. Admitted.
3. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, same is admitted.

4. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, same is admitted.

5. Admitted.

6. Admitted.

7. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, Defendants deny a foreclosure action is the appropriate course of action. Defendants cannot admit or deny the allegations set forth in paragraph 7 and strict proof is demanded at trial.

8. No answer is required of this paragraph inasmuch as it calls for a legal conclusion.

9. No answer is required of this paragraph inasmuch as it calls for a legal conclusion.

10. Admitted.

11. No answer is required of this paragraph inasmuch as it calls for a legal conclusion.

WHEREFORE, Plaintiff respectfully requests this Honorable Court enter judgment in favor of the Defendants and against Plaintiff and for such other and further relief as the Court deems fair, just and equitable.


**NEW MATTER**

12. Defendants incorporate answers to paragraphs 1 through 11 as if set forth at length herein.

13. Plaintiff's claims are barred by the doctrine of illegality on behalf of the Defendants in charging a usury rate.

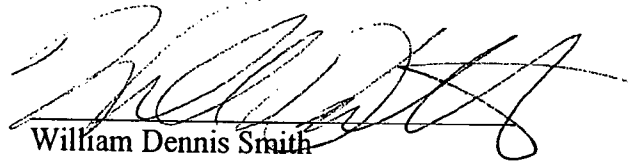
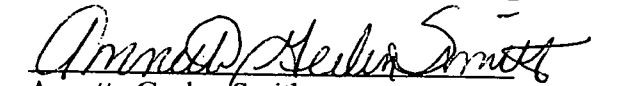
WHEREFORE, Plaintiff respectfully requests this Honorable Court enter judgment in favor of the Defendants and against Plaintiff and for such other and further relief as the Court deems fair, just and equitable.

Respectfully submitted,

  
David J. Hopkins, Esquire  
Attorney for Defendants

### 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.

  
William Dennis Smith  
  
Annette Geelen Smith

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

GREEN TREE CONSUMER DISCOUNT  
COMPANY, f/k/a CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY  
7360 SOUTH KYRENE ROAD  
TEMPE, AZ 85283,

Plaintiff

vs.

No. 08-460 C.D.


WILLIAM DENNIS SMITH  
a/k/a WILLIAM D. SMITH,  
a/k/a WILLIAM SMITH,  
ANNETTE GELEN SMITH,  
a/k/a ANNETTE G. SMITH,  
a/k/a ANNETTE SMITH,  
228 Dixon Avenue  
DuBois, PA 15801,

Defendants

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of Defendants' Answer to Complaint and New Matter, filed on behalf of Defendants, William Dennis Smith and Annette Geelen Smith, was forwarded by first class mail, postage prepaid, on the 15 day of May, 2008, to all counsel of record, addressed as follows:

Gregory Javardian, Esquire  
Law Offices of Gregory Javardian  
1310 Industrial Boulevard  
1<sup>st</sup> Floor, Suite 101  
Southampton, PA 18966

  
David J. Hopkins, Esquire  
Attorney for Defendants

**Exhibit “E”**

ATTORNEY FILE COPY  
PLEASE RETURN

ATTORNEY FILE COPY  
PLEASE RETURN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

PENNSYLVANIA

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY,  
Plaintiff

vs.

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH,  
ANNETTE GELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH,  
Defendants

CIVIL ACTION-LAW

No. 08-460-CD

MORTGAGE FORECLOSURE

PLAINTIFF'S ANSWER TO  
DEFENDANTS' NEW MATTER

Filed on behalf of: Plaintiff,  
GREEN TREE CONSUMER  
DISCOUNT COMPANY, F/K/A  
CONSECO FINANCE CONSUMER  
DISCOUNT COMPANY

Counsel for Record for this Party:  
Gregory Javardian, Esquire

P.A. ID# 55669

Law Offices of Gregory Javardian  
1310 Industrial Boulevard

1<sup>st</sup> Floor, Suite 101

Southampton, PA 18966

(215) 942-9690

ATTORNEY FILE COPY  
PLEASE RETURN

Dated: 5/19/2008

ATTORNEY FILE COPY  
PLEASE RETURN

FILED  
MAY 20 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

ATTORNEY FILE COPY  
PLEASE RETURN

ATTORNEY FILE COPY  
PLEASE RETURN

LAW OFFICES OF GREGORY JAVARDIAN  
By: GREGORY JAVARDIAN, ESQUIRE  
IDENTIFICATION NO. 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

ATTORNEY FOR PLAINTIFF

---

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY,  
Plaintiff

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

vs.

No. 08-460-CD

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH,  
ANNETTE GEELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH,  
Defendants

---

PLAINTIFF'S ANSWER TO  
DEFENDANTS' NEW MATTER

12. Plaintiff incorporates Paragraphs 1 through 11 of the Complaint as if more  
fully set forth at length herein.

13. Denied. The allegations contained in paragraph thirteen (13) of Defendants'  
New Matter are conclusions of law and no response is required.

WHEREFORE, Plaintiff prays for judgment in its favor and against Defendants.

Date: 5/19/2008

Gregory Javardian  
Gregory Javardian, Esquire  
Attorney for Plaintiff

LAW OFFICES OF GREGORY JAVARDIAN  
By: GREGORY JAVARDIAN, ESQUIRE  
IDENTIFICATION NO. 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

ATTORNEY FOR PLAINTIFF

---

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY,  
Plaintiff

COURT OF COMMON PLEAS  
CIVIL DIVISION  
CLEARFIELD COUNTY

vs.

No. 08-460-CD

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH,  
ANNETTE GEELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH,  
Defendants

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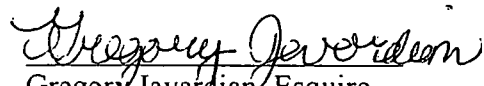
CERTIFICATE OF SERVICE

TO THE PROTHONOTARY:

I hereby certify that a copy of Plaintiff's Answer to Defendants' New Matter was  
mailed to the following individual(s) by regular mail, first class United States mail,  
postage prepaid on the date set forth below.

David J. Hopkins, Esquire  
Lea Ann Heltzel, Esquire  
100 Meadow Lane, Suite 5  
DuBois, PA 15801  
Attorneys for Defendants

Date: 5/19/2008

  
Gregory Javardian, Esquire  
Attorney for Plaintiff

**Exhibit “F”**

7160 3901 9845 1521 6914

**TO:** WILLIAM DENNIS SMITH, A/K/A WILLIAM  
D. SMITH, A/K/A WILLIAM SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

**SENDER:** ao

**REFERENCE** green tree v. smith

PS Form 3800, January 2005			
RETURN RECEIPT SERVICE	Postage	.58	
	Certified Fee	2.65	
	Return Receipt Fee	2.15	
	Restricted Delivery		
Total Postage & Fees		5.38	

US Postal Service

**Receipt for  
Certified Mail**

No Insurance Coverage Provided  
Do Not Use for International Mail



7160 3901 9845 1521 6990

**TO:** ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH  
437 TREASURE LAKE  
DU BOIS, PA 15801

**SENDER:** ao

**REFERENCE** green tree v. smith

PS Form 3800, January 2005			
RETURN RECEIPT SERVICE	Postage	.58	
	Certified Fee	2.65	
	Return Receipt Fee	2.15	
	Restricted Delivery		

7160 3901 9845 1521 6871

**TO:** WILLIAM DENNIS SMITH, A/K/A WILLIAM  
D. SMITH, A/K/A  
WILLIAM SMITH  
437 TREASURE LAKE  
DU BOIS, PA 15801

**SENDER:** ao

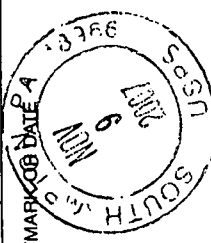
**REFERENCE** green tree v. smith

PS Form 3800, January 2005			
RETURN RECEIPT SERVICE	Postage	.58	
	Certified Fee	2.65	
	Return Receipt Fee	2.15	
	Restricted Delivery		
Total Postage & Fees		5.38	

US Postal Service

**Receipt for  
Certified Mail**

No Insurance Coverage Provided  
Do Not Use for International Mail



7160 3901 9845 1521 6907

**TO:** ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A ANNETTE  
SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

**SENDER:** ao

**REFERENCE** green tree v. smith

PS Form 3800, January 2005			
RETURN RECEIPT SERVICE	Postage	.58	
	Certified Fee	2.65	
	Return Receipt Fee	2.15	
	Restricted Delivery		

THE LAW OFFICES OF GREGORY JAVARDIAN  
BY: GREGORY JAVARDIAN  
ATTORNEY I.D. # 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

---

Attorney for Plaintiff

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY,  
Plaintiff

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

vs.

No. 08-460-CD

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH,  
ANNETTE GEELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH,  
Defendants

MEMORANDUM OF LAW IN SUPPORT OF  
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

INTRODUCTION

The Plaintiff commenced the instant action to recover from Defendants, principal and interest, costs and attorney's fees due pursuant to a Mortgage and Note given to secure the indebtedness of the Defendants. There is no dispute concerning the existence of the obligation and the Defendants' default of that obligation. Since there is no dispute as to any genuine issue of material fact Plaintiff is entitled to judgment as a matter of law and entry of summary judgment is appropriate.

## FACTS

On March 14, 2002, the Defendant, William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith, entered into a Note in the original principal amount of \$51,000.00. On the same date, the Defendants, William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith and Annette Geelen Smith, a/k/a Annette G. Smith, a/k/a Annette Smith, (hereinafter referred to as "Defendants"), entered into a Mortgage that secured the indebtedness of the Note. The Mortgage was recorded on March 19, 2002, in the Office of the Recorder of Deeds in Clearfield County at Instrument Number 200204241. The Plaintiff, Green Tree Consumer Discount Company, f/k/a Consec Finance Consumer Discount Company, (hereinafter referred to as the "Plaintiff"), is the holder of the Mortgage by virtue of an Assignment of Mortgage. The Assignment of Mortgage was recorded on June 17, 2002, in the Office of the Recorder of Deeds in Clearfield County at Instrument Number 200209613.

The property, which is subject to the Mortgage, is located at 228 Dixon Avenue, Du Bois, PA 15801. The Defendants are the record owners of the property subject to the mortgage. The Defendants have failed to make the payments pursuant to the Note and Mortgage and despite demand by Plaintiff the Defendants have failed to cure the default on the obligation. As a result, on March 14, 2008, the Plaintiff filed the underlying complaint. On or about May 1, 2008, the Defendants filed an Answer and New Matter to the Complaint. On May 20, 2008, the Plaintiff filed an Answer to the Defendants' New Matter.

The relevant pleadings are closed and Plaintiff is filing this Motion for Summary Judgment as there is no genuine issue of material fact concerning the existence of the Defendants' obligation or that the Defendants are in default of that obligation. Plaintiff's Affidavit and accompanying payment history clearly demonstrate that the mortgage is in default and the amounts set forth are correct. Accordingly, as there is no dispute as to any genuine issue of material fact, Plaintiff is entitled to judgment as a matter of law and entry of summary judgment is appropriate under Pa.R.C.P. 1035.1 et seq.

### LEGAL ARGUMENT

#### **No Genuine Issue of Material Fact Exists, Plaintiff is Entitled to Judgment as a Matter of Law, and Summary Judgment Should be Granted.**

The purpose of summary judgment is to avoid vexation and delay, improve the machinery of justice, promote the expeditious disposition of cases and avoid unnecessary trials when no genuine issue of material fact exist. Ertel v. Patriot News Co., 674 A.2d 1038, 1042 (Pa. 1996). Specifically, Pennsylvania Rule of Civil Procedure 1035.2 provides in pertinent part:

After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law

- (1) whenever there is no genuine issue of material fact as to a necessary element of the cause of action or defense, which could be established by additional discovery or expert report.

See also Williams v. Pilgrim Life Insurance Co., 452 A.2d 269 (Pa.Super. 1982).

The party moving for summary judgment has the burden of demonstrating that no genuine issue of material fact exists. Thompson Coal Co. v. Pike Coal Co., 412 A.2d 466,

468-69 (Pa. 1979); Hower v. Whitmark Assoc., 538 A.2d 524 (Pa.Super. 1988). A court may grant summary judgment whenever there is no genuine issue of material fact and it is clear that the moving party is entitled to judgment as a matter of law. Pa.R.C.P. 1035.2; Boyer v. Walker, 714 A.2d 458, 459 (Pa.Super. 1998). When making the determination, the court must consider the evidence in a light most favorable to the non-moving party. Ertel at 1042. However, the court must ignore controverted facts in the pleadings and restrict its view to the allegations in the pleadings that are uncontroverted and to material filed in support of and in opposition to the motion for summary judgment. Nationwide Mutual Ins. Co. v. Nixon, 682 A.2d 1310, 1313 (Pa.Super. 1996), *alloc denied*, 693 A.2d 589 (Pa. 1997).

When a motion for summary judgment has been properly supported with corroborating documentation, the adverse party may not claim that the averments in the pleadings alone are sufficient to raise a genuine issue for trial and must demonstrate by specific facts contained within depositions, answers to interrogatories, admissions or affidavits that there is a genuine issue of material fact for trial. Marks v. Tasman, 589 A.2d 205, 206 (Pa. 1991); Pape v. Smith, 323 A.2d 856 (Pa.Super. 1974). Allowing the non-moving party to avoid summary judgment where they have no evidence to support an issue on which they bear the burden of proof runs contrary to the spirit of the summary judgment rule. Ertel, at 1042. Forcing parties to go to trial on a meritless claim under the guise of effectuating the summary judgment rule is a perversion of that rule. Id.

In a mortgage foreclosure action, summary judgment is proper where it is admitted that the mortgage is in default, the mortgagor has failed to pay interest on the obligation and that the recorded mortgage is in the amount specified. Cunningham v.

McWilliams, 714 A.2d 1054, 1057 (Pa.Super. 1998) *citing* Landau v. Western Pennsylvania National Bank, 282 A.2d 335 (Pa. 1971). In this case, the Pleadings, Affidavit of Plaintiff in Support of the Motion for Summary Judgment, Payment History and Exhibits attached to the Motion establish conclusively that the Defendants executed a Mortgage and Note owned by the Plaintiff; the Defendants are in default under the terms and conditions of the Note and Mortgage; all payments made by the Defendants have been properly credited to the and there are no genuine issues of material fact.

Based on a review of the Defendants' Answer it is clear that the Defendants do not have a material defense to the mortgage foreclosure action. In the Answer the Defendants admit to being the record owners of the property subject to the mortgage and to Plaintiff sending Notice of Homeowners' Emergency Mortgage Assistance by regular and certified mail to the Defendants' last known address.

With respect to the issues of the Assignment of Mortgage and executing the Mortgage and Note, the Defendants merely presents general denials by stating that they are legal conclusions of law and no Answer is required. It is well established that in Pennsylvania averments in pleadings to which a responsive pleading is required are admitted when not denied specifically or by necessary implication. Pa.R.C.P. 1029(b); First Wisconsin Trust Co. v. Strausser, 653 A.2d 688, 692 (Pa.Super. 1995). Accordingly, the Defendants' general denials concerning the Assignment of Mortgage and execution of the Note and Mortgage are considered admissions of those facts.

In terms of default, the Defendants' deny default by stating it is a legal conclusion of law and no answer is required and to the extent a response is required the Defendants deny that a foreclosure suit is the appropriate course of action. Furthermore, the Defendants claim that they cannot admit or deny default.

The Defendants' responses to default are merely general denials, as the Defendants do not present any specific facts or information which admit or deny the Mortgage and Note are in default. Courts have determined that general denials by mortgagors involving principal and interest owed act as admissions. N.Y. Guardian Mortgage Corp. v. Dietzel, 524 A.2d 951,952 (Pa.Super. 1987); First Wisconsin Trust Co. v. Strausser, 653 A.2d 688, 692 (Pa.Super. 1995). Also, with regard to the Defendants claim that a foreclosure action is not the appropriate action upon default, the Mortgage Instrument, specifically at paragraph fourteen (14), permits the Plaintiff to pursue a foreclosure action upon default. Moreover, the Affidavit and payment history confirm that the Defendants are in default.

