

08-677-CD  
First Comm Bank vs T Dunlap al

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

CIVIL DIVISION

Plaintiff,

Case No. 08-677-C

vs.

THOMAS J. DUNLAP, d/b/a  
TOMMY D'S RESTAURANT  
AND CATERING,

COMPLAINT IN MORTGAGE  
FORECLOSURE

Defendant.

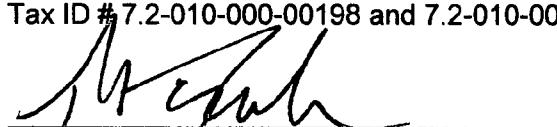
Filed on behalf of FIRST  
COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

I hereby certify that the property  
to be foreclosed upon is:

42 S. Brady Street  
DuBois, Pennsylvania 15801  
Tax ID # 7.2-010-000-00198 and 7.2-010-000-00199

  
\_\_\_\_\_  
Thomas E. Reiber, Esquire  
Michael J. Stauber, Esquire

FILED *Atty pd. 95.00*  
MAY 10 2008 BY ICC Sheriff  
APR 14 2008  
*LM*

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,	)	CIVIL DIVISION
f/k/a DEPOSIT BANK,	)	
	)	
Plaintiff,	)	Case No. _____
	)	
vs.	)	
	)	
THOMAS J. DUNLAP, d/b/a	)	
TOMMY D'S RESTAURANT	)	
AND CATERING,	)	
	)	
Defendant.	)	

**IMPORTANT NOTICE**

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

Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
P. O. Box 186  
Harrisburg, Pennsylvania 17108  
Telephone: (800) 692-7375

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,	)	CIVIL DIVISION
f/k/a DEPOSIT BANK,	)	
	)	
Plaintiff,	)	Case No. _____
	)	
vs.	)	
	)	
THOMAS J. DUNLAP, d/b/a	)	
TOMMY D'S RESTAURANT	)	
AND CATERING,	)	
	)	
Defendant.	)	

**AVISO**

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentir una comparecencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requerir que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

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**NOTICE**

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 YOU 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.

IF YOU HAVE FILED BANKRUPTCY AND RECEIVED A DISCHARGE, THIS IS NOT AN ATTEMPT TO COLLECT A DEBT. IT IS AN ACTION TO ENFORCE A LIEN ON REAL ESTATE.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
 )  
 Plaintiff, ) Case No. \_\_\_\_\_  
 )  
 vs. )  
 )  
 THOMAS J. DUNLAP, d/b/a )  
 TOMMY D'S RESTAURANT )  
 AND CATERING, )  
 )  
 Defendant. )

**COMPLAINT IN MORTGAGE FORECLOSURE**

AND NOW COMES the Plaintiff, First Commonwealth Bank, f/k/a Deposit Bank, by and through its counsel, Tucker Arensberg, P.C., and files the within Complaint in Mortgage Foreclosure, in support of which it avers the following:

1. Plaintiff, First Commonwealth Bank, f/k/a Deposit Bank (the "Bank"), is a banking association with business offices at 654 Philadelphia Street, P.O. Box 400, Indiana, Pennsylvania 15701-0400.

2. Defendant, Thomas J. Dunlap, d/b/a Tommy D's Restaurant and Catering, is an adult individual whose last known address is 412 Treasure Lake, Dubois, PA 15801.

**Count I**

3. The averments contained in paragraphs 1 and 2 are incorporated herein by reference.

4. On or about November 21, 1995, Defendant ("Borrower"), executed and delivered a Mortgage Note to the Bank whereby Borrower agreed to pay the Bank the principal amount of \$325,000.00, together with interest thereon in the manner provided therein ("Note-1"). A true and correct copy of Note-1 is attached hereto as Exhibit "A" and incorporated herein.

5. The obligations evidenced by Note-1 are secured by a Mortgage dated November 21, 1995 ("Mortgage-1"), given by Defendant to the Bank, granting the Bank a security interest in certain real property located in the City of DuBois, Clearfield County, Pennsylvania (the "Premises"). Mortgage-1 was recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, ("Recorder's Office") on November 21, 1995 at Book 1719, page 118. A true and correct copy of Mortgage-1, containing the legal description of the Premises, is attached hereto as Exhibit "B" and incorporated herein.

6. The Borrower is in default of the provisions of Note-1 for failure to make payments when due. As of March 6, 2008, payments on Note-1 were due for April 1, 2007 and all months thereafter.

7. Bank was not required to send Defendant written notice pursuant to 35 P.S. §1680.403C (Homeowner's Emergency Mortgage Assistance Act of 1983 - Act 91 of 1983) and 41 P.S. §403 (Act 6 of 1974) as the Premises is strictly commercial in nature.

8. The amount due Bank under Note-1 and Mortgage-1 as of March 6, 2008 is as follows:

Principal .....	\$ 50,971.90
Interest through March 6, 2008 .....	4,513.21
(per diem \$12.185903)	
Late Fees .....	0.00
Costs .....	to be added
Attorney's Fees .....	<u>to be added</u>
<b>TOTAL .....</b>	<b>\$ 55,485.11</b>

9. The total amount now due to the Bank under Note-1 as of March 6, 2008 was Fifty-Five Thousand Four Hundred Eighty-Five and 11/100 Dollars (455,485.11), plus interest accruing from March 6, 2008 at the contract rate, late charges, costs and reasonable attorneys' fees.

WHEREFORE, Plaintiff demands judgment in mortgage foreclosure on Note-1 and Mortgage-1 in the amount of Fifty-Five Thousand Four Hundred Eighty-Five and 11/100 Dollars

(\$55,485.11), plus interest accruing from March 6, 2008, late charges, reasonable attorneys' fees as authorized by Note-1, and costs of foreclosure and sale of the Premises.

**Count II**

10. The averments set forth in paragraphs 3 through 9 are incorporated herein by reference.

11. On or about December 7, 2001, Borrower executed and delivered a Promissory Note to the Bank whereby Borrower agreed to pay the Bank the principal amount of \$62,569.11, together with interest thereon in the manner provided therein ("Note-2"). A true and correct copy of Note-2 is attached hereto as Exhibit "C" and incorporated herein.

12. The obligations evidenced by Note-2 are secured by a Mortgage dated December 7, 2001 ("Mortgage-2"), given by Defendant to the Bank, granting the Bank a security interest in the Premises. Mortgage-2 was recorded in the Recorder's Office on December 7, 2001 at Instrument No. 200119662. A true and correct copy of Mortgage-2, containing the legal description of the Premises, is attached hereto as Exhibit "D" and incorporated herein.

13. The Borrower is in default of the provisions of Note-2 for failure to make payments when due. As of March 6, 2008, payments on Note-2 were due for April 1, 2007 and all months thereafter.

14. Bank was not required to send Defendant written notice pursuant to 35 P.S. §1680.403C (Homeowner's Emergency Mortgage Assistance Act of 1983 - Act 91 of 1983) and 41 P.S. §403 (Act 6 of 1974) as the Premises is strictly commercial in nature.

15. The amount due Bank under Note-2 and Mortgage-2 as of March 6, 2008 is as follows:

Principal .....	\$ 41,458.46
Interest through March 6, 2008 .....	3,845.27
(per diem \$10.364615)	
Late Fees .....	0.00
Costs.....	to be added
Attorney's Fees .....	<u>to be added</u>
<b>TOTAL .....</b>	<b>\$ 45,303.73</b>

16. The total amount now due to the Bank under Note-2 as of March 6, 2008 was Forty-Five Thousand Three Hundred Three and 73/100 Dollars (\$45,303.73), plus interest accruing from March 6, 2008 at the contract rate, late charges, costs and reasonable attorneys' fees.

WHEREFORE, Plaintiff demands judgment in mortgage foreclosure on Note-2 and Mortgage-2 in the amount of Forty-Five Thousand Three Hundred Three and 73/100 Dollars (\$45,303.73), plus interest accruing from March 6, 2008, late charges, reasonable attorneys' fees as authorized by Note-2, and costs of foreclosure and sale of the Premises.

**Count II**

WHEREFORE, Plaintiff demands judgment in mortgage foreclosure on Note-1 and Mortgage-1 and on Note-2 and Mortgage-2 in the total amount of One Hundred Thousand Seven Hundred Eighty-Eight and 41/100 Dollars (\$100,788.41), plus interest accruing from March 6, 2008, late charges, reasonable attorneys' fees as authorized by Note-1 and Note-2, and costs of foreclosure and sale of the Premises.

TUCKER ARENSBERG, P.C.



Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212  
Attorneys for First Commonwealth Bank,  
f/k/a Deposit Bank, Plaintiff

# Mortgage Note

\$ 325,000.00

DuBois

Pennsylvania

November 21, 1995

For Value Received, Thomas J. Dunlap, d/b/a Tommy D's Restaurant and Catering, City of DuBois, Clearfield

County, Pennsylvania

(hereinafter called "the Undersigned")

promises to pay to the order of Deposit Bank

its successors or assigns, in

lawful money of the United States of America, the sum of Three Hundred Twenty-Five Thousand and 00/100--

Dollars (\$ 325,000.00) and any additional moneys loaned or advanced by any holder hereof as hereinafter provided, as follows:

This Note contains provisions allowing for changes in the interest rate as explained in Exhibit "A" attached hereto and incorporated herein.

and any balance of principal or interest remaining unpaid on May 1, 2008 shall become due and payable on said date; and in addition thereto, in the event any payment provided for herein shall become overdue, the Undersigned agrees to pay a late charge in an amount not exceeding six per cent (6%) of any such overdue payment as compensation for the additional service resulting from the default; all payments to be made at any offices of Deposit Bank, 2 East Long Avenue, DuBois, PA 15801

, Pennsylvania or elsewhere as shall be directed by any holder hereof.

This Note shall evidence and the Mortgage given to secure its payment shall cover and be security for any future loans or advances that may be made to or on behalf of the Undersigned by any holder hereof at any time or times hereafter and intended by the Undersigned and the then holder to be so evidenced and secured, as well as any sums paid by any holder hereof pursuant to the terms of said Mortgage, and any such loans, advances or payments shall be added to and shall bear interest at the same rate as the principal debt.

In case default be made for the space of thirty (30) days in the payment of any installment of principal or interest, or in the performance by the Undersigned of any of the other obligations of this Note or said Mortgage, the entire unpaid balance of the principal debt, additional loans or advances and all other sums paid by any holder hereof to or on behalf of the Undersigned pursuant to the terms of this Note or said Mortgage, together with unpaid interest thereon, shall at the option of the holder and without notice become immediately due and payable, and one or more executions may forthwith issue on any judgment or judgments obtained by virtue hereof; and no failure on the part of any holder hereof to exercise any of the rights hereunder shall be deemed a waiver of any such rights or of any default hereunder.

The Undersigned hereby empowers any attorney of any court of record within the United States of America or elsewhere to appear for the Undersigned and, with or without complaint filed, confess judgment, or a series of judgments, against the Undersigned in favor of any holder hereof, as of any term, for the unpaid balance of the principal debt, additional loans or advances and all other sums paid by the holder hereof to or on behalf of the Undersigned pursuant to the terms of this Note or said Mortgage, together with unpaid interest thereon, costs of suit and an attorney's commission for collection of five per cent (5%) of the total indebtedness or \$200, whichever is the larger amount, on which judgment or judgments one or more executions may issue forthwith upon failure to comply with any of the terms and conditions of this Note or said Mortgage. The Undersigned hereby forever waives and releases all errors in said proceedings, waives stay of execution, the right of inquisition and extension of time of payment, agrees to condemnation of any property levied upon by virtue of any such execution, and waives all exemptions from levy and sale of any property that now is or hereafter may be exempted by law.

This obligation shall bind the Undersigned and the Undersigned's heirs, executors, administrators and assigns, and the benefits hereof shall inure to the payee hereof and its successors and assigns. If this Note is executed by more than one person, the undertakings and liability of each shall be joint and several.

This Note is secured by a Mortgage of even date herewith upon real estate described therein.

This Note is additionally secured by separate Security Agreements.

Witness the due execution hereof the day and year first above written.

Witnessed by:

Pat A. Heath

d/b/a Tommy D's Restaurant and Catering:

(SEAL)

(SEAL)

(SEAL)



Guaranty and Suretyship Agreement

For Value Received and intending to be legally bound, the Undersigned does hereby unconditionally guarantee and become surety for the due and punctual payment of each installment of principal of and interest on the within Mortgage Note as and when each said installment shall respectively become due and payable in accordance with the terms thereof, whether at maturity or by declaration, acceleration or otherwise, as well as all additional loans or advances and all other sums paid by any holder of said Note to or on behalf of the maker thereof pursuant to the terms of said Note or the Mortgage securing the same.

The Undersigned hereby waives any presentment for payment, notice of nonpayment, demand or protest, declares that this obligation is absolute and unconditional, and agrees that it shall not be released by any extension of time for payment or by any other matter or thing whatsoever whereby the Undersigned as absolute guarantor and surety otherwise would or might be released.

In case default be made for the space of thirty (30) days in the payment of any sums due under said Mortgage Note, the Undersigned hereby empowers any attorney of any court of record within the United States of America or elsewhere to appear for the Undersigned and, with or without complaint filed, confess judgment, or a series of judgments, against the Undersigned in favor of any holder thereof, as of any term, for the unpaid balance of the principal debt, additional loans or advances and all other sums paid by any holder thereof to or on behalf of the maker of said Mortgage Note pursuant to the terms thereof or of the Mortgage securing the same, together with interest thereon, costs of suit and an attorney's commission for collection of five per cent (5%) of the total indebtedness or \$200, whichever is the larger amount, on which judgment or judgments one or more executions may issue forthwith. The Undersigned hereby forever waives and releases all errors in said proceedings, waives stay of execution, the right of inquisition and extension of time of payment, agrees to condemnation of any property levied upon by virtue of any such execution, and waives all exemptions from levy and sale of any property that now is or hereafter may be exempted by law.

These presents shall bind the Undersigned and the Undersigned's heirs, executors, administrators and assigns, and the benefits hereof shall inure to the payee of said Mortgage Note, its successors and assigns. If executed by more than one person, this obligation and the undertakings hereunder shall be joint and several.

Witness the due execution hereof this

day of

, 19

Witnessed by:

.....(SEAL)

.....(SEAL)

Mortgage  
Note

FROM

TO



2 East Long Avenue P.O. Box 607A DuBois, PA 15801 (814) 371-2345  
Fax No. (814) 375-2312 3rd Floor Fax No. (814) 375-5400

**EXHIBIT "A" TO MORTGAGE NOTE DATED November 21, 1995**

\$325,000.00 together with interest thereon at the initial rate of 9.75 percent (9.75%) per annum payable within 12.50 years as follows:

"Interest Only" monthly on all monies advanced on or before May 1, 1996. Thereafter and beginning on June 1, 1996, initial monthly principal and interest payments of \$ 3,837.21 will commence and continue on the same day of each month until the principal debt and interest are paid in full, said payments to be applied first to the payment of interest and the balance to payment of principal.

The initial interest rate may change on November 1, 2000 and again on November 1, 2005.

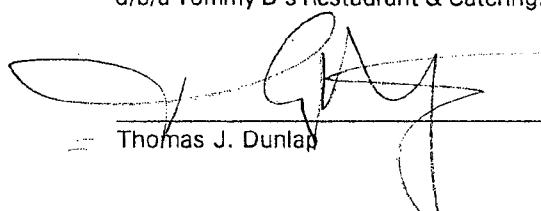
Any changes in the interest rate shall be based upon changes in the interest rate index, hereinafter called the index, which shall be the National Prime Rate + 1.00% in effect on the 1st of each month preceding the change date.

If the interest rate changes, the amount of the monthly payments will change as of the first monthly payment date after the change date and will always be sufficient to repay the loan in full in substantially equal payments by the final payment date. In setting the monthly payment amount on each change date, Bank will assume that the interest rate will not change again prior to the final payment date.

Bank will mail notice, containing the current and new interest rate and the current and new monthly payment at least 15 days before each change date if the interest rate is to change.

Undersigned shall have the right to prepay the principal of the loan in full at any time upon payment of the sum of 1% of the outstanding principal in addition to all other sums then due and owing on the loan.

d/b/a Tommy D's Restaurant & Catering:

  
Thomas J. Dunlap

# Mortgage

Made this 21st day of November, 1995

Between THOMAS J. DUNLAP, of Sandy Township,  
Clearfield County, Pennsylvania,

(hereinafter, whether one or more, called "Mortgagor")

And DEPOSIT BANK, a banking corporation  
organized and existing under the laws of the Commonwealth of Pennsylvania, with  
offices located at 2 East Long Avenue, P.O. Box 607A, DuBois, Clearfield County,  
Pennsylvania

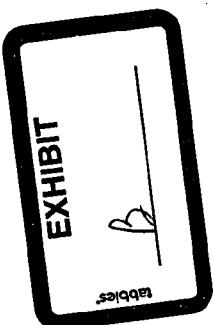
(hereinafter called "Mortgagee")

Whereas, Mortgagor has executed and delivered to Mortgagee a certain Mortgage Note (hereinafter called the  
"Note") of even date herewith, payable to the order of Mortgagee in the principal sum of---THREE HUNDRED TWENTY-  
FIVE THOUSAND and 00/100-----

----- Dollars (\$325,000.00),  
lawful money of the United States of America, and has provided therein for payment of any additional moneys loaned  
or advanced thereunder by Mortgagee, together with interest thereon at the rate provided in the note, in the manner  
and at the times therein set forth, and containing certain other terms and conditions, all of which are specifically  
incorporated herein by reference:

Now, Therefore, Mortgagor, in consideration of said debt or principal sum and as security for the payment of  
the same and interest as aforesaid, together with all other sums payable hereunder or under the terms of the Note,  
does grant and convey unto Mortgagee, its successors and assigns:

All those certain pieces, parcels or tracts of land situate, lying and being  
in the City of DuBois, Clearfield County, Pennsylvania, and being bounded and  
described as more particularly set forth on Exhibit "A" attached hereto and made  
a part hereof.



Together with the buildings and improvements erected thereon, the appurtenances thereunto belonging and the reversions, remainders, rents, issues and profits thereof.

To Have And To Hold the same unto Mortgagee, its successors and assigns, forever.

Provided, However, That if Mortgagor shall pay to Mortgagee the aforesaid debt or principal sum, including additional loans or advances and all other sums payable by Mortgagor to Mortgagee hereunder and under the terms of the Note, together with interest hereon, and shall keep and perform each of the other covenants, conditions, and agreements hereinafter set forth, then this Mortgage and the estate hereby granted and conveyed shall become void.

This Mortgage is executed and delivered subject to the following covenants, conditions and agreements:

(1) The Note secured hereby shall evidence and this Mortgage shall cover and be security for any future loans or advances that may be made by Mortgagee to Mortgagor at any time or times hereafter and intended by Mortgagor and Mortgagee to be so evidenced and secured, and such loans and advances shall be added to the principal debt.

(2) From time to time until said debt and interest are fully paid, Mortgagor shall: (a) pay and discharge, when and as the same shall become due and payable, all taxes, assessments, sewer and water rents, and all other charges and claims assessed or levied from time to time by any lawful authority upon any part of the mortgaged premises and which shall or might have priority in lien or payment to the debt secured hereby, (b) pay all ground rents reserved from the Mortgaged premises and pay and discharge all Mechanics' liens which may be filed against said premises and which shall or might have priority in lien or payment to the debt secured hereby, (c) pay and discharge any documentary stamp or other tax, including interest and penalties thereon, if any, now or hereafter becoming payable on the Note evidencing the debt secured hereby, (d) provide, renew and keep alive by paying the necessary premiums and charges thereon such policies of hazard and liability insurance as Mortgagee may from time to time require upon the buildings and improvements now or hereafter erected upon the mortgaged premises, with loss payable clauses in favor of Mortgagor and Mortgagee as their respective interest may appear, and (e) promptly submit to Mortgagee evidence of the due and punctual payment of all the foregoing charges; provided, however, that Mortgagee may at its option require that sums sufficient to discharge the foregoing charges be paid in installments to Mortgagee.

(3) Mortgagor shall maintain all buildings and improvements subject to this Mortgage in good and substantial repair, as determined by Mortgagee. Mortgagee shall have the right to enter upon the mortgaged premises at any reasonable hour for the purpose of inspecting the order, condition and repair of the buildings and improvements erected thereon.

(4) In the event Mortgagor neglects or refuses to pay the charges mentioned at (2) above, or fails to maintain the buildings and improvements as aforesaid, Mortgagee may do so, add the cost thereof to the principal debt secured hereby, and collect the same as a part of said principal debt.

(5) Mortgagor covenants and agrees not to create, nor permit to accrue, upon all or any part of the mortgaged premises, any debt, lien or charge which would be prior to, or on a parity with, the lien of this Mortgage.

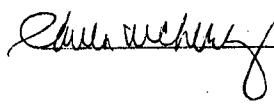
(6) In case default be made for the space of thirty (30) days in the payment of any installment of principal or interest pursuant to the terms of the Note, or in the performance by Mortgagor of any of the other obligations of the Note or this Mortgage, the entire unpaid balance of said principal sum, additional loans or advances and all other sums paid by Mortgagee pursuant to the terms of the Note or this Mortgage, together with unpaid interest thereon, shall at the option of Mortgagee and without notice become immediately due and payable, and foreclosure proceedings may be brought forthwith on this Mortgage and prosecuted to judgment, execution and sale for the collection of the same, together with costs of suit and an attorney's commission for collection of five per cent (5%) of the total indebtedness or \$200, whichever is the larger amount. Mortgagor hereby forever waives and releases all errors in said proceedings, waives stay of execution, the right of inquisition and extension of time of payment, agrees to condemnation of any property levied upon by virtue of any such execution, and waives all exemptions, from levy and sale of any property that now is or hereafter may be exempted by law.

(7) Mortgagor agrees not to transfer title to the mortgaged premises unless the Mortgagee consents in writing to such transfer. A transfer to the heirs or devisees of the Mortgagor in the event of the Mortgagor's death shall not come within the prohibition of the foregoing sentence.

The covenants, conditions and agreements contained in this Mortgage shall bind, and the benefits thereof shall inure to, the respective parties hereto and their respective heirs, executors, administrators, successors and assigns, and if this Mortgage is executed by more than one person, the undertakings and liability of each shall be joint and several.

Witness the due execution hereof of the day and year first above written.

Witnessed by:



Thomas J. Dunlap

(SEAL)

(SEAL)

(SEAL)

Commonwealth of Pennsylvania

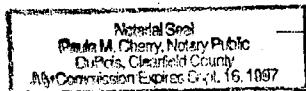
County of Clearfield

} ss.

On this, the 21st day of November, 1995, before me, a Notary Public, the undersigned officer, personally appeared THOMAS J. DUNLAP, satisfactorily proven to me to be the person whose name is subscribed to the within Mortgage, and acknowledged that he executed the same for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and official seal.

My commission expires:



*Paula M. Cherry*  
Notary Public

Commonwealth of Pennsylvania

County of

} ss.

On this, the day of , 19 , before me, the undersigned officer, personally appeared satisfactorily proven to me to be the person whose name is subscribed to the within Mortgage, and acknowledged that he executed the same for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and official seal.

My commission expires:

## Mortgage

FROM

THOMAS J. DUNLAP

TO

DEPOSIT BANK

GLEASON, CHERRY AND CHERRY, P.C.  
ATTORNEYS AT LAW  
One North Franklin Street  
P.O. Box 505  
DuBois, PA 15801-0505  
(814) 371-5800

### Certificate of Residence of Mortgagee

I do hereby certify that the precise residence and complete post office address of the within Mortgagee is:

2 East Long Avenue  
P.O. Box 607A  
DuBois, PA 15801

GLEASON, CHERRY AND CHERRY, P.C.

By \_\_\_\_\_

Attorney for \_\_\_\_\_ Mortgagee

Commonwealth of Pennsylvania

County of

} ss.

Recorded in the Office of the Recorder of Deeds in and for said County on the day of , 19 , in Mortgage Book Volume , page

Witness my hand and the seal of said office the day and year aforesaid.

Recorder.

Exhibit "A"

ALL those certain pieces, parcels or tracts of land situate, lying and being in the City of DuBois, Clearfield County, Pennsylvania, and being bounded and described as follows, to wit:

THE FIRST THEREOF:

BEGINNING at a post on the North side of South Brady Street, also known as State Route 219, being also the Southeast corner of land of Thomas J. Dunlap; thence along the easterly line of land of Thomas J. Dunlap in a Northwesterly direction, 138 feet to other lands of the DuBois Parking Authority; thence by same in a Northeasterly direction 50 feet to the Northwest corner of land of Paul D. Horchen; thence along the Westerly line of land of Paul D. Horchen in a Southeasterly direction 138 feet to a point in the Northerly line of South Brady Street (State Route 219); thence by the Northerly line of South Brady Street (State Route 219) in a Southwesterly direction 50 feet to a post and the place of beginning.

SAID CONVEYANCE IS MADE UNDER AND SUBJECT TO THE FOLLOWING EXCEPTIONS, RESERVATIONS, EASEMENTS, COVENANTS AND CONDITIONS:

1. Under and subject to all outstanding leases of oil and gas and it is hereby excepted and reserved from the above-described parcel of land all oil and gas, with rights of ingress and egress for removal of the same. Also excepting and reserving the right to store gas under the above-described premises.
2. Excepting and reserving all of the coal as the same has been reserved and/or conveyed in prior deeds.
3. Under and subject to all easements, servitudes and rights-of-way pertaining to the above-described premises.
4. The conveyance shall be subject to all City Zoning and land subdivision ordinances now in effect or that may be in effect at any time in the future.
5. Within one (1) year of completion of construction of the stipulated building, all areas of the above-described land not paved for driveways or parking shall be planted in grass and shrubbery.
6. Any and all fill needed for any areas of the premises herein conveyed shall be placed on the lot within two (2) years from the date of this deed, prior to the commencement of any landscaping on the premises.

7. In the event of any failure, neglect, or refusal by said Grantee, his heirs and assigns, to begin construction of a building within one (1) year from the date of this deed, and to complete construction within two (2) years from the date of this deed, the within conveyance shall become null and void, and title thereto shall revert to the City of DuBois, without any requirement of recompense or other reimbursements to the said Grantee herein by virtue of said reversion or retaking by the City of DuBois.

8. Grantee, his heirs and assigns, shall construct and maintain a 5-foot wide concrete sidewalk along the north side of said parcel for accessing Brady Street to the city parking lot and shall install and maintain security lighting along this area. Such construction and installation shall be completed no more than one (1) year after the completion of construction.

BEING the same premises which were conveyed to Thomas J. Dunlap, single, by deed of the City of DuBois dated July 10, 1995, and recorded in Clearfield County Deeds and Records Book Vol. 1707, Page 233, on September 28, 1995.

THE SECOND THEREOF: Situate on the corner of South Brady Street and West Washington Avenue and being bounded on the North by the property of DuBois Lodge No. 349, Benevolent Protective Order of Elks; on the East by South Brady Street; on the South by West Washington Avenue; and on the West by lands now or formerly of Hibner-Hoover Hardware Company, and being 26 feet, more or less in width on South Brady Street and extending Westward to the lands now or formerly of Hibner-Hoover Hardware Company, a distance of 139 feet, more or less.

BEING the same premises which were conveyed to Thomas J. Dunlap by deed of Patrick Valentine, et al., dated October 16, 1985, and recorded in Clearfield County Deeds and Records Book Vol. 1049, Page 176, on November 5, 1985.

# PROMISSORY NOTE

Principal \$62,569.11	Loan Date 12-07-2001	Maturity 12-01-2010	Loan No. 69570	Call/Call 0469014	Account 0469014	Officer PXH	Initials
References in the shaded area are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing **** has been omitted due to text length limitations.							

**Borrower:** THOMAS J. DUNLAP (SSN: 208-42-8205) DBA: **Lender:** Deposit Bank, a division of First Commonwealth Bank  
TOMMY D'S  
42 S. BRADY STREET  
DUBOIS, PA 15801  
Loan Administration Office  
2 East Long Avenue  
PO Box 607A  
Dubois, PA 15801  
(814) 371-2346

**Principal Amount:** \$62,569.11

**Date of Note:** December 7, 2001

**PROMISE TO PAY.** THOMAS J. DUNLAP ("Borrower") promises to pay to Deposit Bank, a division of First Commonwealth Bank ("Lender"), or order, in lawful money of the United States of America, the principal amount of Sixty-two Thousand Five Hundred Sixty-nine & 11/100 Dollars (\$62,569.11), together with interest at the rate of 6.750% per annum on the unpaid principal balance from December 7, 2001, until paid in full.

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

Notwithstanding the preceding disclosure of the interest rate to be charged, the following **INTEREST RATE AND MONTHLY PAYMENT CONDITIONS WILL PREVAIL**. All payments will be applied first to accrued and unpaid interest, then to principal, and any remaining amount to any unpaid collection costs and late charges. On December 1, 2013, the entire outstanding principal balance plus any due and unpaid interest thereon will be due and payable in full. (A) From date of first disbursement until the "Change Date" described below, interest will be charged at the initial rate of Six and three quarters per cent (6.75%). (B) The interest rate may change on December 7, 2006 and December 7, 2011. Each date on which the interest rate could change is called the "Change Date." (C) Beginning with the first Street Journal. If the Index is no longer available, the Lender will choose a new index which is based on comparable information. The Lender will give notice of this change. (D) The Lender will calculate the interest rate by adding three-quarters per cent (.75%) to the current index on each Change Date. (E) Interest and principal payments in the amount of Six Hundred Thirty-Five Dollars and Fourteen Cents (\$635.14) will be due and payable on January 1, 2002 and on the same day of each month thereafter until the first day of the first month following the Change date. At that time and following each Change Date thereafter the payment will be set to amortize the outstanding principal balance at the applicable interest rate by the loan maturity date.

Unless otherwise agreed or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs. The annual interest rate for this Note is computed on a 365/360 basis; that is, by applying the ratio of the annual interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. Borrower will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

**PREPAYMENT PENALTY.** Upon prepayment of this Note, Lender is entitled to the following prepayment penalty: **1% OF OUTSTANDING PRINCIPAL BALANCE.** Except for the foregoing, Borrower may pay all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Lender in writing, relieve Borrower of Borrower's obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in Borrower's making fewer payments. Borrower agrees not to send Lender payments marked "paid in full," "without recourse," or similar language. If Borrower sends such a payment, Lender may accept it without losing any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: Deposit Bank, a division of First Commonwealth Bank; Loan Administration Office; 2 East Long Avenue; PO Box 607A; Dubois, PA 15801.

**INTEREST AFTER DEFAULT.** Upon default, including failure to pay upon final maturity, Lender, at its option, may, if permitted under applicable law, increase the interest rate on this Note 5.000 percentage points. The interest rate will not exceed the maximum rate permitted by applicable law. If judgment is entered in connection with this Note, interest will continue to accrue on this Note after judgment at the existing interest rate provided for in this Note.

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

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

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

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

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

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

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the indebtedness or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the indebtedness evidenced by this Note. In the event of a death, Lender, at its option, may, but shall not be required to, permit the guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender, and, in doing so, cure any Event of Default.

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

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

**Cure Provisions.** If any default, other than a default in payment is curable and if Borrower has not been given a notice of a breach of the same provision of this Note within the preceding twelve (12) months, it may be cured (and no event of default will have occurred) if Borrower, after receiving written notice from Lender demanding cure of such default: (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**LENDER'S RIGHTS.** Upon default, Lender may, after giving such notices as required by applicable law, declare the entire unpaid principal balance on this Note and all accrued unpaid interest immediately due, and then Borrower will pay that amount.