In relation to the amounts claimed for attorney's fees and cost of suit the Defendants also offer a general denial by claiming it is a conclusion of law to which no response is required. In Pennsylvania, a mortgagee is permitted on foreclosure to recover reasonable expenses including attorney fees. 41 P.S. § 406; Citicorp Mortgage, Inc. v. Morrisville Hampton Village Realty Ltd. Partnership, 662 A.2d 1120 (Pa.Super. 1995). Courts have concluded that claims for attorney's fees in the amount of five-percent (5%) of the principal balance is reasonable. See Foulke v. Hatfield Fair Grounds Bazaar, Inc., 173 A.2d 703 (Pa.Super. 1961). Furthermore, claims for attorney fees are not limited to actual attorney fees but may be awarded to cover the additional costs of proceeding to

foreclosure. Influential S&L Assoc. v. Valentine, 25 D. & C. 3d 760 (1982). Here, Plaintiff seeks costs of suit of \$550.00 for title search, tax certification, filing of the Complaint and service of the Complaint and attorney's fees in the amount of \$1,000.00, less then five percent of the outstanding principal balance.

With regard to Act 6 Notice of Intention to Foreclose, the Defendants offer a general denial by claiming the allegation is a conclusions of law to which no response is required. Under 41 P.S. § 401, a Mortgage does not qualify as a residential Mortgage when on the date the Mortgage is executed the principal amount of the Mortgage is in excess of \$50,000. Here, on the date the Mortgage was executed the principal amount of the Mortgage was in excess of \$50,000 and as a result, the Mortgage was not a residential Mortgage and Plaintiff was not required to send Act 6 Notice of Intention to Foreclose to the Defendants.

In New Matter, the Defendants allege that the Plaintiff's claim is barred by the doctrine of illegality because the interest rate of the note exceeds the usury rate. The note at issue in this matter is a secondary mortgage loan with a fixed interest rate of 15.50 percent per annum. The Secondary Mortgage Loan Act, 7 P.S. § 6601, provides that the maximum interest rate is 22.2 percent per annum. As a result, the fixed 15.50 percent per annum interest rate charged to the Defendants does not exceed the usury rate of 22.2 percent per annum, under the Secondary Mortgage Loan Act.

THE LAW OFFICES OF GREGORY JAVARDIAN  
BY: GREGORY JAVARDIAN  
ATTORNEY I.D. # 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

Attorney for Plaintiff

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY,  
Plaintiff

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

vs.

No. 08-460-CD

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH,  
ANNETTE GEELLEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH,  
Defendants

CERTIFICATE OF SERVICE

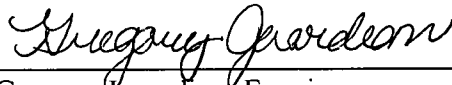
TO THE PROTHONOTARY:

I hereby certify that a copy of Plaintiff's Motion for Summary Judgment and  
Memorandum of Law was mailed to the Defendants by regular mail, first class United  
States mail, postage prepaid on the date set forth below.

David J. Hopkins, Esquire  
Lea Ann Heltzel, Esquire  
100 Meadow Lane, Suite 5  
DuBois, PA 15801  
Attorneys for Defendants

Dated:

6/25/2008

  
\_\_\_\_\_  
Gregory Javardian, Esquire  
Attorney for Plaintiff

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

Service # 1 of 4 Services

Sheriff Docket # **103895**

GREEN TREE CONSUMER DISCOUNT COMPANY f/k/a CONSECO

Case # 08-460-CD

VS.

WILLIAM DENNIS SMITH, aka WILLIAM D. SMITH aka WILLIAM SMITH and  
ANNETTE GEELEN SMITH aka ANNETTE G. SMITH aka ANNETTE SMITH

TYPE OF SERVICE COMPLAINT IN MORTGAGE FORECLOSURE

**SHERIFF RETURNS**

NOW July 07, 2008 RETURNED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE "NOT SERVED,  
TIME EXPIRED" AS TO WILLIAM DENNIS SMITH AKA WILLIAM D. SMITH AKA WILLIAM SMITH, DEFENDANT.  
228 DIXON AVE., DUBOIS, PA "OCCUPIED" BY RENTERS

SERVED BY: /

**FILED**  
012:202m  
JUL 07 2008  
(LM)  
William A. Shaw  
Prothonotary/Clerk of Courts

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

Service # 2 of 4 Services

Sheriff Docket # **103895**

GREEN TREE CONSUMER DISCOUNT COMPANY f/k/a CONSECO

Case # 08-460-CD

vs.

WILLIAM DENNIS SMITH, aka WILLIAM D. SMITH aka WILLIAM SMITH and  
ANNETTE GEELEN SMITH aka ANNETTE G. SMITH aka ANNETTE SMITH

TYPE OF SERVICE COMPLAINT IN MORTGAGE FORECLOSURE

**SHERIFF RETURNS**

NOW July 07, 2008 RETURNED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE "NOT SERVED,  
TIME EXPIRED" AS TO ANNETTE GEELEN SMITH AK ANNETTE G. SMITH AKA ANNETTE SMITH, DEFENDANT.  
228 DIXON AVE., DUBOIS, PA. "OCCUPIED" BY RENTERS

SERVED BY: /

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

DOCKET # 103895  
NO: 08-460-CD  
SERVICE # 3 OF 4  
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: GREEN TREE CONSUMER DISCOUNT COMPANY f/k/a CONSECO

vs.

DEFENDANT: WILLIAM DENNIS SMITH, aka WILLIAM D. SMITH aka WILLIAM SMITH and  
ANNETTE GEELEN SMITH aka ANNETTE G. SMITH aka ANNETTE SMITH

**SHERIFF RETURN**

---

NOW, April 03, 2008 AT 10:58 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON WILLIAM DENNIS SMITH aka WILLIAM D. SMITH aka WILLIAM SMITH DEFENDANT AT SEC. 15 LOT 203, TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO CASEY SMITH, SON A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING / COUDRIET

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

DOCKET # 103895  
NO: 08-460-CD  
SERVICE # 4 OF 4  
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: GREEN TREE CONSUMER DISCOUNT COMPANY f/k/a CONSECO

vs.

DEFENDANT: WILLIAM DENNIS SMITH, aka WILLIAM D. SMITH aka WILLIAM SMITH and  
ANNETTE GEELEN SMITH aka ANNETTE G. SMITH aka ANNETTE SMITH

**SHERIFF RETURN**

---

NOW, April 03, 2008 AT 10:58 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON  
ANNETTE GEELEN SMITH ak ANNETTE G. SMITH aka ANNETTE SMITH DEFENDANT AT SEC. 15 LOT 203,  
TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO CASEY SMTIH, SON A TRUE  
AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE  
CONTENTS THEREOF.

SERVED BY: NEVLING / COUDRIET

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103895  
NO: 08-460-CD  
SERVICES 4  
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: GREEN TREE CONSUMER DISCOUNT COMPANY f/k/a CONSECO  
vs.  
DEFENDANT: WILLIAM DENNIS SMITH, aka WILLIAM D. SMITH aka WILLIAM SMITH and  
ANNETTE GELEN SMITH aka ANNETTE G. SMITH aka ANNETTE SMITH

SHERIFF RETURN

RETURN COSTS

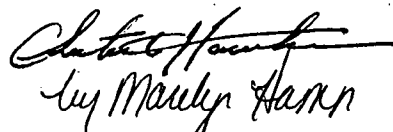
Description	Paid By	CHECK #	AMOUNT
SURCHARGE	JAVARDIAN	43874	40.00
SHERIFF HAWKINS	JAVARDIAN	43874	60.00

Sworn to Before Me This

\_\_\_\_\_ Day of \_\_\_\_\_ 2008

\_\_\_\_\_

So Answers,



Chester A. Hawkins  
Sheriff

LAW OFFICES OF GREGORY JAVARDIAN  
BY: GREGORY JAVARDIAN  
ID# 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

ATTORNEY FOR PLAINTIFF

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY  
7360 SOUTH KYRENE ROAD  
TEMPE, AZ 85283

PLAINTIFF

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

VS.

NO. 08-460-CD

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH  
ANNETTE GEELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

DEFENDANTS

COMPLAINT IN  
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 defense or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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

Daniel J. Nelson,  
Court Administrator  
Clearfield County Courthouse  
Clearfield, PA 16830  
814-765-2641 ext. 5982

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

MAR 14 2008

Attest.

*William L. Brown*  
Prothonotary/  
Clerk of Courts

IF THIS IS THE FIRST NOTICE THAT YOU HAVE RECEIVED FROM THIS OFFICE, BE ADVISED THAT:

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C § 1692 et seq. (1977), DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S) DO SO IN WRITING WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL OBTAIN AND PROVIDE DEFENDANT(S) WITH WRITTEN VERIFICATION THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED TO BE VALID. LIKEWISE, IF REQUESTED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S) THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM ABOVE.

THE LAW DOES NOT REQUIRE US TO WAIT UNTIL THE END OF THE THIRTY (30) DAY PERIOD FOLLOWING FIRST CONTACT WITH YOU BEFORE SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH THE LAW PROVIDES THAT YOUR ANSWER TO THIS COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.

LAW OFFICES OF GREGORY JAVARDIAN  
BY: GREGORY JAVARDIAN  
ID# 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

ATTORNEY FOR PLAINTIFF

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY  
7360 SOUTH KYRENE ROAD  
TEMPE, AZ 85283

PLAINTIFF

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

VS.

NO.

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH  
ANNETTE GEELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

DEFENDANTS

COMPLAINT IN  
MORTGAGE FORECLOSURE

CIVIL ACTION MORTGAGE FORECLOSURE

1. Green Tree Consumer Discount Company, f/k/a Conesco Finance Consumer Discount Company (hereinafter referred to as "Plaintiff") is an Institution, conducting business under the Laws of the Commonwealth of Pennsylvania with a principal place of business at the address indicated in the caption hereof.
2. William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith and Annette Geelen Smith, a/k/a Annette G. Smith, a/k/a Annette Smith (hereinafter referred to as "Defendants") are adult individuals residing at the address indicated in the caption hereof.
3. Plaintiff brings this action to foreclose on the mortgage between the Defendants and itself as Mortgagee by Assignment. The Mortgage, dated March 14, 2002, was recorded on March 19, 2002 in the Office of the Recorder of Deeds in Clearfield County at Instrument Number 200204241. Plaintiff is the Mortgagee by Assignment by virtue of an Assignment of Mortgage recorded on June 17, 2002 in the Office of Recorder of Deeds in Clearfield County at Instrument Number 200209613. A copy of the Mortgage is attached and made a part hereof as Exhibit 'A'.

4. The Mortgage secures the indebtedness of a Note executed by William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith on March 14 , 2002 in the original principal amount of \$51,00.00 payable to Plaintiff in monthly installments with an interest rate of 15.50%. A copy of the Note is attached and made a part hereof as Exhibit 'B'.
5. The land subject to the mortgage is 228 Dixon Avenue, Du Bois, PA 15801. A copy of the Legal Description is attached as part of the Mortgage as Exhibit 'A' and incorporated herein.
6. The Defendants are the Record Owners of the mortgaged property located at 228 Dixon Avenue, Du Bois, PA 15801.
7. The Mortgage is now in default due to the failure of the Defendants to make payments as they become due and owing. As a result of the default, the following amounts are due:

Principal Balance	\$49,592.61
Interest to 3/5/2008	\$10,533.36
Accumulated Late Charges	\$2,840.24
Deferred Interest	\$6,113.86
Cost of Suit and Title Search	\$850.00
Attorney's Fees	\$1,250.00
TOTAL	\$71,180.07

plus interest from 3/6/2008 at \$21.11 per day, costs of suit and attorney's fees.

8. The attorney's fees set forth above are in conformity with the Mortgage documents and Pennsylvania Law, and will be collected in the event of a third party purchase at Sheriff's sale. If the Mortgage is reinstated prior to the Sale, reasonable attorney's fees will be charged.
9. Pennsylvania law requires that a plaintiff in mortgage foreclosure provide a defaulting mortgagor with a Notice of Homeowners' Emergency Mortgage Assistance ("Act 91 Notice") 35 P.S. Section 1680.403c.
10. The Notice of Homeowners' Emergency Mortgage Assistance was required and Plaintiff sent the uniform notice as promulgated by the Pennsylvania Housing Finance Agency to the Defendants by regular and certified mail on November 9, 2007. A copy of the Notice is attached and made a part hereof as Exhibit 'C'.

11. The Mortgage is not a residential mortgage under 41 P.S. Section 401 because the principal amount of the Mortgage is in excess of \$50,000.00 and, therefore, Plaintiff was not required to send the Act 6 Notice of Intention to Foreclose.

WHEREFORE, Plaintiff requests the court enter judgment in Mortgage Foreclosure for the sale of the mortgaged property in Plaintiff's favor and against the Defendants, in the sum of \$71,180.07 together with the interest from 3/6/2008 at \$21.11 per day, costs of suit and attorney's fees.

Law offices of Gregory Javardian

BY: 

Gregory Javardian  
Attorney ID No. 55669  
Attorney for Plaintiff

EXHIBIT 'A'

KAREN L. STARCK  
REGISTER AND RECORDER  
CLEARFIELD COUNTY  
Pennsylvania

INSTRUMENT NUMBER  
200204241

RECORDED ON

Mar 19, 2002  
11:52:51 AM

Total Pages: 8

RECORDING FEES - \$21.00  
RECORDER

COUNTY IMPROVEMENT \$1.00  
FUND

RECORDER  
IMPROVEMENT FUND \$1.00

STATE WRIT TAX \$0.50  
TOTAL \$23.50

CUSTOMER  
CONSECO FINANCE SERVICES

Commonwealth of Pennsylvania

Space Above This Line For Recording Data

GT-15-39-090 (1/01)

Return To:

## OPEN-END MORTGAGE

Application # 0202280225  
Loan # 6913053036

Conseco Finance  
Attn: Trailing Documents Area  
7360 South Kyrene Road  
Tempe, AZ 85283

This Mortgage secures future advances

1. **DATE AND PARTIES.** The date of this Mortgage (Security Instrument) is March 14, 2002  
and the parties, their addresses and tax identification numbers, if required, are as follows:

MORTGAGOR: William Dennis Smith, Annette Geelen Smith

HUSBAND AND WIFE

.....If checked, refer to the attached Addendum incorporated herein, for additional Mortgagors, their signatures and acknowledgments.

LENDER: Conseco Bank, Inc.  
Cottonwood Corporate Center  
2825 E Cottonwood Prky 230  
Salt Lake City, UT 84121

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Mortgagor's performance under this Security Instrument, Mortgagor grants, bargains, conveys and mortgages to Lender the following described property:

Parcel ID: 7.5-10-2736 TAX ID #07319  
See Exhibit A for the Legal Description

PENNSYLVANIA - MORTGAGE (NOT FOR FNMA, FHLMC, FHA OR VA)

Expires © 1994 Bankers Systems, Inc., St. Cloud, MN Form GTH-MTGLAZPA 1/9/2001

GT-15-39-090 (1/01) (page 1 of 7)

The property is located in Clearfield at .....  
228 Dixon Ave. (County) Du Bois, Pennsylvania 15801  
(Address) (City) (ZIP Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, ditches, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount secured by this Security Instrument at any one time shall not exceed \$ 51,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.

4. **SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" is defined as follows:  
A. Debt incurred under the terms of all promissory note(s), contract(s), guaranty(s) or other evidence of debt described below and all their extensions, renewals, modifications or substitutions. (When referencing the debts below it is suggested that you include items such as borrowers' names, note amounts, interest rates, maturity dates, etc.)

Note dated March 14, 2002, between Conseco Bank, Inc. and William Dennis Smith, for \$51,000.00, maturing March 19, 2027.