**EXPENSES.** If Lender institutes any suit or action to enforce any of the terms of this Note, Lender shall be entitled to recover such sum as the court may adjudge reasonable. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the loan payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals, to the extent permitted by applicable law. Borrower also will pay any court costs, in addition to all other sums provided by law.

**JURY WAIVER.** Lender and Borrower hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by either Lender or Borrower against the other.

**RIGHT OF SETOFF.** To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower

EXHIBIT C

authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any and all such accounts, and, at Lender's option, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights.

**COLLATERAL.** Borrower acknowledges this Note is secured by MORTGAGE OF EVEN DATE HEREWITHE ON REAL ESTATE DESCRIBED IN CLEARFIELD COUNTY DEED BOOK VOLUME 1707, PAGE 233 AND DEED BOOK VOLUME 1049, PAGE 176. SECOND LIEN POSITION AND SECURITY INTEREST IN ALL ACCOUNTS RECEIVABLE, INVENTORY, FURNITURE, FIXTURES, EQUIPMENT AND LIQUOR LICENSE, NOW OWNED AND HEREAFTER ACQUIRED AND THE PRODUCTS AND PROCEEDS THEREOF.

**LIMITATION OF ACTION.** If the Borrower has any cause of action against the Lender, now or in the future, arising out of the Related Documents and the transactions contemplated by the Related Documents, whether in contract or tort or otherwise, the Borrower must assert the claim within one year of the occurrence of the event which gives rise to a cause of action. If the Borrower does not assert the claim within one year of the occurrence of a cause of action, the Borrower will be barred from asserting the claim. Borrower and Lender agree that the one year time period is reasonable and sufficient for the Borrower to investigate and act upon the claim and that the provision shall not be construed as a limitation on the Borrower's right to sue for any claim which is not timely asserted.

**LATE CHARGE.** A late charge will be assessed in the amount of 5% of the regular payment or portion thereof that remains unpaid for more than ten (10) days beyond the due date. The minimum late charge amount is \$25.00. This charge will be immediately due and payable.

**GENERAL PROVISIONS.** Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees, or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several. If any portion of this Note is for any reason determined to be unenforceable, it will not affect the enforceability of any other provisions of this Note.

**CONFESSTION OF JUDGMENT.** Borrower hereby irrevocably authorizes and empowers any attorney or the Prothonotary or Clerk of any Court in the Commonwealth of Pennsylvania, or elsewhere, to appear at any time for Borrower and, with or without complaint filed, as of any term, confess or enter judgment against Borrower for the entire principal balance of this Note and all accrued interest, together with costs of suit, and an attorney's commission of ten percent (10%) of the unpaid principal balance and accrued interest for collection, but in any event not less than Five Hundred Dollars (\$500); and for so doing, this Note or a copy of this Note verified by affidavit shall be sufficient warrant. The authority granted in this Note to confess judgment against Borrower shall not be exhausted by any exercise of that authority, but shall continue from time to time and at all times until payment in full of all amounts due under this Note.

**PRIOR TO SIGNING THIS NOTE, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO PAY THE PRINCIPAL, INTEREST AND ALL OTHER EXPENSES AS PROVIDED FOR IN THIS NOTE.**

BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE.  
THIS NOTE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS NOTE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A  
SEALED INSTRUMENT ACCORDING TO LAW.

BORROWER.

THOMAS J. DUNLAP, individually. (Seal)

1 FENDER.

DEPOSIT BANK, A DIVISION OF FIRST COMMUNITY BANK

 Robert S. Clegg  
Authorized Signer

**RECORDATION REQUESTED BY:**  
 Deposit Bank, a division of First Commonwealth Bank  
 Loan Administration Office  
 2 East Long Avenue  
 PO Box 607A  
 Dubois, PA 15801

**WHEN RECORDED MAIL TO:**  
 Deposit Bank, a division of First Commonwealth Bank  
 Loan Administration Office  
 2 East Long Avenue  
 PO Box 607A  
 Dubois, PA 15801

**SEND TAX NOTICES TO:**  
 THOMAS J. DUNLAP  
 42 S. BRADY STREET  
 DUBOIS, PA 15801

KAREN L. STARCK  
 REGISTER AND RECORDER  
 CLEARFIELD COUNTY  
 Pennsylvania  
 INSTRUMENT NUMBER  
 200119662  
 RECORDED ON  
 Dec 07, 2001  
 1:51:09 PM  
 Total Pages: 7

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

## MORTGAGE

THIS MORTGAGE dated December 7, 2001, is made and executed between THOMAS J. DUNLAP, whose address is 42 S. BRADY STREET, DUBOIS, PA 15801 (referred to below as "Grantor") and Deposit Bank, a division of First Commonwealth Bank, whose address is 2 East Long Avenue, PO Box 607A, Dubois, PA 15801 (referred to below as "Lender").

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

See ATTACHED EXHIBIT "A", which is attached to this Mortgage and made a part of this Mortgage as if fully set forth herein.

**The Real Property or its address is commonly known as 42 S. BRADY STREET, DUBOIS, PA 15801.**

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

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

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

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

**Possession and Use.** Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

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

**Compliance With Environmental Laws.** Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

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

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

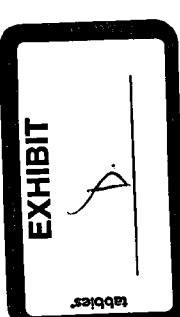
**Lender's Right to Enter.** Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

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

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

**Payment.** Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services



rendered or material furnished to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the interest of Lender under this Mortgage, except for the Existing Indebtedness referred to in this Mortgage or those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph.

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

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

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

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

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on an actual cash value basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption and boiler insurance as Lender may require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds \$5,000.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

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

**Compliance with Existing Indebtedness.** During the period in which any Existing Indebtedness described below is in effect, compliance with the insurance provisions contained in the instrument evidencing such Existing Indebtedness shall constitute compliance with the insurance provisions under this Mortgage, to the extent compliance with the terms of this Mortgage would constitute a duplication of insurance requirement. If any proceeds from the insurance become payable on loss, the provisions in this Mortgage for division of proceeds shall apply only to that portion of the proceeds not payable to the holder of the Existing Indebtedness.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Mortgage or any Related Documents, including but not limited to Grantor's failure to comply with any obligation to maintain Existing Indebtedness in good standing as required below, or to discharge or pay when due any amounts Grantor is required to discharge or pay under this Mortgage or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Mortgage also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default. Grantor's obligation to Lender for all such expenses shall survive the entry of any mortgage foreclosure judgment.

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

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

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

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

**Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantor in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's Indebtedness shall be paid in full.

**EXISTING INDEBTEDNESS.** The following provisions concerning Existing Indebtedness are a part of this Mortgage:

**Existing Lien.** The lien of this Mortgage securing the Indebtedness may be secondary and inferior to the lien securing payment of an existing obligation with an account number of 2069008-69164 to DEPOSIT BANK. The existing obligation has a current principal balance of approximately \$220,919.00 and is in the original principal amount of \$325,000.00. The obligation has the following payment terms: \$3,933.13 per Month. Grantor expressly covenants and agrees to pay, or see to the payment of, the Existing Indebtedness and to prevent any default on such indebtedness, any default under the instruments evidencing such indebtedness, or any default under any security documents for such indebtedness.

**No Modification.** Grantor shall not enter into any agreement with the holder of any mortgage or other security agreement which has priority over this Mortgage by which that agreement is modified, amended, extended, or renewed without the prior written consent of Lender. Grantor shall neither request nor accept any future advances under any such security agreement without the prior written consent of Lender.

**CONDEMNATION.** The following provisions relating to condemnation proceedings are a part of this Mortgage:

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be

entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

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

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

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**Taxes.** The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (3) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

**Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

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

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

**Security Interest.** Upon request by Lender, Grantor shall execute financing statements and take whatever other action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

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

**FURTHER ASSURANCES; ADDITIONAL AUTHORIZATIONS.** The following provisions relating to further assurances and additional authorizations are a part of this Mortgage:

**Further Assurances.** At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Mortgage, and the Related Documents, and (2) the liens and security interests created by this Mortgage on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Additional Authorizations.** If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably authorizes Lender to make, execute, deliver, file, record and do all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph. It is understood that nothing set forth herein shall require Lender to take any such actions.

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

**EVENTS OF DEFAULT.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**Payment Default.** Grantor fails to make any payment when due under the Indebtedness.

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

**Other Defaults.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

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

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

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

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

**Existing Indebtedness.** The payment of any installment of principal or any interest on the Existing Indebtedness is not made within the time required by the promissory note evidencing such indebtedness, or a default occurs under the instrument securing such indebtedness and is not cured during any applicable grace period in such instrument, or any suit or other action is commenced to foreclose any existing lien on the Property.

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

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

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

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

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

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

**Accelerate Indebtedness.** Lender shall have the right at its option, after giving such notices as required by applicable law, to declare the entire Indebtedness immediately due and payable.

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

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

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

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

**Possession of the Property.** For the purpose of procuring possession of the Property, Grantor hereby authorizes and empowers any attorney of any court of record in the Commonwealth of Pennsylvania or elsewhere, as attorney for Lender and all persons claiming under or through Lender, to sign an agreement for entering in any competent court an amicable action in ejectment for possession of the Property and to appear for and confess judgment against Grantor, and against all persons claiming under or through Grantor, for the recovery by Lender of possession of the Property, without any stay of execution, for which this Mortgage, or a copy of this Mortgage verified by affidavit, shall be a sufficient warrant; and thereupon a writ of possession may be issued forthwith, without any prior writ or proceeding whatsoever.

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

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

**Tenancy at Sufferance.** If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

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

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

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

**Election of Remedies.** Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Mortgage, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies. Nothing under this Mortgage or otherwise shall be construed so as to limit or restrict the rights and remedies available to Lender following an Event of Default, or in any way to limit or restrict the rights and ability of Lender to proceed directly against Grantor and/or against any other co-maker, guarantor, surety or endorser and/or to proceed against any other collateral directly or indirectly securing the Indebtedness.

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

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

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

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

**Annual Reports.** If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

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

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

**Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the

offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Mortgage. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Mortgage shall not affect the legality, validity or enforceability of any other provision of this Mortgage.

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

**Successor Interests.** The terms of this Mortgage shall be binding upon Grantor, and upon Grantor's heirs, personal representatives, successors, and assigns, and shall be enforceable by Lender and its successors and assigns.

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

**Waive Jury.** All parties to this Mortgage hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Mortgage. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Borrower.** The word "Borrower" means THOMAS J. DUNLAP, and all other persons and entities signing the Note in whatever capacity.

**Default.** The word "Default" means the Default set forth in this Mortgage in the section titled "Default".

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 6901, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

**Existing Indebtedness.** The words "Existing Indebtedness" mean the indebtedness described in the Existing Liens provision of this Mortgage.

**Grantor.** The word "Grantor" means THOMAS J. DUNLAP.

**Guaranty.** The word "Guaranty" means the guaranty from guarantor, endorser, surety, or accommodation party to Lender, including without limitation a guaranty of all or part of the Note.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Improvements.** The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Mortgage, together with interest on such amounts as provided in this Mortgage.

**Lender.** The word "Lender" means Deposit Bank, a division of First Commonwealth Bank, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage between Grantor and Lender.

**Note.** The word "Note" means the promissory note dated December 7, 2001, in the original principal amount of \$62,569.11 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The maturity date of this Mortgage is December 1, 2013.

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

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

**Real Property.** The words "Real Property" mean the real property, interests and rights, as further described in this Mortgage.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guarantees, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

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

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS. THIS MORTGAGE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS MORTGAGE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.

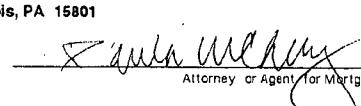
GRANTOR:

X   
THOMAS J. DUNLAP, Individually

(Seal)

#### CERTIFICATE OF RESIDENCE

I hereby certify, that the precise address of the mortgagee, Deposit Bank, a division of First Commonwealth Bank, herein is as follows:  
Loan Administration Office, 2 East Long Avenue, PO Box 607A, Dubois, PA 15801

  
Elizabeth Murphy

Attorney or Agent for Mortgagee

## INDIVIDUAL ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA

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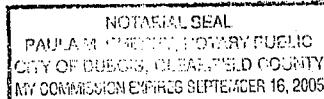
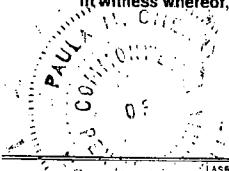
COUNTY OF CLEARFIELD

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On this, the 7th day of December, 2001, before me Paula M. Cherry  
proven) to be the person whose name is subscribed to the within instrument; and acknowledged that he or she executed the same for the purposes  
therein contained.

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



*Paula M. Cherry*  
Notary Public in and for the State of Pennsylvania

Exhibit "A"

ALL those certain pieces, parcels or tracts of land situate, lying and being in the City of DuBois, Clearfield County, Pennsylvania, and being bounded and described as follows, to wit:

THE FIRST THEREOF: Situate on the corner of South Brady Street and West Washington Avenue and being bounded on the North by the property of DuBois Lodge No. 349, Benevolent Protective Order of Elks; on the East by South Brady Street; on the South by West Washington Avenue; and on the West by lands now or formerly of Hibner-Hoover Hardware Company, and being 26 feet, more or less, in width on South Brady Street and extending Westward to the lands now or formerly of Hibner-Hoover Hardware Company, a distance of 139 feet, more or less:

BEING the same premises which were conveyed to Thomas J. Dunlap by Deed of Patrick Valentine, et al., dated October 16, 1985, and recorded in Clearfield County Deeds and Records Book Vol. 1049, Page 176, on November 5, 1985.

THE SECOND THEREOF: BEGINNING at a post on the North side of South Brady Street, also known as State Route 219, being also the Southeast corner of land of Thomas J. Dunlap; thence along the easterly line of land of Thomas J. Dunlap in a Northwesterly direction, 138 feet to other lands of the DuBois Parking Authority; thence by same in a Northeasterly direction 50 feet to the Northwest corner of land of Paul D. Horchen; thence along the Westerly line of land of Paul D. Horchen in a Southeasterly direction 138 feet to a point in the Northerly line of South Brady Street (State Route 219); thence by the Northerly line of South Brady Street (State Route 219) in a Southwesterly direction 50 feet to a post and the place of beginning.

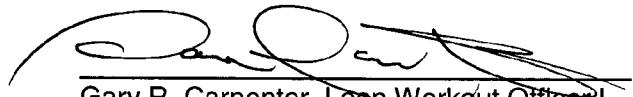
SAID CONVEYANCE IS MADE UNDER AND SUBJECT TO THE FOLLOWING EXCEPTIONS, RESERVATIONS, EASEMENTS, COVENANTS AND CONDITIONS:

1. Under and subject to all outstanding leases of oil and gas and it is hereby excepted and reserved from the above-described parcel of land all oil and gas, with rights of ingress and egress for removal of the same. Also excepting and reserving the right to store gas under the above-described premises.
2. Excepting and reserving all of the coal as the same has been reserved and/or conveyed in prior deeds.
3. Under and subject to all easements, servitudes and rights-of-way pertaining to the above-described premises.
4. The conveyance shall be subject to all City Zoning and land subdivision ordinances now in effect or that may be in effect at any time in the future.
5. Within one (1) year of completion of construction of the stipulated building, all areas of the above-described land not paved for driveways or parking shall be planted in grass and shrubbery.
6. Any and all fill needed for any areas of the premises herein conveyed shall be placed on the lot within two (2) years from the date of this deed, prior to the commencement of any landscaping on the premises.
7. In the event of any failure, neglect, or refusal by said Grantee, his heirs and assigns, to begin construction of a building within one (1) year from the date of this deed, and to complete construction within two (2) years from the date of this deed, the within conveyance shall become null and void, and title thereto shall revert to the City of DuBois, without any requirement of recompense or other reimbursements to the said Grantee herein by virtue of said reversion or retaking by the City of DuBois.
8. Grantee, his heirs and assigns, shall construct and maintain a 5-foot wide concrete sidewalk along the north side of said parcel for accessing Brady Street to the city parking lot and shall install and maintain security lighting along this area. Such construction and installation shall be completed no more than one (1) year after the completion of construction.

BEING the same premises which were conveyed to Thomas J. Dunlap, single, by Deed of the City of DuBois, dated July 10, 1995, and recorded in Clearfield County Deeds and Records Book Vol. 1707, Page 233, on September 28, 1995.

**VERIFICATION**

I, Gary R. Carpenter, Loan Workout Officer, First Commonwealth Bank, do hereby depose and say, subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities, that the facts set forth in the foregoing Complaint in Mortgage Foreclosure are true and correct upon my information and belief. I further depose and say that, in my position as Loan Workout Officer, I am duly authorized to make this authorization on behalf of the Bank.



Gary R. Carpenter, Loan Workout Officer  
First Commonwealth Bank

320576.1:BF  
11555-131955

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

Plaintiff,

vs.

THOMAS J. DUNLAP, d/b/a  
TOMMY D'S RESTAURANT  
AND CATERING,

Defendant.

CIVIL DIVISION

No. 08-677-CD

MOTION TO AMEND COMPLAINT

Filed on behalf of FIRST  
COMMONWEALTH BANK, f/k/a  
DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

FILED *mt/10/23/08* No. CC  
APR 24 2008  
(6)

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,	)	CIVIL DIVISION
f/k/a DEPOSIT BANK,	)	
	)	
Plaintiff,	)	No. 08-767-CD
	)	
vs.	)	
	)	
THOMAS J. DUNLAP, d/b/a	)	
TOMMY D'S RESTAURANT	)	
AND CATERING,	)	
	)	
Terre Tenant.	)	

**MOTION TO AMEND COMPLAINT**

AND NOW comes the Plaintiff, First Commonwealth Bank, f/k/a Deposit Bank, by and through its attorneys, Tucker Arensberg, P.C., and files the within Motion to Amend its Complaint, averring as follows:

1. This is an action in mortgage foreclosure against Thomas J. Dunlap, d/b/a Tommy D's Restaurant and Catering (the "Defendant").
2. The Complaint in Mortgage Foreclosure ("Complaint") was filed on April 14, 2008.
3. Following the filing of the Complaint, Plaintiff discovered two federal tax liens of record ("Federal Tax Liens") as follows:
  - a. No. 2006-547-CD, filed April 7, 2006 in the amount of \$76,595.26; and
  - b. No. 2006-1438-CD, filed September 5, 2006 in the amount of \$21,984.58.

True and correct copies of the Federal Tax Liens are attached hereto and incorporated herein as Exhibit "A".

4. As a result of the Federal Tax Liens, Plaintiff desires to include the United States of America as a terre tenant to the within action. A copy of Plaintiff's proposed Amended Complaint is attached hereto and incorporated herein as Exhibit "B".

WHEREFORE, Plaintiff, First Commonwealth Bank, f/k/a Deposit Bank, prays that this Honorable Court grant their Motion and enter an Order allowing the Plaintiff to amend its Complaint to include the United States of America as Terre Tenant, and granting such other relief as this Court deems just and fair.

TUCKER ARENSBERG, P.C.

By: 

Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

Attorneys for First Commonwealth Bank,  
f/k/a Deposit Bank, Plaintiff

323963.1:BF  
11555-131955

Form 668 (Y)(c)  
(Rev. February 2004)

1872

Department of the Treasury - Internal Revenue Service  
**Notice of Federal Tax Lien**

Area:  
SMALL BUSINESS/SELF EMPLOYED AREA #2  
Lien Unit Phone: (800) 913-6050

Serial Number

For Optional Use by Recording Office

281234206

2006-547-CD

As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

Name of Taxpayer THOMAS J DUNLAP

Residence TREASURE LAKE BOX 412  
DUBOIS, PA 15801-9009

FILED

APR 07 2008

AC 1227/w3  
William A. Shaw  
Prothonotary/Clerk of Courts

**IMPORTANT RELEASE INFORMATION:** For each assessment listed below, unless notice of the lien is filed by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
940	12/31/2004	25-1507130	01/02/2006	02/01/2016	4114.49
941	09/30/2003	25-1507130	12/15/2003	01/14/2014	310.07
941	03/31/2004	25-1507130	06/28/2004	07/28/2014	337.84
941	06/30/2004	25-1507130	10/11/2004	11/10/2014	2114.51
941	09/30/2004	25-1507130	12/26/2005	01/25/2016	3234.55
941	12/31/2004	25-1507130	12/26/2005	01/25/2016	19945.33
941	03/31/2005	25-1507130	12/26/2005	01/25/2016	17424.86
941	06/30/2005	25-1507130	12/19/2005	01/18/2016	16191.60
941	09/30/2005	25-1507130	12/26/2005	01/25/2016	12922.01

Place of Filing

Clearfield Prothonotary  
Clearfield County

Total 6 7500 00

EXHIBIT

tabler

A.

1872

Department of the Treasury - Internal Revenue Service

Form 668 (Y)(c)

(Rev. February 2004)

For Optional Use by Recording Office

Ole-1438-CL

Area: SMALL BUSINESS/SELF EMPLOYED AREA #2  
Lien Unit Phone: (800) 913-6050  
Serial Number 312988605

**As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.**

Name of Taxpayer THOMAS J DUNLAP

Residence DBA TOMMY DS  
DUBOIS, PA 15801-0000

**IMPORTANT RELEASE INFORMATION:** For each assessment listed below, unless notice of the lien is refiled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
940	12/31/2005	25-1507130	05/08/2006	06/07/2016	4836.99
941	12/31/2005	25-1507130	05/22/2006	06/21/2016	9407.64
941	03/31/2006	25-1507130	06/26/2006	07/26/2016	7739.95

**FILED** ICC PPF  
M/31/06 OFF PD  
SEP 05 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

Place of Filing	
Clearfield Prothonotary Clearfield County Clearfield, PA 16830	Total \$ 21984.58

This notice was prepared and signed at DETROIT, MI , on this,

the 25th day of August 2006

Signature R. A. Mitchell Title REVENUE OFFICER  
for ROBERT T MILLER (814) 533-4214 22-06-1910

(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax Lien

Rev. Rul. 71-465, 1971-2 C.B. 409)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

CIVIL DIVISION

Plaintiff,

Case No. \_\_\_\_\_

vs.

THOMAS J. DUNLAP, d/b/a  
TOMMY D'S RESTAURANT  
AND CATERING,

AMENDED COMPLAINT IN  
MORTGAGE FORECLOSURE

Defendant,

and

THE UNITED STATES OF AMERICA,

Terre Tenant.

Filed on behalf of FIRST  
COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

I hereby certify that the property  
to be foreclosed upon is:

42 S. Brady Street  
DuBois, Pennsylvania 15801  
Tax ID # 7.2-010-000-00198 and 7.2-010-000-00199

---

Thomas E. Reiber, Esquire  
Michael J. Stauber, Esquire

EXHIBIT

*B*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, f/k/a DEPOSIT BANK,	)	CIVIL DIVISION
	)	
Plaintiff,	)	Case No. _____
	)	
vs.	)	
	)	
THOMAS J. DUNLAP, d/b/a TOMMY D'S RESTAURANT AND CATERING,	)	
	)	
Defendant,	)	
	)	
and	)	
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Terre Tenant.	)	

**IMPORTANT NOTICE**

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

Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
P. O. Box 186  
Harrisburg, Pennsylvania 17108  
Telephone: (800) 692-7375

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,	)	CIVIL DIVISION
f/k/a DEPOSIT BANK,	)	
	)	
Plaintiff,	)	Case No. _____
	)	
vs.	)	
	)	
THOMAS J. DUNLAP, d/b/a	)	
TOMMY D'S RESTAURANT	)	
AND CATERING,	)	
	)	
Defendant,	)	
	)	
and	)	
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Terre Tenant.	)	

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentir una comparecencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requerir que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
P. O. Box 186  
Harrisburg, Pennsylvania 17108  
Telephone: (800) 692-7375

**NOTICE**

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 YOU 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.

IF YOU HAVE FILED BANKRUPTCY AND RECEIVED A DISCHARGE, THIS IS NOT AN ATTEMPT TO COLLECT A DEBT. IT IS AN ACTION TO ENFORCE A LIEN ON REAL ESTATE.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
)  
Plaintiff, ) Case No. \_\_\_\_\_  
)  
vs. )  
)  
THOMAS J. DUNLAP, d/b/a )  
TOMMY D'S RESTAURANT )  
AND CATERING, )  
)  
Defendant, )  
)  
and )  
)  
THE UNITED STATES OF AMERICA, )  
)  
Terre Tenant. )

**AMENDED COMPLAINT IN MORTGAGE FORECLOSURE**

AND NOW COMES the Plaintiff, First Commonwealth Bank, f/k/a Deposit Bank, by and through its counsel, Tucker Arensberg, P.C., and files the within Amended Complaint in Mortgage Foreclosure, in support of which it avers the following:

1. Plaintiff, First Commonwealth Bank, f/k/a Deposit Bank (the "Bank"), is a banking association with business offices at 654 Philadelphia Street, P.O. Box 400, Indiana, Pennsylvania 15701-0400.

2. Defendant, Thomas J. Dunlap, d/b/a Tommy D's Restaurant and Catering, is an adult individual whose last known address is 412 Treasure Lake, Dubois, PA 15801.

3. Terre Tenant, The United States of America, is included herein by virtue of two federal tax liens filed against Defendant as follows:

a. No. 2006-547-CD, filed April 7, 2006 in the amount of \$76,595.26; and

b. No. 2006-1438-CD, filed September 5, 2006 in the amount of \$21,984.58.

**Count I**

4. The averments contained in paragraphs 1 through 3 are incorporated herein by reference.

4. On or about November 21, 1995, Defendant ("Borrower"), executed and delivered a Mortgage Note to the Bank whereby Borrower agreed to pay the Bank the principal amount of \$325,000.00, together with interest thereon in the manner provided therein ("Note-1"). A true and correct copy of Note-1 is attached hereto as Exhibit "A" and incorporated herein.

6. The obligations evidenced by Note-1 are secured by a Mortgage dated November 21, 1995 ("Mortgage-1"), given by Defendant to the Bank, granting the Bank a security interest in certain real property located in the City of DuBois, Clearfield County, Pennsylvania (the "Premises"). Mortgage-1 was recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, ("Recorder's Office") on November 21, 1995 at Book 1719, page 118. A true and correct copy of Mortgage-1, containing the legal description of the Premises, is attached hereto as Exhibit "B" and incorporated herein.

7. The Borrower is in default of the provisions of Note-1 for failure to make payments when due. As of March 6, 2008, payments on Note-1 were due for April 1, 2007 and all months thereafter.

8. Bank was not required to send Defendant written notice pursuant to 35 P.S. §1680.403C (Homeowner's Emergency Mortgage Assistance Act of 1983 - Act 91 of 1983) and 41 P.S. §403 (Act 6 of 1974) as the Premises is strictly commercial in nature.

9. The amount due Bank under Note-1 and Mortgage-1 as of March 6, 2008 is as follows:

Principal .....	\$ 50,971.90
Interest through March 6, 2008 .....	4,513.21
(per diem \$12.185903)	
Late Fees .....	0.00
Costs .....	to be added
Attorney's Fees .....	<u>to be added</u>
<b>TOTAL .....</b>	<b>\$ 55,485.11</b>

10. The total amount now due to the Bank under Note-1 as of March 6, 2008 was Fifty-Five Thousand Four Hundred Eighty-Five and 11/100 Dollars (455,485.11), plus interest accruing from March 6, 2008 at the contract rate, late charges, costs and reasonable attorneys' fees.

WHEREFORE, Plaintiff demands judgment in mortgage foreclosure on Note-1 and Mortgage-1 in the amount of Fifty-Five Thousand Four Hundred Eighty-Five and 11/100 Dollars (\$55,485.11), plus interest accruing from March 6, 2008, late charges, reasonable attorneys' fees as authorized by Note-1, and costs of foreclosure and sale of the Premises.

**Count II**

11. The averments set forth in paragraphs 3 through 10 are incorporated herein by reference.

12. On or about December 7, 2001, Borrower executed and delivered a Promissory Note to the Bank whereby Borrower agreed to pay the Bank the principal amount of \$62,569.11, together with interest thereon in the manner provided therein ("Note-2"). A true and correct copy of Note-2 is attached hereto as Exhibit "C" and incorporated herein.

13. The obligations evidenced by Note-2 are secured by a Mortgage dated December 7, 2001 ("Mortgage-2"), given by Defendant to the Bank, granting the Bank a security

interest in the Premises. Mortgage-2 was recorded in the Recorder's Office on December 7, 2001 at Instrument No. 200119662. A true and correct copy of Mortgage-2, containing the legal description of the Premises, is attached hereto as Exhibit "D" and incorporated herein.

14. The Borrower is in default of the provisions of Note-2 for failure to make payments when due. As of March 6, 2008, payments on Note-2 were due for April 1, 2007 and all months thereafter.

15. Bank was not required to send Defendant written notice pursuant to 35 P.S. §1680.403C (Homeowner's Emergency Mortgage Assistance Act of 1983 - Act 91 of 1983) and 41 P.S. §403 (Act 6 of 1974) as the Premises is strictly commercial in nature.

16. The amount due Bank under Note-2 and Mortgage-2 as of March 6, 2008 is as follows:

Principal .....	\$ 41,458.46
Interest through March 6, 2008 .....	3,845.27
(per diem \$10.364615)	
Late Fees.....	0.00
Costs.....	to be added
Attorney's Fees .....	<u>to be added</u>
<b>TOTAL .....</b>	<b>\$ 45,303.73</b>

17. The total amount now due to the Bank under Note-2 as of March 6, 2008 was Forty-Five Thousand Three Hundred Three and 73/100 Dollars (\$45,303.73), plus interest accruing from March 6, 2008 at the contract rate, late charges, costs and reasonable attorneys' fees.

WHEREFORE, Plaintiff demands judgment in mortgage foreclosure on Note-2 and Mortgage-2 in the amount of Forty-Five Thousand Three Hundred Three and 73/100 Dollars (\$45,303.73), plus interest accruing from March 6, 2008, late charges, reasonable attorneys' fees as authorized by Note-2, and costs of foreclosure and sale of the Premises.

**Count II**

WHEREFORE, Plaintiff demands judgment in mortgage foreclosure on Note-1 and Mortgage-1 and on Note-2 and Mortgage-2 in the total amount of One Hundred Thousand Seven Hundred Eighty-Eight and 41/100 Dollars (\$100,788.41), plus interest accruing from March 6, 2008, late charges, reasonable attorneys' fees as authorized by Note-1 and Note-2, and costs of foreclosure and sale of the Premises.

TUCKER ARENSBERG, P.C.

---

Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212  
Attorneys for First Commonwealth Bank,  
f/k/a Deposit Bank, Plaintiff

323966.1:BF/#11555-131955

# Mortgage Note

\$325,000.00.....

DuBois, Pennsylvania

November 21, 1995.....

For Value Received, Thomas J. Dunlap, d/b/a Tommy D's Restaurant and Catering, City of DuBois, Clearfield County, Pennsylvania

promises to pay to the order of Deposit Bank

(hereinafter called "the Undersigned")

lawful money of the United States of America, the sum of Three Hundred Twenty-Five Thousand and 00/100—

Dollars (\$ 325,000.00) and any additional moneys loaned or advanced by any holder hereof as hereinafter provided, as follows:

This Note contains provisions allowing for changes in the interest rate as explained in Exhibit "A" attached hereto and incorporated herein.

and any balance of principal or interest remaining unpaid on May 1 ~~19~~ 2008 shall become due and payable on said date; and in addition thereto, in the event any payment provided for herein shall become overdue, the Undersigned agrees to pay a late charge in an amount not exceeding six per cent (6%) of any such overdue payment as compensation for the additional service resulting from the default; all payments to be made at any offices of Deposit Bank, 2 East Long Avenue, DuBois, PA 15801

, Pennsylvania or elsewhere as shall be directed by any holder hereof.