- B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt executed by Mortgagor in favor of Lender after this Security Instrument whether or not this Security Instrument is specifically referenced. If more than one person signs this Security Instrument, each Mortgagor agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. All future advances and other future obligations are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing.
- C. All obligations Mortgagor owes to Lender, which may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.
- D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Security Instrument.
- This Security Instrument will not secure any other debt if Lender fails to give any required notice of the right of rescission.

5. **PAYMENTS.** Mortgagor agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.

6. **WARRANTY OF TITLE.** Mortgagor warrants that Mortgagor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to grant, bargain, convey, sell, and mortgage the Property. Mortgagor also warrants that the Property is unencumbered, except for encumbrances of record.
7. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagor agrees:
  - A. To make all payments when due and to perform or comply with all covenants.
  - B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
  - C. Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.
8. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagor may have against parties who supply labor or materials to maintain or improve the Property.
9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Security Instrument is released.
10. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor shall not commit or allow any waste, impairment, or deterioration of the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims and actions against Mortgagor, and of any loss or damage to the Property. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Mortgagor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.
11. **AUTHORITY TO PERFORM.** If Mortgagor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Mortgagor appoints Lender as attorney-in-fact to sign Mortgagor's name or pay any amount necessary for performance. Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.
12. **LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** Mortgagor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

13. **DEFAULT.** Mortgagor will be in default if any party obligated on the Secured Debt fails to make payment when due. Mortgagor will be in default if a breach occurs under the terms of this Security Instrument or any other document executed for the purpose of creating, securing or guaranteeing the Secured Debt. A good faith belief by Lender that Lender at any time is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment or the value of the Property is impaired shall also constitute an event of default.
14. **REMEDIES ON DEFAULT.** In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Mortgagor is in default. At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the terms of the Secured Debt, this Security Instrument and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.
15. **EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Security Instrument. Mortgagor will also pay on demand amounts incurred by Lender for insuring, inspecting, preserving or otherwise protecting the Property and Lender's security interest. These expenses will bear interest from the date of the payment until paid in full at the highest interest rate in effect as provided in the terms of the Secured Debt. Mortgagor agrees to pay all costs and expenses incurred by Lender in collecting, enforcing or protecting Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, attorneys' fees, court costs, and other legal expenses. This Security Instrument shall remain in effect until released. Mortgagor agrees to pay for any recordation costs of such release.
16. **ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), and all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that:
- A. Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance is or will be located, stored or released on or in the Property. This restriction does not apply to small quantities of Hazardous Substances that are generally recognized to be appropriate for the normal use and maintenance of the Property.
  - B. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor and every tenant have been, are, and shall remain in full compliance with any applicable Environmental Law.

- C. Mortgagor shall immediately notify Lender if a release or threatened release of a Hazardous Substance occurs on, under or about the Property or there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor shall take all necessary remedial action in accordance with any Environmental Law.
- D. Mortgagor shall immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any pending or threatened investigation, claim, or proceeding relating to the release or threatened release of any Hazardous Substance or the violation of any Environmental Law.
17. **CONDEMNATION.** Mortgagor will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.
18. **INSURANCE.** Mortgagor shall keep Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Security Instrument. All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor. Unless otherwise agreed in writing, all insurance proceeds shall be applied to the restoration or repair of the Property or to the Secured Debt, whether or not then due, at Lender's option. Any application of proceeds to principal shall not extend or postpone the due date of the scheduled payment nor change the amount of any payment. Any excess will be paid to the Mortgagor. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.
19. **ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.
20. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Security Instrument and Lender's lien status on the Property.
21. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Security Instrument are joint and individual. If Mortgagor signs this Security Instrument but does not sign an evidence of debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured

Debt. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws. Mortgagor agrees that Lender and any party to this Security Instrument may extend, modify or make any change in the terms of this Security Instrument or any evidence of debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Security Instrument. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Mortgagor and Lender.

22. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Security Instrument is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. Any provision that appoints Lender as an agent is not subject to the provisions of 20 Pa.C.S.A. Section 5601 et seq. (Chapter 56; Decedents, Estates and Fiduciaries Code). Lender, by exercising any of its rights under this Security Instrument, does so for its sole benefit. This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any section in this Security Instrument, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. Time is of the essence in this Security Instrument.
23. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Security Instrument, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.
24. **WAIVERS.** Except to the extent prohibited by law, Mortgagor waives any right to appraisal relating to the Property.
25. **OTHER TERMS.** If checked, the following are applicable to this Security Instrument:
- ..... **Line of Credit.** The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until released.
  - ..... **Construction Loan.** This Security Instrument secures an obligation incurred for the construction of an improvement on the Property.
  - ..... **Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property. This Security Instrument suffices as a financing statement and any carbon, photographic or other reproduction may be filed of record for purposes of Article 9 of the Uniform Commercial Code.
  - ..... **Purchase Money.** This Security Instrument secures advances by Lender used in whole or in part to acquire the Property. Accordingly, this Security Instrument, and the lien hereunder, is and shall be construed as a purchase money mortgage with all of the rights, priorities and benefits thereof under the laws of the Commonwealth of Pennsylvania.
  - ..... **NOTICE TO BORROWER: THIS DOCUMENT CONTAINS PROVISIONS FOR A VARIABLE INTEREST RATE.**

.....Riders. The covenants and agreements of each of the riders checked below are incorporated into and supplement and amend the terms of this Security Instrument. [Check all applicable items]  
..... Condominium Rider ..... Planned Unit Development Rider ..... Other .....

N/A Additional Terms.

**SIGNATURES:** By signing below, Mortgagor, intending to be legally bound hereby, agrees to the terms and covenants contained in this Security Instrument and in any attachments. Mortgagor also acknowledges receipt of a copy of this Security Instrument on the date stated on page 1.

(Signature) William Dennis Smith (Date) 3/14/02

(Signature) Annette Geelen Smith (Date) 3-14-02

(Signature) Ronald C. Rusnak (Date) \_\_\_\_\_  
(Witness)

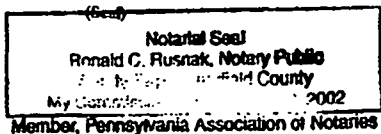
(Signature) Ronald C. Rusnak (Date) \_\_\_\_\_  
(Witness)

**ACKNOWLEDGMENT:**

COMMONWEALTH OF PENNSYLVANIA COUNTY OF CLEARFIELD } SS.  
On this, the 14<sup>th</sup> day of MARCH, 2002, before me RONALD C. RUSNAK,  
(Individual) the undersigned officer, personally appeared William Dennis Smith, Annette Geelen Smith,  
known to me (or satisfactorily proven) to be the person(s) whose name(s) is subscribed to the within  
instrument, and acknowledged that he/she executed the same for the purposes therein contained.

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

My commission expires:



(Signature) Ronald C. Rusnak  
Notary Public  
Title of Officer

It is hereby certified that the address of the Lender within named is: Conseco Bank, Inc.  
Cottonwood Corporate Center, 2825 E Cottonwood Prky 230, Salt Lake City, UT 84121

EXHIBIT A

Legal Description:

ALL THAT CERTAIN PROPERTY SITUATED IN THE CITY OF DUBOIS, COUNTY OF CLEARFIELD,  
AND COMMONWEALTH OF PENNSYLVANIA, BEING MORE FULLY DESCRIBED IN DEED DATED  
06/21/88, RECORDED 06/28/88, APPEARING AMONG THE LAND RECORDS OF THE COUNTY AND  
STATE, SET FORTH ABOVE IN DEED BOOK 1230, PAGE 242.

Parcel ID: 7.5-10-2736 TAX ID #07319



AS

EXHIBIT 'B'

Conseco Bank, Inc.  
Cottonwood Corporate Center  
2825 E Cottonwood Prky 230  
Salt Lake City, UT 84121

William Dennis Smith  
228 Dixon Avenue  
Du Bois, PA 15801

Application # 0202280225

LENDER'S NAME AND ADDRESS  
"You" means the Lender,  
its successors and assigns.

BORROWER'S NAME AND ADDRESS  
"I" includes each Borrower above,  
jointly and severally.

Loan Number 6913053036  
Date March 14, 2002  
Maturity Date 03/19/2027  
Loan Amount \$ 51,000.00  
Renewal Of N/A

TERMS FOLLOWING A      APPLY ONLY IF  
CHECKED

     Secondary Mortgage Loan

     This agreement is subject to the provisions of the Secondary Mortgage Loan Act.

For value received, I promise to pay to you at your address listed above the PRINCIPAL sum of Fifty One  
Thousand and No/100

☒ Single Advance: I will receive all of this principal sum on March 19, 2002 Dollars \$ 51,000.00  
contemplated under this note. No additional advances are

☒ Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note.  
On      I will receive the amount of \$      and future principal advances are contemplated.  
You and I agree that I may borrow up to the maximum only one time (and subject to all other conditions).  
Conditions: The conditions for future advances are     

INTEREST: I agree to pay interest on the outstanding principal balance from March 19, 2002  
     at the rate of

**COPY**

per year until March 19, 2027 15.500 %

☒ Variable Rate: Notice to borrower: This document contains provisions for a variable interest rate. This rate may  
then change as stated below.

Change Dates: Each date on which the interest rate may change is called a Change Date. The interest rate may  
change      and on every      thereafter.

The Index: Beginning with the first Change Date, the interest rate will be based on the following Index:     

The most recent Index value available as of the date 45 days       
before each Change Date is called the "Current Index."

Calculation of Change: Before each Change Date, the Lender will calculate the interest rate, which will be       
     the Current Index. The result of this calculation will be rounded     

rate will become effective on each Change Date. Subject to any limitations below, this will be the new interest rate  
until the next Change Date.

Limitations: The interest rate will never be greater than      % or less than      %.

     The interest rate will never change on any single Change Date by more than      %.

Effect of Variable Rate: A change in the interest rate will have the effect of changing the amount of the scheduled  
payments:

ACCRUAL METHOD: Interest will be calculated on a 30/360 day basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in  
full, as stated below:

☒ on the same fixed or variable rate basis in effect before maturity (as indicated above).

☒ at a rate equal to     

☒ LATE CHARGE: I agree to pay a late charge on the portion of any payment made more than 10 days after it is  
due equal to 10% of payment

☒ NSF FEE: If any instrument which I submit to you is returned unpaid for any reason, I will pay you a fee of \$25.00

☒ ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which ☒ are      are not  
included in the principal amount above: See Addendum A

300 payments of \$673.07 starting on April 19, 2002 and on the 19th day of each month thereafter.

**SECURITY:** This note is secured by (describe separate document by type (e.g., mortgage) and date):  
Mortgage Deed dated March 14, 2002

**DEFINITIONS - "I," "me" or "my" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agree to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns. The "parties" shall mean the Borrower and Lender, together.**

multiple advance loan, interest will accrue: N/A

If "Variable Rate" is checked on page 1, I will pay interest at the rates in effect from time to time. The interest rate(s) and other charges on this loan will never exceed the highest rate or charge allowed by law for this loan. If the index specified on page 1 ceases to exist, I agree that you may substitute a similar index for the original.

**INDEX - If you and I have agreed that the interest rate on this note will be variable and will be related to an index, then the index you select will function only as a tool for setting the rate on this note. You do not guaranty, by selecting any index, that the interest rate on this note will have a particular relationship to the interest rate you charge on any other loans or any type or class of loans with your other customers.**

**ACCRAUL METHOD** - The amount of interest that I will pay on this loan will be calculated using the interest rate and accrual method stated on page 1. For interest calculation, the accrual method will determine the number of days in a year. If no accrual method is stated, then you may use any reasonable accrual method for calculating interest.

**SINGLE ADVANCE LOANS** - If this is a single advance loan you and I expect that you will only make one advance of principal. However, you may add other amounts to the principal if you make any payments described in the **PAYMENTS BY LENDER** section below.

**MULTIPLE ADVANCE LOANS** - If this is a multiple advance loan, you and I expect that you will make more than one advance of principal, subject to the conditions of any separate agreement.

**PAYMENTS BY LENDER** - If you are authorized to pay, on my behalf, charges I am obligated to pay (such as property insurance premiums), then you may treat those payments made by you as advances and add them to the unpaid principal under this note, or you may demand immediate payment of the charges.

**POST-MATURITY INTEREST** - Interest will accrue on the principal balance remaining unpaid after final maturity at the rate specified on page 1. For purposes of this section, final maturity occurs:

(a) On the date of the last scheduled payment of principal;  
or  
(b) On the date you accelerate the due date of this loan  
(demand immediate payment).

**REAL ESTATE OR RESIDENCE SECURITY** - If this loan is secured by real estate or a residence that is personal property, the existence of a default and your remedies for such a default will be determined by applicable law, by the terms of any separate instrument creating the security interest and, to the extent not prohibited by law and not contrary to the terms of the separate security instrument, by this agreement.

**ASSUMPTION** - This note and any document securing it cannot be assumed by someone buying the secured property from me. This will be true unless you agree in

**Partial payments will not excuse or reduce any later scheduled payment until this note is paid in full.**

**INTEREST** - Interest accrues on the principal remaining unpaid from time to time, until paid in full. If this is a

writing; to the contrary. Without such an agreement, if I try to transfer any interest in the property securing this note, I will be in default on this loan. You may proceed against me under any due on sale clause in the security agreement, which is incorporated by reference.

**DEFAULT** - Subject to any limitations in the "REAL ESTATE OR RESIDENCE SECURITY" paragraph above, I will be in default on this loan and any agreement securing this loan if any one or more of the following occurs:

- (a) I fail to make a payment in full when due;
- (b) I die, am declared incompetent, or become insolvent;
- (c) I fail to keep any promise I have made in connection with this loan;
- (d) I fail to pay, or keep any other promise on, any other loan or agreement I have with you;
- (e) I make any written statement or provide any financial information that is untrue or inaccurate at the time it is provided;
- (f) Any creditor of mine attempts to collect any debt I owe through court proceedings, set-off or self-help repossession;
- (g) The property securing this Loan is damaged, destroyed or stolen;
- (h) I fail to provide any additional security that you may require;
- (i) Any legal entity (such as a partnership or corporation) that has agreed to pay this note merges, dissolves, reorganizes, ends its business or existence, or a partner or majority stockholder dies or is declared incompetent; or
- (j) Anything else happens that causes you to believe that you will have difficulty collecting the amount I owe you.

If any of us are in default on this note or any security agreement, you may exercise your remedies against any or all of us.

**REMEDIES** - Subject to any limitations in the "REAL ESTATE OR RESIDENCE SECURITY" paragraph on page 2, and after giving any appropriate notice, if I am in default on this loan or any agreement securing this loan, you may:

- (a) Make unpaid principal, earned interest and all other agreed charges I owe you under this loan immediately due;
- (b) Use the right of set-off as explained below;
- (c) Demand more security or new parties obligated to pay this loan (or both) in return for not using any other remedy;
- (d) Make a claim for any and all insurance benefits or refunds that may be available on my default;
- (e) Use any remedy you have under state or federal law; and
- (f) Use any remedy given to you in any agreement securing this loan.

By choosing any one or more of these remedies you do not give up your right to use another remedy later. By deciding not to use any remedy should I be in default, you do not give up your right to consider the event a default if it happens again.

**COSTS OF COLLECTION AND ATTORNEYS' FEES** - I agree to pay you all reasonable costs you incur to collect this debt or realize on any security. This includes, unless prohibited by law, reasonable attorneys' fees. This provision also shall apply if I file a petition or any other claim for relief under any bankruptcy rule or law of the United States, or if such petition or other claim for relief is filed against me by another.

**SET-OFF** - I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

- (a) Any deposit account balance I have with you;
- (b) Any money owed to me on an item presented to you or in your possession for collection or exchange; and

(c) Any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand under the terms of this note at the time you exercise your right of set off. This total includes any balance the due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights arise only in a representative capacity. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right of set-off.