This Note shall evidence and the Mortgage given to secure its payment shall cover and be security for any future loans or advances that may be made to or on behalf of the Undersigned by any holder hereof at any time or times hereafter and intended by the Undersigned and the then holder to be so evidenced and secured, as well as any sums paid by any holder hereof pursuant to the terms of said Mortgage, and any such loans, advances or payments shall be added to and shall bear interest at the same rate as the principal debt.

In case default be made for the space of thirty (30) days in the payment of any installment of principal or interest, or in the performance by the Undersigned of any of the other obligations of this Note or said Mortgage, the entire unpaid balance of the principal debt, additional loans or advances and all other sums paid by any holder hereof to or on behalf of the Undersigned pursuant to the terms of this Note or said Mortgage, together with unpaid interest thereon, shall at the option of the holder and without notice become immediately due and payable, and one or more executions may forthwith issue on any judgment or judgments obtained by virtue hereof; and no failure on the part of any holder hereof to exercise any of the rights hereunder shall be deemed a waiver of any such rights or of any default hereunder.

The Undersigned hereby empowers any attorney of any court of record within the United States of America or elsewhere to appear for the Undersigned and, with or without complaint filed, confess judgment, or a series of judgments, against the Undersigned in favor of any holder hereof, as of any term, for the unpaid balance of the principal debt, additional loans or advances and all other sums paid by the holder hereof to or on behalf of the Undersigned pursuant to the terms of this Note or said Mortgage, together with unpaid interest thereon, costs of suit and an attorney's commission for collection of five per cent (5%) of the total indebtedness or \$200, whichever is the larger amount, on which judgment or judgments one or more executions may issue forthwith upon failure to comply with any of the terms and conditions of this Note or said Mortgage. The Undersigned hereby forever waives and releases all errors in said proceedings, waives stay of execution, the right of inquisition and extension of time of payment, agrees to condemnation of any property levied upon by virtue of any such execution, and waives all exemptions from levy and sale of any property that now is or hereafter may be exempted by law.

This obligation shall bind the Undersigned and the Undersigned's heirs, executors, administrators and assigns, and the benefits hereof shall inure to the payee hereof and its successors and assigns. If this Note is executed by more than one person, the undertakings and liability of each shall be joint and several.

This Note is secured by a Mortgage of even date herewith upon real estate described therein.

This Note is additionally secured by separate Security Agreements.

Witness the due execution hereof the day and year first above written.

Witnessed by:

*Tom J. Dunlap*

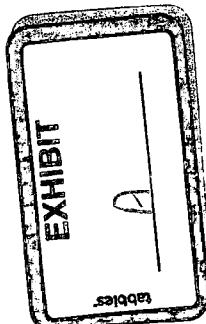
d/b/a Tommy D's Restaurant and Catering:

Thomas J. Dunlap

(SEAL)

(SEAL)

(SEAL)



Guaranty and Suretyship Agreement

For Value Received and intending to be legally bound, the Undersigned does hereby unconditionally guarantee and become surety for the due and punctual payment of each installment of principal of and interest on the within Mortgage Note as and when each said installment shall respectively become due and payable in accordance with the terms thereof, whether at maturity or by declaration, acceleration or otherwise, as well as all additional loans or advances and all other sums paid by any holder of said Note to or on behalf of the maker thereof pursuant to the terms of said Note or the Mortgage securing the same.

The Undersigned hereby waives any presentment for payment, notice of nonpayment, demand or protest, declares that this obligation is absolute and unconditional, and agrees that it shall not be released by any extension of time for payment or by any other matter or thing whatsoever whereby the Undersigned as absolute guarantor and surety otherwise would or might be released.

In case default be made for the space of thirty (30) days in the payment of any sums due under said Mortgage Note, the Undersigned hereby empowers any attorney of any court of record within the United States of America or elsewhere to appear for the Undersigned and, with or without complaint filed, confess judgment, or a series of judgments, against the Undersigned in favor of any holder thereof, as of any term, for the unpaid balance of the principal debt, additional loans or advances and all other sums paid by any holder thereof to or on behalf of the maker of said Mortgage Note pursuant to the terms thereof or of the Mortgage securing the same, together with interest thereon, costs of suit and an attorney's commission for collection of five per cent (5%) of the total indebtedness or \$200, whichever is the larger amount, on which judgment or judgments one or more executions may issue forthwith. The Undersigned hereby forever waives and releases all errors in said proceedings, waives stay of execution, the right of inquisition and extension of time of payment, agrees to condemnation of any property levied upon by virtue of any such execution, and waives all exemptions from levy and sale of any property that now is or hereafter may be exempted by law.

These presents shall bind the Undersigned and the Undersigned's heirs, executors, administrators and assigns, and the benefits hereof shall inure to the payee of said Mortgage Note, its successors and assigns. If executed by more than one person, this obligation and the undertakings hereunder shall be joint and several.

Witness the due execution hereof this day of , 19

Witnessed by:

.....(SEAL)

.....(SEAL)

Mortgage  
Note

FROM

TO



2 East Long Avenue P.O. Box 607A DuBois, PA 15801 (814) 371-2345  
Fax No. (814) 375-2312 3rd Floor Fax No. (814) 375-5400

**EXHIBIT "A" TO MORTGAGE NOTE DATED November 21, 1995**

\$325,000.00 together with interest thereon at the initial rate of 9.75 percent (9.75%) per annum payable within 12.50 years as follows:

"Interest Only" monthly on all monies advanced on or before May 1, 1996. Thereafter and beginning on June 1, 1996, initial monthly principal and interest payments of \$ 3,837.21 will commence and continue on the same day of each month until the principal debt and interest are paid in full, said payments to be applied first to the payment of interest and the balance to payment of principal.

The initial interest rate may change on November 1, 2000 and again on November 1, 2005.

Any changes in the interest rate shall be based upon changes in the interest rate index, hereinafter called the index, which shall be the National Prime Rate + 1.00% in effect on the 1st of each month preceding the change date.

If the interest rate changes, the amount of the monthly payments will change as of the first monthly payment date after the change date and will always be sufficient to repay the loan in full in substantially equal payments by the final payment date. In setting the monthly payment amount on each change date, Bank will assume that the interest rate will not change again prior to the final payment date.

Bank will mail notice, containing the current and new interest rate and the current and new monthly payment at least 15 days before each change date if the interest rate is to change.

Undersigned shall have the right to prepay the principal of the loan in full at any time upon payment of the sum of 1% of the outstanding principal in addition to all other sums then due and owing on the loan.

d/b/a Tommy D's Restaurant & Catering:

Thomas J. Dunlap

# Mortgage

Made this 21st day of November, 1995

Clearfield County, Pennsylvania, Between THOMAS J. DUNLAP, of Sandy Township,

(hereinafter, whether one or more, called "Mortgagor")

And DEPOSIT BANK, a banking corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with offices located at 2 East Long Avenue, P.O. Box 607A, DuBois, Clearfield County, Pennsylvania

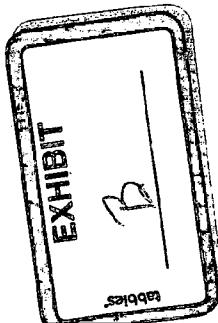
(hereinafter called "Mortgagee")

Whereas, Mortgagor has executed and delivered to Mortgagee a certain Mortgage Note (hereinafter called the "Note") of even date herewith, payable to the order of Mortgagee in the principal sum of---THREE HUNDRED TWENTY-FIVE THOUSAND and 00/100-----

lawful money of the United States of America, and has provided therein for payment of any additional moneys loaned or advanced thereunder by Mortgagee, together with interest thereon at the rate provided in the note, in the manner and at the times therein set forth, and containing certain other terms and conditions, all of which are specifically incorporated herein by reference:

Now, Therefore, Mortgagor, in consideration of said debt or principal sum and as security for the payment of the same and interest as aforesaid, together with all other sums payable hereunder or under the terms of the Note, does grant and convey unto Mortgagee, its successors and assigns:

All those certain pieces, parcels or tracts of land situate, lying and being in the City of DuBois, Clearfield County, Pennsylvania, and being bounded and described as more particularly set forth on Exhibit "A" attached hereto and made a part hereof.



Together with the buildings and improvements erected thereon, the appurtenances thereunto belonging and the reversions, remainders, rents, issues and profits thereof.

To Have And To Hold the same unto Mortgagee, its successors and assigns, forever.

Provided, However, That if Mortgagor shall pay to Mortgagee the aforesaid debt or principal sum, including additional loans or advances and all other sums payable by Mortgagor to Mortgagee hereunder and under the terms of the Note, together with interest hereon, and shall keep and perform each of the other covenants, conditions, and agreements hereinafter set forth, then this Mortgage and the estate hereby granted and conveyed shall become void.

This Mortgage is executed and delivered subject to the following covenants, conditions and agreements:

(1) The Note secured hereby shall evidence and this Mortgage shall cover and be security for any future loans or advances that may be made by Mortgagee to Mortgagor at any time or times hereafter and intended by Mortgagor and Mortgagee to be so evidenced and secured, and such loans and advances shall be added to the principal debt.

(2) From time to time until said debt and interest are fully paid, Mortgagor shall: (a) pay and discharge, when and as the same shall become due and payable, all taxes, assessments, sewer and water rents, and all other charges and claims assessed or levied from time to time by any lawful authority upon any part of the mortgaged premises and which shall or might have priority in lien or payment to the debt secured hereby, (b) pay all ground rents reserved from the Mortgaged premises and pay and discharge all Mechanics' liens which may be filed against said premises and which shall or might have priority in lien or payment to the debt secured hereby, (c) pay and discharge any documentary stamp or other tax, including interest and penalties thereon, if any, now or hereafter becoming payable on the Note evidencing the debt secured hereby, (d) provide, renew and keep alive by paying the necessary premiums and charges thereon such policies of hazard and liability insurance as Mortgagee may from time to time require upon the buildings and improvements now or hereafter erected upon the mortgaged premises, with loss payable clauses in favor of Mortgagor and Mortgagee as their respective interest may appear, and (e) promptly submit to Mortgagee evidence of the due and punctual payment of all the foregoing charges; provided, however, that Mortgagee may at its option require that sums sufficient to discharge the foregoing charges be paid in installments to Mortgagee.

(3) Mortgagor shall maintain all buildings and improvements subject to this Mortgage in good and substantial repair, as determined by Mortgagee. Mortgagee shall have the right to enter upon the mortgaged premises at any reasonable hour for the purpose of inspecting the order, condition and repair of the buildings and improvements erected thereon.

(4) In the event Mortgagor neglects or refuses to pay the charges mentioned at (2) above, or fails to maintain the buildings and improvements as aforesaid, Mortgagee may do so, add the cost thereof to the principal debt secured hereby, and collect the same as a part of said principal debt.

(5) Mortgagor covenants and agrees not to create, nor permit to accrue, upon all or any part of the mortgaged premises, any debt, lien or charge which would be prior to, or on a parity with, the lien of this Mortgage.

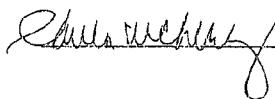
(6) In case default be made for the space of thirty (30) days in the payment of any installment of principal or interest pursuant to the terms of the Note, or in the performance by Mortgagor of any of the other obligations of the Note or this Mortgage, the entire unpaid balance of said principal sum, additional loans or advances and all other sums paid by Mortgagee pursuant to the terms of the Note or this Mortgage, together with unpaid interest thereon, shall at the option of Mortgagee and without notice become immediately due and payable, and foreclosure proceedings may be brought forthwith on this Mortgage and prosecuted to judgment, execution and sale for the collection of the same, together with costs of suit and an attorney's commission for collection of five per cent (5%) of the total indebtedness or \$200, whichever is the larger amount. Mortgagor hereby forever waives and releases all errors in said proceedings, waives stay of execution, the right of inquisition and extension of time of payment, agrees to condemnation of any property levied upon by virtue of any such execution, and waives all exemptions, from levy and sale of any property that now is or hereafter may be exempted by law.

(7) Mortgagor agrees not to transfer title to the mortgaged premises unless the Mortgagee consents in writing to such transfer. A transfer to the heirs or devisees of the Mortgagor in the event of the Mortgagor's death shall not come within the prohibition of the foregoing sentence.

The covenants, conditions and agreements contained in this Mortgage shall bind, and the benefits thereof shall inure to, the respective parties hereto and their respective heirs, executors, administrators, successors and assigns, and if this Mortgage is executed by more than one person, the undertakings and liability of each shall be joint and several.

Witness the due execution hereof of the day and year first above written.

Witnessed by:



Thomas J. Dunlap

(SEAL)

(SEAL)

(SEAL)

(SEAL)

Commonwealth of Pennsylvania

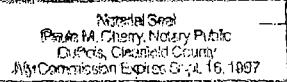
County of Clearfield

} ss.

On this, the 21st day of November, 1995, before me, a Notary Public, the undersigned officer, personally appeared THOMAS J. DUNLAP, satisfactorily proven to me to be the person whose name is subscribed to the within Mortgage, and acknowledged that he executed the same for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and official seal.

My commission expires:



Paul M. Cherry  
Notary Public

Commonwealth of Pennsylvania

County of

} ss.

On this, the day of , 19 , before me, the undersigned officer, personally appeared satisfactorily proven to me to be the person whose name is subscribed to the within Mortgage, and acknowledged that he executed the same for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and official seal.

My commission expires:

Mortgage

FROM

THOMAS J. DUNLAP

TO

DEPOSIT BANK

GLEASON, CHERRY AND CHERRY, P.C.  
ATTORNEYS AT LAW  
One North Franklin Street  
P.O. Box 505  
DuBois, PA 15801-0505  
(814) 371-5800

Certificate of Residence of Mortgagee

I do hereby certify that the precise residence and complete post office address of the within Mortgagee is:

GLEASON, CHERRY AND CHERRY, P.C.

2 East Long Avenue  
P.O. Box 607A  
DuBois, PA 15801

By \_\_\_\_\_

Attorney for \_\_\_\_\_ Mortgagee

Commonwealth of Pennsylvania

County of

} ss.

Recorded in the Office of the Recorder of Deeds in and for said County on the day of , 19 , in Mortgage Book Volume : page

Witness my hand and the seal of said office the day and year aforesaid.

Recorder

Exhibit "A"

ALL those certain pieces, parcels or tracts of land situate, lying and being in the City of DuBois, Clearfield County, Pennsylvania, and being bounded and described as follows, to wit:

THE FIRST THEREOF:

BEGINNING at a post on the North side of South Brady Street, also known as State Route 219, being also the Southeast corner of land of Thomas J. Dunlap; thence along the easterly line of land of Thomas J. Dunlap in a Northwesterly direction, 138 feet to other lands of the DuBois Parking Authority; thence by same in a Northeasterly direction 50 feet to the Northwest corner of land of Paul D. Horchen; thence along the Westerly line of land of Paul D. Horchen in a Southeasterly direction 138 feet to a point in the Northerly line of South Brady Street (State Route 219); thence by the Northerly line of South Brady Street (State Route 219) in a Southwesterly direction 50 feet to a post and the place of beginning.

SAID CONVEYANCE IS MADE UNDER AND SUBJECT TO THE FOLLOWING EXCEPTIONS, RESERVATIONS, EASEMENTS, COVENANTS AND CONDITIONS:

1. Under and subject to all outstanding leases of oil and gas and it is hereby excepted and reserved from the above-described parcel of land all oil and gas, with rights of ingress and egress for removal of the same. Also excepting and reserving the right to store gas under the above-described premises.
2. Excepting and reserving all of the coal as the same has been reserved and/or conveyed in prior deeds.
3. Under and subject to all easements, servitudes and rights-of-way pertaining to the above-described premises.
4. The conveyance shall be subject to all City Zoning and land subdivision ordinances now in effect or that may be in effect at any time in the future.
5. Within one (1) year of completion of construction of the stipulated building, all areas of the above-described land not paved for driveways or parking shall be planted in grass and shrubbery.
6. Any and all fill needed for any areas of the premises herein conveyed shall be placed on the lot within two (2) years from the date of this deed, prior to the commencement of any landscaping on the premises.

7. In the event of any failure, neglect, or refusal by said Grantee, his heirs and assigns, to begin construction of a building within one (1) year from the date of this deed, and to complete construction within two (2) years from the date of this deed, the within conveyance shall become null and void, and title thereto shall revert to the City of DuBois, without any requirement of recompense or other reimbursements to the said Grantee herein by virtue of said reversion or retaking by the City of DuBois.

8. Grantee, his heirs and assigns, shall construct and maintain a 5-foot wide concrete sidewalk along the north side of said parcel for accessing Brady Street to the city parking lot and shall install and maintain security lighting along this area. Such construction and installation shall be completed no more than one (1) year after the completion of construction.

BEING the same premises which were conveyed to Thomas J. Dunlap, single, by deed of the City of DuBois dated July 10, 1995, and recorded in Clearfield County Deeds and Records Book Vol. 1707, Page 233, on September 28, 1995.

THE SECOND THEREOF: Situate on the corner of South Brady Street and West Washington Avenue and being bounded on the North by the property of DuBois Lodge No. 349, Benevolent Protective Order of Elks; on the East by South Brady Street; on the South by West Washington Avenue; and on the West by lands now or formerly of Hibner-Hoover Hardware Company, and being 26 feet, more or less in width on South Brady Street and extending Westward to the lands now or formerly of Hibner-Hoover Hardware Company, a distance of 139 feet, more or less.

BEING the same premises which were conveyed to Thomas J. Dunlap by deed of Patrick Valentine, et al., dated October 16, 1985, and recorded in Clearfield County Deeds and Records Book Vol. 1049, Page 176, on November 5, 1985.

# PROMISSORY NOTE

Principal	Loan Date	Maturity	Loan No.	Call? Call	Account	Officer	Initials
\$62,569.11	12-07-2001	12-01-2013	69570		0469014	PCH	

References in the shaded area are for Lender's use only and do not limit the applicability of this document to any particular loan or item.  
Any item above containing "\*\*\*\*" has been omitted due to text length limitations.

**Borrower:** THOMAS J. DUNLAP (SSN: 208-42-8205) DBA:  
TOMMY D'S  
42 S. BRADY STREET  
DUBOIS, PA 15801

**Lender:** Deposit Bank, a division of First Commonwealth Bank  
Loan Administration Office  
2 East Long Avenue  
PO Box 807A  
Dubois, PA 15801  
(814) 371-2345

**Principal Amount:** \$62,569.11

**Date of Note:** December 7, 2001

**PROMISE TO PAY.** THOMAS J. DUNLAP ("Borrower") promises to pay to Deposit Bank, a division of First Commonwealth Bank ("Lender"), or order, in lawful money of the United States of America, the principal amount of Sixty-two Thousand Five Hundred Sixty-nine & 11/100 Dollars (\$62,569.11), together with interest at the rate of 6.780% per annum on the unpaid principal balance from December 7, 2001, until paid in full.

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

Notwithstanding the preceding disclosure of the interest rate to be charged, the following INTEREST RATE AND MONTHLY PAYMENT CONDITIONS WILL PREVAIL. All payments will be applied first to accrued and unpaid interest, then to principal, and any remaining amount to any unpaid collection costs and late charges. On December 1, 2013, the entire outstanding principal balance plus any due and unpaid interest thereon will be due and payable in full. (A) From date of first disbursement until the "Change Date" described below, 2006 and December 7, 2011. Each date on which the interest rate could change is called the "Change Date." (B) The interest rate may change on December 7, Change Date, the interest rate will be based on an index. The "index" is the Wall Street Journal Rate, as made available by the Wall Street Journal. If the index is no longer available, the Lender will choose a new index which is based on comparable information. The current index on each Change Date. (C) Beginning with the first Change Date, the interest rate will be based on the index plus three-quarters of one percent (.75%) to the current index. (D) The Lender will calculate the interest rate by adding three-quarters of one percent (.75%) to the current index. (E) Interest and principal payments in the amount of Six Hundred Thirty-Five Dollars and Fourteen Cents (\$635.14) will be due and payable on January 1, 2002 and on the same day of each month thereafter until the first day of the first month following the Change date. At that time and following each Change Date thereafter the payment will be set to amortize the outstanding principal balance at the applicable interest rate by the loan maturity date.

Unless otherwise agreed or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs. The annual interest rate for this Note is computed on a 365/360 basis; that is, by applying the ratio of the annual interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. Borrower will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

**PREPAYMENT PENALTY.** Upon prepayment of this Note, Lender is entitled to the following prepayment penalty: 1% OF OUTSTANDING PRINCIPAL BALANCE. Except for the foregoing, Borrower may pay all or a portion of the amount owed earlier than it is due. Early payments, whether early payments will reduce the principal balance due and may result in Borrower's making fewer payments. Borrower agrees not to send any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations, or as full satisfaction of a disputed amount must be mailed or delivered to: Deposit Bank, a division of First Commonwealth Bank; Loan Administration Office; 2 East Long Avenue; PO Box 807A; Dubois, PA 15801.

**INTEREST AFTER DEFAULT.** Upon default, including failure to pay upon final maturity, Lender, at its option, may, if permitted under applicable law, increase the interest rate on this Note 5.000 percentage points. The interest rate will not exceed the maximum rate permitted by applicable law. If judgment is entered in connection with this Note, interest will continue to accrue on this Note after judgment at the existing interest rate provided for in this Note.

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

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

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

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

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

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

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the indebtedness or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity required to, permit the guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender, and, in doing so, cure any Event of Default.

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

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

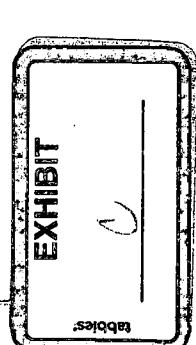
**Cure Provision.** If any default, other than a default in payment is curable and if Borrower has not been given a notice of a breach of the same provision of this Note within the preceding twelve (12) months, it may be cured (and no event of default will have occurred) if Borrower, after receiving written notice from Lender demanding cure of such default: (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**LENDER'S RIGHTS.** Upon default, Lender may, after giving such notices as required by applicable law, declare the entire unpaid principal balance on this Note and all accrued unpaid interest immediately due, and then Borrower will pay that amount.

**EXPENSES.** If Lender institutes any suit or action to enforce any of the terms of this Note, Lender shall be entitled to recover such sum as the court may adjudge reasonable. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the loan payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's expenses for bankruptcy proceedings (including efforts to modify or terminate any automatic stay or injunction), and appeals, to the extent permitted by applicable law. Borrower also will pay any court costs, in addition to all other sums provided by law.

**JURY WAIVER.** Lender and Borrower hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by either Lender or Borrower against the other.

**RIGHT OF SETOFF.** To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower



PROMISSORY NOTE  
(Continued)

authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any and all such accounts, and, at Lender's option, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights provided in this paragraph.

**COLLATERAL.** Borrower acknowledges this Note is secured by MORTGAGE OF EVEN DATE HEREWITH ON REAL ESTATE DESCRIBED IN CLEARFIELD COUNTY DEED BOOK VOLUME 1707, PAGE 233 AND DEED BOOK VOLUME 1049, PAGE 176. SECOND LIEN POSITION AND SECURITY INTEREST IN ALL ACCOUNTS RECEIVABLE, INVENTORY, FURNITURE, FIXTURES, EQUIPMENT AND LIQUOR LICENSE, NOW OWNED AND HEREAFTER ACQUIRED AND THE PRODUCTS AND PROCEEDS THEREOF.

**LIMITATION OF ACTION.** If the Borrower has any cause of action against the Lender, now or in the future, arising out of the Related Documents and the transactions contemplated by the Related Documents, whether in contract or tort or otherwise, the Borrower must assert the claim within one year of the occurrence of the event which gives rise to a cause of action. If the Borrower does not assert the claim within one year of the occurrence of a cause of action, the Borrower will be barred from asserting the claim. Borrower and Lender agree that the one year time period is reasonable and sufficient for the Borrower to investigate and act upon the claim and that the provision shall survive any termination of the Agreement.

**LATE CHARGE.** A late charge will be assessed in the amount of 6% of the regular payment or portion thereof that remains unpaid for more than ten (10) days beyond the due date. The minimum late charge amount is \$26.00. This charge will be immediately due and payable.

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

**GENERAL PROVISIONS.** Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several. If any portion of this Note is for any reason determined to be unenforceable, it will not affect the enforceability of any other provisions of this Note.

**CONFESSION OF JUDGMENT.** Borrower hereby irrevocably authorizes and empowers any attorney or the Prothonotary or Clerk of any Court in the Commonwealth of Pennsylvania, or elsewhere, to appear at any time for Borrower and, with or without complaint filed, as of any term, confess or enter judgment against Borrower for the entire principal balance of this Note and all accrued interest, together with costs of suit, and an attorney's commission of ten percent (10%) of the unpaid principal balance and accrued interest for collection, but in any event not less than Five Hundred Dollars (\$500); and for so doing, this Note or a copy of this Note verified by affidavit shall be sufficient warrant. The authority granted in this Note to confess judgment against Borrower shall not be exhausted by any exercise of that authority, but shall continue from time to time and at all times until payment in full of all amounts due under this Note.

**PRIOR TO SIGNING THIS NOTE, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO THE TERMS OF THE NOTE.**

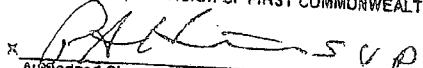
**BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE.**  
**THIS NOTE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS NOTE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.**

**BORROWER:**

  
THOMAS S. DUNLAP Individually Seal

**LENDER:**

**DEPOSIT BANK, A DIVISION OF FIRST COMMONWEALTH BANK**

  
X *John S. V.P.*  
Authorized Signer

**RECORDATION REQUESTED BY:**

Deposit! Bank, a division of First Commonwealth Bank  
 Loan Administration Office  
 2 East Long Avenue  
 PO Box 607A  
 Dubois, PA 15801

KAREN L. STARN  
 REGISTER AND RECORDER  
 CLEARFIELD COUNTY  
 Pennsylvania

INSTRUMENT NUMBER  
 200119562

RECORDED ON  
 DEC 07 2001

1 # 51-159 PTT  
 Total Pages: 7

**WHEN RECORDED MAIL TO:**

Deposit! Bank, a division of First Commonwealth Bank  
 Loan Administration Office  
 2 East Long Avenue  
 PO Box 607A  
 Dubois, PA 15801

**SEND TAX NOTICES TO:**

THOMAS J. DUNLAP  
 42 S. BRADY STREET  
 DUBOIS, PA 15801

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

**MORTGAGE**

THIS MORTGAGE dated December 7, 2001, is made and executed between THOMAS J. DUNLAP, whose address is 42 S. BRADY STREET, DUBOIS, PA 15801 (referred to below as "Grantor") and Deposit Bank, a division of First Commonwealth Bank, whose address is 2 East Long Avenue, PO Box 607A, Dubois, PA 15801 (referred to below as "Lender").

**GRANT OF MORTGAGE.** For valuable consideration, Grantor grants, bargains, sells, conveys, assigns, transfers, releases, confirms and mortgages to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or tenements, hereditaments, and appurtenances thereto belonging or otherwise made appurtenant hereafter, and the reversions and remainders with royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in CLEARFIELD County, Commonwealth of Pennsylvania:

See ATTACHED EXHIBIT "A", which is attached to this Mortgage and made a part of this Mortgage as if fully set forth herein.

**The Real Property or its address is commonly known as 42 S. BRADY STREET, DUBOIS, PA 15801.**

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

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

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

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

**Possession and Use.** Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

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

**Compliance With Environmental Laws.** Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

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

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

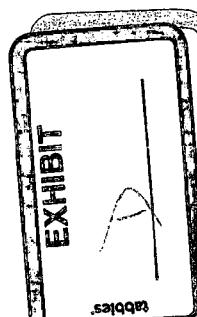
**Lender's Right to Enter.** Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans with Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

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

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

**Payment.** Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services



rendered or material furnished to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the interest of Lender under this Mortgage, except for the Existing Indebtedness referred to in this Mortgage or those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph.

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

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

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

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

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on an actual cash value basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional Insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption and boiler insurance as Lender may require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan; up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds \$5,000.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

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

**Compliance with Existing Indebtedness.** During the period in which any Existing Indebtedness described below is in effect, compliance with the insurance provisions contained in the instrument evidencing such Existing Indebtedness shall constitute compliance with the insurance provisions under this Mortgage, to the extent compliance with the terms of this Mortgage would constitute a duplication of insurance requirement. If any proceeds from the insurance become payable on loss, the provisions in this Mortgage for division of proceeds shall apply only to that portion of the proceeds not payable to the holder of the Existing Indebtedness.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Mortgage or any Related Documents, including but not limited to Grantor's failure to comply with any obligation to maintain Existing Indebtedness in good standing as required below, or to discharge or pay when due any amounts Grantor is required to discharge or pay under this Mortgage or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Mortgage also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default. Grantor's obligation to Lender for all such expenses shall survive the entry of any mortgage foreclosure judgment.

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

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

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

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

**Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantor in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's Indebtedness shall be paid in full.

**EXISTING INDEBTEDNESS.** The following provisions concerning Existing Indebtedness are a part of this Mortgage:

**Existing Lien.** The lien of this Mortgage securing the Indebtedness may be secondary and inferior to the lien securing payment of an existing obligation with an account number of 2069008-69164 to DEPOSIT BANK. The existing obligation has a current principal balance of approximately \$220,919.00 and is in the original principal amount of \$325,000.00. The obligation has the following payment terms: \$3,933.13 per Month. Grantor expressly covenants and agrees to pay, or see to the payment of, the Existing Indebtedness and to prevent any default on such indebtedness, any default under the instruments evidencing such Indebtedness, or any default under any security documents for such indebtedness.

**No Modification.** Grantor shall not enter into any agreement with the holder of any mortgage or other security agreement which has priority over this Mortgage by which that agreement is modified, amended, extended, or renewed without the prior written consent of Lender. Grantor shall neither request nor accept any future advances under any such security agreement without the prior written consent of Lender.

**CONDEMNATION.** The following provisions relating to condemnation proceedings are a part of this Mortgage:

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be

entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

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

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

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees; documentary stamps, and other charges for recording or registering this Mortgage.

**Taxes.** The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (3) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

**Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

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

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

**Security Interest.** Upon request by Lender, Grantor shall execute financing statements and take whatever other action is requested by Lender to record, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

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

**FURTHER ASSURANCES; ADDITIONAL AUTHORIZATIONS.** The following provisions relating to further assurances and additional authorizations are a part of this Mortgage:

**Further Assurances.** At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Mortgage, and the Related Documents, and (2) the liens and security interests created by this Mortgage on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Additional Authorizations.** If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably authorizes Lender to make, execute, deliver, file, record and is understood that nothing set forth herein shall require Lender to take any such actions.

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

**EVENTS OF DEFAULT.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**Payment Default.** Grantor fails to make any payment when due under the Indebtedness.

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

**Other Defaults.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

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

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

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

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

**Existing Indebtedness.** The payment of any installment of principal or any interest on the Existing Indebtedness is not made within the time required by the promissory note evidencing such indebtedness, or a default occurs under the instrument securing such indebtedness and is not cured during any applicable grace period in such instrument, or any suit or other action is commenced to foreclose any existing lien on the Property.

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

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

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

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

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

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

**Accelerate Indebtedness.** Lender shall have the right at its option, after giving such notices as required by applicable law, to declare the entire indebtedness immediately due and payable.

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

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

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

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

**Possession of the Property.** For the purpose of procuring possession of the Property, Grantor hereby authorizes and empowers any attorney of any court of record in the Commonwealth of Pennsylvania or elsewhere, as attorney for Lender and all persons claiming under or through Lender, to sign an agreement for entering in any competent court an amicable action in ejectment for possession of the Property and to appear for and confess judgment against Grantor, and against all persons claiming under or through Grantor, for the recovery by Lender of possession of the Property, without any stay of execution, for which this Mortgage, or a copy of this Mortgage verified by affidavit, shall be a sufficient warrant; and thereupon a writ of possession may be issued forthwith, without any prior writ or proceeding whatsoever.

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

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

**Tenancy at Sufferance.** If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

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

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

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

**Election of Remedies.** Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Mortgage, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies. Nothing under this Mortgage or otherwise shall be construed so as to limit or restrict the rights and remedies available to Lender following an Event of Default, or in any way to limit or restrict the rights and ability of Lender to proceed directly against Grantor and/or against any other co-maker, guarantor, surety or endorser and/or to proceed against any other collateral directly or indirectly securing the Indebtedness.

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

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

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

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

**Annual Reports.** If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

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

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

**Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the

offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Mortgage. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Mortgage shall not affect the legality, validity or enforceability of any other provision of this Mortgage.

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

**Successor Interests.** The terms of this Mortgage shall be binding upon Grantor, and upon Grantor's heirs, personal representatives, successors, and assigns, and shall be enforceable by Lender and its successors and assigns.

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

**Waive Jury.** All parties to this Mortgage hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Mortgage. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Borrower.** The word "Borrower" means THOMAS J. DUNLAP, and all other persons and entities signing the Note in whatever capacity.

**Default.** The word "Default" means the Default set forth in this Mortgage in the section titled "Default".

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

**Existing Indebtedness.** The words "Existing Indebtedness" mean the indebtedness described in the Existing Liens provision of this Mortgage.

**Grantor.** The word "Grantor" means THOMAS J. DUNLAP.

**Guaranty.** The word "Guaranty" means the guaranty from guarantor, endorser, surety, or accommodation party to Lender, including without limitation a guaranty of all or part of the Note.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Improvements.** The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Mortgage, together with interest on such amounts as provided in this Mortgage.

**Lender.** The word "Lender" means Deposit Bank, a division of First Commonwealth Bank, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage between Grantor and Lender.

**Note.** The word "Note" means the promissory note dated December 7, 2001, in the original principal amount of \$62,569.11 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The maturity date of this Mortgage is December 1, 2013.

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

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

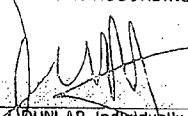
**Real Property.** The words "Real Property" mean the real property, interests and rights, as further described in this Mortgage.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

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

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS. THIS MORTGAGE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS MORTGAGE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.

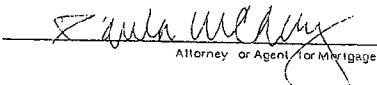
GRANTOR:

X   
THOMAS J. DUNLAP, Individually

(Seal)

#### CERTIFICATE OF RESIDENCE

I hereby certify, that the precise address of the mortgagor, Deposit Bank, a division of First Commonwealth Bank, herein is as follows:  
Loan Administration Office, 2 East Long Avenue, PO Box 607A, Dubois, PA 15801

  
\_\_\_\_\_  
Paula Welch  
Attorney or Agent for Mortgagor

## INDIVIDUAL ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA

)

) SS

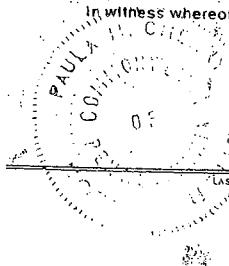
COUNTY OF CLEARFIELD

)

On this, the 7th day of December, 2001, before me Paula M. Cherry,

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

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



NOTARIAL SEAL  
PAULA M. CHERRY, NOTARY PUBLIC  
CITY OF DUBLIN, CLEARFIELD COUNTY  
MY COMMISSION EXPIRES SEPTEMBER 16, 2005

Notary Public in and for the State of PennsylvaniaLASER PRO Leading, Ver. 3.17.01.03. Copy, Harland Financial Solutions, Inc. 1897. 2001. All Rights Reserved. - PA L:BAHK631CP11PL1Q03.FC TA-1933 PH-CLOTERM

Exhibit "A"

ALL those certain pieces, parcels or tracts of land situate, lying and being in the City of DuBois, Clearfield County, Pennsylvania, and being bounded and described as follows, to wit:

THE FIRST THEREOF: Situate on the corner of South Brady Street and West Washington Avenue and being bounded on the North by the property of DuBois Lodge No. 349, Benevolent Protective Order of Elks; on the East by South Brady Street; on the South by West Washington Avenue; and on the West by lands now or formerly of Hibner-Hoover Hardware Company, and being 26 feet, more or less, in width on South Brady Street and extending Westward to the lands now or formerly of Hibner-Hoover Hardware Company, a distance of 139 feet, more or less.

BEING the same premises which were conveyed to Thomas J. Dunlap by Deed of Patrick Valentine, et al., dated October 16, 1985, and recorded in Clearfield County Deeds and Records Book Vol. 1049, Page 176, on November 5, 1985.

THE SECOND THEREOF: BEGINNING at a post on the North side of South Brady Street, also known as State Route 219, being also the Southeast corner of land of Thomas J. Dunlap; thence along the easterly line of land of Thomas J. Dunlap in a Northwesterly direction, 138 feet to other lands of the DuBois Parking Authority; thence by same in a Northeasterly direction 50 feet to the Northwest corner of land of Paul D. Horchen; thence along the Westerly line of land of Paul D. Horchen in a Southeasterly direction 138 feet to a point in the Northerly line of South Brady Street (State Route 219); thence by the Northerly line of South Brady Street (State Route 219) in a Southwesterly direction 50 feet to a post and the place of beginning.

SAID CONVEYANCE IS MADE UNDER AND SUBJECT TO THE FOLLOWING EXCEPTIONS, RESERVATIONS, EASEMENTS, COVENANTS AND CONDITIONS:

1. Under and subject to all outstanding leases of oil and gas and it is hereby excepted and reserved from the above-described parcel of land all oil and gas, with rights of ingress and egress for removal of the same. Also excepting and reserving the right to store gas under the above-described premises.
2. Excepting and reserving all of the coal as the same has been reserved and/or conveyed in prior deeds.
3. Under and subject to all easements, servitudes and rights-of-way pertaining to the above-described premises.
4. The conveyance shall be subject to all City Zoning and land subdivision ordinances now in effect or that may be in effect at any time in the future.
5. Within one (1) year of completion of construction of the stipulated building, all areas of the above-described land not paved for driveways or parking shall be planted in grass and shrubbery.
6. Any and all fill needed for any areas of the premises herein conveyed shall be placed on the lot within two (2) years from the date of this deed, prior to the commencement of any landscaping on the premises.
7. In the event of any failure, neglect, or refusal by said Grantee, his heirs and assigns, to begin construction of a building within one (1) year from the date of this deed, and to complete construction within two (2) years from the date of this deed, the within conveyance shall become null and void, and title thereto shall revert to the City of DuBois, without any requirement of recompense or other reimbursements to the said Grantee herein by virtue of said reversion or retaking by the City of DuBois.
8. Grantee, his heirs and assigns, shall construct and maintain a 5-foot wide concrete sidewalk along the north side of said parcel for accessing Brady Street to the city parking lot and shall install and maintain security lighting along this area. Such construction and installation shall be completed no more than one (1) year after the completion of construction.

BEING the same premises which were conveyed to Thomas J. Dunlap, single, by Deed of the City of DuBois, dated July 10, 1995, and recorded in Clearfield County Deeds and Records Book Vol. 1707, Page 233, on September 28, 1995.

**VERIFICATION**

I, Gary R. Carpenter, Loan Workout Officer, First Commonwealth Bank, do hereby depose and say, subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities, that the facts set forth in the foregoing Amended Complaint in Mortgage Foreclosure are true and correct upon my information and belief. I further depose and say that, in my position as Loan Workout Officer, I am duly authorized to make this authorization on behalf of the Bank.

---

Gary R. Carpenter, Loan Workout Officer I  
First Commonwealth Bank

323966.1:BF  
11555-131955

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

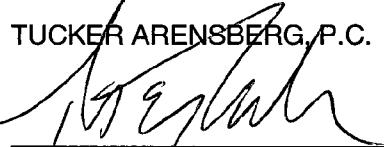
FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. 08-767-CD  
vs. )  
THOMAS J. DUNLAP, d/b/a )  
TOMMY D'S RESTAURANT )  
AND CATERING, )  
Terre Tenant. )

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the within Motion was served on Defendant on the 22nd day of April, 2008, by first class, postage prepaid, U.S. Mail, as follows:

Thomas J. Dunlap  
d/b/a Tommy D's Restaurant and Catering  
412 Treasure Lake  
DuBois, PA 15801

TUCKER ARENSBERG, P.C.

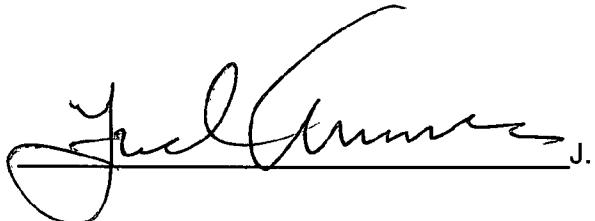
  
\_\_\_\_\_  
Thomas E. Reiber, Esquire  
Michael J. Stauber, Esquire  
Counsel for First Commonwealth Bank,  
f/k/a Deposit Bank, Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, ) 677-CD  
Plaintiff, ) No. 08-767-CD  
vs. )  
THOMAS J. DUNLAP, d/b/a )  
TOMMY D'S RESTAURANT )  
AND CATERING, )  
Terre Tenant. )

ORDER OF COURT

AND NOW, this 25 day of April, 2008, the within Motion of First Commonwealth Bank, f/k/a Deposit Bank, is GRANTED. It is hereby ORDERED that Plaintiff may amend its Complaint in Mortgage Foreclosure to include the United States of America as Terre Tenant.



323963.1:BF  
11555-131955

FILED 3cc  
013:30301 Atty  
APR 28 2008 Reiber

William A. Shaw  
Prothonotary/Clerk of Courts



FILED

APR 28 2008

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 4/28/08

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:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

CIVIL DIVISION

Plaintiff,

Case No. 08-677-CD

vs.

THOMAS J. DUNLAP, d/b/a  
TOMMY D'S RESTAURANT  
AND CATERING,

AMENDED COMPLAINT IN  
MORTGAGE FORECLOSURE

Defendant,

and

THE UNITED STATES OF AMERICA,

Terre Tenant.

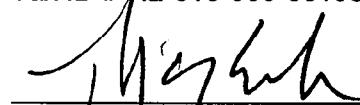
Filed on behalf of FIRST  
COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

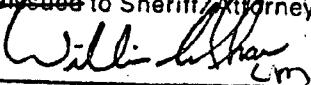
I hereby certify that the property  
to be foreclosed upon is:

42 S. Brady Street  
DuBois, Pennsylvania 15801  
Tax ID # 7.2-010-000-00198 and 7.2-010-000-00199

  
\_\_\_\_\_  
Thomas E. Reiber, Esquire  
Michael J. Stauber, Esquire

FILED  
MAY 18 2008 10:00 AM  
2008 Sheriff  
MAY 05 2008  
60

William A. Shaw  
Prothonotary/Clerk of Courts

July 17, 2008 Document  
Reinstated/Reissued to Sheriff/Attorney  
for service.  


Deputy Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,	)	CIVIL DIVISION
f/k/a DEPOSIT BANK,	)	
	)	
Plaintiff,	)	Case No. 08-677-CD
	)	
vs.	)	
	)	
THOMAS J. DUNLAP, d/b/a	)	
TOMMY D'S RESTAURANT	)	
AND CATERING,	)	
	)	
Defendant,	)	
	)	
and	)	
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Terre Tenant.	)	

**IMPORTANT NOTICE**

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

Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
P. O. Box 186  
Harrisburg, Pennsylvania 17108  
Telephone: (800) 692-7375

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,	)	CIVIL DIVISION
f/k/a DEPOSIT BANK,	)	
	)	
Plaintiff,	)	Case No. 08-677-CD
	)	
vs.	)	
	)	
THOMAS J. DUNLAP, d/b/a	)	
TOMMY D'S RESTAURANT	)	
AND CATERING,	)	
	)	
Defendant,	)	
	)	
and	)	
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Terre Tenant.	)	

**AVISO**

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentir una comparecencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requerir que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
P. O. Box 186  
Harrisburg, Pennsylvania 17108  
Telephone: (800) 692-7375

**NOTICE**

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 YOU 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.

IF YOU HAVE FILED BANKRUPTCY AND RECEIVED A DISCHARGE, THIS IS NOT AN ATTEMPT TO COLLECT A DEBT. IT IS AN ACTION TO ENFORCE A LIEN ON REAL ESTATE.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,	)	CIVIL DIVISION
f/k/a DEPOSIT BANK,	)	
	)	
Plaintiff,	)	Case No. 08-677-CD
	)	
vs.	)	
	)	
THOMAS J. DUNLAP, d/b/a	)	
TOMMY D'S RESTAURANT	)	
AND CATERING,	)	
	)	
Defendant,	)	
	)	
and	)	
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Terre Tenant.	)	

**AMENDED COMPLAINT IN MORTGAGE FORECLOSURE**

AND NOW COMES the Plaintiff, First Commonwealth Bank, f/k/a Deposit Bank, by and through its counsel, Tucker Arensberg, P.C., and files the within Amended Complaint in Mortgage Foreclosure, in support of which it avers the following:

1. Plaintiff, First Commonwealth Bank, f/k/a Deposit Bank (the "Bank"), is a banking association with business offices at 654 Philadelphia Street, P.O. Box 400, Indiana, Pennsylvania 15701-0400.

2. Defendant, Thomas J. Dunlap, d/b/a Tommy D's Restaurant and Catering, is an adult individual whose last known address is 412 Treasure Lake, Dubois, PA 15801.

3. Terre Tenant, The United States of America, is included herein by virtue of two federal tax liens filed against Defendant as follows:

a. No. 2006-547-CD, filed April 7, 2006 in the amount of \$76,595.26; and

b. No. 2006-1438-CD, filed September 5, 2006 in the amount of \$21,984.58.

**Count I**

4. The averments contained in paragraphs 1 through 3 are incorporated herein by reference.

4. On or about November 21, 1995, Defendant ("Borrower"), executed and delivered a Mortgage Note to the Bank whereby Borrower agreed to pay the Bank the principal amount of \$325,000.00, together with interest thereon in the manner provided therein ("Note-1"). A true and correct copy of Note-1 is attached hereto as Exhibit "A" and incorporated herein.

6. The obligations evidenced by Note-1 are secured by a Mortgage dated November 21, 1995 ("Mortgage-1"), given by Defendant to the Bank, granting the Bank a security interest in certain real property located in the City of DuBois, Clearfield County, Pennsylvania (the "Premises"). Mortgage-1 was recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, ("Recorder's Office") on November 21, 1995 at Book 1719, page 118. A true and correct copy of Mortgage-1, containing the legal description of the Premises, is attached hereto as Exhibit "B" and incorporated herein.

7. The Borrower is in default of the provisions of Note-1 for failure to make payments when due. As of March 6, 2008, payments on Note-1 were due for April 1, 2007 and all months thereafter.

8. Bank was not required to send Defendant written notice pursuant to 35 P.S. §1680.403C (Homeowner's Emergency Mortgage Assistance Act of 1983 - Act 91 of 1983) and 41 P.S. §403 (Act 6 of 1974) as the Premises is strictly commercial in nature.

9. The amount due Bank under Note-1 and Mortgage-1 as of March 6, 2008 is as follows:

Principal .....	\$ 50,971.90
Interest through March 6, 2008 .....	4,513.21
(per diem \$12.185903)	
Late Fees .....	0.00
Costs .....	to be added
Attorney's Fees .....	<u>to be added</u>
<b>TOTAL .....</b>	<b>\$ 55,485.11</b>

10. The total amount now due to the Bank under Note-1 as of March 6, 2008 was Fifty-Five Thousand Four Hundred Eighty-Five and 11/100 Dollars (455,485.11), plus interest accruing from March 6, 2008 at the contract rate, late charges, costs and reasonable attorneys' fees.

WHEREFORE, Plaintiff demands judgment in mortgage foreclosure on Note-1 and Mortgage-1 in the amount of Fifty-Five Thousand Four Hundred Eighty-Five and 11/100 Dollars (\$55,485.11), plus interest accruing from March 6, 2008, late charges, reasonable attorneys' fees as authorized by Note-1, and costs of foreclosure and sale of the Premises.

### Count II

11. The averments set forth in paragraphs 3 through 10 are incorporated herein by reference.

12. On or about December 7, 2001, Borrower executed and delivered a Promissory Note to the Bank whereby Borrower agreed to pay the Bank the principal amount of \$62,569.11, together with interest thereon in the manner provided therein ("Note-2"). A true and correct copy of Note-2 is attached hereto as Exhibit "C" and incorporated herein.

13. The obligations evidenced by Note-2 are secured by a Mortgage dated December 7, 2001 ("Mortgage-2"), given by Defendant to the Bank, granting the Bank a security

interest in the Premises. Mortgage-2 was recorded in the Recorder's Office on December 7, 2001 at Instrument No. 200119662. A true and correct copy of Mortgage-2, containing the legal description of the Premises, is attached hereto as Exhibit "D" and incorporated herein.

14. The Borrower is in default of the provisions of Note-2 for failure to make payments when due. As of March 6, 2008, payments on Note-2 were due for April 1, 2007 and all months thereafter.

15. Bank was not required to send Defendant written notice pursuant to 35 P.S. §1680.403C (Homeowner's Emergency Mortgage Assistance Act of 1983 - Act 91 of 1983) and 41 P.S. §403 (Act 6 of 1974) as the Premises is strictly commercial in nature.

16. The amount due Bank under Note-2 and Mortgage-2 as of March 6, 2008 is as follows:

Principal .....	\$ 41,458.46
Interest through March 6, 2008 .....	3,845.27
(per diem \$10.364615)	
Late Fees.....	0.00
Costs.....	to be added
Attorney's Fees .....	<u>to be added</u>
<b>TOTAL .....</b>	<b>\$ 45,303.73</b>

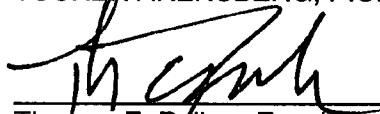
17. The total amount now due to the Bank under Note-2 as of March 6, 2008 was Forty-Five Thousand Three Hundred Three and 73/100 Dollars (\$45,303.73), plus interest accruing from March 6, 2008 at the contract rate, late charges, costs and reasonable attorneys' fees.

WHEREFORE, Plaintiff demands judgment in mortgage foreclosure on Note-2 and Mortgage-2 in the amount of Forty-Five Thousand Three Hundred Three and 73/100 Dollars (\$45,303.73), plus interest accruing from March 6, 2008, late charges, reasonable attorneys' fees as authorized by Note-2, and costs of foreclosure and sale of the Premises.

**Count II**

WHEREFORE, Plaintiff demands judgment in mortgage foreclosure on Note-1 and Mortgage-1 and on Note-2 and Mortgage-2 in the total amount of One Hundred Thousand Seven Hundred Eighty-Eight and 41/100 Dollars (\$100,788.41), plus interest accruing from March 6, 2008, late charges, reasonable attorneys' fees as authorized by Note-1 and Note-2, and costs of foreclosure and sale of the Premises.

TUCKER ARENSBERG, P.C.



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Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212  
Attorneys for First Commonwealth Bank,  
f/k/a Deposit Bank, Plaintiff

323966.1:BF/#11555-131955

# Mortgage Note

\$...325,000.00.....

DuBois Pennsylvania

November 21, 1995

For Value Received, Thomas J. Dunlap, d/b/a Tommy D's Restaurant and Catering, City of DuBois, Clearfield

County, Pennsylvania

(hereinafter called "the Undersigned")

promises to pay to the order of Deposit Bank

its successors or assigns, in

lawful money of the United States of America, the sum of Three Hundred Twenty-Five Thousand and 00/100--

Dollars (\$ 325,000.00 ) and any additional moneys loaned or advanced by any holder hereof as  
hereinafter provided, as follows:

This Note contains provisions allowing for changes in the interest rate as explained in  
Exhibit "A" attached hereto and incorporated herein.

and any balance of principal or interest remaining unpaid on May 1 xx 2008  
shall become due and payable on said date; and in addition thereto, in the event any payment provided for herein  
shall become overdue, the Undersigned agrees to pay a late charge in an amount not exceeding six per cent  
(6%) of any such overdue payment as compensation for the additional service resulting from the default; all pay-  
ments to be made at any offices of Deposit Bank, 2 East Long Avenue, DuBois, PA 15801

, Pennsylvania or elsewhere as shall be directed by any holder hereof.

This Note shall evidence and the Mortgage given to secure its payment shall cover and be security for any  
future loans or advances that may be made to or on behalf of the Undersigned by any holder hereof at any time  
or times hereafter and intended by the Undersigned and the then holder to be so evidenced and secured, as well as  
any sums paid by any holder hereof pursuant to the terms of said Mortgage, and any such loans, advances or  
payments shall be added to and shall bear interest at the same rate as the principal debt.

In case default be made for the space of thirty (30) days in the payment of any installment of principal  
or interest, or in the performance by the Undersigned of any of the other obligations of this Note or said Mortgage,  
the entire unpaid balance of the principal debt, additional loans or advances and all other sums paid by any  
holder hereof to or on behalf of the Undersigned pursuant to the terms of this Note or said Mortgage, together  
with unpaid interest thereon, shall at the option of the holder and without notice become immediately due and  
payable, and one or more executions may forthwith issue on any judgment or judgments obtained by virtue hereof;  
and no failure on the part of any holder hereof to exercise any of the rights hereunder shall be deemed a waiver  
of any such rights or of any default hereunder.

The Undersigned hereby empowers any attorney of any court of record within the United States of America or  
elsewhere to appear for the Undersigned and, with or without complaint filed, confess judgment, or a series of  
judgments, against the Undersigned in favor of any holder hereof, as of any term, for the unpaid balance of the  
principal debt, additional loans or advances and all other sums paid by the holder hereof to or on behalf of the  
Undersigned pursuant to the terms of this Note or said Mortgage, together with unpaid interest thereon, costs  
of suit and an attorney's commission for collection of five per cent (5%) of the total indebtedness or \$200, whichever  
is the larger amount, on which judgment or judgments one or more executions may issue forthwith upon failure  
to comply with any of the terms and conditions of this Note or said Mortgage. The Undersigned hereby forever  
waives and releases all errors in said proceedings, waives stay of execution, the right of inquisition and extension  
of time of payment, agrees to condemnation of any property levied upon by virtue of any such execution, and  
waives all exemptions from levy and sale of any property that now is or hereafter may be exempted by law.

This obligation shall bind the Undersigned and the Undersigned's heirs, executors, administrators and  
assigns, and the benefits hereof shall inure to the payee hereof and its successors and assigns. If this Note is  
executed by more than one person, the undertakings and liability of each shall be joint and several.

This Note is secured by a Mortgage of even date herewith upon real estate described therein.

This Note is additionally secured by separate Security Agreements.

Witness the due execution hereof the day and year first above written.

Witnessed by:

*Tom A. Heath*

d/b/a Tommy D's Restaurant and Catering:

*Thomas J. Dunlap*

(SEAL)

(SEAL)

(SEAL)

(SEAL)



Guaranty and Suretyship Agreement

For Value Received and intending to be legally bound, the Undersigned does hereby unconditionally guarantee and become surety for the due and punctual payment of each installment of principal of and interest on the within Mortgage Note as and when each said installment shall respectively become due and payable in accordance with the terms thereof, whether at maturity or by declaration, acceleration or otherwise, as well as all additional loans or advances and all other sums paid by any holder of said Note to or on behalf of the maker thereof pursuant to the terms of said Note or the Mortgage securing the same.

The Undersigned hereby waives any presentment for payment, notice of nonpayment, demand or protest, declares that this obligation is absolute and unconditional, and agrees that it shall not be released by any extension of time for payment or by any other matter or thing whatsoever whereby the Undersigned as absolute guarantor and surety otherwise would or might be released.

In case default be made for the space of thirty (30) days in the payment of any sums due under said Mortgage Note, the Undersigned hereby empowers any attorney of any court of record within the United States of America or elsewhere to appear for the Undersigned and, with or without complaint filed, confess judgment, or a series of judgments, against the Undersigned in favor of any holder thereof, as of any term, for the unpaid balance of the principal debt, additional loans or advances and all other sums paid by any holder thereof to or on behalf of the maker of said Mortgage Note pursuant to the terms thereof or of the Mortgage securing the same, together with interest thereon, costs of suit and an attorney's commission for collection of five per cent (5%) of the total indebtedness or \$200, whichever is the larger amount, on which judgment or judgments one or more executions may issue forthwith. The Undersigned hereby forever waives and releases all errors in said proceedings, waives stay of execution, the right of inquisition and extension of time of payment, agrees to condemnation of any property levied upon by virtue of any such execution, and waives all exemptions from levy and sale of any property that now is or hereafter may be exempted by law.

These presents shall bind the Undersigned and the Undersigned's heirs, executors, administrators and assigns, and the benefits hereof shall inure to the payee of said Mortgage Note, its successors and assigns. If executed by more than one person, this obligation and the undertakings hereunder shall be joint and several.

Witness the due execution hereof this day of , 19

Witnessed by:

(SEAL)

(SEAL)

Mortgage  
Note

FROM

TO



2 East Long Avenue P.O. Box 607A DuBois, PA 15801 (814) 371-2345  
Fax No. (814) 375-2312 3rd Floor Fax No. (814) 375-5400

**EXHIBIT "A" TO MORTGAGE NOTE DATED November 21, 1995**

\$325,000.00 together with interest thereon at the initial rate of 9.75 percent (9.75%) per annum payable within 12.50 years as follows:

"Interest Only" monthly on all monies advanced on or before May 1, 1996. Thereafter and beginning on June 1, 1996, initial monthly principal and interest payments of \$ 3,837.21 will commence and continue on the same day of each month until the principal debt and interest are paid in full, said payments to be applied first to the payment of interest and the balance to payment of principal.

The initial interest rate may change on November 1, 2000 and again on November 1, 2005.

Any changes in the interest rate shall be based upon changes in the interest rate index, hereinafter called the index, which shall be the National Prime Rate + 1.00% in effect on the 1st of each month preceding the change date.

If the interest rate changes, the amount of the monthly payments will change as of the first monthly payment date after the change date and will always be sufficient to repay the loan in full in substantially equal payments by the final payment date. In setting the monthly payment amount on each change date, Bank will assume that the interest rate will not change again prior to the final payment date.

Bank will mail notice, containing the current and new interest rate and the current and new monthly payment at least 15 days before each change date if the interest rate is to change.

Undersigned shall have the right to prepay the principal of the loan in full at any time upon payment of the sum of 1% of the outstanding principal in addition to all other sums then due and owing on the loan.

d/b/a Tommy D's Restaurant & Catering:

Thomas J. Dunlap

# Mortgage

Made this 21st day of November, 1995

Between THOMAS J. DUNLAP, of Sandy Township,  
Clearfield County, Pennsylvania,

(hereinafter, whether one or more, called "Mortgagor")

And DEPOSIT BANK, a banking corporation  
organized and existing under the laws of the Commonwealth of Pennsylvania, with  
offices located at 2 East Long Avenue, P.O. Box 607A, DuBois, Clearfield County,  
Pennsylvania

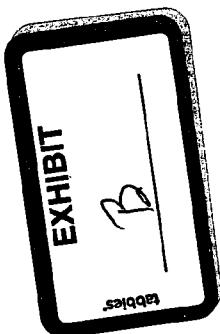
(hereinafter called "Mortgagee")

Whereas, Mortgagor has executed and delivered to Mortgagee a certain Mortgage Note (hereinafter called the  
"Note") of even date herewith, payable to the order of Mortgagee in the principal sum of—THREE HUNDRED TWENTY-  
FIVE THOUSAND and 00/100—

— Dollars (\$325,000.00),  
lawful money of the United States of America, and has provided therein for payment of any additional moneys loaned  
or advanced thereunder by Mortgagee, together with interest thereon at the rate provided in the note, in the manner  
and at the times therein set forth, and containing certain other terms and conditions, all of which are specifically  
incorporated herein by reference:

Now, Therefore, Mortgagor, in consideration of said debt or principal sum and as security for the payment of  
the same and interest as aforesaid, together with all other sums payable hereunder or under the terms of the Note,  
does grant and convey unto Mortgagee, its successors and assigns:

All those certain pieces, parcels or tracts of land situate, lying and being  
in the City of DuBois, Clearfield County, Pennsylvania, and being bounded and  
described as more particularly set forth on Exhibit "A" attached hereto and made  
a part hereof.



Together with the buildings and improvements erected thereon, the appurtenances thereunto belonging and the reversions, remainders, rents, issues and profits thereof.

To Have And To Hold the same unto Mortgagee, its successors and assigns, forever.

Provided, However, That if Mortgagor shall pay to Mortgagee the aforesaid debt or principal sum, including additional loans or advances and all other sums payable by Mortgagor to Mortgagee hereunder and under the terms of the Note, together with interest hereon, and shall keep and perform each of the other covenants, conditions, and agreements hereinafter set forth, then this Mortgage and the estate hereby granted and conveyed shall become void.

This Mortgage is executed and delivered subject to the following covenants, conditions and agreements:

(1) The Note secured hereby shall evidence and this Mortgage shall cover and be security for any future loans or advances that may be made by Mortgagee to Mortgagor at any time or times hereafter and intended by Mortgagor and Mortgagee to be so evidenced and secured, and such loans and advances shall be added to the principal debt.

(2) From time to time until said debt and interest are fully paid, Mortgagor shall: (a) pay and discharge, when and as the same shall become due and payable, all taxes, assessments, sewer and water rents, and all other charges and claims assessed or levied from time to time by any lawful authority upon any part of the mortgaged premises and which shall or might have priority in lien or payment to the debt secured hereby, (b) pay all ground rents reserved from the Mortgaged premises and pay and discharge all Mechanics' liens which may be filed against said premises and which shall or might have priority in lien or payment to the debt secured hereby, (c) pay and discharge any documentary stamp or other tax, including interest and penalties thereon, if any, now or hereafter becoming payable on the Note evidencing the debt secured hereby, (d) provide, renew and keep alive by paying the necessary premiums and charges thereon such policies of hazard and liability insurance as Mortgagee may from time to time require upon the buildings and improvements now or hereafter erected upon the mortgaged premises, with loss payable clauses in favor of Mortgagor and Mortgagee as their respective interest may appear, and (e) promptly submit to Mortgagee evidence of the due and punctual payment of all the foregoing charges; provided, however, that Mortgagee may at its option require that sums sufficient to discharge the foregoing charges be paid in installments to Mortgagee.

(3) Mortgagor shall maintain all buildings and improvements subject to this Mortgage in good and substantial repair, as determined by Mortgagee. Mortgagee shall have the right to enter upon the mortgaged premises at any reasonable hour for the purpose of inspecting the order, condition and repair of the buildings and improvements erected thereon.

(4) In the event Mortgagor neglects or refuses to pay the charges mentioned at (2) above, or fails to maintain the buildings and improvements as aforesaid, Mortgagee may do so, add the cost thereof to the principal debt secured hereby, and collect the same as a part of said principal debt.

(5) Mortgagor covenants and agrees not to create, nor permit to accrue, upon all or any part of the mortgaged premises, any debt, lien or charge which would be prior to, or on a parity with, the lien of this Mortgage.