**OTHER SECURITY** - Any present or future agreement securing any other debt I owe you also will secure the payment of this loan. Property securing another debt will not secure this loan if such property is my principal dwelling and you fail to provide any required notice of right of rescission. Also, property securing another debt will not secure this loan to the extent such property is in household goods.

**ARBITRATION** - All disputes, claims, or controversies arising from or relating to this note or the relationships which result from this note, or the validity of this arbitration clause or the entire note, shall be resolved by binding arbitration by one arbitrator selected by you with my consent. This arbitration agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act, Title 9 of the United States Code. Judgment upon the award rendered may be entered in any court having jurisdiction. The parties agree and understand that they choose arbitration instead of litigation to resolve disputes. The parties understand that they have a right or opportunity to litigate disputes in court, but that they prefer to resolve their disputes through arbitration, except as provided herein.

**THE PARTIES VOLUNTARILY AND KNOWINGLY WAIVE ANY RIGHT THEY HAVE TO A JURY TRIAL, EITHER PURSUANT TO ARBITRATION UNDER THIS CLAUSE OR PURSUANT TO A COURT ACTION BY YOU (AS PROVIDED HEREIN).** The parties agree and understand that all disputes arising under case law, statutory law, and all other laws including, but not limited to, all contract, tort, and property disputes, will be subject to binding arbitration in accord with this agreement. I agree that I shall not have the right to participate as a representative or a member of any class of claimants pertaining to any claim arising from or relating to this note. The parties agree and understand that the arbitrator shall have all powers provided by law and the note. These powers shall include all legal and equitable remedies, including, but not limited to, money damages, declaratory relief, and injunctive relief. Notwithstanding anything hereunto the contrary, you retain an option to use judicial or non-judicial relief to enforce a security agreement relating to the collateral secured in a transaction underlying this arbitration agreement, to enforce the monetary obligation or to foreclose on the collateral. Such judicial relief would take the form of a lawsuit. The institution and maintenance of an action for judicial relief in a court to foreclose upon any collateral, to obtain a monetary judgment or to enforce the security agreement, shall not constitute a waiver of the right of any party to compel arbitration in this note, including the filing of a counterclaim in a suit brought by you pursuant to this provision.

**OBLIGATIONS INDEPENDENT** - I understand that my obligation to pay this loan is independent of the obligation of any other person who has also agreed to pay it. You may, without notice, release me or any of us, give up any right you may have against any of us, extend new credit to any of us, or renew or change this note one or more times and for any term, and I will still be obligated to pay this loan. You may, without notice, fail to perfect your security interest in, impair, or release any security and I will still be obligated to pay this loan.

**WAIVER** - I waive (to the extent permitted by law) demand, presentment, protest, notice of dishonor and notice of protest.

**PRIVACY** - I agree that from time to time you may receive credit information about me from others, including other lenders and credit reporting agencies. I agree that you may furnish on a regular basis credit and experience information regarding my loan to others seeking such information. To the extent permitted by law, I agree that you will not be liable for any claim arising from the use of information provided to you by others or for providing such information to others.

**FINANCIAL STATEMENTS** - I will give you any financial statements or information that you feel is necessary. All financial statements and information I give you will be correct and complete.

**PURCHASE MONEY LOAN** - If this is a Purchase Money Loan, you may include the name of the seller on the check or draft for this loan.

**PURPOSE:** The purpose of this loan is Refinance

**ADDITIONAL TERMS:**

Any prepaid finance charge up to 5% of the original principle amount of the loan is nonrefundable in the event of prepayment. Upon prepayment, prepaid finance charges in excess of 5% of the original principal amount of the loan will be refunded on a pro-rata basis.

**NOTICE TO COSIGNER**

You (the cosigner) are being asked to guaranty this debt. Think carefully before you do. If the borrower doesn't pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount of the debt if the borrower does not pay. You also may have to pay late fees or collection costs, which increase this amount.

The creditor can collect this debt from you without first trying to collect from the borrower. The creditor can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become part of your credit record.

This notice is not the contract that makes you liable for the debt.

**SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGES 1, 2, 3 AND 4). I have received a copy on today's date.**

X  
Signature William Dennis Smith Date 3/14/02

X  
Signature \_\_\_\_\_ Date \_\_\_\_\_

X  
Signature \_\_\_\_\_ Date \_\_\_\_\_

X  
Signature \_\_\_\_\_ Date \_\_\_\_\_

Signature for Lender

By: [Signature] Date 3/14/02  
Signature \_\_\_\_\_

Its: [Signature]  
Signature \_\_\_\_\_

**ADDENDUM A**  
**Additional Finance Charges to Note**

This Addendum supplements the provisions of that Note dated 03/14/2002 by and between Conseco Bank, Inc. and William Dennis Smith; This Addendum shall be incorporated into and shall become a part of said Note.

HUD Line	Description	Amount
801	Loan Origination Fee	
809	Application Fee	\$1,531.68
810	Flood Cert(life of loan)	\$400.00
1101	Settlement or Closing fee	\$8.50
		\$120.00
<b>TOTAL</b>		<b>\$2,060.18</b>

Borrower:

  
William Dennis Smith

Date

EXHIBIT 'C'

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

November 9, 2007

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
437 TREASURE LAKE  
DU BOIS, PA 15801

ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH  
437 TREASURE LAKE  
DU BOIS, PA 15801

THIS FIRM IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. THIS NOTICE IS SENT TO YOU IN AN ATTEMPT TO COLLECT THE INDEBTEDNESS REFERRED TO HEREIN AND ANY INFORMATION OBTAINED FROM YOU WILL BE USED FOR THAT PURPOSE. IF YOU HAVE PREVIOUSLY RECEIVED A DISCHARGE IN BANKRUPTCY, THIS CORRESPONDENCE IS NOT AND SHOULD NOT BE CONSTRUED TO BE AN ATTEMPT TO COLLECT A DEBT, BUT ONLY ENFORCEMENT OF A LIEN AGAINST PROPERTY.

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 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. IS 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 "HOMEOWNERS EMERGENCY MORTGAGE ASSISTANCE PROGRAM" EL CUAL PUEDE SALVAR SU CASA DE LA PERDIDA DEL DERECHO A REDIMIR SU HIPOTECA.

## STATEMENTS OF POLICY

HOMEOWNER'S NAME(S): WILLIAM DENNIS SMITH, A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH AND ANNETTE GEELEN  
SMITH, A/K/A ANNETTE G. SMITH, A/K/A ANNETTE  
SMITH  
PROPERTY ADDRESS: 228 DIXON AVENUE, DU BOIS, PA 15801  
LOAN ACCT. NO.: 88350003  
ORIGINAL LENDER: CONSECO BANK, INC.  
CURRENT LENDER/SERVICER: GREEN TREE CONSUMER DISCOUNT COMPANY

**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 you 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 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 PURPOSE 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 228 DIXON AVENUE, DU BOIS, PA 15801 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 4/19/2007 through 10/19/2007 at \$ 673.07 per month.

Monthly payments plus late charges accrued:	\$ 7,215.23
Suspense:	(\$ 0.00)
<b>TOTAL AMOUNT TO CURE DEFAULT</b>	<b>\$ 7,215.23</b>

B. YOU HAVE FAILED TO TAKE THE FOLLOWING ACTIONS (Do not use if not applicable):  
N/A

**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 \$ 7,215.23 PLUS ANY MORTGAGE PAYMENTS AND LATE CHARGES WHICH BECOME DUE DURING THE THIRTY (30) DAY PERIOD. Payment must be made either by cashier's check, certified check or money order made payable and sent to: Green Tree Consumer Discount Company 7360 S. Kyrene Road, Tempe, AZ 85283. Contact: YOLANDA NELSON

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) N/A.

**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 attorney to start legal action to foreclosure upon your mortgage property.

**IF THE MORTGAGE IS FORECLOSED UPON-** The mortgage property will be sold by the Sheriff to pay off the mortgage debt. If the lender refers your case to its attorney, 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 attorneys' 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 mortgage property could be held would be approximately SIX (6) 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            Green Tree Consumer Discount Company  
Address        7360 S. Kyrene Road  
City and State: Tempe, AZ 85283

Tel no.         1-480-333-6000 ext. 36090

Contact name: YOLANDA NELSON

**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   XX   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 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 IS ATTACHED.

Very truly yours,

*Gregory Javardian*  
ATTORNEY FOR LENDER

IF THIS IS THE FIRST NOTICE THAT YOU HAVE RECEIVED FROM THIS OFFICE, BE ADVISED THAT:

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C § 1692 et seq. (1977), DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S) DO SO IN WRITING WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL OBTAIN AND PROVIDE DEFENDANT(S) WITH WRITTEN VERIFICATION THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED TO BE VALID. LIKEWISE, IF REQUESTED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S) THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM ABOVE.

THE LAW DOES NOT REQUIRE US TO WAIT UNTIL THE END OF THE THIRTY (30) DAY PERIOD FOLLOWING FIRST CONTACT WITH YOU BEFORE SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH THE LAW PROVIDES THAT YOUR ANSWER TO THIS COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.

**CLEARFIELD COUNTY**

**CCCS of Northeastern PA**

202 W. Hamilton Avenue  
State College, PA 16801  
814.238.3668  
800.922.9537

**CCCS of Western PA**

Royal Remax Plaza  
Altoona, PA 16602  
917 A Logan Boulevard  
888.511.2227

**CCCS of Western PA**

219.A College Park Plaza  
Johnstown, PA 15904  
888.511.2227

**Indiana Co. Community Action Program**

827 Water Street  
Indiana, PA 15701  
Box 187  
724.465.2657

**Keystone Economic Development Corp.**

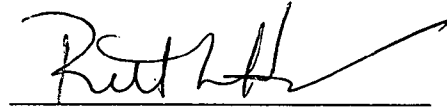
1954 Mary Grace Lane  
Johnstown, PA 15901  
814.535.6556

**The NORCAM Group**

4200 Crawford Avenue  
Northern Cambria, PA 15714  
Suite 200  
814.948.4444

**VERIFICATION**

The undersigned hereby states that the statements made in the foregoing pleading are true and correct to the best of his/her knowledge, information and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read "Ruth L. H.", is written over a horizontal line.

Green Tree Consumer Discount Company, f/k/a  
Conseco Finance Consumer Discount Company

LAW OFFICES OF GREGORY JAVARDIAN  
BY: GREGORY JAVARDIAN  
ID# 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

ATTORNEY FOR PLAINTIFF

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY  
7360 SOUTH KYRENE ROAD  
TEMPE, AZ 85283

PLAINTIFF

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

VS.

NO. 08-460-CD

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH  
ANNETTE GEELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

DEFENDANTS

COMPLAINT IN  
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 defense or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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

Daniel J. Nelson,  
Court Administrator  
Clearfield County Courthouse  
Clearfield, PA 16830  
814-765-2641 ext. 5982

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

MAR 14 2008

Attest.

*William L. Brown*  
Prothonotary/  
Clerk of Courts

IF THIS IS THE FIRST NOTICE THAT YOU HAVE RECEIVED FROM THIS OFFICE, BE ADVISED THAT:

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C § 1692 et seq. (1977), DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S) DO SO IN WRITING WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL OBTAIN AND PROVIDE DEFENDANT(S) WITH WRITTEN VERIFICATION THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED TO BE VALID. LIKEWISE, IF REQUESTED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S) THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM ABOVE.

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LAW OFFICES OF GREGORY JAVARDIAN  
BY: GREGORY JAVARDIAN  
ID# 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

ATTORNEY FOR PLAINTIFF

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY  
7360 SOUTH KYRENE ROAD  
TEMPE, AZ 85283

PLAINTIFF

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

VS.

NO.

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH  
ANNETTE GEELLEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

DEFENDANTS

COMPLAINT IN  
MORTGAGE FORECLOSURE

CIVIL ACTION MORTGAGE FORECLOSURE

1. Green Tree Consumer Discount Company, f/k/a Conseco Finance Consumer Discount Company (hereinafter referred to as "Plaintiff") is an Institution, conducting business under the Laws of the Commonwealth of Pennsylvania with a principal place of business at the address indicated in the caption hereof.
2. William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith and Annette Geelen Smith, a/k/a Annette G. Smith, a/k/a Annette Smith (hereinafter referred to as "Defendants") are adult individuals residing at the address indicated in the caption hereof.
3. Plaintiff brings this action to foreclose on the mortgage between the Defendants and itself as Mortgagee by Assignment. The Mortgage, dated March 14, 2002, was recorded on March 19, 2002 in the Office of the Recorder of Deeds in Clearfield County at Instrument Number 200204241. Plaintiff is the Mortgagee by Assignment by virtue of an Assignment of Mortgage recorded on June 17, 2002 in the Office of Recorder of Deeds in Clearfield County at Instrument Number 200209613. A copy of the Mortgage is attached and made a part hereof as Exhibit 'A'.

4. The Mortgage secures the indebtedness of a Note executed by William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith on March 14 , 2002 in the original principal amount of \$51,00.00 payable to Plaintiff in monthly installments with an interest rate of 15.50%. A copy of the Note is attached and made a part hereof as Exhibit 'B'.
5. The land subject to the mortgage is 228 Dixon Avenue, Du Bois, PA 15801. A copy of the Legal Description is attached as part of the Mortgage as Exhibit 'A' and incorporated herein.
6. The Defendants are the Record Owners of the mortgaged property located at 228 Dixon Avenue, Du Bois, PA 15801.
7. The Mortgage is now in default due to the failure of the Defendants to make payments as they become due and owing. As a result of the default, the following amounts are due:

Principal Balance	\$49,592.61
Interest to 3/5/2008	\$10,533.36
Accumulated Late Charges	\$2,840.24
Deferred Interest	\$6,113.86
Cost of Suit and Title Search	\$850.00
Attorney's Fees	\$1,250.00
TOTAL	\$71,180.07

plus interest from 3/6/2008 at \$21.11 per day, costs of suit and attorney's fees.

8. The attorney's fees set forth above are in conformity with the Mortgage documents and Pennsylvania Law, and will be collected in the event of a third party purchase at Sheriff's sale. If the Mortgage is reinstated prior to the Sale, reasonable attorney's fees will be charged.
9. Pennsylvania law requires that a plaintiff in mortgage foreclosure provide a defaulting mortgagor with a Notice of Homeowners' Emergency Mortgage Assistance ("Act 91 Notice") 35 P.S. Section 1680.403c.
10. The Notice of Homeowners' Emergency Mortgage Assistance was required and Plaintiff sent the uniform notice as promulgated by the Pennsylvania Housing Finance Agency to the Defendants by regular and certified mail on November 9, 2007. A copy of the Notice is attached and made a part hereof as Exhibit 'C'.

11. The Mortgage is not a residential mortgage under 41 P.S. Section 401 because the principal amount of the Mortgage is in excess of \$50,000.00 and, therefore, Plaintiff was not required to send the Act 6 Notice of Intention to Foreclose.

WHEREFORE, Plaintiff requests the court enter judgment in Mortgage Foreclosure for the sale of the mortgaged property in Plaintiff's favor and against the Defendants, in the sum of \$71,180.07 together with the interest from 3/6/2008 at \$21.11 per day, costs of suit and attorney's fees.

Law offices of Gregory Javardian

BY: 

Gregory Javardian  
Attorney ID No. 55669  
Attorney for Plaintiff

EXHIBIT 'A'

KAREN L. STARK  
REGISTER AND RECORDER  
CLEARFIELD COUNTY  
Pennsylvania

INSTRUMENT NUMBER  
200204241

RECORDED ON

Mar 19, 2002  
11:52:51 AM

Total Pages: 8

RECORDING FEES - \$21.00  
RECORDER

COUNTY IMPROVEMENT \$1.00  
FUND

RECORDER IMPROVEMENT FUND \$1.00

STATE WRIT TAX \$0.50  
TOTAL \$23.50

CUSTOMER  
CONSECO FINANCE SERVICES

Commonwealth of Pennsylvania

Space Above This Line For Recording Data

GT-15-39-090 (1/01)

Return To:

## OPEN-END MORTGAGE

Application # 0202280225  
Loan # 6913053036

Conseco Finance  
Attn: Trailing Documents Area  
7360 South Kyrene Road  
Tempe, AZ 85283

This Mortgage secures future advances

1. **DATE AND PARTIES.** The date of this Mortgage (Security Instrument) is March 14, 2002  
and the parties, their addresses and tax identification numbers, if required, are as follows:

MORTGAGOR: William Dennis Smith, Annette Geelen Smith

HUSBAND AND WIFE

.....If checked, refer to the attached Addendum incorporated herein, for additional Mortgagors, their signatures and acknowledgments.