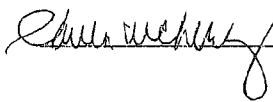
(6) In case default be made for the space of thirty (30) days in the payment of any installment of principal or interest pursuant to the terms of the Note, or in the performance by Mortgagor of any of the other obligations of the Note or this Mortgage, the entire unpaid balance of said principal sum, additional loans or advances and all other sums paid by Mortgagee pursuant to the terms of the Note or this Mortgage, together with unpaid interest thereon, shall at the option of Mortgagee and without notice become immediately due and payable, and foreclosure proceedings may be brought forthwith on this Mortgage and prosecuted to judgment, execution and sale for the collection of the same, together with costs of suit and an attorney's commission for collection of five per cent (5%) of the total indebtedness or \$200, whichever is the larger amount. Mortgagor hereby forever waives and releases all errors in said proceedings, waives stay of execution, the right of inquisition and extension of time of payment, agrees to condonation of any property levied upon by virtue of any such execution, and waives all exemptions, from levy and sale of any property that now is or hereafter may be exempted by law.

(7) Mortgagor agrees not to transfer title to the mortgaged premises unless the Mortgagee consents in writing to such transfer. A transfer to the heirs or devisees of the Mortgagor in the event of the Mortgagor's death shall not come within the prohibition of the foregoing sentence.

The covenants, conditions and agreements contained in this Mortgage shall bind, and the benefits thereof shall inure to, the respective parties hereto and their respective heirs, executors, administrators, successors and assigns, and if this Mortgage is executed by more than one person, the undertakings and liability of each shall be joint and several.

Witness the due execution hereof of the day and year first above written.

Witnessed by:



Thomas J. Dunlap

(SEAL)

(SEAL)

(SEAL)

(SEAL)

Commonwealth of Pennsylvania

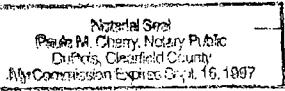
County of Clearfield

} ss.

On this, the 21st day of November, 1995, before me, a Notary Public, the undersigned officer, personally appeared THOMAS J. DUNLAP, satisfactorily proven to me to be the person whose name is subscribed to the within Mortgage, and acknowledged that he executed the same for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and official seal.

My commission expires:



*Thomas J. Dunlap*  
Notary Public

Commonwealth of Pennsylvania

County of

} ss.

On this, the day of , 19 , before me, the undersigned officer, personally appeared satisfactorily proven to me to be the person whose name subscribed to the within Mortgage, and acknowledged that he executed the same for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and official seal.

My commission expires:

*Mortgage*

FROM

THOMAS J. DUNLAP

TO

DEPOSIT BANK

GLEASON, CHERRY AND CHERRY, P.C.  
ATTORNEYS AT LAW  
One North Franklin Street  
P.O. Box 505  
DuBois, PA 15801-0505  
(814) 371-5800

Certificate of Residence of Mortgagor

I do hereby certify that the precise residence and complete post office address of the within Mortgagor is:

2 East Long Avenue  
P.O. Box 607A  
DuBois, PA 15801

GLEASON, CHERRY AND CHERRY, P.C.

By \_\_\_\_\_

Attorney for Mortgagor

Commonwealth of Pennsylvania

County of

} ss.

Recorded in the Office of the Recorder of Deeds in and for said County on the day of , 19 , in Mortgage Book Volume , page .

Witness my hand and the seal of said office the day and year aforesaid.

Recorder:

Exhibit "A"

ALL those certain pieces, parcels or tracts of land situate, lying and being in the City of DuBois, Clearfield County, Pennsylvania, and being bounded and described as follows, to wit:

THE FIRST THEREOF:

BEGINNING at a post on the North side of South Brady Street, also known as State Route 219, being also the Southeast corner of land of Thomas J. Dunlap; thence along the easterly line of land of Thomas J. Dunlap in a Northwesterly direction, 138 feet to other lands of the DuBois Parking Authority; thence by same in a Northeasterly direction 50 feet to the Northwest corner of land of Paul D. Horchen; thence along the Westerly line of land of Paul D. Horchen in a Southeasterly direction 138 feet to a point in the Northerly line of South Brady Street (State Route 219); thence by the Northerly line of South Brady Street (State Route 219) in a Southwesterly direction 50 feet to a post and the place of beginning.

SAID CONVEYANCE IS MADE UNDER AND SUBJECT TO THE FOLLOWING EXCEPTIONS, RESERVATIONS, EASEMENTS, COVENANTS AND CONDITIONS:

1. Under and subject to all outstanding leases of oil and gas and it is hereby excepted and reserved from the above-described parcel of land all oil and gas, with rights of ingress and egress for removal of the same. Also excepting and reserving the right to store gas under the above-described premises.
2. Excepting and reserving all of the coal as the same has been reserved and/or conveyed in prior deeds.
3. Under and subject to all easements, servitudes and rights-of-way pertaining to the above-described premises.
4. The conveyance shall be subject to all City Zoning and land subdivision ordinances now in effect or that may be in effect at any time in the future.
5. Within one (1) year of completion of construction of the stipulated building, all areas of the above-described land not paved for driveways or parking shall be planted in grass and shrubbery.
6. Any and all fill needed for any areas of the premises herein conveyed shall be placed on the lot within two (2) years from the date of this deed, prior to the commencement of any landscaping on the premises.

7. In the event of any failure, neglect, or refusal by said Grantee, his heirs and assigns, to begin construction of a building within one (1) year from the date of this deed, and to complete construction within two (2) years from the date of this deed, the within conveyance shall become null and void, and title thereto shall revert to the City of DuBois, without any requirement of recompense or other reimbursements to the said Grantee herein by virtue of said reversion or retaking by the City of DuBois.

8. Grantee, his heirs and assigns, shall construct and maintain a 5-foot wide concrete sidewalk along the north side of said parcel for accessing Brady Street to the city parking lot and shall install and maintain security lighting along this area. Such construction and installation shall be completed no more than one (1) year after the completion of construction.

BEING the same premises which were conveyed to Thomas J. Dunlap, single, by deed of the City of DuBois dated July 10, 1995, and recorded in Clearfield County Deeds and Records Book Vol. 1707, Page 233, on September 28, 1995.

THE SECOND THEREOF: Situate on the corner of South Brady Street and West Washington Avenue and being bounded on the North by the property of DuBois Lodge No. 349, Benevolent Protective Order of Elks; on the East by South Brady Street; on the South by West Washington Avenue; and on the West by lands now or formerly of Hibner-Hoover Hardware Company, and being 26 feet, more or less in width on South Brady Street and extending Westward to the lands now or formerly of Hibner-Hoover Hardware Company, a distance of 139 feet, more or less.

BEING the same premises which were conveyed to Thomas J. Dunlap by deed of Patrick Valentine, et al., dated October 16, 1985, and recorded in Clearfield County Deeds and Records Book Vol. 1049, Page 176, on November 5, 1985.

# PROMISSORY NOTE

Principal	Loan Date	Maturity	Loan No.	Cell/Call	Account	Officer	Initiate
\$62,569.11	12-07-2001	12-01-2013	69570		0485034	PXH	

References in the shaded area are for Lender's use only and do not limit the applicability of this document to any particular loan or item.  
Any item above containing \*\*\* has been omitted due to text length limitations.

**Borrower:** THOMAS J. DUNLAP (SSN: 208-42-8205) DBA:  
TOMMY D'S  
42 S. BRADY STREET  
DUBOIS, PA 15801

**Lender:** Deposit Bank, a division of First Commonwealth Bank  
Loan Administration Office  
2 East Long Avenue  
PO Box 607A  
Dubois, PA 15801  
(814) 371-2346

**Principal Amount:** \$62,569.11

**Date of Note:** December 7, 2001

**PROMISE TO PAY.** THOMAS J. DUNLAP ("Borrower") promises to pay to Deposit Bank, a division of First Commonwealth Bank ("Lender"), or order, in lawful money of the United States of America, the principal amount of Sixty-two Thousand Five Hundred Sixty-nine & 11/100 Dollars (\$62,569.11), together with interest at the rate of 6.750% per annum on the unpaid principal balance from December 7, 2001, until paid in full.

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

Notwithstanding the preceding disclosure of the interest rate to be charged, the following **INTEREST RATE AND MONTHLY PAYMENT CONDITIONS WILL PREVAIL**. All payments will be applied first to accrued and unpaid interest, then to principal, and any remaining amount to any unpaid collection costs and late charges. On December 1, 2013, the entire outstanding principal balance plus any due and unpaid interest thereon will be due and payable in full. (A) From date of first disbursement until the "Change Date" described below, 2005 and December 7, 2011. Each date on which the interest rate could change is called the "Change Date." (C) Beginning with the first Street Journal. If the Index is no longer available, the Lender will choose a new index which is based on comparable information. The Lender will give notice of this change. (D) The Lender will calculate the interest rate by adding three-quarters per cent (.75%) to the Current Index on each Change Date. (E) Interest and principal payments in the amount of Six Hundred Thirty-Five Dollars and Fourteen Cents (\$635.14) will be due and payable on January 1, 2002 and on the same day of each month thereafter until the first day of the first month following the Change date. At that time and following each Change Date thereafter the payment will be set to amortize the outstanding principal balance at the applicable interest rate by the loan maturity date.

Unless otherwise agreed or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs. The annual interest rate for this Note is computed on a 365/360 basis; that is, by applying the ratio of the annual interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. Borrower will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

**PREPAYMENT PENALTY.** Upon prepayment of this Note, Lender is entitled to the following prepayment penalty: 1% OF OUTSTANDING PRINCIPAL BALANCE. Except for the foregoing, Borrower may pay all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Lender in writing, relieve Borrower of Borrower's obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in Borrower's making fewer payments. Borrower agrees not to send any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: Deposit Bank, a division of First Commonwealth Bank; Loan Administration Office; 2 East Long Avenue; PO Box 607A; Dubois, PA 15801.

**INTEREST AFTER DEFAULT.** Upon default, including failure to pay upon final maturity, Lender, at its option, may, if permitted under applicable law, increase the interest rate on this Note 6.000 percentage points. The interest rate will not exceed the maximum rate permitted by applicable law. If judgment is entered in connection with this Note, interest will continue to accrue on this Note after judgment at the existing interest rate provided for in this Note.

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

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

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

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

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

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

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the indebtedness or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the indebtedness evidenced by this Note. In the event of a death, Lender, at its option, may, but shall not be required to, permit the guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender, and, in doing so, cure any Event of Default.

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

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

**Cure Provision.** If any default, other than a default in payment is curable and if Borrower has not been given a notice of a breach of the same provision of this Note within the preceding twelve (12) months, it may be cured (and no event of default will have occurred) if Borrower, after receiving written notice from Lender demanding cure of such default: (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**LENDER'S RIGHTS.** Upon default, Lender may, after giving such notices as required by applicable law, declare the entire unpaid principal balance on this Note and all accrued unpaid interest immediately due, and then Borrower will pay that amount.

**EXPENSES.** If Lender institutes any suit or action to enforce any of the terms of this Note, Lender shall be entitled to recover such sum as the court may adjudge reasonable. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the loan payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals, to the extent permitted by applicable law. Borrower also will pay any court costs, in addition to all other sums provided by law.

**JURY WAIVER.** Lender and Borrower hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by either Lender or Borrower against the other.

**RIGHT OF SETOFF.** To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower

EXHIBIT

PROMISSORY NOTE  
(Continued)

authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any and all such accounts, and, at Lender's option, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights provided in this paragraph.

**COLLATERAL.** Borrower acknowledges this Note is secured by MORTGAGE OF EVEN DATE HEREWITHE ON REAL ESTATE DESCRIBED IN CLEARFIELD COUNTY DEED BOOK VOLUME 1707, PAGE 233 AND DEED BOOK VOLUME 1049, PAGE 176. SECOND LIEN POSITION AND SECURITY INTEREST IN ALL ACCOUNTS RECEIVABLE, INVENTORY, FURNITURE, FIXTURES, EQUIPMENT AND LIQUOR LICENSE, NOW OWNED AND HEREAFTER ACQUIRED AND THE PRODUCTS AND PROCEEDS THEREOF.

**LIMITATION OF ACTION.** If the Borrower has any cause of action against the Lender, now or in the future, arising out of the Related Documents and the transactions contemplated by the Related Documents, whether in contract or tort or otherwise, the Borrower must assert the claim within one year of the occurrence of the event which gives rise to a cause of action. If the Borrower does not assert the claim within one year of the occurrence of a cause of action, the Borrower will be barred from asserting the claim. Borrower and Lender agree that the one year time period is reasonable and sufficient for the Borrower to investigate and act upon the claim and that the provision shall survive any termination of the Agreement.

**LATE CHARGE.** A late charge will be assessed in the amount of 6% of the regular payment or portion thereof that remains unpaid for more than ten (10) days beyond the due date. The minimum late charge amount is \$26.00. This charge will be immediately due and payable.

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

**GENERAL PROVISIONS.** Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several. If any portion of this Note is for any reason determined to be unenforceable, it will not affect the enforceability of any other provisions of this Note.

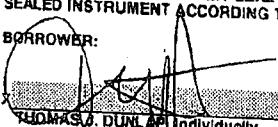
**CONFESSION OF JUDGMENT.** Borrower hereby irrevocably authorizes and empowers any attorney or the Prothonotary or Clerk of any Court in the Commonwealth of Pennsylvania, or elsewhere, to appear at any time for Borrower and, with or without complaint filed, as of any term, confess or enter judgment against Borrower for the entire principal balance of this Note and all accrued interest, together with costs of suit, and an attorney's commission of ten percent (10%) of the unpaid principal balance and accrued interest for collection, but in any event not less than Five Hundred Dollars (\$500); and for so doing, this Note or a copy of this Note verified by affidavit shall be sufficient warrant. The authority granted in this Note to confess judgment against Borrower shall not be exhausted by any exercise of that authority, but shall continue from time to time and at all times until payment in full of all amounts due under this Note.

**PRIOR TO SIGNING THIS NOTE, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO THE TERMS OF THE NOTE.**

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

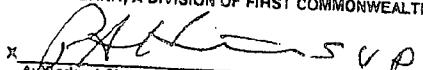
**THIS NOTE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS NOTE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.**

**BORROWER:**

  
THOMAS J. DUNLAP (Seal)

**LENDER:**

**DEPOSIT BANK, A DIVISION OF FIRST COMMONWEALTH BANK**

  
X *[Signature]* VP  
Authorized Signer

KAREN L. STARN  
RECORDER  
CLEARFIELD COUNTY  
Pennsylvania

INSTRUMENT NUMBER  
200119662  
RECORDED ON  
DEC 07, 2001  
1:51:09 PM  
Total Pages: 7

RECORDATION REQUESTED BY:  
Deposit Bank, a division of First Commonwealth Bank  
Loan Administration Office  
2 East Long Avenue  
PO Box 607A  
Dubois, PA 15801

WHEN RECORDED MAIL TO:  
Deposit Bank, a division of First Commonwealth Bank  
Loan Administration Office  
2 East Long Avenue  
PO Box 607A  
Dubois, PA 15801

SEND TAX NOTICES TO:  
THOMAS J. DUNLAP  
42 S. BRADY STREET  
DUBOIS, PA 15801

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

## MORTGAGE

THIS MORTGAGE dated December 7, 2001, is made and executed between THOMAS J. DUNLAP, whose address is 42 S. BRADY STREET, DUBOIS, PA 15801 (referred to below as "Grantor") and Deposit Bank, a division of First Commonwealth Bank, whose address is 2 East Long Avenue, PO Box 607A, Dubois, PA 15801 (referred to below as "Lender").

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

See ATTACHED EXHIBIT "A", which is attached to this Mortgage and made a part of this Mortgage as if fully set forth herein.

**The Real Property or its address is commonly known as 42 S. BRADY STREET, DUBOIS, PA 15801.**

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

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

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

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

**Possession and Use.** Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

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

**Compliance With Environmental Laws.** Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

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

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

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

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

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

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

**Payment.** Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services



rendered or material furnished to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the interest of Lender under this Mortgage, except for the Existing Indebtedness referred to in this Mortgage or those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph.

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

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

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

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

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on an actual cash value basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption and boiler insurance as Lender may require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds \$5,000.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

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

**Compliance with Existing Indebtedness.** During the period in which any Existing Indebtedness described below is in effect, compliance with the insurance provisions contained in the instrument evidencing such Existing Indebtedness shall constitute compliance with the insurance provisions under this Mortgage, to the extent compliance with the terms of this Mortgage would constitute a duplication of insurance requirement. If any proceeds from the insurance become payable on loss, the provisions in this Mortgage for division of proceeds shall apply only to that portion of the proceeds not payable to the holder of the Existing Indebtedness.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Mortgage or any Related Documents, including but not limited to Grantor's failure to comply with any obligation to maintain Existing Indebtedness in good standing as required below, or to discharge or pay when due any amounts Grantor is required to discharge or pay under this Mortgage or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Mortgage also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default. Grantor's obligation to Lender for all such expenses shall survive the entry of any mortgage foreclosure judgment.

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

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

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

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

**Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantor in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's Indebtedness shall be paid in full.

**EXISTING INDEBTEDNESS.** The following provisions concerning Existing Indebtedness are a part of this Mortgage:

**Existing Lien.** The lien of this Mortgage securing the Indebtedness may be secondary and inferior to the lien securing payment of an existing obligation with an account number of 2069008-69164 to DEPOSIT BANK. The existing obligation has a current principal balance of approximately \$220,919.00 and is in the original principal amount of \$325,000.00. The obligation has the following payment terms: \$3,933.13 per Month. Grantor expressly covenants and agrees to pay, or see to the payment of, the Existing Indebtedness and to prevent any default on such indebtedness, any default under the instruments evidencing such indebtedness, or any default under any security documents for such indebtedness.

**No Modification.** Grantor shall not enter into any agreement with the holder of any mortgage or other security agreement which has priority over this Mortgage by which that agreement is modified, amended, extended, or renewed without the prior written consent of Lender. Grantor shall neither request nor accept any future advances under any such security agreement without the prior written consent of Lender.

**CONDEMNATION.** The following provisions relating to condemnation proceedings are a part of this Mortgage:

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be

entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

**Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all actual costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

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

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**Taxes.** The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments to; and (4) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

**Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

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

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

**Security Interest.** Upon request by Lender, Grantor shall execute financing statements and take whatever other action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

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

**FURTHER ASSURANCES; ADDITIONAL AUTHORIZATIONS.** The following provisions relating to further assurances and additional authorizations are a part of this Mortgage:

**Further Assurances.** At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Mortgage, and the Related Documents, and (2) the liens and security interests created by this Mortgage on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Additional Authorizations.** If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably authorizes Lender to make, execute, deliver, file, record and do all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph. It is understood that nothing set forth herein shall require Lender to take any such actions.

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

**EVENTS OF DEFAULT.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**Payment Default.** Grantor fails to make any payment when due under the Indebtedness.

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

**Other Defaults.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

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

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

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

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

**Existing Indebtedness.** The payment of any installment of principal or any interest on the Existing Indebtedness is not made within the time required by the promissory note evidencing such indebtedness, or a default occurs under the instrument securing such indebtedness and is not cured during any applicable grace period in such instrument, or any suit or other action is commenced to foreclose any existing lien on the Property.

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

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

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

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

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

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

**Accelerate Indebtedness.** Lender shall have the right at its option, after giving such notices as required by applicable law, to declare the entire Indebtedness immediately due and payable.

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

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

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

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

**Possession of the Property.** For the purpose of procuring possession of the Property, Grantor hereby authorizes and empowers any attorney of any court of record in the Commonwealth of Pennsylvania or elsewhere, as attorney for Lender and all persons claiming under or through Lender, to sign an agreement for entering in any competent court an amicable action in ejectment for possession of the Property and to appear for and confess judgment against Grantor, and against all persons claiming under or through Grantor, for the recovery by Lender of possession of the Property, without any stay of execution, for which this Mortgage, or a copy of this Mortgage verified by affidavit, shall be sufficient warrant; and thereupon a writ of possession may be issued forthwith, without any prior writ or proceeding whatsoever.

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

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

**Tenancy at Sufferance.** If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

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

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

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

**Election of Remedies.** Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Mortgage, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies. Nothing under this Mortgage or otherwise shall be construed so as to limit or restrict the rights and remedies available to Lender following an Event of Default, or in any way to limit or restrict the rights and ability of Lender to proceed directly against Grantor and/or against any other co-maker, guarantor, surety or endorser and/or to proceed against any other collateral directly or indirectly securing the Indebtedness.

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

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

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

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

**Annual Reports.** If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

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

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

**Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the

offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Mortgage. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Mortgage shall not affect the legality, validity or enforceability of any other provision of this Mortgage.

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

**Successor Interests.** The terms of this Mortgage shall be binding upon Grantor, and upon Grantor's heirs, personal representatives, successors, and assigns, and shall be enforceable by Lender and its successors and assigns.

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

**Waive Jury.** All parties to this Mortgage hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Mortgage. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Borrower.** The word "Borrower" means THOMAS J. DUNLAP, and all other persons and entities signing the Note in whatever capacity.

**Default.** The word "Default" means the Default set forth in this Mortgage in the section titled "Default".

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

**Existing Indebtedness.** The words "Existing Indebtedness" mean the indebtedness described in the Existing Liens provision of this Mortgage. **Grantor.** The word "Grantor" means THOMAS J. DUNLAP.

**Guaranty.** The word "Guaranty" means the guaranty from guarantor, endorser, surety, or accommodation party to Lender, including without limitation a guaranty of all or part of the Note.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Improvements.** The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Mortgage, together with interest on such amounts as provided in this Mortgage.

**Lender.** The word "Lender" means Deposit Bank, a division of First Commonwealth Bank, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage between Grantor and Lender.

**Note.** The word "Note" means the promissory note dated December 7, 2001, in the original principal amount of \$62,569.11 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The maturity date of this Mortgage is December 1, 2013.

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

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

**Real Property.** The words "Real Property" mean the real property, interests and rights, as further described in this Mortgage.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

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

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS. THIS MORTGAGE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS MORTGAGE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.

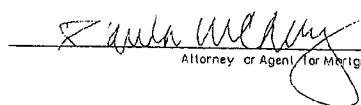
GRANTOR:

X   
THOMAS J. DUNLAP, Individually

(Seal)

#### CERTIFICATE OF RESIDENCE

I hereby certify, that the precise address of the mortgagor, Deposit Bank, a division of First Commonwealth Bank, herein is as follows:  
Loan Administration Office, 2 East Long Avenue, PO Box 607A, Dubois, PA 15801

  
Karen McElroy  
Attorney or Agent for Mortgagor

## INDIVIDUAL ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA

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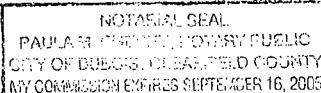
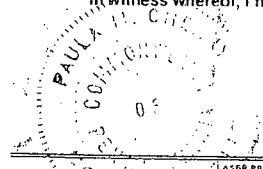
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COUNTY OF CLEARFIELD

)

On this, the 7th day of December, 2001, before me Paula M. Cherry, the undersigned Notary Public, personally appeared THOMAS J. DUNLAP, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument; and acknowledged that he or she executed the same for the purposes therein contained.

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



  
Paula M. Cherry  
Notary Public in and for the State of Pennsylvania

Exhibit "A"

ALL those certain pieces, parcels or tracts of land situate, lying and being in the City of DuBois, Clearfield County, Pennsylvania, and being bounded and described as follows, to wit:

THE FIRST THEREOF: Situate on the corner of South Brady Street and West Washington Avenue and being bounded on the North by the property of DuBois Lodge No. 349, Benevolent Protective Order of Elks; on the East by South Brady Street; on the South by West Washington Avenue; and on the West by lands now or formerly of Hibner-Hoover Hardware Company, and being 26 feet, more or less, in width on South Brady Street and extending Westward to the lands now or formerly of Hibner-Hoover Hardware Company, a distance of 139 feet, more or less.

BEING the same premises which were conveyed to Thomas J. Dunlap by Deed of Patrick Valentine, et al., dated October 16, 1985, and recorded in Clearfield County Deeds and Records Book Vol. 1049, Page 176, on November 5, 1985.

THE SECOND THEREOF: BEGINNING at a post on the North side of South Brady Street, also known as State Route 219, being also the Southeast corner of land of Thomas J. Dunlap; thence along the easterly line of land of Thomas J. Dunlap in a Northwesterly direction, 138 feet to other lands of the DuBois Parking Authority; thence by same in a Northeasterly direction 50 feet to the Northwest corner of land of Paul D. Horchen; thence along the Westerly line of land of Paul D. Horchen in a Southeasterly direction 138 feet to a point in the Northerly line of South Brady Street (State Route 219); thence by the Northerly line of South Brady Street (State Route 219) in a Southwesterly direction 50 feet to a post and the place of beginning.

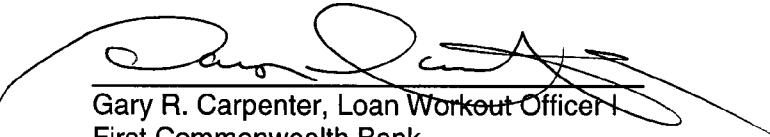
SAID CONVEYANCE IS MADE UNDER AND SUBJECT TO THE FOLLOWING EXCEPTIONS, RESERVATIONS, EASEMENTS, COVENANTS AND CONDITIONS:

1. Under and subject to all outstanding leases of oil and gas and it is hereby excepted and reserved from the above-described parcel of land all oil and gas, with rights of ingress and egress for removal of the same. Also excepting and reserving the right to store gas under the above-described premises.
2. Excepting and reserving all of the coal as the same has been reserved and/or conveyed in prior deeds.
3. Under and subject to all easements, servitudes and rights-of-way pertaining to the above-described premises.
4. The conveyance shall be subject to all City Zoning and land subdivision ordinances now in effect or that may be in effect at any time in the future.
5. Within one (1) year of completion of construction of the stipulated building, all areas of the above-described land not paved for driveways or parking shall be planted in grass and shrubbery.
6. Any and all fill needed for any areas of the premises herein conveyed shall be placed on the lot within two (2) years from the date of this deed, prior to the commencement of any landscaping on the premises.
7. In the event of any failure, neglect, or refusal by said Grantee, his heirs and assigns, to begin construction of a building within one (1) year from the date of this deed, and to complete construction within two (2) years from the date of this deed, the within conveyance shall become null and void, and title thereto shall revert to the City of DuBois, without any requirement of recompense or other reimbursements to the said Grantee herein by virtue of said reversion or retaking by the City of DuBois.
8. Grantee, his heirs and assigns, shall construct and maintain a 5-foot wide concrete sidewalk along the north side of said parcel for accessing Brady Street to the city parking lot and shall install and maintain security lighting along this area. Such construction and installation shall be completed no more than one (1) year after the completion of construction.

BEING the same premises which were conveyed to Thomas J. Dunlap, single, by Deed of the City of DuBois, dated July 10, 1995, and recorded in Clearfield County Deeds and Records Book Vol. 1707, Page 233, on September 28, 1995.

**VERIFICATION**

I, Gary R. Carpenter, Loan Workout Officer, First Commonwealth Bank, do hereby depose and say, subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities, that the facts set forth in the foregoing Amended Complaint in Mortgage Foreclosure are true and correct upon my information and belief. I further depose and say that, in my position as Loan Workout Officer, I am duly authorized to make this authorization on behalf of the Bank.



Gary R. Carpenter, Loan Workout Officer  
First Commonwealth Bank

323966.1:BF  
11555-131955

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, )  
f/k/a DEPOSIT BANK, )  
Plaintiff, )  
v. ) No. 08-677-CD  
THOMAS J. DUNLAP, d/b/a TOMMY D'S )  
RESTAURANT AND CATERING, )  
Defendant, )  
and )  
THE UNITED STATES OF AMERICA, )  
Terre Tenant. )

W  
FILED ICC Atty  
03:35pm ICC USA  
JUN 16 2008 def/TT

William A. Shaw  
Prothonotary/Clerk of Courts

CONSENT JUDGMENT

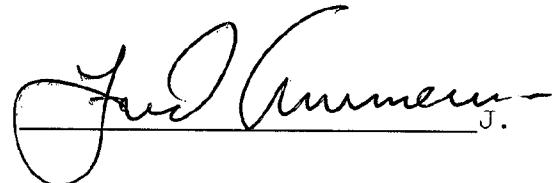
AND NOW, to wit, this 16 day of June,  
2008, it appearing that counsel for plaintiff and counsel for  
defendant, United States of America, have consented to the entry  
of the within Order on behalf of their respective clients, it is  
hereby ORDERED, ADJUDGED and DECREED that a judgment be entered  
in favor of the plaintiff and against the United States of  
America for foreclosure of the mortgage of plaintiff in the  
within cause and for sale of the mortgaged property of  
defendant(s) THOMAS J. DUNLAP D/B/A TOMMY D'S RESTAURANT AND  
CATERING.

It is further ORDERED, ADJUDGED and DECREED that defendant,  
United States of America, shall be notified by plaintiff of the  
date, time and place scheduled for any sheriff's sale of the real  
property of the aforesaid defendant(s); that the United States of

America shall be entitled to payment from the proceeds of the sheriff's sale to the extent its proper priority would entitle it to the same; and that the United States of America shall be entitled to redeem the aforesaid property within 120 days from the date of sale, as provided by 28 U.S.C. § 2410.

Nothing contained in the within Order shall, in any way, be construed as entry of a monetary judgment against the United States of America, but rather said judgment is limited to the foreclosure and sale of the real estate of the aforesaid defendant(s) in the within proceeding.

BY THE COURT:



Consented to by:



THOMAS E. REIBER, ESQ.  
Counsel for Plaintiff



MICHAEL C. COLVILLE  
Assistant U.S. Attorney  
Counsel for Defendant  
United States of America

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

CIVIL DIVISION

Plaintiff,

No. 08-677-CD

vs.

THOMAS J. DUNLAP, d/b/a  
TOMMY D'S RESTAURANT  
AND CATERING,

PRAECIPE TO REINSTATE  
AMENDED COMPLAINT IN  
MORTGAGE FORECLOSURE

Defendant,

Filed on behalf of FIRST  
COMMONWEALTH BANK, Plaintiff

and

THE UNITED STATES OF AMERICA,

Counsel of record for this party:

Terre Tenant.

Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, PA 15222  
Telephone: (412) 566-1212

**FILED** Atty Paid 7.00  
M 11:18 a.m. 6K  
JUL 17 2008 I Reinst. TO  
ATTY, STUFF.  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. 08-677-CD  
vs. )  
THOMAS J. DUNLAP, d/b/a )  
TOMMY D'S RESTAURANT )  
AND CATERING, )  
Defendant, )  
and )  
THE UNITED STATES OF AMERICA, )  
Terre Tenant. )

**PRAECIPE TO REINSTATE AMENDED COMPLAINT**

TO: PROTHONOTARY

Please reinstate the Amended Complaint in the above-captioned matter.

TUCKER ARENSBERG, P.C.



Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
1500 One PPG Place  
Pittsburgh, PA 15222  
Telephone: (412) 566-1212

Attorneys for First Commonwealth Bank,  
f/k/a Deposit Bank, Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
NO: 08-677-CD

FIRST COMMONWEALTH BANK, f/k/a DEPOSIT BANK

vs SERVICE # 1 OF 1

THOMAS J. DUNLAP d/b/a TOMMY D'S RESTAURANT AND CATERING  
and THE UNTIED STATES OF AMERICA

AMENDED COMPLAINT IN MORTGAGE FORECLOSURE

SERVE BY: 08/16/2008

HEARING:

PAGE: 104427

DEFENDANT: THOMAS J. DUNLAP d/b/a TOMMY D'S RESTAURANT & CATERING 375-0301

ADDRESS: 412 TREASURE LAKE Sec 12 Lot 146  
DUBOIS, PA 15801

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/AAR/PIC

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS: VACANT OCCUPIED

ATTEMPTS First message up <sup>(2)</sup> Hastings, ① on Long John. 2nd on ①

FILED  
01/30/09  
JUL 23 2009  
S

William A. Shaw  
Prothonotary/Clerk of Courts

**SHERIFF'S RETURN**

NOW, 07-23-08 AT 11:05 AM PM SERVED THE WITHIN

AMENDED COMPLAINT IN MORTGAGE FORECLOSURE ON THOMAS J. DUNLAP d/b/a TOMMY D'S RESTAURANT & CATERING, DEFENDANT

BY HANDING TO Thomas Dunlap Defendant

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM / HER THE CONTENTS THEREOF.

ADDRESS SERVED Sec 12 lot 146 Treasure Lake Dubois, PA 15801

NOW \_\_\_\_\_ AT \_\_\_\_\_ AM / PM POSTED THE WITHIN

AMENDED COMPLAINT IN MORTGAGE FORECLOSURE FOR THOMAS J. DUNLAP d/b/a TOMMY D'S RESTAURANT & CATERING

AT (ADDRESS) \_\_\_\_\_

NOW \_\_\_\_\_ AT \_\_\_\_\_ AM / PM AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO THOMAS J. DUNLAP d/b/a TOMMY D'S RESTAURANT & CATERING

REASON UNABLE TO LOCATE \_\_\_\_\_

SWORN TO BEFORE ME THIS

\_\_\_\_\_  
DAY OF 2008

So Answers: CHESTER A. HAWKINS SHERIFF

BY:

Mark A. Cawley  
Deputy Signature

Mark A. Cawley  
Print Deputy Name

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

Service # 1 of 1 Services

Sheriff Docket # **104043**

FIRST COMMONWEALTH BANK f/k/a DEPOSIT BANK

Case # 08-677-CD

vs.

THOMAS J. DUNLAP d/b/a TOMMY D'S RESTAURANT AND CATERING

TYPE OF SERVICE COMPLAINT IN MORTGAGE FORECLOSURE

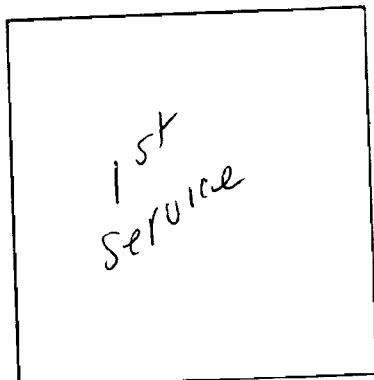
**SHERIFF RETURNS**

NOW July 25, 2008 RETURNED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE "NOT SERVED, TIME EXPIRED" AS TO THOMAS J. DUNLAP D/B/A TOMMY D'S RESTAURANT AND CATERING, DEFENDANT. SEVERAL ATTEMPTS, NO RESPONSE

SERVED BY: /

**Return Costs**

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	ARENSBERG	311589	10.00
SHERIFF HAWKINS	ARENSBERG	311589	71.57



**FILED**

07:30 am  
JUL 25 2008

William A. Shaw  
Prothonotary/Clerk of Courts

Sworn to Before me This

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

So Answers,

*Chester A. Hawkins  
by Marilyn Hamer*  
Chester A. Hawkins  
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

CIVIL DIVISION

Plaintiff,

Case No. 08-677-CD

vs.

THOMAS J. DUNLAP, d/b/a  
TOMMY D'S RESTAURANT  
AND CATERING,

COMPLAINT IN MORTGAGE  
FORECLOSURE

Defendant.

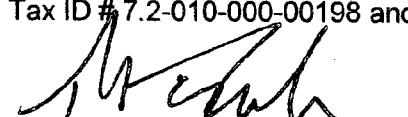
Filed on behalf of FIRST  
COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

I hereby certify that the property  
to be foreclosed upon is:

42 S. Brady Street  
DuBois, Pennsylvania 15801  
Tax ID # 7.2-010-000-00198 and 7.2-010-000-00199

  
\_\_\_\_\_  
Thomas E. Reiber, Esquire  
Michael J. Stauber, Esquire

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

APR 14 2008

Attest.

  
William L. Chen  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

Plaintiff,

vs.

THOMAS J. DUNLAP, d/b/a  
TOMMY D'S RESTAURANT  
AND CATERING,

Defendant.

CIVIL DIVISION

Case No. 08-677-CD

COMPLAINT IN MORTGAGE  
FORECLOSURE

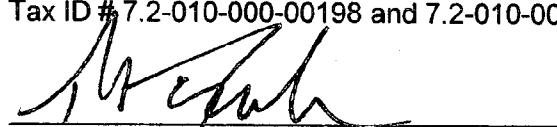
Filed on behalf of FIRST  
COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

I hereby certify that the property  
to be foreclosed upon is:

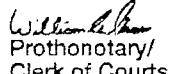
42 S. Brady Street  
DuBois, Pennsylvania 15801  
Tax ID # 7.2-010-000-00198 and 7.2-010-000-00199

  
\_\_\_\_\_  
Thomas E. Reiber, Esquire  
Michael J. Stauber, Esquire

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

APR 14 2008

Attest.

  
William L. Hause  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,	)	CIVIL DIVISION
f/k/a DEPOSIT BANK,	)	
	)	
Plaintiff,	)	Case No. _____
	)	
vs.	)	
	)	
THOMAS J. DUNLAP, d/b/a	)	
TOMMY D'S RESTAURANT	)	
AND CATERING,	)	
	)	
Defendant.	)	

**IMPORTANT NOTICE**

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

Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
P. O. Box 186  
Harrisburg, Pennsylvania 17108  
Telephone: (800) 692-7375

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,	)	CIVIL DIVISION
f/k/a DEPOSIT BANK,	)	
	)	
Plaintiff,	)	Case No. _____
	)	
vs.	)	
	)	
THOMAS J. DUNLAP, d/b/a	)	
TOMMY D'S RESTAURANT	)	
AND CATERING,	)	
	)	
Defendant.	)	

**AVISO**

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentir una comparecencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requerir que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELÉFONO A LA OFICINA CUYA DIRECCIÓN SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
P. O. Box 186  
Harrisburg, Pennsylvania 17108  
Telephone: (800) 692-7375

**NOTICE**

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 YOU 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.

IF YOU HAVE FILED BANKRUPTCY AND RECEIVED A DISCHARGE, THIS IS NOT AN ATTEMPT TO COLLECT A DEBT. IT IS AN ACTION TO ENFORCE A LIEN ON REAL ESTATE.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, f/k/a DEPOSIT BANK,	)	CIVIL DIVISION
	)	
Plaintiff,	)	Case No. _____
	)	
vs.	)	
	)	
THOMAS J. DUNLAP, d/b/a TOMMY D'S RESTAURANT AND CATERING,	)	
	)	
Defendant.	)	

**COMPLAINT IN MORTGAGE FORECLOSURE**

AND NOW COMES the Plaintiff, First Commonwealth Bank, f/k/a Deposit Bank, by and through its counsel, Tucker Arensberg, P.C., and files the within Complaint in Mortgage Foreclosure, in support of which it avers the following:

1. Plaintiff, First Commonwealth Bank, f/k/a Deposit Bank (the "Bank"), is a banking association with business offices at 654 Philadelphia Street, P.O. Box 400, Indiana, Pennsylvania 15701-0400.

2. Defendant, Thomas J. Dunlap, d/b/a Tommy D's Restaurant and Catering, is an adult individual whose last known address is 412 Treasure Lake, Dubois, PA 15801.

**Count I**

3. The averments contained in paragraphs 1 and 2 are incorporated herein by reference.

4. On or about November 21, 1995, Defendant ("Borrower"), executed and delivered a Mortgage Note to the Bank whereby Borrower agreed to pay the Bank the principal amount of \$325,000.00, together with interest thereon in the manner provided therein ("Note-1").

A true and correct copy of Note-1 is attached hereto as Exhibit "A" and incorporated herein.

5. The obligations evidenced by Note-1 are secured by a Mortgage dated November 21, 1995 ("Mortgage-1"), given by Defendant to the Bank, granting the Bank a security interest in certain real property located in the City of DuBois, Clearfield County, Pennsylvania (the "Premises"). Mortgage-1 was recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania, ("Recorder's Office") on November 21, 1995 at Book 1719, page 118. A true and correct copy of Mortgage-1, containing the legal description of the Premises, is attached hereto as Exhibit "B" and incorporated herein.

6. The Borrower is in default of the provisions of Note-1 for failure to make payments when due. As of March 6, 2008, payments on Note-1 were due for April 1, 2007 and all months thereafter.

7. Bank was not required to send Defendant written notice pursuant to 35 P.S. §1680.403C (Homeowner's Emergency Mortgage Assistance Act of 1983 - Act 91 of 1983) and 41 P.S. §403 (Act 6 of 1974) as the Premises is strictly commercial in nature.

8. The amount due Bank under Note-1 and Mortgage-1 as of March 6, 2008 is as follows:

Principal .....	\$ 50,971.90
Interest through March 6, 2008 .....	4,513.21
(per diem \$12.185903)	
Late Fees .....	0.00
Costs.....	to be added
Attorney's Fees .....	<u>to be added</u>
<b>TOTAL .....</b>	<b>\$ 55,485.11</b>

9. The total amount now due to the Bank under Note-1 as of March 6, 2008 was Fifty-Five Thousand Four Hundred Eighty-Five and 11/100 Dollars (455,485.11), plus interest accruing from March 6, 2008 at the contract rate, late charges, costs and reasonable attorneys' fees.

WHEREFORE, Plaintiff demands judgment in mortgage foreclosure on Note-1 and Mortgage-1 in the amount of Fifty-Five Thousand Four Hundred Eighty-Five and 11/100 Dollars

(\$55,485.11), plus interest accruing from March 6, 2008, late charges, reasonable attorneys' fees as authorized by Note-1, and costs of foreclosure and sale of the Premises.

Count II

10. The averments set forth in paragraphs 3 through 9 are incorporated herein by reference.

11. On or about December 7, 2001, Borrower executed and delivered a Promissory Note to the Bank whereby Borrower agreed to pay the Bank the principal amount of \$62,569.11, together with interest thereon in the manner provided therein ("Note-2"). A true and correct copy of Note-2 is attached hereto as Exhibit "C" and incorporated herein.

12. The obligations evidenced by Note-2 are secured by a Mortgage dated December 7, 2001 ("Mortgage-2"), given by Defendant to the Bank, granting the Bank a security interest in the Premises. Mortgage-2 was recorded in the Recorder's Office on December 7, 2001 at Instrument No. 200119662. A true and correct copy of Mortgage-2, containing the legal description of the Premises, is attached hereto as Exhibit "D" and incorporated herein.

13. The Borrower is in default of the provisions of Note-2 for failure to make payments when due. As of March 6, 2008, payments on Note-2 were due for April 1, 2007 and all months thereafter.

14. Bank was not required to send Defendant written notice pursuant to 35 P.S. §1680.403C (Homeowner's Emergency Mortgage Assistance Act of 1983 - Act 91 of 1983) and 41 P.S. §403 (Act 6 of 1974) as the Premises is strictly commercial in nature.

15. The amount due Bank under Note-2 and Mortgage-2 as of March 6, 2008 is as follows:

Principal .....	\$ 41,458.46
Interest through March 6, 2008 .....	3,845.27
(per diem \$10.364615)	
Late Fees.....	0.00
Costs.....	to be added
Attorney's Fees .....	<u>to be added</u>
<b>TOTAL .....</b>	<b>\$ 45,303.73</b>

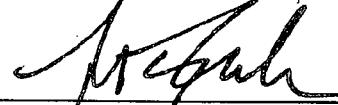
16. The total amount now due to the Bank under Note-2 as of March 6, 2008 was Forty-Five Thousand Three Hundred Three and 73/100 Dollars (\$45,303.73), plus interest accruing from March 6, 2008 at the contract rate, late charges, costs and reasonable attorneys' fees.

WHEREFORE, Plaintiff demands judgment in mortgage foreclosure on Note-2 and Mortgage-2 in the amount of Forty-Five Thousand Three Hundred Three and 73/100 Dollars (\$45,303.73), plus interest accruing from March 6, 2008, late charges, reasonable attorneys' fees as authorized by Note-2, and costs of foreclosure and sale of the Premises.

Count II

WHEREFORE, Plaintiff demands judgment in mortgage foreclosure on Note-1 and Mortgage-1 and on Note-2 and Mortgage-2 in the total amount of One Hundred Thousand Seven Hundred Eighty-Eight and 41/100 Dollars (\$100,788.41), plus interest accruing from March 6, 2008, late charges, reasonable attorneys' fees as authorized by Note-1 and Note-2, and costs of foreclosure and sale of the Premises.

TUCKER ARENSBERG, P.C.




---

Thomas E. Reiber, Esquire  
 Pa. I.D. No. 41825  
 Michael J. Stauber, Esquire  
 Pa. I.D. No. 201022  
 1500 One PPG Place  
 Pittsburgh, Pennsylvania 15222  
 (412) 566-1212  
 Attorneys for First Commonwealth Bank,  
 f/k/a Deposit Bank, Plaintiff

# Mortgage Note

\$325,000.00

DuBois

Pennsylvania

November 21, 1995

For Value Received, Thomas J. Dunlap, d/b/a Tommy D's Restaurant and Catering, City of DuBois, Clearfield

County, Pennsylvania

(hereinafter called "the Undersigned")

promises to pay to the order of Deposit Bank

its successors or assigns, in

lawful money of the United States of America, the sum of Three Hundred Twenty-Five Thousand and 00/100--

Dollars (\$ 325,000.00) and any additional moneys loaned or advanced by any holder hereof as hereinafter provided, as follows:

This Note contains provisions allowing for changes in the interest rate as explained in Exhibit "A" attached hereto and incorporated herein.

and any balance of principal or interest remaining unpaid on May 1, 2008 shall become due and payable on said date; and in addition thereto, in the event any payment provided for herein shall become overdue, the Undersigned agrees to pay a late charge in an amount not exceeding six per cent (6%) of any such overdue payment as compensation for the additional service resulting from the default; all payments to be made at any offices of Deposit Bank, 2 East Long Avenue, DuBois, PA 15801

, Pennsylvania or elsewhere as shall be directed by any holder hereof.

This Note shall evidence and the Mortgage given to secure its payment shall cover and be security for any future loans or advances that may be made to or on behalf of the Undersigned by any holder hereof at any time or times hereafter and intended by the Undersigned and the then holder to be so evidenced and secured, as well as any sums paid by any holder hereof pursuant to the terms of said Mortgage, and any such loans, advances or payments shall be added to and shall bear interest at the same rate as the principal debt.

In case default be made for the space of thirty (30) days in the payment of any installment of principal or interest, or in the performance by the Undersigned of any of the other obligations of this Note or said Mortgage, the entire unpaid balance of the principal debt, additional loans or advances and all other sums paid by any holder hereof to or on behalf of the Undersigned pursuant to the terms of this Note or said Mortgage, together with unpaid interest thereon, shall at the option of the holder and without notice become immediately due and payable, and one or more executions may forthwith issue on any judgment or judgments obtained by virtue hereof; and no failure on the part of any holder hereof to exercise any of the rights hereunder shall be deemed a waiver of any such rights or of any default hereunder.

The Undersigned hereby empowers any attorney of any court of record within the United States of America or elsewhere to appear for the Undersigned and, with or without complaint filed, confess judgment, or a series of judgments, against the Undersigned in favor of any holder hereof, as of any term, for the unpaid balance of the principal debt, additional loans or advances and all other sums paid by the holder hereof to or on behalf of the Undersigned pursuant to the terms of this Note or said Mortgage, together with unpaid interest thereon, costs of suit and an attorney's commission for collection of five per cent (5%) of the total indebtedness or \$200, whichever is the larger amount, on which judgment or judgments one or more executions may issue forthwith upon failure to comply with any of the terms and conditions of this Note or said Mortgage. The Undersigned hereby forever waives and releases all errors in said proceedings, waives stay of execution, the right of inquisition and extension of time of payment, agrees to condemnation of any property levied upon by virtue of any such execution, and waives all exemptions from levy and sale of any property that now is or hereafter may be exempted by law.

This obligation shall bind the Undersigned and the Undersigned's heirs, executors, administrators and assigns, and the benefits hereof shall inure to the payee hereof and its successors and assigns. If this Note is executed by more than one person, the undertakings and liability of each shall be joint and several.

This Note is secured by a Mortgage of even date herewith upon real estate described therein.

This Note is additionally secured by separate Security Agreements.

Witness the due execution hereof the day and year first above written.

Witnessed by:

Barb A. Heath

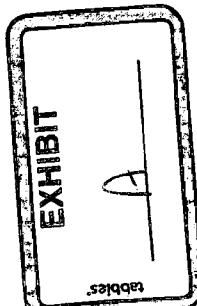
d/b/a Tommy D's Restaurant and Catering:

Thomas J. Dunlap

(SEAL)

(SEAL)

(SEAL)



Guaranty and Suretyship Agreement

For Value Received and intending to be legally bound, the Undersigned does hereby unconditionally guarantee and become surety for the due and punctual payment of each installment of principal of and interest on the within Mortgage Note as and when each said installment shall respectively become due and payable in accordance with the terms thereof, whether at maturity or by declaration, acceleration or otherwise, as well as all additional loans or advances and all other sums paid by any holder of said Note to or on behalf of the maker thereof pursuant to the terms of said Note or the Mortgage securing the same.

The Undersigned hereby waives any presentment for payment, notice of nonpayment, demand or protest, declares that this obligation is absolute and unconditional, and agrees that it shall not be released by any extension of time for payment or by any other matter or thing whatsoever whereby the Undersigned as absolute guarantor and surety otherwise would or might be released.

In case default be made for the space of thirty (30) days in the payment of any sums due under said Mortgage Note, the Undersigned hereby empowers any attorney of any court of record within the United States of America or elsewhere to appear for the Undersigned and, with or without complaint filed, confess judgment, or a series of judgments, against the Undersigned in favor of any holder thereof, as of any term, for the unpaid balance of the principal debt, additional loans or advances and all other sums paid by any holder thereof to or on behalf of the maker of said Mortgage Note pursuant to the terms thereof or of the Mortgage securing the same, together with interest thereon, costs of suit and an attorney's commission for collection of five per cent (5%) of the total indebtedness or \$200, whichever is the larger amount, on which judgment or judgments one or more executions may issue forthwith. The Undersigned hereby forever waives and releases all errors in said proceedings, waives stay of execution, the right of inquisition and extension of time of payment, agrees to condemnation of any property levied upon by virtue of any such execution, and waives all exemptions from levy and sale of any property that now is or hereafter may be exempted by law.

These presents shall bind the Undersigned and the Undersigned's heirs, executors, administrators and assigns, and the benefits hereof shall inure to the payee of said Mortgage Note, its successors and assigns. If executed by more than one person, this obligation and the undertakings hereunder shall be joint and several.

Witness the due execution hereof this day of , 19

Witnessed by:

(SEAL)

(SEAL)

Mortgage  
Note

FROM

TO



2 East Long Avenue P.O. Box 607A DuBois, PA 15801 (814) 371-2345  
Fax No. (814) 375-2312 3rd Floor Fax No. (814) 375-5400

**EXHIBIT "A" TO MORTGAGE NOTE DATED November 21, 1995**

\$325,000.00 together with interest thereon at the initial rate of 9.75 percent (9.75%) per annum payable within 12.50 years as follows:

"Interest Only" monthly on all monies advanced on or before May 1, 1996. Thereafter and beginning on June 1, 1996, initial monthly principal and interest payments of \$ 3,837.21 will commence and continue on the same day of each month until the principal debt and interest are paid in full, said payments to be applied first to the payment of interest and the balance to payment of principal.

The initial interest rate may change on November 1, 2000 and again on November 1, 2005.

Any changes in the interest rate shall be based upon changes in the interest rate index, hereinafter called the index, which shall be the National Prime Rate + 1.00% in effect on the 1st of each month preceding the change date.

If the interest rate changes, the amount of the monthly payments will change as of the first monthly payment date after the change date and will always be sufficient to repay the loan in full in substantially equal payments by the final payment date. In setting the monthly payment amount on each change date, Bank will assume that the interest rate will not change again prior to the final payment date.

Bank will mail notice, containing the current and new interest rate and the current and new monthly payment at least 15 days before each change date if the interest rate is to change.

Undersigned shall have the right to prepay the principal of the loan in full at any time upon payment of the sum of 1% of the outstanding principal in addition to all other sums then due and owing on the loan.

d/b/a Tommy D's Restaurant & Catering:

Thomas J. Dunlap

# Mortgage

Made this 21st day of November, 1995

Between THOMAS J. DUNLAP, of Sandy Township,  
Clearfield County, Pennsylvania,

(hereinafter, whether one or more, called "Mortgagor")

And DEPOSIT BANK, a banking corporation  
organized and existing under the laws of the Commonwealth of Pennsylvania, with  
offices located at 2 East Long Avenue, P.O. Box 607A, DuBois, Clearfield County,  
Pennsylvania

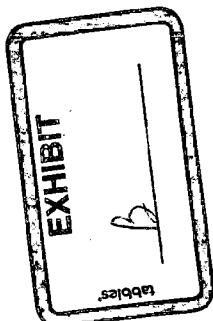
(hereinafter called "Mortgagee")

Whereas, Mortgagor has executed and delivered to Mortgagee a certain Mortgage Note (hereinafter called the  
"Note") of even date herewith, payable to the order of Mortgagee in the principal sum of—THREE HUNDRED TWENTY-  
FIVE THOUSAND and 00/100—

— Dollars (\$ 325,000.00 ).  
lawful money of the United States of America, and has provided therein for payment of any additional moneys loaned  
or advanced thereunder by Mortgagee, together with interest thereon at the rate provided in the note, in the manner  
and at the times therein set forth, and containing certain other terms and conditions, all of which are specifically  
incorporated herein by reference:

Now, Therefore, Mortgagor, in consideration of said debt or principal sum and as security for the payment of  
the same and interest as aforesaid, together with all other sums payable hereunder or under the terms of the Note,  
does grant and convey unto Mortgagee, its successors and assigns:

All those certain pieces, parcels or tracts of land situate, lying and being  
in the City of DuBois, Clearfield County, Pennsylvania, and being bounded and  
described as more particularly set forth on Exhibit "A" attached hereto and made  
a part hereof.



Together with the buildings and improvements erected thereon, the appurtenances thereunto belonging and the reversions, remainders, rents, issues and profits thereof.

To Have And To Hold the same unto Mortgagee, its successors and assigns, forever.

Provided, However, That if Mortgagor shall pay to Mortgagee the aforesaid debt or principal sum, including additional loans or advances and all other sums payable by Mortgagor to Mortgagee hereunder and under the terms of the Note, together with interest hereon, and shall keep and perform each of the other covenants, conditions, and agreements hereinafter set forth, then this Mortgage and the estate hereby granted and conveyed shall become void.

This Mortgage is executed and delivered subject to the following covenants, conditions and agreements:

(1) The Note secured hereby shall evidence and this Mortgage shall cover and be security for any future loans or advances that may be made by Mortgagee to Mortgagor at any time or times hereafter and intended by Mortgagor and Mortgagee to be so evidenced and secured, and such loans and advances shall be added to the principal debt.

(2) From time to time until said debt and interest are fully paid, Mortgagor shall: (a) pay and discharge, when and as the same shall become due and payable, all taxes, assessments, sewer and water rents, and all other charges and claims assessed or levied from time to time by any lawful authority upon any part of the mortgaged premises and which shall or might have priority in lien or payment to the debt secured hereby, (b) pay all ground rents reserved from the Mortgaged premises and pay and discharge all Mechanics' liens which may be filed against said premises and which shall or might have priority in lien or payment to the debt secured hereby, (c) pay and discharge any documentary stamp or other tax, including interest and penalties thereon, if any, now or hereafter becoming payable on the Note evidencing the debt secured hereby, (d) provide, renew and keep alive by paying the necessary premiums and charges thereon such policies of hazard and liability insurance as Mortgagee may from time to time require upon the buildings and improvements now or hereafter erected upon the mortgaged premises, with loss payable clauses in favor of Mortgagor and Mortgagee as their respective interest may appear, and (e) promptly submit to Mortgagee evidence of the due and punctual payment of all the foregoing charges; provided, however, that Mortgagee may at its option require that sums sufficient to discharge the foregoing charges be paid in installments to Mortgagee.

(3) Mortgagor shall maintain all buildings and improvements subject to this Mortgage in good and substantial repair, as determined by Mortgagee. Mortgagee shall have the right to enter upon the mortgaged premises at any reasonable hour for the purpose of inspecting the order, condition and repair of the buildings and improvements erected thereon.

(4) In the event Mortgagor neglects or refuses to pay the charges mentioned at (2) above, or fails to maintain the buildings and improvements as aforesaid, Mortgagee may do so, add the cost thereof to the principal debt secured hereby, and collect the same as a part of said principal debt.

(5) Mortgagor covenants and agrees not to create, nor permit to accrue, upon all or any part of the mortgaged premises, any debt, lien or charge which would be prior to, or on a parity with, the lien of this Mortgage.

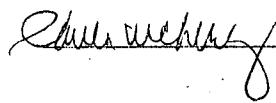
(6) In case default be made for the space of thirty (30) days in the payment of any installment of principal or interest pursuant to the terms of the Note, or in the performance by Mortgagor of any of the other obligations of the Note or this Mortgage, the entire unpaid balance of said principal sum, additional loans or advances and all other sums paid by Mortgagee pursuant to the terms of the Note or this Mortgage, together with unpaid interest thereon, shall at the option of Mortgagee and without notice become immediately due and payable, and foreclosure proceedings may be brought forthwith on this Mortgage and prosecuted to judgment, execution and sale for the collection of the same, together with costs of suit and an attorney's commission for collection of five per cent (5%) of the total indebtedness or \$200, whichever is the larger amount. Mortgagor hereby forever waives and releases all errors in said proceedings, waives stay of execution, the right of inquisition and extension of time of payment, agrees to condonation of any property levied upon by virtue of any such execution, and waives all exemptions, from levy and sale of any property that now is or hereafter may be exempted by law.

(7) Mortgagor agrees not to transfer title to the mortgaged premises unless the Mortgagee consents in writing to such transfer. A transfer to the heirs or devisees of the Mortgagor in the event of the Mortgagor's death shall not come within the prohibition of the foregoing sentence.

The covenants, conditions and agreements contained in this Mortgage shall bind, and the benefits thereof shall inure to, the respective parties hereto and their respective heirs, executors, administrators, successors and assigns, and if this Mortgage is executed by more than one person, the undertakings and liability of each shall be joint and several.

Witness the due execution hereof of the day and year first above written.

Witnessed by:



Thomas J. Dunlap

(SEAL)

(SEAL)

(SEAL)

Commonwealth of Pennsylvania

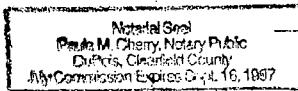
County of Clearfield

} ss.

On this, the 21st day of November, 1995, before me, a Notary Public, the undersigned officer, personally appeared THOMAS J. DUNLAP, satisfactorily proven to me to be the person whose name is subscribed to the within Mortgage, and acknowledged that he executed the same for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and official seal.

My commission expires:



*Paula M. Cherry*  
Notary Public

Commonwealth of Pennsylvania

County of

} ss.

On this, the day of , 19 , before me, the undersigned officer, personally appeared satisfactorily proven to me to be the person whose name is subscribed to the within Mortgage, and acknowledged that he executed the same for the purposes therein contained.

In Witness Whereof, I hereunto set my hand and official seal.

My commission expires:

**Mortgage**

FROM

THOMAS J. DUNLAP

TO

DEPOSIT BANK

GLEASON, CHERRY AND CHERRY, P.C.  
ATTORNEYS AT LAW  
One North Franklin Street  
P.O. Box 505  
DuBois, PA 15801-0505  
(814) 371-5800

**Certificate of Residence of Mortgagee**

I do hereby certify that the precise residence and complete post office address of the within Mortgagee is:

2 East Long Avenue  
P.O. Box 607A  
DuBois, PA 15801

GLEASON, CHERRY AND CHERRY, P.C.

By \_\_\_\_\_

Attorney for \_\_\_\_\_ Mortgagee

Commonwealth of Pennsylvania

County of

} ss.  
Recorded in the Office of the Recorder of Deeds in and for said County on the day of , 19 , in Mortgage Book Volume , page

Witness my hand and the seal of said office the day and year aforesaid.

Recorder.

Exhibit "A"

ALL those certain pieces, parcels or tracts of land situate, lying and being in the City of DuBois, Clearfield County, Pennsylvania, and being bounded and described as follows, to wit:

THE FIRST THEREOF:

BEGINNING at a post on the North side of South Brady Street, also known as State Route 219, being also the Southeast corner of land of Thomas J. Dunlap; thence along the easterly line of land of Thomas J. Dunlap in a Northwesterly direction, 138 feet to other lands of the DuBois Parking Authority; thence by same in a Northeasterly direction 50 feet to the Northwest corner of land of Paul D. Horchen; thence along the Westerly line of land of Paul D. Horchen in a Southeasterly direction 138 feet to a point in the Northerly line of South Brady Street (State Route 219); thence by the Northerly line of South Brady Street (State Route 219) in a Southwesterly direction 50 feet to a post and the place of beginning.

SAID CONVEYANCE IS MADE UNDER AND SUBJECT TO THE FOLLOWING EXCEPTIONS, RESERVATIONS, EASEMENTS, COVENANTS AND CONDITIONS:

1. Under and subject to all outstanding leases of oil and gas and it is hereby excepted and reserved from the above-described parcel of land all oil and gas, with rights of ingress and egress for removal of the same. Also excepting and reserving the right to store gas under the above-described premises.
2. Excepting and reserving all of the coal as the same has been reserved and/or conveyed in prior deeds.
3. Under and subject to all easements, servitudes and rights-of-way pertaining to the above-described premises.
4. The conveyance shall be subject to all City Zoning and land subdivision ordinances now in effect or that may be in effect at any time in the future.
5. Within one (1) year of completion of construction of the stipulated building, all areas of the above-described land not paved for driveways or parking shall be planted in grass and shrubbery.
6. Any and all fill needed for any areas of the premises herein conveyed shall be placed on the lot within two (2) years from the date of this deed, prior to the commencement of any landscaping on the premises.

7. In the event of any failure, neglect, or refusal by said Grantee, his heirs and assigns, to begin construction of a building within one (1) year from the date of this deed, and to complete construction within two (2) years from the date of this deed, the within conveyance shall become null and void, and title thereto shall revert to the City of DuBois, without any requirement of recompense or other reimbursements to the said Grantee herein by virtue of said reversion or retaking by the City of DuBois.

8. Grantee, his heirs and assigns, shall construct and maintain a 5-foot wide concrete sidewalk along the north side of said parcel for accessing Brady Street to the city parking lot and shall install and maintain security lighting along this area. Such construction and installation shall be completed no more than one (1) year after the completion of construction.

BEING the same premises which were conveyed to Thomas J. Dunlap, single, by deed of the City of DuBois dated July 10, 1995, and recorded in Clearfield County Deeds and Records Book Vol. 1707, Page 233, on September 28, 1995.

THE SECOND THEREOF: Situate on the corner of South Brady Street and West Washington Avenue and being bounded on the North by the property of DuBois Lodge No. 349, Benevolent Protective Order of Elks; on the East by South Brady Street; on the South by West Washington Avenue; and on the West by lands now or formerly of Hibner-Hoover Hardware Company, and being 26 feet, more or less in width on South Brady Street and extending Westward to the lands now or formerly of Hibner-Hoover Hardware Company, a distance of 139 feet, more or less.