LENDER: Conseco Bank, Inc.  
Cottonwood Corporate Center  
2825 E Cottonwood Prky 230  
Salt Lake City, UT 84121

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Mortgagor's performance under this Security Instrument, Mortgagor grants, bargains, conveys and mortgages to Lender the following described property:

Parcel ID: 7.5-10-2736 TAX ID #07319  
See Exhibit A for the Legal Description

PENNSYLVANIA - MORTGAGE (NOT FOR FNMA, FHLMC, FHA OR VA)

Expires © 1994 Bankers Systems, Inc., St. Cloud, MN Form GTH-MTGLAZPA 1/9/2001

GT-15-39-090 (1/01) (page 1 of 7)

The property is located in Clearfield at .....  
228 Dixon Ave. (County) Du Bois, Pennsylvania 15801  
(Address) (City) (ZIP Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, ditches, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount secured by this Security Instrument at any one time shall not exceed \$ 51,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.

4. **SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" is defined as follows:  
A. Debt incurred under the terms of all promissory note(s), contract(s), guaranty(s) or other evidence of debt described below and all their extensions, renewals, modifications or substitutions. (When referencing the debts below it is suggested that you include items such as borrowers' names, note amounts, interest rates, maturity dates, etc.)

Note dated March 14, 2002, between Conesco Bank, Inc. and William Dennis Smith, for \$51,000.00, maturing March 19, 2027.

- B. All future advances from Lender to Mortgagor or other future obligations of Mortgagor to Lender under any promissory note, contract, guaranty, or other evidence of debt executed by Mortgagor in favor of Lender after this Security Instrument whether or not this Security Instrument is specifically referenced. If more than one person signs this Security Instrument, each Mortgagor agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. All future advances and other future obligations are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing.
- C. All obligations Mortgagor owes to Lender, which may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and Lender.
- D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Security Instrument.
- This Security Instrument will not secure any other debt if Lender fails to give any required notice of the right of rescission.

5. **PAYMENTS.** Mortgagor agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.

6. **WARRANTY OF TITLE.** Mortgagor warrants that Mortgagor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to grant, bargain, convey, sell, and mortgage the Property. Mortgagor also warrants that the Property is unencumbered, except for encumbrances of record.
7. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagor agrees:
  - A. To make all payments when due and to perform or comply with all covenants.
  - B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
  - C. Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.
8. **CLAIMS AGAINST TITLE.** Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagor may have against parties who supply labor or materials to maintain or improve the Property.
9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Security Instrument is released.
10. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor shall not commit or allow any waste, impairment, or deterioration of the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims and actions against Mortgagor, and of any loss or damage to the Property. Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Mortgagor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.
11. **AUTHORITY TO PERFORM.** If Mortgagor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Mortgagor appoints Lender as attorney-in-fact to sign Mortgagor's name or pay any amount necessary for performance. Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.
12. **LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** Mortgagor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

13. **DEFAULT.** Mortgagor will be in default if any party obligated on the Secured Debt fails to make payment when due. Mortgagor will be in default if a breach occurs under the terms of this Security Instrument or any other document executed for the purpose of creating, securing or guaranteeing the Secured Debt. A good faith belief by Lender that Lender at any time is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment or the value of the Property is impaired shall also constitute an event of default.
14. **REMEDIES ON DEFAULT.** In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Mortgagor is in default. At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the terms of the Secured Debt, this Security Instrument and any related documents. All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Mortgagor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.
15. **EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** Except when prohibited by law, Mortgagor agrees to pay all of Lender's expenses if Mortgagor breaches any covenant in this Security Instrument. Mortgagor will also pay on demand amounts incurred by Lender for insuring, inspecting, preserving or otherwise protecting the Property and Lender's security interest. These expenses will bear interest from the date of the payment until paid in full at the highest interest rate in effect as provided in the terms of the Secured Debt. Mortgagor agrees to pay all costs and expenses incurred by Lender in collecting, enforcing or protecting Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, attorneys' fees, court costs, and other legal expenses. This Security Instrument shall remain in effect until released. Mortgagor agrees to pay for any recordation costs of such release.
16. **ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), and all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law. Mortgagor represents, warrants and agrees that:
- Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance is or will be located, stored or released on or in the Property. This restriction does not apply to small quantities of Hazardous Substances that are generally recognized to be appropriate for the normal use and maintenance of the Property.
  - Except as previously disclosed and acknowledged in writing to Lender, Mortgagor and every tenant have been, are, and shall remain in full compliance with any applicable Environmental Law.

- C. Mortgagor shall immediately notify Lender if a release or threatened release of a Hazardous Substance occurs on, under or about the Property or there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor shall take all necessary remedial action in accordance with any Environmental Law.
- D. Mortgagor shall immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any pending or threatened investigation, claim, or proceeding relating to the release or threatened release of any Hazardous Substance or the violation of any Environmental Law.
17. **CONDEMNATION.** Mortgagor will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.
18. **INSURANCE.** Mortgagor shall keep Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Security Instrument. All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor. Unless otherwise agreed in writing, all insurance proceeds shall be applied to the restoration or repair of the Property or to the Secured Debt, whether or not then due, at Lender's option. Any application of proceeds to principal shall not extend or postpone the due date of the scheduled payment nor change the amount of any payment. Any excess will be paid to the Mortgagor. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.
19. **ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.
20. **FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Security Instrument and Lender's lien status on the Property.
21. **JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Security Instrument are joint and individual. If Mortgagor signs this Security Instrument but does not sign an evidence of debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured

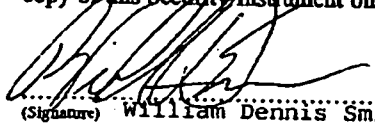
Debt. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws. Mortgagor agrees that Lender and any party to this Security Instrument may extend, modify or make any change in the terms of this Security Instrument or any evidence of debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Security Instrument. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Mortgagor and Lender.

22. **APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Security Instrument is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. Any provision that appoints Lender as an agent is not subject to the provisions of 20 Pa.C.S.A. Section 5601 et seq. (Chapter 56; Decedents, Estates and Fiduciaries Code). Lender, by exercising any of its rights under this Security Instrument, does so for its sole benefit. This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any section in this Security Instrument, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. Time is of the essence in this Security Instrument.
23. **NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Security Instrument, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors.
24. **WAIVERS.** Except to the extent prohibited by law, Mortgagor waives any right to appraisal relating to the Property.
25. **OTHER TERMS.** If checked, the following are applicable to this Security Instrument:
- ..... **Line of Credit.** The Secured Debt includes a revolving line of credit provision. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until released.
  - ..... **Construction Loan.** This Security Instrument secures an obligation incurred for the construction of an improvement on the Property.
  - ..... **Fixture Filing.** Mortgagor grants to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property. This Security Instrument suffices as a financing statement and any carbon, photographic or other reproduction may be filed of record for purposes of Article 9 of the Uniform Commercial Code.
  - ..... **Purchase Money.** This Security Instrument secures advances by Lender used in whole or in part to acquire the Property. Accordingly, this Security Instrument, and the lien hereunder, is and shall be construed as a purchase money mortgage with all of the rights, priorities and benefits thereof under the laws of the Commonwealth of Pennsylvania.
  - ..... **NOTICE TO BORROWER: THIS DOCUMENT CONTAINS PROVISIONS FOR A VARIABLE INTEREST RATE.**

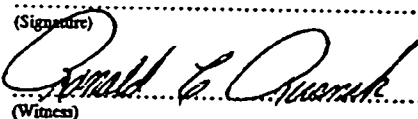
.....Riders. The covenants and agreements of each of the riders checked below are incorporated into and supplement and amend the terms of this Security Instrument. [Check all applicable items]  
..... Condominium Rider ..... Planned Unit Development Rider ..... Other .....

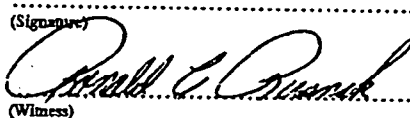
N/A Additional Terms.

**SIGNATURES:** By signing below, Mortgagor, intending to be legally bound hereby, agrees to the terms and covenants contained in this Security Instrument and in any attachments. Mortgagor also acknowledges receipt of a copy of this Security Instrument on the date stated on page 1.

 3/14/02  
(Signature) William Dennis Smith (Date)

 3-14-02  
(Signature) Annette Geelen Smith (Date)

  
(Signature) (Date)  
(Witness)

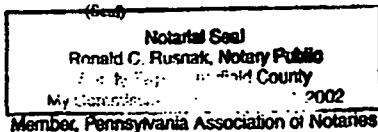
  
(Signature) (Date)  
(Witness)

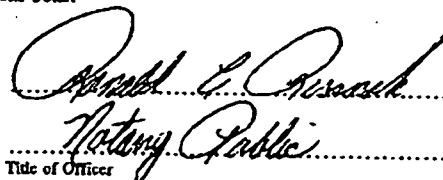
**ACKNOWLEDGMENT:**

COMMONWEALTH OF PENNSYLVANIA COUNTY OF CLEARFIELD } SS.  
On this, the 14th day of MARCH, 2002, before me RONALD C. RUSNAK,  
(Individual) the undersigned officer, personally appeared William Dennis Smith, Annette Geelen Smith  
known to me (or satisfactorily proven) to be the person(s) whose name(s) is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained.

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

My commission expires:



  
Notary Public  
Title of Officer

It is hereby certified that the address of the Lender within named is: Conseco Bank, Inc.  
Cottonwood Corporate Center, 2825 E Cottonwood Prky 230, Salt Lake City, UT 84121

EXHIBIT A

Legal Description:

ALL THAT CERTAIN PROPERTY SITUATED IN THE CITY OF DUBOIS, COUNTY OF CLEARFIELD,  
AND COMMONWEALTH OF PENNSYLVANIA, BEING MORE FULLY DESCRIBED IN DEED DATED  
06/21/88, RECORDED 06/28/88, APPEARING AMONG THE LAND RECORDS OF THE COUNTY AND  
STATE, SET FORTH ABOVE IN DEED BOOK 1230, PAGE 242.

Parcel ID: 7.5-10-2736 TAX ID #07319



AS

EXHIBIT 'B'

Conseco Bank, Inc.  
Cottonwood Corporate Center  
2825 E Cottonwood Prky 230  
Salt Lake City, UT 84121

William Dennis Smith  
228 Dixon Avenue  
Du Bois, PA 15801

## LENDER'S NAME AND ADDRESS

**"You" means the Lender,  
its successors and assigns.**

**BORROWER'S NAME AND ADDRESS**

"I" includes each Borrower above,  
jointly and severally.

Loan Number 6913053036  
Date March 14, 2002  
Maturity Date 03/19/2027  
Loan Amount \$ 51,000.00  
Renewal Of N/A

TERMS FOLLOWING A      APPLY ONLY IF CHECKED

**— Secondary Mortgage Loan**

**— This agreement is subject to the provisions of the Secondary Mortgage Loan Act.**

For value received, I promise to pay to you at your address listed above the PRINCIPAL sum of Fifty One Thousand and No/100

X Single Advance: I will receive all of this principal sum on March 19, 2002 Dollars \$ 51,000.00  
contemplated under this note. No additional advances are

**N/A Multiple Advance:** The principal sum shown above is the maximum amount of principal I can borrow under this note.  
On \_\_\_\_\_ I will receive the amount of \$\_\_\_\_\_ and future principal advances are contemplated.  
You and I agree that I may borrow up to the maximum only one time (and subject to all other conditions).  
Conditions: The conditions for future advances are \_\_\_\_\_

INTEREST: I agree to pay interest on the outstanding principal balance from March 19, 2002 at the rate of 6.99%

**COPY**

per year until March 19, 2027 15,500 %

N/A Variable Rate: Notice to borrower: This document contains provisions for a variable interest rate. This rate may then change as stated below.

**Change Dates:** Each date on which the interest rate may change is called a Change Date. The interest rate may change \_\_\_\_\_ and on every \_\_\_\_\_ thereafter.

**Index:** Beginning with the first Change Date, the interest rate will be based on the \_\_\_\_\_ thereafter.

The Index: Beginning with the first Change Date, the interest rate will be based on the following Index: \_\_\_\_\_ and on every \_\_\_\_\_ thereafter.

The most recent Index value available as of the date 45 days before each Change Date is called the "Current Index."

Calculation of Change: Before each Change Date, the Lender will calculate the interest rate, which will be \_\_\_\_\_ the Current Index. The result of this calculation will be rounded \_\_\_\_\_

rate will become effective on each Change Date. Subject to any limitations below, this will be the new interest rate until the next Change Date.

Limitations: The interest rate will never be greater than \_\_\_\_\_% or less than \_\_\_\_\_%.  
 — The interest rate will never change on any single Change Date by more than \_\_\_\_\_%.

**Effect of Variable Rate:** A change in the interest rate will \_\_\_\_\_ %.

payments: \_\_\_\_\_ %.

ACCRUAL METHOD: Interest will be calculated on a 30/360 day basis.  
POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note at \_\_\_\_\_ basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:

**X** on the same fixed or variable rate basis in effect before maturity (as indicated above).  
N/A at a rate equal to \_\_\_\_\_

☒ **LATE CHARGE:** I agree to pay a late charge on the portion of any payment made more than 10 days after it is due equal to 10% of payment.

X NSF FEE: If any instrument which I submit to you is returned unpaid for any reason, I will pay you a fee of \$25.00

**X ADDITIONAL CHARGES:** In addition to interest, I agree to pay the following charges which X are See Addendum A are not included in the principal amount above: \_\_\_\_\_

300 payments of \$673.07 starting on April 19, 2002 and on the 19th day of each month thereafter.

**SECURITY:** This note is secured by (describe separate document by type (e.g., mortgage) and date):  
Mortgage Deed dated March 14, 2002

**GENERALLY** - The headings at the beginning of each section are for convenience only and are not to be used in interpreting the text of the section.

**DEFINITIONS** - "I," "me" or "my" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agree to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns. The "parties" shall mean the Borrower and Lender, together.

**APPLICABLE LAW** - The interest to be charged on this loan is governed by the laws of the state of Utah

\_\_\_\_\_. All other terms of this transaction are governed by the laws of the state of Pennsylvania.

The fact that any part of this note cannot be enforced will not affect the rest of this note. Any change to this note or any agreement securing this note must be in writing and signed by you and me.

I agree to cooperate with you regarding any requests after closing to correct errors made concerning this contract or the transaction and to provide any and all additional documentation deemed necessary by you to complete this transaction. I agree that you may enforce this agreement by judicial process and are entitled to attorney's fees, costs and disbursements incident to such enforcement.

**PAYMENTS -** Each payment I make on this loan will be applied first to any charges I owe other than principal and interest, then to interest that is due, and finally to principal that is due. No late charge will be assessed on any payment when the only delinquency is due to late fees assessed on earlier payments and the payment is otherwise a full payment. The actual amount of my final payment will depend on the interest rates (if variable) and my payment record. If any payment due under this loan does not equal or exceed the amount of interest due, you may, at your option, increase the amount of the payment due and all future payments to an amount that will pay off this loan in equal payments over the remaining term of this loan.

**PREPAYMENT** - I may prepay this loan in whole or in part at any time. I will not pay a penalty upon prepayment unless otherwise stated in the next sentence. If I prepay in full within N/A months of the date of this note, I will pay you a penalty of N/A.