BEING the same premises which were conveyed to Thomas J. Dunlap by deed of Patrick Valentine, et al., dated October 16, 1985, and recorded in Clearfield County Deeds and Records Book Vol. 1049, Page 176, on November 5, 1985.

# PROMISSORY NOTE

Principal \$62,569.11	Loan Date 12-07-2001	Maturity 12-01-2013	Loan No. 68570	Call/ Coll.	Account 0469014	Officer PXH	Initials
References in the shaded area are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "****" has been omitted due to text length limitations.							

**Borrower:** THOMAS J. DUNLAP (SSN: 208-42-8205) DBA:  
TOMMY D'S  
42 S. BRADY STREET  
DUBOIS, PA 15801

**Lender:** Deposit Bank, a division of First Commonwealth Bank  
Loan Administration Office  
2 East Long Avenue  
PO Box 607A  
Dubois, PA 15801  
(814) 371-2348

**Principal Amount:** \$62,569.11

**Date of Note:** December 7, 2001

**PROMISE TO PAY.** THOMAS J. DUNLAP ("Borrower") promises to pay to Deposit Bank, a division of First Commonwealth Bank ("Lender"), or order, in lawful money of the United States of America, the principal amount of Sixty-two Thousand Five Hundred Sixty-nine & 11/100 Dollars (\$62,569.11), together with interest at the rate of 6.75% per annum on the unpaid principal balance from December 7, 2001, until paid in full.

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

Notwithstanding the preceding disclosure of the interest rate to be charged, the following **INTEREST RATE AND MONTHLY PAYMENT CONDITIONS WILL PREVAIL**. All payments will be applied first to accrued and unpaid interest, then to principal, and any remaining unpaid interest thereon will be due and payable in full. (A) From date of first disbursement until the "Change Date" described below, interest will be charged at the initial rate of Six and three quarters per cent (6.75%). (B) The interest rate may change on December 7, 2005 and December 7, 2011. Each date on which the interest rate could change is called the "Change Date." (C) Beginning with the first Street Journal. If the index is no longer available, the Lender will choose a new index which is based on comparable information. The Current Index on each Change Date. (E) Interest and principal payments in the amount of Six Hundred Thirty-Five Dollars and Fourteen Cents (\$635.14) will be due and payable on January 1, 2002 and on the same day of each month thereafter until the first day of the month following the Change date. At that time and following each Change Date thereafter the payment will be set to amortize the outstanding principal balance at the applicable interest rate by the loan maturity date.

Unless otherwise agreed or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs. The annual interest rate for this Note is computed on a 365/360 basis; that is, by applying the ratio of the annual interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. Borrower will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

**PREPAYMENT PENALTY.** Upon prepayment of this Note, Lender is entitled to the following prepayment penalty: **1% OF OUTSTANDING PRINCIPAL BALANCE.** Except for the foregoing, Borrower may pay all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Lender in writing, relieve Borrower of Borrower's obligation to continue to make payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in Borrower's making fewer payments. Borrower agrees not to send Lender payments marked "paid in full", "without recourse", or similar language. If Borrower sends such a payment, Lender may accept it without losing any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: Deposit Bank, a division of First Commonwealth Bank; Loan Administration Office; 2 East Long Avenue; PO Box 607A; Dubois, PA 15801.

**INTEREST AFTER DEFAULT.** Upon default, including failure to pay upon final maturity, Lender, at its option, may, if permitted under applicable law, increase the interest rate on this Note 5.00% percentage points. The interest rate will not exceed the maximum rate permitted by applicable law. If judgment is entered in connection with this Note, interest will continue to accrue on this Note after judgment at the existing interest rate provided for in this Note.

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

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

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

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

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

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

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the indebtedness or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revoked or disputes the validity of, or liability under, any guaranty of the indebtedness evidenced by this Note. In the event of a death, Lender, at its option, may, but shall not be required to, permit the guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender, and, in doing so, cure any Event of Default.

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

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

**Cure Provisions.** If any default, other than a default in payment is curable and if Borrower has not been given a notice of a breach of the same provision of this Note within the preceding twelve (12) months, it may be cured (and no event of default will have occurred) if Borrower, after receiving written notice from Lender demanding cure of such default: (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**LENDER'S RIGHTS.** Upon default, Lender may, after giving such notices as required by applicable law, declare the entire unpaid principal balance on this Note and all accrued unpaid interest immediately due, and then Borrower will pay that amount.

**EXPENSES.** If Lender institutes any suit or action to enforce any of the terms of this Note, Lender shall be entitled to recover such sum as the court may adjudge reasonable. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the loan payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals, to the extent permitted by applicable law. Borrower also will pay any court costs, in addition to all other sums provided by law.

**JURY WAIVER.** Lender and Borrower hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by either Lender or Borrower against the other.

**RIGHT OF SETOFF.** To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower



authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any and all such accounts, and, at Lender's option, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights provided in this paragraph.

**COLLATERAL.** Borrower acknowledges this Note is secured by MORTGAGE OF EVEN DATE HEREWITHE ON REAL ESTATE DESCRIBED IN CLEARFIELD COUNTY DEED BOOK VOLUME 1707, PAGE 233 AND DEED BOOK VOLUME 1049, PAGE 176. SECOND LIEN POSITION AND SECURITY INTEREST IN ALL ACCOUNTS RECEIVABLE, INVENTORY, FURNITURE, FIXTURES, EQUIPMENT AND LIQUOR LICENSE, NOW OWNED AND HERAFTER ACQUIRED AND THE PRODUCTS AND PROCEEDS THEREOF.

**LIMITATION OF ACTION.** If the Borrower has any cause of action against the Lender, now or in the future, arising out of the Related Documents and of the transactions contemplated by the Related Documents, whether in contract or tort or otherwise, the Borrower must assert the claim within one year of the occurrence of the event which gives rise to a cause of action. If the Borrower does not assert the claim within one year of the occurrence of a cause of action, the Borrower will be barred from asserting the claim. Borrower and Lender agree that the one year time period is reasonable and sufficient for the Borrower to investigate and act upon the claim and that the provision shall survive any termination of the Agreement.

**LATE CHARGE.** A late charge will be assessed in the amount of 6% of the regular payment or portion thereof that remains unpaid for more than ten (10) days beyond the due date. The minimum late charge amount is \$25.00. This charge will be immediately due and payable.

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

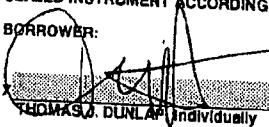
**GENERAL PROVISIONS.** Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. All such parties also agree that Lender Note are joint and several. If any portion of this Note is for any reason determined to be unenforceable, it will not affect the enforceability of any other provisions of this Note.

**CONFESSION OF JUDGMENT.** Borrower hereby irrevocably authorizes and empowers any attorney or the Prothonotary or Clerk of any Court in the Commonwealth of Pennsylvania, or elsewhere, to appear at any time for Borrower and, with or without complaint filed, as of any term, confess or enter judgment against Borrower for the entire principal balance of this Note and all accrued interest, together with costs of suit, and an attorney's commission of ten percent (10%) of the unpaid principal balance and accrued interest for collection, but in any event not less than Five Hundred Dollars (\$500); and for so doing, this Note or a copy of this Note verified by affidavit shall be sufficient warrant. The authority granted in this Note to confess judgment against Borrower shall not be exhausted by any exercise of that authority, but shall continue from time to time and at all times until payment in full of all amounts due under this Note.

**PRIOR TO SIGNING THIS NOTE, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO THE TERMS OF THE NOTE.**

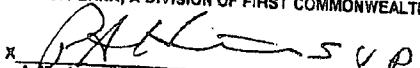
**BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE.**  
**THIS NOTE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS NOTE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.**

**BORROWER:**

  
THOMAS J. DUNLAP, Individually (Seal)

**LENDER:**

**DEPOSIT BANK, A DIVISION OF FIRST COMMONWEALTH BANK**

  
X John S. V.P.  
Authorized Signer

KAREN L. STARN  
REGISTER AND RECORDER  
CLEARFIELD COUNTY  
Pennsylvania

INSTRUMENT NUMBER  
200119662  
RECORDED ON  
Dec 07, 2001  
1:51:09 PM  
Total Pages: 7

**RECORDATION REQUESTED BY:**

Deposit Bank, a division of First Commonwealth Bank  
Loan Administration Office  
2 East Long Avenue  
PO Box 607A  
Dubois, PA 15801

**WHEN RECORDED MAIL TO:**

Deposit Bank, a division of First Commonwealth Bank  
Loan Administration Office  
2 East Long Avenue  
PO Box 607A  
Dubois, PA 15801

**SEND TAX NOTICES TO:**

THOMAS J. DUNLAP  
42 S. BRADY STREET  
DUBOIS, PA 15801

**SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY**

## MORTGAGE

THIS MORTGAGE dated December 7, 2001, is made and executed between THOMAS J. DUNLAP, whose address is 42 S. BRADY STREET, DUBOIS, PA 15801 (referred to below as "Grantor") and Deposit Bank, a division of First Commonwealth Bank, whose address is 2 East Long Avenue, PO Box 607A, Dubois, PA 15801 (referred to below as "Lender").

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

See ATTACHED EXHIBIT "A", which is attached to this Mortgage and made a part of this Mortgage as if fully set forth herein.

**The Real Property or its address is commonly known as 42 S. BRADY STREET, DUBOIS, PA 15801.**

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

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

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

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

**Possession and Use.** Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

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

**Compliance With Environmental Laws.** Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

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

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

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

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

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

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

**Payment.** Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services



rendered or material furnished to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the interest of Lender under this Mortgage, except for the Existing Indebtedness referred to in this Mortgage or those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph.

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

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

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

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

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on an actual cash value basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption and boiler insurance as Lender may require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan; up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds \$5,000.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

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

**Compliance with Existing Indebtedness.** During the period in which any Existing Indebtedness described below is in effect, compliance with the insurance provisions contained in the instrument evidencing such Existing Indebtedness shall constitute compliance with the insurance provisions under this Mortgage, to the extent compliance with the terms of this Mortgage would constitute a duplication of insurance requirement. If any proceeds from the insurance become payable on loss, the provisions in this Mortgage for division of proceeds shall apply only to that portion of the proceeds not payable to the holder of the Existing Indebtedness.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Mortgage or any Related Documents, including but not limited to Grantor's failure to comply with any obligation to maintain Existing Indebtedness in good standing as required below, or to discharge or pay when due any amounts Grantor is required to discharge or pay under this Mortgage or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Mortgage also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default. Grantor's obligation to Lender for all such expenses shall survive the entry of any mortgage foreclosure judgment.

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

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

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

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

**Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantor in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's Indebtedness shall be paid in full.

**EXISTING INDEBTEDNESS.** The following provisions concerning Existing Indebtedness are a part of this Mortgage:

**Existing Lien.** The lien of this Mortgage securing the Indebtedness may be secondary and inferior to the lien securing payment of an existing obligation with an account number of 2089008-69161 to DEPOSIT BANK. The existing obligation has a current principal balance of approximately \$220,919.00 and is in the original principal amount of \$325,000.00. The obligation has the following payment terms: \$3,933.13 per Month. Grantor expressly covenants and agrees to pay, or see to the payment of, the Existing Indebtedness and to prevent any default on such indebtedness, any default under the instruments evidencing such indebtedness, or any default under any security documents for such indebtedness.

**No Modification.** Grantor shall not enter into any agreement with the holder of any mortgage or other security agreement which has priority over this Mortgage by which that agreement is modified, amended, extended, or renewed without the prior written consent of Lender. Grantor shall neither request nor accept any future advances under any such security agreement without the prior written consent of Lender.

**CONDEMNATION.** The following provisions relating to condemnation proceedings are a part of this Mortgage:

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be

entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

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

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

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees; documentary stamps, and other charges for recording or registering this Mortgage.

**Taxes.** The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on and (4) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

**Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

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

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

**Security Interest.** Upon request by Lender, Grantor shall execute financing statements and take whatever other action is requested by Lender to records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

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

**FURTHER ASSURANCES; ADDITIONAL AUTHORIZATIONS.** The following provisions relating to further assurances and additional authorizations are a part of this Mortgage:

**Further Assurances.** At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectually, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Mortgage, and the Related Documents, and (2) the liens and security interests created by this Mortgage on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Additional Authorizations.** If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably authorizes Lender to make, execute, deliver, file, record and do all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph. It is understood that nothing set forth herein shall require Lender to take any such actions.

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

**EVENTS OF DEFAULT.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**Payment Default.** Grantor fails to make any payment when due under the Indebtedness.

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

**Other Defaults.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

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

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

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

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

**Existing Indebtedness.** The payment of any installment of principal or any interest on the Existing Indebtedness is not made within the time required by the promissory note evidencing such indebtedness, or a default occurs under the instrument securing such indebtedness and is not cured during any applicable grace period in such instrument, or any suit or other action is commenced to foreclose any existing lien on the Property.

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

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

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

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

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

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

**Accelerate Indebtedness.** Lender shall have the right at its option, after giving such notices as required by applicable law, to declare the entire Indebtedness immediately due and payable.

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

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

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

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

**Possession of the Property.** For the purpose of procuring possession of the Property, Grantor hereby authorizes and empowers any attorney of any court of record in the Commonwealth of Pennsylvania or elsewhere, as attorney for Lender and all persons claiming under or through Lender, to sign an agreement for entering in any competent court an amicable action in ejectment for possession of the Property and to appear for and confess judgment against Grantor, and against all persons claiming under or through Grantor, for the recovery by Lender of possession of the Property, without any stay of execution, for which this Mortgage, or a copy of this Mortgage verified by affidavit, shall be a sufficient warrant; and thereupon a writ of possession may be issued forthwith, without any prior writ or proceeding whatsoever.

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

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

**Tenancy at Sufferance.** If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

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

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

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

**Election of Remedies.** Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Mortgage, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies. Nothing under this Mortgage or otherwise shall be construed so as to limit or restrict the rights and remedies available to Lender following an Event of Default, or in any way to limit or restrict the rights and ability of Lender to proceed directly against Grantor and/or against any other co-maker, guarantor, surety or endorser and/or to proceed against any other collateral directly or indirectly securing the Indebtedness.

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

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

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

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

**Annual Reports.** If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

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

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

**Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the

offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Mortgage. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Mortgage shall not affect the legality, validity or enforceability of any other provision of this Mortgage.

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

**Successor Interests.** The terms of this Mortgage shall be binding upon Grantor, and upon Grantor's heirs, personal representatives, successors, and assigns, and shall be enforceable by Lender and its successors and assigns.

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

**Waive Jury.** All parties to this Mortgage hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Mortgage. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Borrower.** The word "Borrower" means THOMAS J. DUNLAP, and all other persons and entities signing the Note in whatever capacity.

**Default.** The word "Default" means the Default set forth in this Mortgage in the section titled "Default".

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

**Existing Indebtedness.** The words "Existing Indebtedness" mean the indebtedness described in the Existing Liens provision of this Mortgage.

**Grantor.** The word "Grantor" means THOMAS J. DUNLAP.

**Guaranty.** The word "Guaranty" means the guaranty from guarantor, endorser, surety, or accommodation party to Lender, including without limitation a guaranty of all or part of the Note.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Improvements.** The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Mortgage, together with interest on such amounts as provided in this Mortgage.

**Lender.** The word "Lender" means Deposit Bank, a division of First Commonwealth Bank, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage between Grantor and Lender.

**Note.** The word "Note" means the promissory note dated December 7, 2001, in the original principal amount of \$62,569.11 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The maturity date of this Mortgage is December 1, 2013.

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

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

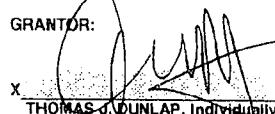
**Real Property.** The words "Real Property" mean the real property, interests and rights, as further described in this Mortgage.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the indebtedness.

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

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS. THIS MORTGAGE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS MORTGAGE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.

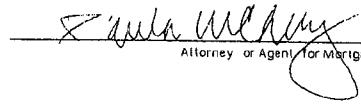
GRANTOR:

X   
THOMAS J. DUNLAP, Individually

(Seal)

#### CERTIFICATE OF RESIDENCE

I hereby certify, that the precise address of the mortgagor, Deposit Bank, a division of First Commonwealth Bank, herein is as follows:  
Loan Administration Office, 2 East Long Avenue, PO Box 607A, Dubois, PA 15801

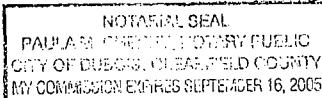
  
Attorney or Agent for Mortgagor

## INDIVIDUAL ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA )  
COUNTY OF CLEARFIELD ) SS  
)

On this, the 7th day of December, 2001, before me Paula M. Cherry, the undersigned Notary Public, personally appeared THOMAS J. DUNLAP, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he or she executed the same for the purposes therein contained.

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



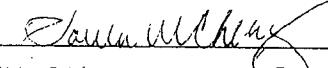
  
Paula M. Cherry  
Notary Public in and for the State of Pennsylvania

Exhibit "A"

ALL those certain pieces, parcels or tracts of land situate, lying and being in the City of DuBois, Clearfield County, Pennsylvania, and being bounded and described as follows, to wit:

**THE FIRST THEREOF:** Situate on the corner of South Brady Street and West Washington Avenue and being bounded on the North by the property of DuBois Lodge No. 349, Benevolent Protective Order of Elks; on the East by South Brady Street; on the South by West Washington Avenue; and on the West by lands now or formerly of Hibner-Hoover Hardware Company, and being 26 feet, more or less, in width on South Brady Street and extending Westward to the lands now or formerly of Hibner-Hoover Hardware Company, a distance of 139 feet, more or less.

BEING the same premises which were conveyed to Thomas J. Dunlap by Deed of Patrick Valentine, et al., dated October 16, 1985, and recorded in Clearfield County Deeds and Records Book Vol. 1049, Page 176, on November 5, 1985.

**THE SECOND THEREOF:** BEGINNING at a post on the North side of South Brady Street, also known as State Route 219, being also the Southeast corner of land of Thomas J. Dunlap; thence along the easterly line of land of Thomas J. Dunlap in a Northwesterly direction, 138 feet to other lands of the DuBois Parking Authority; thence by same in a Northeasterly direction 50 feet to the Northwest corner of land of Paul D. Horchen; thence along the Westerly line of land of Paul D. Horchen in a Southeasterly direction 138 feet to a point in the Northerly line of South Brady Street (State Route 219); thence by the Northerly line of South Brady Street (State Route 219) in a Southwesterly direction 50 feet to a post and the place of beginning.

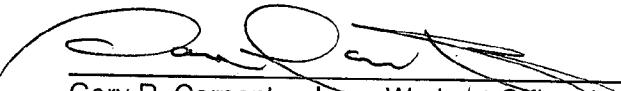
SAID CONVEYANCE IS MADE UNDER AND SUBJECT TO THE FOLLOWING EXCEPTIONS, RESERVATIONS, EASEMENTS, COVENANTS AND CONDITIONS:

1. Under and subject to all outstanding leases of oil and gas and it is hereby excepted and reserved from the above-described parcel of land all oil and gas, with rights of ingress and egress for removal of the same. Also excepting and reserving the right to store gas under the above-described premises.
2. Excepting and reserving all of the coal as the same has been reserved and/or conveyed in prior deeds.
3. Under and subject to all easements, servitudes and rights-of-way pertaining to the above-described premises.
4. The conveyance shall be subject to all City Zoning and land subdivision ordinances now in effect or that may be in effect at any time in the future.
5. Within one (1) year of completion of construction of the stipulated building, all areas of the above-described land not paved for driveways or parking shall be planted in grass and shrubbery.
6. Any and all fill needed for any areas of the premises herein conveyed shall be placed on the lot within two (2) years from the date of this deed, prior to the commencement of any landscaping on the premises.
7. In the event of any failure, neglect, or refusal by said Grantee, his heirs and assigns, to begin construction of a building within one (1) year from the date of this deed, and to complete construction within two (2) years from the date of this deed, the within conveyance shall become null and void, and title thereto shall revert to the City of DuBois, without any requirement of recompense or other reimbursements to the said Grantee herein by virtue of said reversion or retaking by the City of DuBois.
8. Grantee, his heirs and assigns, shall construct and maintain a 5-foot wide concrete sidewalk along the north side of said parcel for accessing Brady Street to the city parking lot and shall install and maintain security lighting along this area. Such construction and installation shall be completed no more than one (1) year after the completion of construction.

BEING the same premises which were conveyed to Thomas J. Dunlap, single, by Deed of the City of DuBois, dated July 10, 1995, and recorded in Clearfield County Deeds and Records Book Vol. 1707, Page 233, on September 28, 1995.

**VERIFICATION**

I, Gary R. Carpenter, Loan Workout Officer, First Commonwealth Bank, do hereby depose and say, subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities, that the facts set forth in the foregoing Complaint in Mortgage Foreclosure are true and correct upon my information and belief. I further depose and say that, in my position as Loan Workout Officer, I am duly authorized to make this authorization on behalf of the Bank.



Gary R. Carpenter, Loan Workout Officer  
First Commonwealth Bank

320576.1:BF  
11555-131955

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104131  
NO: 08-677-CD  
SERVICE # 1 OF 1  
AMENDED COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: FIRST COMMONWEALTH BANK f/k/a DEPOSIT BANK

vs.

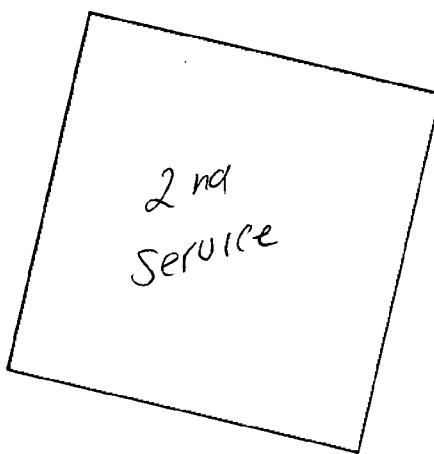
DEFENDANT: THOMAS J. DUNLAP d/b/a TOMMY D'S RESTAURANT AND CATERING  
and THE UNITED STATES OF AMERICA, Terre Tenant

**SHERIFF RETURN**

---

NOW, May 08, 2008, SHERIFF OF ALLEGHENY COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN AMENDED COMPLAINT IN MORTGAGE FORECLOSURE ON THE UNITED STATES OF AMERICA, Terre Tenant, c/o U.S. Atty. Office.

NOW, May 16, 2008 AT 1:39 PM SERVED THE WITHIN AMENDED COMPLAINT IN MORTGAGE FORECLOSURE ON THE UNITED STATES OF AMERICA, Terre Tenant, c/o U.S. Atty. Office, DEFENDANT. THE RETURN OF ALLEGHENY COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.



**FILED**  
03:30pm  
JUL 25 2008

William A. Shaw  
Prothonotary/Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104131  
NO. 08-677-CD  
SERVICES 1  
AMENDED COMPLAINT IN MORTGAGE

FORECLOSURE

PLAINTIFF: FIRST COMMONWEALTH BANK f/k/a DEPOSIT BANK

vs.

DEFENDANT: THOMAS J. DUNLAP d/b/a TOMMY D'S RESTAURANT AND CATERING  
and THE UNITED STATES OF AMERICA, Terre Tenant

**SHERIFF RETURN**

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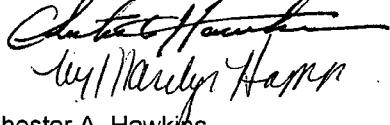
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	ARENSBERG	312278	10.00
SHERIFF HAWKINS	ARENSBERG	312278	21.00
ALLEGHENY CO.	ARENSBERG	312275	75.00

Sworn to Before Me This

So Answers,

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



Chester A. Hawkins  
Sheriff

**ALLEGHENY COUNTY SHERIFF'S DEPARTMENT**

436 GRANT STREET  
PITTSBURGH, PA 15219-2496  
PHONE (412) 350-4700  
FAX (412) 350-6388

*F.W.*  
**PETER R. DEFAZIO**  
Sheriff

**DENNIS SKOSNIK**  
Chief Deputy

PLAINTIFF: First Comm. Bank F/K/A

VS.

DEFT.: Thomas J. Dunlap dba

DEFT.: Serve: The United States of America

DEFT.: 10 U.S. Atty Office U.S. PO. & Courthouse

GARNIShee: 700 Grant St' Suite 400

ADDRESS: Pittsburgh PA 15219

CASE#: 08-677-CO

EXPIRES: 6-4-08

SUMMONS/PRAECIPE

SEIZURE OR POSSESSION

NOTICE AND COMPLAINT

REVIVAL OR SCI FA

INTERROGATORIES

EXECUTION • LEVY OR GARNIShee

OTHER

MUNICIPALITY OR CITY WARD:

ATTY: Tucker Anensberg

DATE: 20

ADDRESS:

ATTY'S PHONE: 412-594-5563

INDICATE TYPE OF SERVICE:  PERSONAL  PERSON IN CHARGE  DEPUTIZE  MAIL  POSTED  OTHER  LEVY  SEIZED & STORED

NOW: May 8 2008 I, SHERIFF OF ALLEGHENY COUNTY, PA do hereby depose the Sheriff of County to execute this Writ and make return thereof according to law

**NOTE: ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN** - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, with out liability on the part of such deputy herein for any loss, destruction or removal of any such property before sheriff's sale thereof.

Seize, levy, advertise and sell all the personal property of the defendant on the premises located at:

MAKE	MODEL	MOTOR NUMBER	SERIAL NUMBER	LICENSE NUMBER

**SHERIFF'S OFFICE USE ONLY**

I hereby CERTIFY and RETURN that on the 16 day of MAY, 20 08, at 13:39 o'clock, A.M./P.M. Address Above/ Address Below, County of Allegheny, Pennsylvania

I have served in the manner Described below:

Defendant(s) personally served.

Adult family member with whom said Defendant(s) reside(s). Name & Relationship \_\_\_\_\_

Adult in charge of Defendant's residence who refused to give name or relationship.

Manager/other person authorized to accept deliveries of United States Mail \_\_\_\_\_

Agent or person in charge of Defendant(s) office or usual place of business.

Other \_\_\_\_\_

Property Posted \_\_\_\_\_

Defendant not found because:  Moved  Unknown  No Answer  Vacant  Other \_\_\_\_\_

Certified Mail  Receipt \_\_\_\_\_  Envelope Returned \_\_\_\_\_  Neither receipt or envelope retuned: writ expired \_\_\_\_\_

Regular Mail Why \_\_\_\_\_

You are hereby notified that on \_\_\_\_\_, 20\_\_\_\_\_, levy was made in the case of \_\_\_\_\_  
Possession/Sale has been set for \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock

**YOU MUST CALL DEPUTY ON THE MORNING OF SALE/POSSESSION BETWEEN 8:30 - 9:30 A.M.**

ATTEMPTS \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Additional Costs Due \$ \_\_\_\_\_, This is  
placed on writ when returned to Prothonotary. Please check  
before satisfying case.

Affirmed and subscribed before me

this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

**PETER R. DEFAZIO, Sheriff**

BY: S. H. (DEPUTY)

DISTRICT: \_\_\_\_\_

Notary

White Copy - Sheriff

Pink Copy - Attorney



CHESTER A. HAWKINS  
SHERIFF

# Sheriff's Office Clearfield County

COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641  
FAX (814) 765-5915  
ROBERT SNYDER  
CHIEF DEPUTY  
MARILYN HAMM  
DEPT. CLERK  
CYNTHIA AUGHENBAUGH  
OFFICE MANAGER  
KAREN BAUGHMAN  
CLERK TYPIST  
PETER F. SMITH  
SOLICITOR

## DEPUTATION

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

PAGE 104131

TERM & NO. 08-677-CD

FIRST COMMONWEALTH BANK f/k/a DEPOSIT BANK

AMENDED COMPLAINT IN MORTGAGE FORECLOSURE

VS.

THOMAS J. DUNLAP d/b/a TOMMY D'S RESTAURANT AND CATERING  
and THE UNITED STATES OF AMERICA, Terre Tenant

**SERVE BY: 06/04/08**  
**COURT DATE:**

### MAKE REFUND PAYABLE TO TUCKER ARENSBERG, P.C.

**SERVE:** THE UNITED STATES OF AMERICA, Terre Tenant, c/o U.S. Atty. Office

**ADDRESS:** U.S. POST OFFICE&COURTHOUSE, 700 GRANT ST., SUITE 400, PITTSBURGH, PA 15219

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania; do hereby depelize the SHERIFF OF ALLEGHENY COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, May 08, 2008.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104427  
NO: 08-677-CD  
SERVICES 1  
AMENDED COMPLAINT IN MORTGAGE

FORECLOSURE

PLAINTIFF: FIRST COMMONWEALTH BANK, f/k/a DEPOSIT BANK

vs.

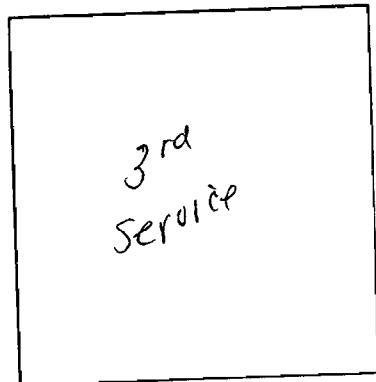
DEFENDANT: THOMAS J. DUNLAP d/b/a TOMMY D'S RESTAURANT AND CATERNING  
and THE UNTIED STATES OF AMERICA

SHERIFF RETURN

---

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	ARENSBERG	314561	10.00
SHERIFF HAWKINS	ARENSBERG	314561	31.23



FILED

03:30 pm  
JUL 25 2008

William A. Shaw  
Prothonotary/Clerk of Courts

Sworn to Before Me This

So Answers,

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



Chester A. Hawkins  
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20860  
NO: 08-677-CD

PLAINTIFF: FIRST COMMONWEALTH BANK F/K/A DEPOSIT BANK

vs.

DEFENDANT: THOMAS J. DUNLAP D/B/A TOMMY D'S RESTAURANT AND CATERING

Execution REAL ESTATE

**SHERIFF RETURN**

DATE RECEIVED WRIT: 10/6/2008

LEVY TAKEN 10/20/2008 @ 11:00 AM

POSTED 10/20/2008 @ 11:10 AM

SALE HELD 3/6/2009

SOLD TO FIRST COMMONWEALTH BANK

SOLD FOR AMOUNT \$1.00 PLUS COSTS

WRIT RETURNED 4/2/2009

DATE DEED FILED 4/2/2009

PROPERTY ADDRESS 42 S. BRADY STREET DUBOIS , PA 15801

7 FILED  
0123101  
APR 02 2009  
William A. Shaw  
Prothonotary/Clerk of Courts

**SERVICES**

11/5/2008 @ 1:12 PM SERVED THOMAS J. DUNLAP D/B/A TOMMY D'S RESTAURANT & CATE

SERVED THOMAS J. DUNLAP D/B/A TOMMY D'S RESTAURANT & CATERING, DEFENDANT, AT HIS RESIDENCE 412 TREASURE LAKE, SECT 12, LOT 14, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO THOMAS J. DUNLAP

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.

10/24/2008 @ SERVED THE UNITED STATES OF AMERICA

SERVED THE UNITED STATES OF AMERICA MARY BETH BUCHANON US ATTY GENERAL FOR THE WESTERN DISTRICT OF PA, DEFENDANT AT 633 W.S. POST OFFICE & COURTHOUSE, PITTSBURGH, PENNSYLVANIA 15219 BY CERT MAIL # 70060810000145075002, SIGNED FOR BY SCOTT M. UNKNOWN LAST NAME.

A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION, NOTICE OF SALE AND COPY OF THE LEVY.