**Partial payments will not excuse or reduce any later scheduled payment until this note is paid in full.**

**INTEREST** - Interest accrues on the principal remaining unpaid from time to time, until paid in full. If this is a

multiple advance loan, interest will accrue: N/A

If "Variable Rate" is checked on page 1, I will pay interest at the rates in effect from time to time. The interest rate(s) and other charges on this loan will never exceed the highest rate or charge allowed by law for this loan. If the index specified on page 1 ceases to exist, I agree that you may substitute a similar index for the original.

**INDEX -** If you and I have agreed that the interest rate on this note will be variable and will be related to an index, then the index you select will function only as a tool for setting the rate on this note. You do not guaranty, by selecting any index, that the interest rate on this note will have a particular relationship to the interest rate you charge on any other loans or any type or class of loans with your other customers.

**ACCRUAL METHOD** - The amount of interest that I will pay on this loan will be calculated using the interest rate and accrual method stated on page 1. For interest calculation, the accrual method will determine the number of days in a year. If no accrual method is stated, then you may use any reasonable accrual method for calculating interest.

**SINGLE ADVANCE LOANS** - If this is a single advance loan you and I expect that you will only make one advance of principal. However, you may add other amounts to the principal if you make any payments described in the **PAYMENTS BY LENDER** section below.

**MULTIPLE ADVANCE LOANS** - If this is a multiple advance loan, you and I expect that you will make more than one advance of principal, subject to the conditions of any separate agreement.

**PAYMENTS BY LENDER** - If you are authorized to pay, on my behalf, charges I am obligated to pay (such as property insurance premiums), then you may treat those payments made by you as advances and add them to the unpaid principal under this note, or you may demand immediate payment of the charges.

**POST-MATURITY INTEREST** - Interest will accrue on the principal balance remaining unpaid after final maturity at the rate specified on page 1. For purposes of this section, final maturity occurs:

(a) On the date of the last scheduled payment of principal;  
or  
(b) On the date you accelerate the due date of this loan  
(demand immediate payment).

**REAL ESTATE OR RESIDENCE SECURITY** - If this loan is secured by real estate or a residence that is personal property, the existence of a default and your remedies for such a default will be determined by applicable law, by the terms of any separate instrument creating the security interest and, to the extent not prohibited by law and not contrary to the terms of the separate security instrument, by this agreement.

**ASSUMPTION -** This note and any document securing it cannot be assumed by someone buying the secured property from me. This will be true unless you agree in

writing to the contrary. Without such an agreement, if I try to transfer any interest in the property securing this note, I will be in default on this loan. You may proceed against me under any due on sale clause in the security agreement, which is incorporated by reference.

**DEFAULT** - Subject to any limitations in the "REAL ESTATE OR RESIDENCE SECURITY" paragraph above, I will be in default on this loan and any agreement securing this loan if any one or more of the following occurs:

- (a) I fail to make a payment in full when due;
- (b) I die, am declared incompetent, or become insolvent;
- (c) I fail to keep any promise I have made in connection with this loan;
- (d) I fail to pay, or keep any other promise on, any other loan or agreement I have with you;
- (e) I make any written statement or provide any financial information that is untrue or inaccurate at the time it is provided;
- (f) Any creditor of mine attempts to collect any debt I owe through court proceedings, set-off or self-help repossession;
- (g) The property securing this Loan is damaged, destroyed or stolen;
- (h) I fail to provide any additional security that you may require;
- (i) Any legal entity (such as a partnership or corporation) that has agreed to pay this note merges, dissolves, reorganizes, ends its business or existence, or a partner or majority stockholder dies or is declared incompetent; or
- (j) Anything else happens that causes you to believe that you will have difficulty collecting the amount I owe you.

If any of us are in default on this note or any security agreement, you may exercise your remedies against any or all of us.

**REMEDIES** - Subject to any limitations in the "REAL ESTATE OR RESIDENCE SECURITY" paragraph on page 2, and after giving any appropriate notice, if I am in default on this loan or any agreement securing this loan, you may:

- (a) Make unpaid principal, earned interest and all other agreed charges I owe you under this loan immediately due;
- (b) Use the right of set-off as explained below;
- (c) Demand more security or new parties obligated to pay this loan (or both) in return for not using any other remedy;
- (d) Make a claim for any and all insurance benefits or refunds that may be available on my default;
- (e) Use any remedy you have under state or federal law; and
- (f) Use any remedy given to you in any agreement securing this loan.

By choosing any one or more of these remedies you do not give up your right to use another remedy later. By deciding not to use any remedy should I be in default, you do not give up your right to consider the event a default if it happens again.

**COSTS OF COLLECTION AND ATTORNEYS' FEES** - I agree to pay you all reasonable costs you incur to collect this debt or realize on any security. This includes, unless prohibited by law, reasonable attorneys' fees. This provision also shall apply if I file a petition or any other claim for relief under any bankruptcy rule or law of the United States, or if such petition or other claim for relief is filed against me by another.

**SET-OFF** - I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

- (a) Any deposit account balance I have with you;
- (b) Any money owed to me on an item presented to you or in your possession for collection or exchange; and

(c) Any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand under the terms of this note at the time you exercise your right of set off. This total includes any balance the due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights arise only in a representative capacity. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right of set-off.

**OTHER SECURITY** - Any present or future agreement securing any other debt I owe you also will secure the payment of this loan. Property securing another debt will not secure this loan if such property is my principal dwelling and you fail to provide any required notice of right of rescission. Also, property securing another debt will not secure this loan to the extent such property is in household goods.

**ARBITRATION** - All disputes, claims, or controversies arising from or relating to this note or the relationships which result from this note, or the validity of this arbitration clause or the entire note, shall be resolved by binding arbitration by one arbitrator selected by you with my consent. This arbitration agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act, Title 9 of the United States Code. Judgment upon the award rendered may be entered in any court having jurisdiction. The parties agree and understand that they choose arbitration instead of litigation to resolve disputes. The parties understand that they have a right or opportunity to litigate disputes in court, but that they prefer to resolve their disputes through arbitration, except as provided herein.

**THE PARTIES VOLUNTARILY AND KNOWINGLY WAIVE ANY RIGHT THEY HAVE TO A JURY TRIAL, EITHER PURSUANT TO ARBITRATION UNDER THIS CLAUSE OR PURSUANT TO A COURT ACTION BY YOU (AS PROVIDED HEREIN).** The parties agree and understand that all disputes arising under case law, statutory law, and all other laws including, but not limited to, all contract, tort, and property disputes, will be subject to binding arbitration in accord with this agreement. I agree that I shall not have the right to participate as a representative or a member of any class of claimants pertaining to any claim arising from or relating to this note. The parties agree and understand that the arbitrator shall have all powers provided by law and the note. These powers shall include all legal and equitable remedies, including, but not limited to, money damages, declaratory relief, and injunctive relief. Notwithstanding anything hereunto the contrary, you retain an option to use judicial or non-judicial relief to enforce a security agreement relating to the collateral secured in a transaction underlying this arbitration agreement, to enforce the monetary obligation or to foreclose on the collateral. Such judicial relief would take the form of a lawsuit. The institution and maintenance of an action for judicial relief in a court to foreclose upon any collateral, to obtain a monetary judgment or to enforce the security agreement, shall not constitute a waiver of the right of any party to compel arbitration in this note, including the filing of a counterclaim in a suit brought by you pursuant to this provision.

**OBLIGATIONS INDEPENDENT** - I understand that my obligation to pay this loan is independent of the obligation of any other person who has also agreed to pay it. You may, without notice, release me or any of us, give up any right you may have against any of us, extend new credit to any of us, or renew or change this note one or more times and for any term, and I will still be obligated to pay this loan. You may, without notice, fail to perfect your security interest in, impair, or release any security and I will still be obligated to pay this loan.

**WAIVER** - I waive (to the extent permitted by law) demand, presentment, protest, notice of dishonor and notice of protest.

**PRIVACY** - I agree that from time to time you may receive credit information about me from others, including other lenders and credit reporting agencies. I agree that you may furnish on a regular basis credit and experience information regarding my loan to others seeking such information. To the extent permitted by law, I agree that you will not be liable for any claim arising from the use of information provided to you by others or for providing such information to others.

**FINANCIAL STATEMENTS** - I will give you any financial statements or information that you feel is necessary. All financial statements and information I give you will be correct and complete.

**PURCHASE MONEY LOAN** - If this is a Purchase Money Loan, you may include the name of the seller on the check or draft for this loan.

**PURPOSE:** The purpose of this loan is Refinance

**ADDITIONAL TERMS:**

Any prepaid finance charge up to 5% of the original principle amount of the loan is nonrefundable in the event of prepayment. Upon prepayment, prepaid finance charges in excess of 5% of the original principal amount of the loan will be refunded on a pro-rata basis.

**NOTICE TO COSIGNER**

You (the cosigner) are being asked to guaranty this debt. Think carefully before you do. If the borrower doesn't pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount of the debt if the borrower does not pay. You also may have to pay late fees or collection costs, which increase this amount.

The creditor can collect this debt from you without first trying to collect from the borrower. The creditor can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become part of your credit record.

This notice is not the contract that makes you liable for the debt.

**SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGES 1, 2, 3 AND 4). I have received a copy on today's date.**

[Signature] 3/14/02  
Signature William Dennis Smith Date

X  
Signature \_\_\_\_\_ Date \_\_\_\_\_

X  
Signature \_\_\_\_\_ Date \_\_\_\_\_

X  
Signature \_\_\_\_\_ Date \_\_\_\_\_

Signature for Lender

By: [Signature] 3/14/02  
Signature Date

Its: [Signature]

**ADDENDUM A**  
**Additional Finance Charges to Note**

This Addendum supplements the provisions of that Note dated 03/14/2002 by and between Conseco Bank, Inc. and William Dennis Smith; This Addendum shall be incorporated into and shall become a part of said Note.

HUD Line	Description	Amount
801	Loan Origination Fee	
809	Application Fee	\$1,531.68
810	Flood Cert (life of loan)	\$400.00
1101	Settlement or Closing fee	\$8.50
		\$120.00
<b>TOTAL</b>		<b>\$2,060.18</b>

Borrower:

  
William Dennis Smith

Date

EXHIBIT 'C'

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

November 9, 2007

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
437 TREASURE LAKE  
DU BOIS, PA 15801

ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH  
228 DIXON AVENUE  
DU BOIS, PA 15801

ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH  
437 TREASURE LAKE  
DU BOIS, PA 15801

THIS FIRM IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. THIS NOTICE IS SENT TO YOU IN AN ATTEMPT TO COLLECT THE INDEBTEDNESS REFERRED TO HEREIN AND ANY INFORMATION OBTAINED FROM YOU WILL BE USED FOR THAT PURPOSE. IF YOU HAVE PREVIOUSLY RECEIVED A DISCHARGE IN BANKRUPTCY, THIS CORRESPONDENCE IS NOT AND SHOULD NOT BE CONSTRUED TO BE AN ATTEMPT TO COLLECT A DEBT, BUT ONLY ENFORCEMENT OF A LIEN AGAINST PROPERTY.

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 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. IS 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 "HOMEOWNERS EMERGENCY MORTGAGE ASSISTANCE PROGRAM" EL CUAL PUEDE SALVAR SU CASA DE LA PERDIDA DEL DERECHO A REDIMIR SU HIPOTECA.

## STATEMENTS OF POLICY

HOMEOWNER'S NAME(S): WILLIAM DENNIS SMITH, A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH AND ANNETTE GEELLEN  
SMITH, A/K/A ANNETTE G. SMITH, A/K/A ANNETTE  
SMITH  
PROPERTY ADDRESS: 228 DIXON AVENUE, DU BOIS, PA 15801  
LOAN ACCT. NO.: 88350003  
ORIGINAL LENDER: CONSECO BANK, INC.  
CURRENT LENDER/SERVICER: GREEN TREE CONSUMER DISCOUNT COMPANY

**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 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 PURPOSE 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 228 DIXON AVENUE, DU BOIS, PA 15801 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 4/19/2007 through 10/19/2007 at \$ 673.07 per month.

Monthly payments plus late charges accrued:	\$ 7,215.23
Suspense:	(\$ 0.00)
<b>TOTAL AMOUNT TO CURE DEFAULT</b>	<b>\$ 7,215.23</b>

B. YOU HAVE FAILED TO TAKE THE FOLLOWING ACTIONS (Do not use if not applicable):  
N/A

**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 \$ 7,215.23 PLUS ANY MORTGAGE PAYMENTS AND LATE CHARGES WHICH BECOME DUE DURING THE THIRTY (30) DAY PERIOD. Payment must be made either by cashier's check, certified check or money order made payable and sent to: Green Tree Consumer Discount Company 7360 S. Kyrene Road, Tempe, AZ 85283. Contact: YOLANDA NELSON

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) N/A.

**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 attorney to start legal action to foreclosure upon your mortgage property.

**IF THE MORTGAGE IS FORECLOSED UPON-** The mortgage property will be sold by the Sheriff to pay off the mortgage debt. If the lender refers your case to its attorney, 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 attorneys' 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 mortgage property could be held would be approximately SIX (6) 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            Green Tree Consumer Discount Company  
Address        7360 S. Kyrene Road  
City and State: Tempe, AZ 85283

Tel no.           1-480-333-6000 ext. 36090

Contact name: YOLANDA NELSON

**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   XX   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 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 IS ATTACHED.

Very truly yours,

*Gregory Javardian*  
ATTORNEY FOR LENDER

IF THIS IS THE FIRST NOTICE THAT YOU HAVE RECEIVED FROM THIS OFFICE, BE ADVISED THAT:

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C § 1692 et seq. (1977), DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S) DO SO IN WRITING WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL OBTAIN AND PROVIDE DEFENDANT(S) WITH WRITTEN VERIFICATION THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED TO BE VALID. LIKEWISE, IF REQUESTED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S) THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM ABOVE.

THE LAW DOES NOT REQUIRE US TO WAIT UNTIL THE END OF THE THIRTY (30) DAY PERIOD FOLLOWING FIRST CONTACT WITH YOU BEFORE SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH THE LAW PROVIDES THAT YOUR ANSWER TO THIS COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.

**CLEARFIELD COUNTY**

**CCCS of Northeastern PA**

202 W. Hamilton Avenue  
State College, PA 16801  
814.238.3668  
800.922.9537

**CCCS of Western PA**

Royal Remax Plaza  
Altoona, PA 16602  
917 A Logan Boulevard  
888.511.2227

**CCCS of Western PA**

219.A College Park Plaza  
Johnstown, PA 15904  
888.511.2227

**Indiana Co. Community Action Program**

827 Water Street  
Indiana, PA 15701  
Box 187  
724.465.2657

**Keystone Economic Development Corp.**

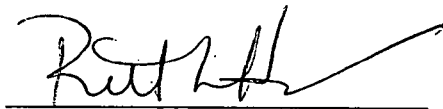
1954 Mary Grace Lane  
Johnstown, PA 15901  
814.535.6556

**The NORCAM Group**

4200 Crawford Avenue  
Northern Cambria, PA 15714  
Suite 200  
814.948.4444

**VERIFICATION**

The undersigned hereby states that the statements made in the foregoing pleading are true and correct to the best of his/her knowledge, information and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.



Green Tree Consumer Discount Company, f/k/a  
Conseco Finance Consumer Discount Company

THE LAW OFFICES OF GREGORY JAVARDIAN  
BY: GREGORY JAVARDIAN  
ATTORNEY I.D. # 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

FILED

AUG 22 2008

0/21/08  
William A. Shaw  
Prothonotary/Clerk of Courts

Attorney for Plaintiff 2 cases to

Notary

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY,  
Plaintiff

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

vs.

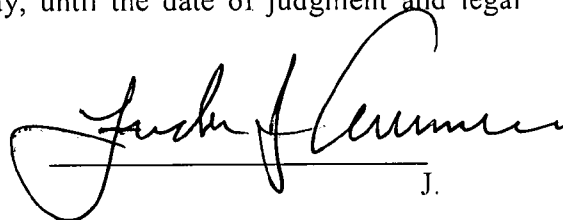
No. 08-460-CD

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH,  
ANNETTE GELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH,  
Defendants

ORDER

AND NOW, this 10<sup>th</sup> day of July, 2008, upon consideration  
of Plaintiff's, Motion for Summary Judgment and any response thereto, it is hereby  
ORDERED and DECREED that Plaintiff's Motion for Summary Judgment is  
GRANTED.

AND Judgment is hereby entered in favor of Plaintiff and against Defendants,  
William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith and Annette Geelen  
Smith, a/k/a Annette G. Smith, a/k/a Annette Smith, in the amount of \$71,180.07, plus  
interest, from March 6, 2008 at \$21.11 per day, until the date of judgment and legal  
interest thereafter.

  
J.

DATE: 8-22-08

X You are responsible for serving all appropriate parties.

       The Prothonotary's office has provided service to the following parties:

       Plaintiff(s)        Plaintiff(s) Attorney        Other

       Defendant(s)        Defendant(s) Attorney

       Special Instructions:

**FILED**

**AUG 22 2008**

William A. Shaw  
Prothonotary/Clerk of Courts

LAW OFFICES OF GREGORY JAVARDIAN  
By: GREGORY JAVARDIAN, ESQUIRE  
IDENTIFICATION NO. 55669  
1310 INDUSTRIAL BOULEVARD  
1ST FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

FILED *no cc*  
*m/12:26:64*  
AUG 29 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY,  
Plaintiff

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

vs.

No. 08-460-CD

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH,  
ANNETTE GELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH,  
Defendants

CERTIFICATION OF SERVICE

I, Gregory Javardian, Esquire, counsel for Plaintiff, hereby certify that a copy of the Order of Court entered on August 22, 2008, with regard to Plaintiff's Motion for Summary Judgment, was mailed to the Defendants by regular mail, first class United States mail, postage prepaid on the date set forth below.

David J. Hopkins, Esquire  
100 Meadow Lane, Suite 5  
DuBois, PA 15801  
Attorney for Defendants

Lea Ann Heltzel, Esquire  
100 Meadow Lane, Suite 5  
DuBois, PA 15801  
Attorney for Defendants

Date: 8/26/2008

Gregory Javardian  
Gregory Javardian, Esquire  
Attorney for Plaintiff

LAW OFFICES OF GREGORY JAVARDIAN  
By: GREGORY JAVARDIAN, ESQUIRE  
IDENTIFICATION NO. 55669  
1310 INDUSTRIAL BOULEVARD  
1ST FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

**FILED**

SEP 23 2008  
m/12:30/w  
William A. Shaw  
Prothonotary/Clerk of Courts

Can 4/ notice  
to each Dept  
copy to H&M

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY  
7360 SOUTH KYRENE ROAD  
TEMPE, AZ 85283

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

No.: 08-460-CD

vs.

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH  
SEC. 15 LOT 203 TREASURE LAKE  
DU BOIS, PA 15801

**PRAECIPE FOR JUDGMENT  
AND ASSESSMENT OF DAMAGES**

TO THE PROTHONOTARY:

Kindly enter judgment in favor of the Plaintiff and against WILLIAM DENNIS SMITH, A/K/A WILLIAM D. SMITH, A/K/A WILLIAM SMITH and ANNETTE GEELEN SMITH, A/K/A ANNETTE G. SMITH, A/K/A ANNETTE SMITH, Defendants, pursuant to Order of Court dated July 10, 2008 (see copy attached) and for foreclosure and sale of the mortgaged premises, and assess Plaintiff's damages as follows:

As Set forth in Complaint	\$71,180.07
Interest 3/6/08 to 7/10/08	<u>2,659.86</u>
<b>TOTAL</b>	<b>\$73,839.93</b>

  
\_\_\_\_\_  
GREGORY JAVARDIAN, ESQUIRE  
Attorney for Plaintiff

Damages are hereby assessed as indicated.

DATE: SEPT. 23, 2008

  
\_\_\_\_\_  
PRO PROTHY

THE LAW OFFICES OF GREGORY JAVARDIAN  
BY: GREGORY JAVARDIAN  
ATTORNEY I.D. # 55669  
1310 INDUSTRIAL BOULEVARD  
1<sup>ST</sup> FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690.

FILED

AUG 22 2008

William A. Shaw  
Prothonotary/Clerk of Courts

Attorney for Plaintiff

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY,  
Plaintiff

COURT OF COMMON PLEAS

CIVIL DIVISION

CLEARFIELD COUNTY

vs.

WILLIAM DENNIS SMITH,  
A/K/A WILLIAM D. SMITH,  
A/K/A WILLIAM SMITH,  
ANNETTE GEELEN SMITH,  
A/K/A ANNETTE G. SMITH,  
A/K/A ANNETTE SMITH,

Defendants

No. 08-460-CD

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

AUG 22 2008

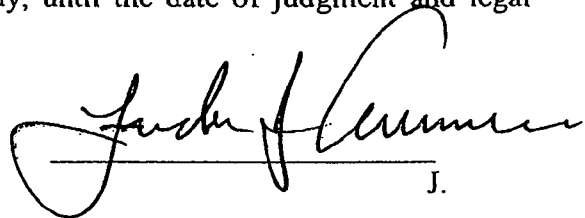
Attest.

William A. Shaw  
Prothonotary/  
Clerk of Courts

ORDER

AND NOW, this 10<sup>th</sup> day of July, 2008, upon consideration  
of Plaintiff's, Motion for Summary Judgment and any response thereto, it is hereby  
ORDERED and DECREED that Plaintiff's Motion for Summary Judgment is  
GRANTED.

AND Judgment is hereby entered in favor of Plaintiff and against Defendants,  
William Dennis Smith, a/k/a William D. Smith, a/k/a William Smith and Annette Geelen  
Smith, a/k/a Annette G. Smith, a/k/a Annette Smith, in the amount of \$71,180.07, plus  
interest, from March 6, 2008 at \$21.11 per day, until the date of judgment and legal  
interest thereafter.

  
J.

LAW OFFICES OF GREGORY JAVARDIAN  
By: GREGORY JAVARDIAN, ESQUIRE  
IDENTIFICATION NO. 55669  
1310 INDUSTRIAL BOULEVARD  
1ST FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

GREEN TREE CONSUMER DISCOUNT      COURT OF COMMON PLEAS  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY      CLEARFIELD COUNTY

vs.

No.: 08-460-CD

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH

**VERIFICATION OF NON-MILITARY SERVICE**

GREGORY JAVARDIAN, ESQUIRE, hereby verifies that he is attorney for the Plaintiff in the above-captioned matter, and that on information and belief, he has knowledge of the following facts, to wit:

(a) Defendants, WILLIAM DENNIS SMITH, A/K/A WILLIAM D. SMITH, A/K/A WILLIAM SMITH and ANNETTE GEELEN SMITH, A/K/A ANNETTE G. SMITH, A/K/A ANNETTE SMITH, are not in the Military or Naval Service of the United States or its Allies, or otherwise within the provisions of the Servicemembers' Civil Relief Act of Congress of 1940, as amended.

(b) Defendant, WILLIAM DENNIS SMITH, A/K/A WILLIAM D. SMITH, A/K/A WILLIAM SMITH, is over 18 years of age, and resides at SEC. 15 LOT 203 TREASURE LAKE, DU BOIS, PA 15801 (MAILING ADDRESS IS 437 TREASURE LAKE, DU BOIS, PA 15801).

(c) Defendant, ANNETTE GEELEN SMITH, A/K/A ANNETTE G. SMITH, A/K/A ANNETTE SMITH, is over 18 years of age, and resides at SEC. 15 LOT 203 TREASURE LAKE, DU BOIS, PA 15801 (MAILING ADDRESS IS 437 TREASURE LAKE, DU BOIS, PA 15801).

(d) Plaintiff, GREEN TREE CONSUMER DISCOUNT COMPANY, F/K/A CONSECO FINANCE CONSUMER DISCOUNT COMPANY, is an institution conducting business under the Laws of the Commonwealth of Pennsylvania with an address of 7360 SOUTH KYRENE ROAD, TEMPE, AZ 85283.

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

  
\_\_\_\_\_  
GREGORY JAVARDIAN, ESQUIRE

OFFICE OF THE PROTHONOTARY  
COURT OF COMMON PLEAS

TO: WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
ANNETTE GEELLEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH  
437 TREASURE LAKE  
DU BOIS, PA 15801

GREEN TREE CONSUMER DISCOUNT COURT OF COMMON PLEAS  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY CLEARFIELD COUNTY

Plaintiff No.: 08-460-CD

vs.

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
ANNETTE GEELLEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH

Defendants

NOTICE

Pursuant to Rule 236 of the Supreme Court of Pennsylvania, you are hereby notified that a Judgment has been entered against you in the above proceeding as indicated below.

☐ Judgment by Default  
☐ Money Judgment  
☐ Judgment in Replevin  
☐ Judgment for Possession by Default  
☐ Judgment on Award of Arbitration  
☐ Judgment on Verdict  
☒ Judgment on Court Findings

IF YOU HAVE ANY QUESTIONS CONCERNING THIS NOTICE, PLEASE CALL:

ATTORNEY: Gregory Javardian, Esquire at this telephone number: (215) 942-9690.

OFFICE OF THE PROTHONOTARY  
COURT OF COMMON PLEAS

TO: WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH  
437 TREASURE LAKE  
DU BOIS, PA 15801

GREEN TREE CONSUMER DISCOUNT COURT OF COMMON PLEAS  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY CLEARFIELD COUNTY

Plaintiff No.: 08-460-CD

vs.

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH

Defendants

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☒ Judgment on Court Findings

IF YOU HAVE ANY QUESTIONS CONCERNING THIS NOTICE, PLEASE CALL:

ATTORNEY: Gregory Javardian, Esquire at this telephone number: (215) 942-9690.

**PRAECIPE FOR WRIT OF EXECUTION--(MORTGAGE FORECLOSURE)**  
**P.R.C.P. 3180-3183**

**GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY**

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PA

No. 08-460-CD

vs.

PRAECIPE WRIT OF EXECUTION  
(MORTGAGE FORECLOSURE)

**WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
ANNETTE GEELLEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH**

To the Prothonotary:

Issue writ of execution in the above matter:

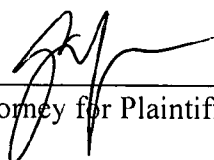
Amount Due \$73,839.93

Interest from 7/10/08 to \$  
Date of Sale at \$12.13 per diem

Total \$

Plus Costs \$

PROTHONOTARY COST. \$135. —

  
\_\_\_\_\_  
Attorney for Plaintiff(s)

Gregory Javardian, Esquire  
1310 Industrial Boulevard  
1st Floor, Suite 101  
Southampton, PA 18966

**FILED**  
SEP 23 2008  
11:30 AM  
William A. Shaw  
Prothonotary/Clerk of Courts  
Sent to Sheriff  
w/ 6 writs

Note: Please furnish copy of description of Property.

No. 08-460-CD

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

GREEN TREE CONSUMER DISCOUNT COMPANY, F/K/A  
CONSECO FINANCE CONSUMER DISCOUNT COMPANY

vs.

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
ANNETTE GELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH

---

**PRAECIPE FOR WRIT OF EXECUTION  
(Mortgage Foreclosure)**

Filed:



---

**Attorney for Plaintiff(s)**

**Address:** SEC. 15 LOT 203 TREASURE LAKE, DU BOIS, PA 15801

**Where papers may be served.**

ALL THAT CERTAIN tract of land situate, lying and being in the City of DuBois, Clearfield County, Pennsylvania, bounded and described as follows, to wit:

BEING known as Lots No. 23 and 24 as per McClelland and Barlow's Addition to the City of DuBois, bounded and described as follows, to wit:

BEGINNING at a post on Main Street and public road; thence by Main Street North  $34 \frac{1}{2}$  degrees East, a distance of 194 feet to a post on line of Lot No. 22, on the aforesaid plan of lots; thence East by said Lot No. 22, a distance of 150 feet to an alley; thence South  $34 \frac{1}{2}$  degrees West, a distance of 103.5 feet to a post on line of land now or formerly of Josephine Whitmore; thence South 88 degrees 55 minutes West, along the same, a distance of 168.5 feet to a post at public road; thence West along said public road a distance of 14 feet to a post and the place of beginning.

ALSO ALL THAT CERTAIN tract of land situate in Sandy Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a post on a public road leading from now or formerly of J.J. Daly's to now or formerly of Goodlander cut at corner of land now or formerly of McClelland and Barlow and land now or formerly Josephine M. Whitmore; thence Easterly by lands now or formerly of McClelland and Barlow, and by the course of the same, a distance of 168.5 feet to a post on the Western side on an alley on the McClelland and Barlow Addition to Dubois; thence Southerly by lands now or formerly of Josephine Whitmore, and residue of land of which this was a part, a distance of 133.3 feet more or less to a post on the Northern side of said public road a distance of 90 feet to a post, the place of beginning. BEING a triangular shaped piece of land.

BEING known as 228 DIXON AVENUE, DU BOIS, PA 15801

BEING THE SAME PREMISES which Rahn Ross and Darlene Ross, husband and wife, by Deed dated June 21, 1988 and recorded June 28, 1988 in the Office of the Recorder of Deeds in and for Clearfield County in Deed Book 1230, Page 242, granted and conveyed unto William Dennis Smith and Annette Geelen Smith, husband and wife.

MAP #7.5-010-000-02736

CONTROL NO. 007507319

SUBJECT TO MORTGAGE

**WRIT OF EXECUTION-(MORTGAGE FORECLOSURE)**  
**P.R.C.P. 3180 to 3183 and Rule 3257**

**GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY**

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

**vs.**

**NO.: 08-460-CD**

**WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
ANNETTE GELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH**

**WRIT OF EXECUTION  
(MORTGAGE FORECLOSURE)**

**Commonwealth of Pennsylvania:**

**County of CLEARFIELD:**

**TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA:**

**To satisfy the judgment, interest and costs in the above matter you are directed to levy  
upon and sell the following described property (specifically described property below):**

Premises: 228 DIXON AVENUE, DU BOIS, PA 15801


(See legal description attached.)

Amount Due \$73,839.93

Interest from 7/10/08 to \$  
Date of Sale at \$12.13 per diem

Total \$ Plus Cost \$ \_\_\_\_\_

as endorsed.

  
Prothonotary, Common Pleas Court  
of Clearfield County, Pennsylvania

Dated SEPT. 23, 2008  
(Seal)

No. 08-460-CD

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

GREEN TREE CONSUMER DISCOUNT COMPANY, F/K/A  
CONSECO FINANCE CONSUMER DISCOUNT COMPANY

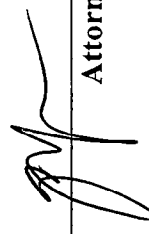
vs.

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
ANNETTE GEELLEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH

WRIT OF EXECUTION  
(Mortgage Foreclosure)

Costs

Prothy Paid \$ \_\_\_\_\_  
Writ, Ret. & Sat. \$ \_\_\_\_\_  
Total Cost \$ \_\_\_\_\_

  
\_\_\_\_\_  
Attorney for Plaintiff  
Address of Defendant(s)

Gregory Javardian, Esquire  
1310 Industrial Boulevard  
1<sup>st</sup> Floor, Suite 101  
Southampton, PA 18966

SEC. 15 LOT 203 TREASURE LAKE, DU BOIS, PA 15801

Where papers may be served.

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MAP #7.5-010-000-02736

CONTROL NO. 007507319

SUBJECT TO MORTGAGE

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

vs.

No.: 08-460-CD

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
ANNETTE GEELLEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH

**AFFIDAVIT PURSUANT TO RULE 3129.1**

Plaintiff in the above action sets forth as of the date the Praecipe for the Writ of Execution was filed the following information concerning the real property located at 228 DIXON AVENUE, DU BOIS, PA 15801:

1. Name and address of Owner(s) or reputed Owner(s):

Name

Last Known Address (if address cannot be  
reasonably ascertained, please indicate)

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH

SEC. 15 LOT 203 TREASURE LAKE  
DU BOIS, PA 15801  
MAILING ADDRESS IS:  
437 TREASURE LAKE  
DU BOIS, PA 15801

ANNETTE GEELLEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH

SEC. 15 LOT 203 TREASURE LAKE  
DU BOIS, PA 15801  
MAILING ADDRESS IS:  
437 TREASURE LAKE  
DU BOIS, PA 15801

2. Name and address of Defendant(s) in the judgment:

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH

SEC. 15 LOT 203 TREASURE LAKE  
DU BOIS, PA 15801  
MAILING ADDRESS IS:  
437 TREASURE LAKE  
DU BOIS, PA 15801

ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH

SEC. 15 LOT 203 TREASURE LAKE  
DU BOIS, PA 15801  
MAILING ADDRESS IS:  
437 TREASURE LAKE  
DU BOIS, PA 15801

3. Name and last known address of every judgment creditor whose judgment is a record lien on the real property to be sold:

Name	Last Known Address (if address cannot be reasonably ascertained, please indicate)
------	---

PA Department of Revenue  
Bureau of Compliance

P.O. Box 281230  
Harrisburg, PA 17128-1230

National Fuel Gas Distribution Corp.

1100 State Street  
Erie, PA 16506

4. Name and address of last recorded holder of every mortgage of record:

Name	Last Known Address (if address cannot be reasonably ascertained, please indicate)
------	---

Plaintiff.

Northwest Savings Bank

201 Bruxelles Street  
St. Mary's, PA 15857

5. Name and address of every other person who has any record lien on the property:

Name	Last Known Address (if address cannot be reasonably ascertained, please indicate)
------	---

None.

6. Name and address of every other person who has any record interest in the property and whose interest may be affected by the sale.

Name	Last Known Address (if address cannot be reasonably ascertained, please indicate)
Clearfield County Domestic Relations	230 E. Market Street Clearfield, PA 16830
Clearfield County Courthouse Tax Claim Bureau	230 E. Market Street, Suite 121 Clearfield, PA 16830
PA Department of Public Welfare Bureau of Child Support Enforcement	Health and Welfare Building – Room 432 P.O. Box 2675 Harrisburg, PA 17105-2675

7. Name and address of every other person of whom the plaintiff has knowledge who has any interest in the property which may be affected by the sale:

Name	Last Known Address (if address cannot be reasonably ascertained, please indicate)
Tenants/Occupants	228 DIXON AVENUE DU BOIS, PA 15801

I verify that the statements made in this affidavit are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are subject to the penalties of 18 Pa. C.S.A. 4904 relating to unsworn falsification to authorities.

  
\_\_\_\_\_  
GREGORY JAVARDIAN, ESQUIRE  
Attorney for Plaintiff

September 22, 2008

LAW OFFICES OF GREGORY JAVARDIAN  
By: GREGORY JAVARDIAN, ESQUIRE  
IDENTIFICATION NO. 55669  
1310 INDUSTRIAL BOULEVARD  
1ST FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

vs.

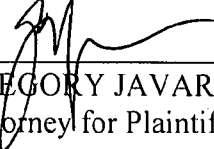
No.: 08-460-CD

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH

**CERTIFICATION TO SHERIFF OF CLEARFIELD COUNTY  
AS TO THE SALE OF REAL ESTATE**

I hereby certify that I am the attorney for the Plaintiff in this Mortgage Foreclosure  
Action and further certify this Property is:

- ☐ FHA
- ☐ Tenant Occupied
- ☐ Vacant
- ☐ Commercial
- ☐ As a result of Complaint in Assumpsit
- ☒ Act 91 complied with

  
\_\_\_\_\_  
GREGORY JAVARDIAN, ESQUIRE  
Attorney for Plaintiff

LAW OFFICES OF GREGORY JAVARDIAN  
By: GREGORY JAVARDIAN, ESQUIRE  
IDENTIFICATION NO. 55669  
1310 INDUSTRIAL BOULEVARD  
1ST FLOOR, SUITE 101  
SOUTHAMPTON, PA 18966  
(215) 942-9690

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

vs.

No.: 08-460-CD

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH

5  
**FILED** 1 CC Atty  
m/11/31/2008 Javardian  
NOV 24 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

**AFFIDAVIT OF SERVICE OF NOTICE OF SHERIFF'S SALE**  
**PURSUANT TO PaRCP 3129.2 (c) and PaRCP 403**

GREGORY JAVARDIAN, ESQUIRE, Attorney for Plaintiff, hereby certifies that service of the Notice of Sheriff's Sale was made by sending a true and correct copy by First-Class Certificate of Mailing Form 3817 to David J. Hopkins, Esquire and Lea Ann Heltzel, Esquire, Attorney of Record for Defendants, at 100 Meadow Lane, Suite 5, DuBois, PA 15801 on October 23, 2008 (see copy certificate of mailing attached).

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

Date: November 20, 2008

  
\_\_\_\_\_  
GREGORY JAVARDIAN, ESQUIRE  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20858  
NO: 08-460-CD

PLAINTIFF: GREEN TREE CONSUMER DISCOUNT COMPANY, F/K/A CONSECO FINANCE CONSUMER DISCOUNT COMPANY

VS.

DEFENDANT: WILLIAM DENNIS SMITH A/K/A WILLIAM D. SMITH, A/K/A WILLIAM SMITH AND ANNETTE GEELEN SMITH, A/K/A ANNETTE G. SMITH, A/K/A ANNETTE SMITH

Execution REAL ESTATE

SHERIFF RETURN

DATE RECEIVED WRIT: 9/23/2008

LEVY TAKEN 10/20/2008 @ 2:15 PM

POSTED 10/20/2008 @ 2:15 PM

SALE HELD

SOLD TO

SOLD FOR AMOUNT PLUS COSTS

WRIT RETURNED 3/16/2009

DATE DEED FILED **NOT SOLD**

FILED  
0/8:55 Lm  
MAR 16 2009  
William A. Shaw  
Prothonotary/Clerk of Courts

DETAILS

11/3/2008 @ 1:35 PM SERVED WILLIAM DENNIS SMITH, A/K/A WILLIAM D. SMITH ET AL

SERVED WILLIAM DENNIS SMITH A/K/A WILLIAM D. SMITH ET AL, DEFENDANT, AT HIS RESIDENCE SEC 15, LOT 203 TREASURE LAKE, 437 TRESURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVNIA BY HANDING TO WILIAM D. SMTH

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 ANNETTE GEELEN SMITH, A/K/A ANNETTE G. SMITH ET AL

DEPUTIES UNABLE TO SERVE ANNETTE GEELEN SMITH A/K/A ANNETTE G. SMITH ET AL, DEFENDANT, AT SECT 15, LOT 203 TREASURE LAKE, 437 TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA SHE IS DIVORCING HUSBAND AND MOVED OUT. WHERE

@ SERVED

NOW, JANUARY 8, 2009 RECEIVED A FAX LETTER FROM THE PLAINTIFF'S ATTORNEY TO STAY THE SHERIFF SALE SCHEDULED FOR JANUARY 9, 2009. THE DEPARTMETN OF TRANSPORTATION FILED A DECLARATION OF TAKING.

@ SERVED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20858  
NO: 08-460-CD

PLAINTIFF: GREEN TREE CONSUMER DISCOUNT COMPANY, F/K/A CONSECO FINANCE CONSUMER DISCOUNT COMPANY

vs.

DEFENDANT: WILLIAM DENNIS SMITH A/K/A WILLIAM D. SMITH, A/K/A WILLIAM SMITH AND ANNETTE GEELEN SMITH, A/K/A ANNETTE G. SMITH, A/K/A ANNETTE SMITH

Execution REAL ESTATE

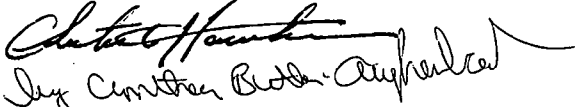
SHERIFF RETURN

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SHERIFF HAWKINS \$204.50

SURCHARGE \$40.00 PAID BY ATTORNEY

So Answers,

  
Chester A. Hawkins  
Sheriff

WRIT OF EXECUTION-(MORTGAGE FORECLOSURE)  
P.R.C.P. 3180 to 3183 and Rule 3257

GREEN TREE CONSUMER DISCOUNT  
COMPANY, F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

vs.

NO.: 08-460-CD

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
ANNETTE GELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH

WRIT OF EXECUTION  
(MORTGAGE FORECLOSURE)

Commonwealth of Pennsylvania:

County of CLEARFIELD:

TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA:

To satisfy the judgment, interest and costs in the above matter you are directed to levy upon and sell the following described property (specifically described property below):

Premises: 228 DIXON AVENUE, DU BOIS, PA 15801

(See legal description attached.)

Amount Due \$73,839.93

Interest from 7/10/08 to \$  
Date of Sale at \$12.13 per diem

Total \$

Plus Cost \$  
PROTHONOTARY COST  
\$135.-

as endorsed.

W. J. [Signature]  
Prothonotary, Common Pleas Court  
of Clearfield County, Pennsylvania

Dated SEPT. 23, 2008  
(Seal)

Received this writ this 23rd day  
of September A.D. 2008  
At 3:00 A.M./P.M.

Chester A. Hawks  
Sheriff [Signature]

No. 08-460-CD

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

GREEN TREE CONSUMER DISCOUNT COMPANY, F/K/A  
CONSECO FINANCE CONSUMER DISCOUNT COMPANY

vs.

WILLIAM DENNIS SMITH, A/K/A  
WILLIAM D. SMITH, A/K/A  
WILLIAM SMITH  
ANNETTE GEELEN SMITH, A/K/A  
ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH

WRIT OF EXECUTION  
(Mortgage Foreclosure)

Costs

Prothy Paid \$ \_\_\_\_\_  
Writ, Ret. & Sat. \$ \_\_\_\_\_  
Total Cost \$ \_\_\_\_\_

Gregory Javardian, Esquire  
1310 Industrial Boulevard  
1<sup>st</sup> Floor, Suite 101  
Southampton, PA 18966

Attorney for Plaintiff

Address of Defendant(s)

SEC. 15 LOT 203 TREASURE LAKE, DU BOIS, PA 15801

Where papers may be served.

ALL THAT CERTAIN tract of land situate, lying and being in the City of DuBois, Clearfield County, Pennsylvania, bounded and described as follows, to wit:

BEING known as Lots No. 23 and 24 as per McClelland and Barlow's Addition to the City of DuBois, bounded and described as follows, to wit:

BEGINNING at a post on Main Street and public road; thence by Main Street North  $34 \frac{1}{2}$  degrees East, a distance of 194 feet to a post on line of Lot No. 22, on the aforesaid plan of lots; thence East by said Lot No. 22, a distance of 150 feet to an alley; thence South  $34 \frac{1}{2}$  degrees West, a distance of 103.5 feet to a post on line of land now or formerly of Josephine Whitmore; thence South 88 degrees 55 minutes West, along the same, a distance of 168.5 feet to a post at public road; thence West along said public road a distance of 14 feet to a post and the place of beginning.

ALSO ALL THAT CERTAIN tract of land situate in Sandy Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at a post on a public road leading from now or formerly of J.J. Daly's to now or formerly of Goodlander cut at corner of land now or formerly of McClelland and Barlow and land now or formerly Josephine M. Whitmore; thence Easterly by lands now or formerly of McClelland and Barlow, and by the course of the same, a distance of 168.5 feet to a post on the Western side on an alley on the McClelland and Barlow Addition to Dubois; thence Southerly by lands now or formerly of Josephine Whitmore, and residue of land of which this was a part, a distance of 133.3 feet more or less to a post on the Northern side of said public road a distance of 90 feet to a post, the place of beginning. BEING a triangular shaped piece of land.

BEING known as 228 DIXON AVENUE, DU BOIS, PA 15801

BEING THE SAME PREMISES which Rahn Ross and Darlene Ross, husband and wife, by Deed dated June 21, 1988 and recorded June 28, 1988 in the Office of the Recorder of Deeds in and for Clearfield County in Deed Book 1230, Page 242, granted and conveyed unto William Dennis Smith and Annette Geelen Smith, husband and wife.

MAP #7.5-010-000-02736

CONTROL NO. 007507319

SUBJECT TO MORTGAGE

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**REAL ESTATE SALE  
SCHEDULE OF DISTRIBUTION**

NAME WILLIAM DENNIS SMITH, A/K/A WILLIAM D. SMITH ET AL

NO. 08-460-CD

NOW, March 15, 2009, 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 , I exposed the within described real estate of William Dennis Smith A/K/A William D. Smith, A/K/A William Smith And Annette Geelen Smith, A/K/A Annette G. Smith, A/K/A Annette Smith 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	22.23
LEVY	15.00
MILEAGE	22.23
POSTING	15.00
CSDS	10.00
COMMISSION	0.00
POSTAGE	5.04
HANDBILLS	15.00
DISTRIBUTION	25.00
ADVERTISING	15.00
ADD'L SERVICE	
DEED	
ADD'L POSTING	
ADD'L MILEAGE	
ADD'L LEVY	
BID/SETTLEMENT AMOUNT	
RETURNS/DEPUTIZE	
COPIES	15.00
	5.00
BILLING/PHONE/FAX	10.00
CONTINUED SALES	
MISCELLANEOUS	
<b>TOTAL SHERIFF COSTS</b>	<b>\$204.50</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	73,839.93
INTEREST @ 12.1300	0.00
FROM TO	
ATTORNEY FEES	
PROTH SATISFACTION	
LATE CHARGES AND FEES	
COST OF SUIT-TO BE ADDED	
FORECLOSURE FEES	
ATTORNEY COMMISSION	
REFUND OF ADVANCE	
REFUND OF SURCHARGE	40.00
SATISFACTION FEE	
ESCROW DEFICIENCY	
PROPERTY INSPECTIONS	
INTEREST	
MISCELLANEOUS	

<b>TOTAL DEBT AND INTEREST</b>	<b>\$73,879.93</b>
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**COSTS:**

ADVERTISING	1,723.35
TAXES - COLLECTOR	
TAXES - TAX CLAIM	
DUE	
LIEN SEARCH	
ACKNOWLEDGEMENT	
DEED COSTS	0.00
SHERIFF COSTS	204.50
LEGAL JOURNAL COSTS	126.00
PROTHONOTARY	135.00
MORTGAGE SEARCH	
MUNICIPAL LIEN	

<b>TOTAL COSTS</b>	<b>\$2,188.85</b>
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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

THE LAW  
Offices of

1310 Industrial Boulevard  
1<sup>st</sup> Floor, Suite 101  
Southampton, PA 18966

GREGORY JAVARDIAN

Phone: (215) 942-9690  
Fax: (215) 942-9695

January 8, 2009

Clearfield County Sheriff's Sale  
One North Second Street, Suite 116  
Clearfield, PA 16830

Attention: Cindy

Re: GREEN TREE CONSUMER DISCOUNT COMPANY, F/K/A  
CONSECO FINANCE CONSUMER DISCOUNT COMPANY  
v. WILLIAM DENNIS SMITH, A/K/A WILLIAM D. SMITH, A/K/A WILLIAM  
SMITH and ANNETTE GEELEN SMITH, A/K/A ANNETTE G. SMITH, A/K/A  
ANNETTE SMITH  
No. 08-460-CD  
Premises: 228 DIXON AVENUE, DU BOIS, PA 15801

Dear Cindy:

Please **STAY** the Sheriff's Sale of the above referenced property, which is scheduled for  
JANUARY 9, 2009.

The Department of Transportation filed a Declaration of Taking. No funds were received  
in consideration for the stay.

Very truly yours,



Marie Keen for  
Law Offices of Gregory Javardian

/mk

cc: GREEN TREE/LENSTAR  
File #88350003

VIA TELECOPY (814) 765-5915 AND REGULAR MAIL