10/29/2008 @ SERVED THE UNITED STATED OF AMERICA

SERVED THE UNITED STATES OF AMERICA, ATTY GENERAL, DEFENDANT, BY REG & CERT MAIL TO ROOM 5111, MAIN JUSTICE BLDG, TENTH CONSTITUTION AVE NW, WAHINGTON, DC 20530 CERT #70060810000145074470 SIGNED FOR BY ERNEST L. PARKER

A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION, NOTICE OF DALE AND COPY OF THE LEVY.

@ SERVED

NOW, JANUARY 8, 2009 RECEIVED A FAX LETTER FROM THE PLAINTIFF'S ATTORNEY TO CONTINUE THE SHERIFF SALE SCHEDULED FOR JANUARY 9, 2009 TO MARCH 6, 2009.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20860  
NO: 08-677-CD

PLAINTIFF: FIRST COMMONWEALTH BANK F/K/A DEPOSIT BANK

VS.

DEFENDANT: THOMAS J. DUNLAP D/B/A TOMMY D'S RESTAURANT AND CATERING

Execution REAL ESTATE

SHERIFF RETURN

---

SHERIFF HAWKINS \$285.73

SURCHARGE \$60.00 PAID BY ATTORNEY

Sworn to Before Me This

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

So Answers,

*Chester Hawkins*  
*by Cynthia Butter-Angelard*  
Chester A. Hawkins  
Sheriff

**WRIT OF EXECUTION and/or ATTACHMENT  
COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD  
CIVIL ACTION – LAW**

First Commonwealth Bank,  
f/k/a Deposit Bank  
Plaintiff

Vs. NO.: 2008-00677-CD

Thomas J. Dunlap, d/b/a  
Tommy D's Restaurant and Catering,  
Defendant

The United State of America  
Terre Tenant

**TO THE SHERIFF OF CLEARFIELD COUNTY:**

To satisfy the judgment, interest and costs in the above matter you are directed to levy upon and sell the following described property:

(1) See Attached Description

(2)

AMOUNT DUE/PRINCIPAL: \$118,823.63  
INTEREST FROM: \$Additional Interest to Sale Date  
ATTY'S COMM: \$  
DATE: 10/6/2008

PROTH. COSTS PAID: \$162.00  
SHERIFF: \$  
OTHER COSTS: \$



William A. Shaw  
Prothonotary/Clerk Civil Division

Received this writ this 6<sup>th</sup> day  
of October A.D. 2008  
At 3:00 A.M./P.M.

Clinton A. Hawke  
Sheriff by Cynthia Butler-Aypholad

Requesting Party: Thomas E. Reiber, Esq.  
1500 One PPG Place  
Pittsburgh, PA 15222  
412-566-1212

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,	)	CIVIL DIVISION
f/k/a DEPOSIT BANK,	)	
	)	
Plaintiff,	)	No. 08-677-CD
	)	
vs.	)	
	)	
THOMAS J. DUNLAP, d/b/a	)	
TOMMY D'S RESTAURANT	)	
AND CATERING,	)	
	)	
Defendant,	)	
	)	
and	)	
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Terre Tenant.	)	

TO THE SHERIFF OF CLEARFIELD COUNTY:

Please use the following legal description of property for advertising purposes:

**SHORT LEGAL DESCRIPTION OF REAL ESTATE**

ALL THE RIGHT, TITLE, INTEREST AND CLAIMS OF THOMAS J. DUNLAP,  
D/B/A TOMMY D'S RESTAURANT AND CATERING, OF, IN AND TO THE  
FOLLOWING DESC'D PROPERTY:

A.T.C. PIECES OR PARCELS OF LAND SIT. IN CITY OF DUBOIS,  
CLEARFIELD COUNTY, PA. BEING KN AS 42 S. BRADY STREET, DUBOIS,  
PA. BEING MORE FULLY DESC'D AT DBV 1049 PG 196 AND DBV 1707, PG  
233. CLEARFIELD COUNTY PARCEL I.D. NOS. 7.2-010-000-00199 AND 7.2-  
010-000-00198.

**REAL ESTATE SALE  
SCHEDULE OF DISTRIBUTION**

NAME THOMAS J. DUNLAP D/B/A TOMMY D'S RESTAURANT & CATE

NO. 08-677-CD

NOW, April 02, 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 March 06, 2009, I exposed the within described real estate of Thomas J. Dunlap D/B/A Tommy D'S Restaurant And Catering to public venue or outcry at which time and place I sold the same to FIRST COMMONWEALTH BANK he/she being the highest bidder, for the sum of \$1.00 plus costs 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	18.04
HANDBILLS	15.00
DISTRIBUTION	25.00
ADVERTISING	15.00
ADD'L SERVICE	
DEED	30.00
ADD'L POSTING	
ADD'L MILEAGE	22.23
ADD'L LEVY	
BID AMOUNT	1.00
RETURNS/DEPUTIZE	
COPIES	15.00
	5.00
BILLING/PHONE/FAX	5.00
CONTINUED SALES	20.00
MISCELLANEOUS	
<b>TOTAL SHERIFF COSTS</b>	<b>\$285.73</b>

**DEED COSTS:**

ACKNOWLEDGEMENT	5.00
REGISTER & RECORDER	31.00
TRANSFER TAX 2%	0.00
<b>TOTAL DEED COSTS</b>	<b>\$31.00</b>

**PLAINTIFF COSTS, DEBT AND INTEREST:**

DEBT-AMOUNT DUE	118,823.63
INTEREST @ %	0.00
FROM TO 03/06/2009	
PROTH SATISFACTION	
LATE CHARGES AND FEES	
COST OF SUIT-TO BE ADDED	
FORECLOSURE FEES	
ATTORNEY COMMISSION	
REFUND OF ADVANCE	
REFUND OF SURCHARGE	60.00
SATISFACTION FEE	
ESCROW DEFICIENCY	
PROPERTY INSPECTIONS	
INTEREST	
MISCELLANEOUS	
<b>TOTAL DEBT AND INTEREST</b>	<b>\$118,883.63</b>

**COSTS:**

ADVERTISING	1,363.59
TAXES - COLLECTOR	2,959.22
TAXES - TAX CLAIM	83,426.44
DUE	
LIEN SEARCH	200.00
ACKNOWLEDGEMENT	5.00
DEED COSTS	31.00
SHERIFF COSTS	285.73
LEGAL JOURNAL COSTS	90.00
PROTHONOTARY	162.00
MORTGAGE SEARCH	80.00
MUNICIPAL LIEN	
<b>TOTAL COSTS</b>	<b>\$88,602.98</b>

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

CHESTER A. HAWKINS, Sheriff

## SENDER: COMPLETE THIS SECTION

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

## 1. Article Addressed to:

THE UNITED STATES OF AMERICA  
ATTORNEY GENERAL OF THE U.S.  
ROOM 511, MAIN JUSTICE BLDG  
TENTH CONSTITUTION AVENUE NW  
WASHINGTON, D.C. 20530

## 2. Article Number

(Transfer from service label)

PS Form 3811, February 2004

7006 0810 0001 4507 4470

Domestic Return Receipt

Dunlap 102595-02-M-154

## A. Signature

X *Donald P. Dunlap* Agent Addressee

## B. Received by (Printed Name)

OCT 29 2004

## C. Date of Delivery

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

## 3. Service Type

<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

7006 0810 0001 4507 5002

## U.S. Postal Service™

## CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

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

## OFFICIAL USE

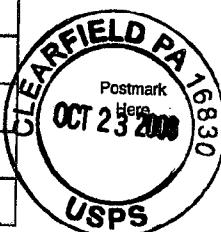
Postage \$

Certified Fee

Return Receipt Fee  
(Endorsement Required)Restricted Delivery Fee  
(Endorsement Required)

Total Postage &amp; Fees

\$ 5.49



Sent To

THE UNITED STATES OF AMERICA  
MARY BETH BUCHANON  
U. S. ATTORNEY GENERAL FOR THE  
WESTERN DISTRICT OF PA  
633 U. S. POST OFFICE & COURTHOUSE  
PITTSBURGH, PA 15219

PS Form 3800

## SENDER: COMPLETE THIS SECTION

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

## 1. Article Addressed to:

THE UNITED STATES OF AMERICA  
MARY BETH BUCHANON  
U. S. ATTORNEY GENERAL FOR THE  
WESTERN DISTRICT OF PA  
633 U. S. POST OFFICE & COURTHOUSE  
PITTSBURGH, PA 15219

## 2. Article Number

(Transfer from service label)

PS Form 3811, February 2004

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature

X *Donald P. Dunlap* Agent Addressee

## B. Received by (Printed Name)

## C. Date of Delivery

OCT 24 2004

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

## 3. Service Type

<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

7006 0810 0001 4507 5002

Domestic Return Receipt

Dunlap 102595-02-M-1540

TUCKER ARENSBERG  
AttorneysDebra J. Paranay 412.594.6554  
Paralegal  
dparanay@tuckerlaw.com

January 8, 2009

VIA FACSIMILE  
(814) 765-5915

Office of the Clearfield County Sheriff  
Attention: Cindy / Real Estate Sales  
1 North Second Street, Suite 116  
Clearfield, PA 16830

Re: First Commonwealth Bank vs. Thomas J. /Dunlap, d/b/a Tommy D's  
No. 08-677-CD; Sheriff's Sale January 9, 2009

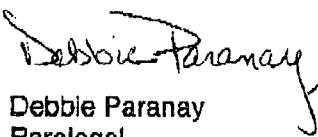
Dear Sheriff:

This office represents First Commonwealth Bank, the plaintiff in the above foreclosure action. As we discussed this afternoon, we are requesting that the above captioned sale be continued until the March 6, 2009 sale date. Please announce this postponement to those assembled at the time and place scheduled for the January 9, 2009 sale.

Thank you for your assistance in this matter. If you have any questions or need anything further from this office, please do not hesitate to call me at the direct dial number above.

Very truly yours,

TUCKER ARENSBERG, P.C.

  
Debbie Paranay  
Paralegal

:djp  
Enclosures  
pc: Mr. Gary R. Carpenter  
Mr. Terry Henry  
Thomas E. Reiber, Esquire

343378.1:BF  
11555-131955

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

Plaintiff,  
vs.

THOMAS J. DUNLAP, d/b/a  
TOMMY D'S RESTAURANT  
AND CATERING,

Defendant,  
and

THE UNITED STATES OF AMERICA,

Terre Tenant.

CIVIL DIVISION

No. 08-677-CD

PRAECIPE FOR DEFAULT JUDGMENT  
IN MORTGAGE FORECLOSURE

Filed on behalf of FIRST  
COMMONWEALTH BANK, Plaintiff

Counsel of record for this party:

Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
Telephone: (412) 566-1212

FILED Atty ad. \$20.00  
M 19.5/2008 Notice to Def.  
SEP 02 2008

William A. Shaw  
Prothonotary/Clerk of Courts

Statement  
to Atty  
(60)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
 )  
 Plaintiff, )  
 vs. ) No. 08-677-CD  
 )  
 THOMAS J. DUNLAP, d/b/a )  
 TOMMY D'S RESTAURANT )  
 AND CATERING, )  
 )  
 Defendant, )  
 and )  
 )  
 THE UNITED STATES OF AMERICA, )  
 )  
 Terre Tenant. )

**PRAECIPE FOR DEFAULT JUDGMENT IN MORTGAGE FORECLOSURE**

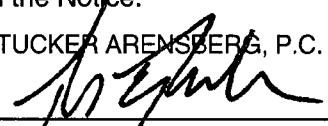
TO: Prothonotary

Kindly enter Judgment against the Defendant, Thomas J. Dunlap, d/b/a Tommy D's Restaurant and Catering, in default of an Answer, in the amount of \$117,117.48, plus continuing interest at the contract rate together with late charges, costs of suit and attorney fees on the declining balance computed as follows:

Amount claimed in Complaint .....	\$100,788.41
Interest from 03/07/08 through 08/27/08 (per diem \$12.185903) (Note-1) .....	2,108.16
Interest from 03/07/08 through 08/27/08 (per diem \$10.364615) (Note-2) .....	1,793.08
Late Fees (6% of \$3,837.21/mo. pmt. or \$230.23/mo. for months of April 2007 through August 2008) (Note-1) .	3,913.91
Late Fees (5% of \$635.14/mo. pmt. or \$31.76/mo. for months of April 2007 through August 2008) (Note-2) .	539.92
Forced Placed Insurance (March, 2008) .....	3,571.00
Legal Fees and Costs through August 26, 2008 .....	<u>4,403.00</u>
<b>TOTAL.....</b>	<b>\$117,117.48</b>

I hereby certify that the appropriate Notice of Default, as attached, has been mailed in accordance with PA R.C.P. 237.1 on the date indicated on the Notice.

TUCKER ARENSBERG, P.C.

  
\_\_\_\_\_  
Thomas E. Reiber, Esquire  
Attorneys for First Commonwealth Bank,  
f/k/a Deposit Bank, Plaintiff

Plaintiff : First Commonwealth Bank, f/k/a Deposit Bank  
c/o TUCKER ARENSBERG. P.C., 1500 One PPG Place, Pittsburgh, PA 15222  
Defendant: Thomas J. Dunlap, d/b/a Tommy D's Restaurant and Catering, 412 Treasure Lake, DuBois, PA 15801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. 08-677-CD  
vs. )  
THOMAS J. DUNLAP, d/b/a )  
TOMMY D'S RESTAURANT )  
AND CATERING, )  
Defendant, )  
and )  
THE UNITED STATES OF AMERICA, )  
Terre Tenant. )

TO: Thomas J. Dunlap  
d/b/a Tommy D's Restaurant and Catering  
412 Treasure Lake  
DuBois, PA 15801

DATE OF NOTICE: August 13, 2008

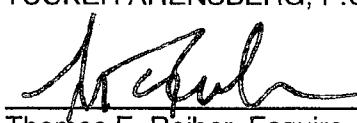
**IMPORTANT NOTICE**

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING, AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE FOLLOWING OFFICE. 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.

Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
100 South Street  
P. O. Box 186  
Harrisburg, Pennsylvania 17108  
Telephone: (800) 692-7375

TUCKER ARENSBERG, P.C.

By:

  
\_\_\_\_\_  
Thomas E. Reiber, Esquire  
Michael J. Stauber, Esquire  
Attorneys for First Commonwealth Bank,  
f/k/a Deposit Bank, Plaintiff

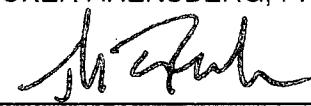
**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Notice was served upon Defendant, Thomas J. Dunlap, d/b/a Tommy D's Restaurant and Catering, by depositing same in the United States Mail, first class postage prepaid, on the 13<sup>th</sup> day of August, 2008 at the following address:

Thomas J. Dunlap  
d/b/a Tommy D's Restaurant and Catering  
412 Treasure Lake  
DuBois, PA 15801

TUCKER ARENSBERG, P.C.

By:

  
\_\_\_\_\_  
Thomas E. Reiber, Esquire

331467.1:BF  
11555-131955

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
 )  
 Plaintiff, )  
 vs. ) No. 08-677-CD  
 )  
 THOMAS J. DUNLAP, d/b/a )  
 TOMMY D'S RESTAURANT )  
 AND CATERING, )  
 )  
 Defendant, )  
 )  
 and )  
 )  
 THE UNITED STATES OF AMERICA, )  
 )  
 Terre Tenant. )

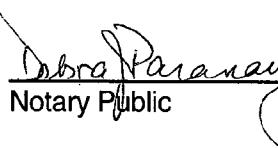
**AFFIDAVIT OF NON-MILITARY SERVICE**

COMMONWEALTH OF PENNSYLVANIA )  
 ) SS:  
 COUNTY OF ALLEGHENY )

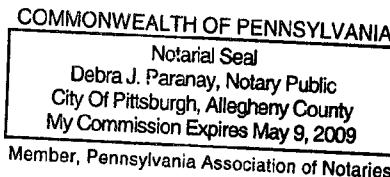
I, Thomas E. Reiber, Esquire, attorney for First Commonwealth Bank, being duly sworn according to law, hereby depose and say that the Defendant, Thomas J. Dunlap, is not a member of the military service of the United States of America to the best of my knowledge, information, and belief.

  
\_\_\_\_\_  
Thomas E. Reiber

Sworn to and subscribed before me  
this 28th day of August, 2008.

  
\_\_\_\_\_  
Debra J. Paranay  
Notary Public

My Commission Expires:



333535.1:BF/#11555-131955

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, )  
vs. ) No. 08-677-CD  
THOMAS J. DUNLAP, d/b/a )  
TOMMY D'S RESTAURANT )  
AND CATERING, )  
Defendant, )  
and )  
THE UNITED STATES OF AMERICA, )  
Terre Tenant. )

COPY

**NOTICE OF JUDGMENT**

To: Thomas J. Dunlap  
d/b/a Tommy D's Restaurant and Catering  
412 Treasure Lake  
DuBois, PA 15801

You are hereby notified that a Judgment in Mortgage Foreclosure was entered against you  
on September 2, 2008, in the amount of \$117,117.48, plus continuing interest  
at the contract rate together with costs, late charges, and attorneys fees.

  
\_\_\_\_\_  
Prothonotary, Clearfield County

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

COPY

First Commonwealth Bank  
Plaintiff(s)

No.: 2008-00677-CD

Real Debt: \$117,117.48

Atty's Comm: \$

Vs.

Costs: \$

Thomas J. Dunlap  
Tommy D's Restaurant and Catering  
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: September 2, 2008

Expires: September 2, 2013

Certified from the record this 2nd day of September, 2008.



William A. Shaw, Prothonotary

\*\*\*\*\*

SIGN BELOW FOR SATISFACTION

Received on \_\_\_\_\_, \_\_\_\_\_, of defendant full satisfaction of this Judgment,  
Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

\_\_\_\_\_  
Plaintiff/Attorney

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

CIVIL DIVISION

Plaintiff,

No. 08-677-CD

vs.

THOMAS J. DUNLAP, d/b/a  
TOMMY D'S RESTAURANT  
AND CATERING,

AFFIDAVIT PURSUANT TO  
PA. R.C.P. 3129.1

Defendant,

and

THE UNITED STATES OF AMERICA,

Terre Tenant.

Filed on behalf of FIRST  
COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,	)	CIVIL DIVISION
f/k/a DEPOSIT BANK,	)	
	)	
Plaintiff,	)	No. 08-677-CD
	)	
vs.	)	
	)	
THOMAS J. DUNLAP d/b/a	)	
TOMMY D'S RESTAURANT	)	
AND CATERING,	)	
	)	
Defendant,	)	
	)	
and	)	
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Terre Tenant.	)	

**AFFIDAVIT PURSUANT TO Pa. R.C.P. 3129.1**

FIRST COMMONWEALTH BANK, f/k/a DEPOSIT BAN, Plaintiff in the above action, by its attorneys, Tucker Arensberg, P.C., sets forth as of the date of the Praeclipe for Writ of Execution was filed the following information concerning the real property located at 42 S. Brady Street, DuBois, Pennsylvania 15801 (Tax Parcel I.D. Nos. 7.2-001-000-00198 and 7.2-001-000-00199):

1. Name and address of the Owner(s) or Reputed Owner(s):

THOMAS J. DUNLAP	412 Treasure Lake
	DuBois, Pennsylvania 15801

2. Name and address of Defendant(s) in the judgment:

THOMAS J. DUNLAP, d/b/a	412 Treasure Lake
TOMMY D'S RESTAURANT	DuBois, Pennsylvania 1580
AND CATERING	

3. Name and address of every judgment creditor whose judgment is a record lien on the real property to be sold:

FIRST COMMONWEALTH BANK, c/o	Thomas E. Reiber, Esquire
f/k/a DEPOSIT BANK	Tucker Arensberg, P.C.
	1500 One PPG Place
	Pittsburgh, Pennsylvania 15222

DISCOVER BANK	c/o	Ressler & Ressler
		21 Yost Boulevard, Suite 301
		Pittsburgh, Pennsylvania 15221-5283

TREASURE LAKE PROPERTY	13 Treasure Lake
OWNERS ASSOCIATION	DuBois, Pennsylvania 15801

INTERNAL REVENUE SERVICE	c/o	U.S. Attorney's Office U.S. Post Office and Courthouse 700 Grant Street, Suite 400 Pittsburgh, Pennsylvania 15219
and	c/o	District Director Attn: Chief, Special Procedures Staff 1000 Liberty Avenue Pittsburgh, Pennsylvania 15222

4. Name and address of last recorded holder of every mortgage of record:

FIRST COMMONWEALTH BANK, f/k/a DEPOSIT BANK	c/o	Thomas E. Reiber, Esquire Tucker Arensberg, P.C. 1500 One PPG Place Pittsburgh, Pennsylvania 15222
---	-----	---

5. Name and address of every other person who has any record lien on their property:

UNKNOWN

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:

CLEARFIELD COUNTY TREASURER	P. O. Box 289 Clearfield, Pennsylvania 16830
-----------------------------	---

CLEARFIELD COUNTY TAX CLAIM	Clearfield County Courthouse 1 North Second Street Clearfield, Pennsylvania 16830
-----------------------------	---

CITY OF DUBOIS	c/o Alexis Stets, Tax Collector P. O. Box 408 DuBois, Pennsylvania 15801
----------------	---

DUBOIS AREA SCHOOL DISTRICT	c/o Alexis Stets, Tax Collector P. O. Box 408 DuBois, Pennsylvania 15801
-----------------------------	---

CLEARFIELD COUNTY	c/o Alexis Stets, Tax Collector P. O. Box 408 DuBois, Pennsylvania 15801
-------------------	---

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:

CLEARFIELD COUNTY DOMESTIC RELATIONS	230 E. Market Street Clearfield, Pennsylvania 16830
--------------------------------------	--

The information provided in the foregoing Affidavit is provided solely to comply with the Pennsylvania Rules of Civil Procedure 3129.1, and it is not intended to be a comprehensive

abstract of the condition of the title of the real estate which is being sold under this execution. No person or entity is entitled to rely on any statements made herein in regard to the condition of the title of the property or to rely on any statement herein in formulating bids which might be made at the sale of the property.

I verify that the statements made in this Affidavit are true and correct to the best of my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

TUCKER ARENSBERG, P.C.

Dated: Oct 3, 2008

By:

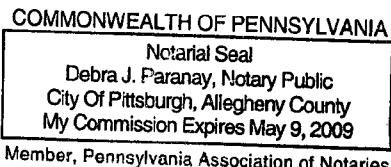
  
\_\_\_\_\_  
Thomas E. Relber, Esquire  
Michael J. Stauber, Esquire  
Attorney for First Commonwealth Bank, Plaintiff

Sworn to and subscribed before me  
this 3rd day of October, 2008.

  
\_\_\_\_\_  
Debra J. Paranay  
Notary Public

My Commission Expires:

333702.1:BF/#11555-26422



Member, Pennsylvania Association of Notaries

FILED *(F2)*

OCT 06 2008

11:16 AM

William A. Shaw  
Prothonotary/Clerk of Courts  
1 CENT w/6 units

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

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

CIVIL DIVISION

Plaintiff,

No. 08-677-CD

vs.

THOMAS J. DUNLAP, d/b/a  
TOMMY D'S RESTAURANT  
AND CATERING,

PRAECIPE TO ISSUE  
WRIT OF EXECUTION IN  
MORTGAGE FORECLOSURE

Defendant,

and

THE UNITED STATES OF AMERICA,

Terre Tenant.

Filed on behalf of FIRST  
COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

CERTIFICATE OF ADDRESS:

42 S. Brady Street  
DuBois, Pennsylvania 15801  
Tax Parcel I.D. Nos.: 072-001-000-00198 and  
072-001-000-00199

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. 08-677-CD  
vs. )  
THOMAS J. DUNLAP d/b/a )  
TOMMY D'S RESTAURANT )  
AND CATERING, )  
Defendant, )  
and )  
THE UNITED STATES OF AMERICA, )  
Terre Tenant. )

**PRAECIPE FOR WRIT OF EXECUTION IN MORTGAGE FORECLOSURE**

TO: Prothonotary of Clearfield County:

Kindly issue a Writ of Execution in Mortgage Foreclosure in the above matter as follows:

Judgment Amount.....	\$ 117,117.48
Interest from 08/28/08 through 09/30/08 (per diem \$12.185903) (Note-1).....	402.13
Interest from 08/28/08 through 09/30/08 (per diem \$10.364615) (Note-2).....	342.03
Late Charges (6% of \$3,837.12/mo. pmt. or \$230.23/mo. for month of Sept 2008) (Note-1).....	230.23
Late Charges (5% of \$635.14/mo. pmt. or \$31.76/mo. for month of Sept 2008) (Note-2).....	31.76
Foreclosure Fees.....	<u>700.00</u>
Sub-total.....	\$ 118,823.63
Additional Interest to Sale Date (to be added by Prothonotary) .....	_____
Additional Late Charges to Date of Sale (to be added by Prothonotary) .....	_____
Costs (to be added by the Prothonotary) .....	_____
Total .....	\$ _____

TUCKER ARENSBERG, P.C.



Thomas E. Reiber, Esquire  
Michael J. Stauber, Esquire  
Attorneys for First Commonwealth Bank,  
f/k/a Deposit Bank, Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) Case No. 08-677-CD  
vs. )  
THOMAS J. DUNLAP, d/b/a )  
TOMMY D'S RESTAURANT )  
AND CATERING, )  
Defendant, )  
and )  
THE UNITED STATES OF AMERICA, )  
Terre Tenant. )

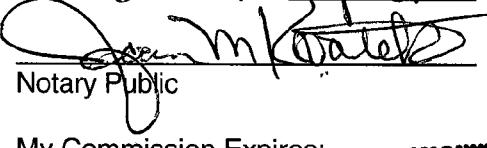
**AFFIDAVIT OF NON-MILITARY SERVICE**

COMMONWEALTH OF PENNSYLVANIA ) SS:  
COUNTY OF INDIANA )

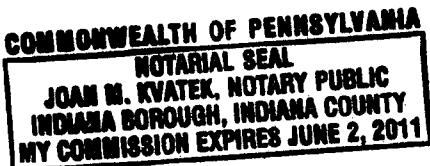
I, Gary R. Carpenter, Loan Workout Officer I, First Commonwealth Bank, being duly sworn according to law, hereby depose and say that the Defendant, Thomas J. Dunlap, is not a member of the military service of the United States of America to the best of my knowledge, information, and belief.

  
Gary R. Carpenter, Loan Workout Officer I  
First Commonwealth Bank

Sworn to and subscribed before me  
this 28th day of April, 2008.

  
Notary Public

My Commission Expires:



323966.1:BF  
11555-131955

William A. Shaw  
Prothonotary/Clerk of Courts

UCI 06 2008

**FILED**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

CIVIL DIVISION

Plaintiff,

No. 08-677-CD

vs.

THOMAS J. DUNLAP, d/b/a  
TOMMY D'S RESTAURANT  
AND CATERING,

AFFIDAVIT OF ACT 6

Defendant,

and

THE UNITED STATES OF AMERICA,

Filed on behalf of FIRST  
COMMONWEALTH BANK, Plaintiff

Terre Tenant.

Counsel of record for this party:

Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. 08-677-CD  
vs. )  
THOMAS J. DUNLAP, d/b/a )  
TOMMY D'S RESTAURANT )  
AND CATERING, )  
Defendant, )  
and )  
THE UNITED STATES OF AMERICA, )  
Terre Tenant. )  
  
COMMONWEALTH OF PENNSYLVANIA )  
COUNTY OF ALLEGHENY ) SS:

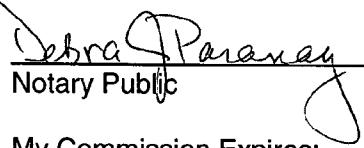
Before me the undersigned, a Notary Public in and for aforesaid Commonwealth and  
County, personally appeared Thomas E. Reiber, Esquire, who being duly sworn, deposes and  
says:

THAT Notice of First Commonwealth Bank's intention to foreclose, pursuant to 41 P.S.  
§403 (Act 6 of 1974), was not required as the Premises is strictly commercial in nature.



Thomas E. Reiber, Esquire  
Attorney for First Commonwealth Bank, Plaintiff

Sworn to and subscribed before me  
this 3rd day of October, 2008.

  
\_\_\_\_\_  
Debra J. Paranay  
Notary Public

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA	
Notarial Seal	
Debra J. Paranay, Notary Public	
City Of Pittsburgh, Allegheny County	
My Commission Expires May 9, 2009	
Member, Pennsylvania Association of Notaries	

333702.1:BF  
11555-131955

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

CIVIL DIVISION

Plaintiff,

No. 08-677-CD

vs.

THOMAS J. DUNLAP, d/b/a  
TOMMY D'S RESTAURANT  
AND CATERING,

AFFIDAVIT OF ACT 91

Defendant,

and

THE UNITED STATES OF AMERICA,

Filed on behalf of FIRST  
COMMONWEALTH BANK, Plaintiff

Terre Tenant.

Counsel of record for this party:

Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

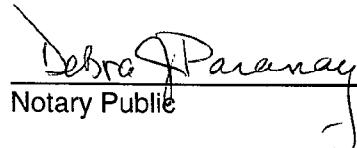
FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
 )  
Plaintiff, ) No. 08-677-CD  
 )  
vs. )  
 )  
THOMAS J. DUNLAP, d/b/a )  
TOMMY D'S RESTAURANT )  
AND CATERING, )  
 )  
Defendant, )  
 )  
and )  
 )  
THE UNITED STATES OF AMERICA, )  
 )  
Terre Tenant. )  
 )  
COMMONWEALTH OF PENNSYLVANIA )  
 )  
COUNTY OF ALLEGHENY ) SS:  
 )

Before me the undersigned, a Notary Public in and for aforesaid Commonwealth and  
County, personally appeared Thomas E. Reiber, Esquire, who being duly sworn, deposes and  
says:

THAT Notice require by the Homeowners' Emergency Mortgage Assistance Act, Act 91  
(35 P.S. §§1680.401c, et seq.), was not required as the Premises is strictly commercial in  
nature.

  
\_\_\_\_\_  
Thomas E. Reiber, Esquire  
Attorney for First Commonwealth Bank, Plaintiff

Sworn to and subscribed before me  
this 3rd day of October, 2008.

  
\_\_\_\_\_  
Debra J. Paranay  
Notary Public

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA	
Notarial Seal	
Debra J. Paranay, Notary Public	
City Of Pittsburgh, Allegheny County	
My Commission Expires May 9, 2009	

Member, Pennsylvania Association of Notaries

333702.1:BF  
11555-131955

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

CIVIL DIVISION

Plaintiff,

No. 08-677-CD

vs.

THOMAS J. DUNLAP, d/b/a  
TOMMY D'S RESTAURANT  
AND CATERING,

AFFIDAVIT OF LAST KNOWN  
ADDRESS OF DEFENDANT

Defendant,

and

THE UNITED STATES OF AMERICA,

Terre Tenant.

Filed on behalf of FIRST  
COMMONWEALTH BANK, Plaintiff

Counsel of record for this party:

Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

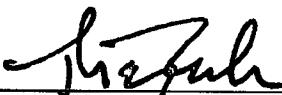
FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
)  
Plaintiff, ) No. 08-677-CD  
)  
vs. )  
)  
THOMAS J. DUNLAP, d/b/a )  
TOMMY D'S RESTAURANT )  
AND CATERING, )  
)  
Defendant, )  
)  
and )  
)  
THE UNITED STATES OF AMERICA, )  
)  
Terre Tenant. )  
)  
  
COMMONWEALTH OF PENNSYLVANIA )  
)  
COUNTY OF ALLEGHENY ) SS:  
)

**AFFIDAVIT OF LAST KNOWN ADDRESS OF DEFENDANT**

Before me the undersigned, a Notary Public in and for aforesaid Commonwealth and County, personally appeared Thomas E. Reiber, Esquire, who being duly sworn, deposes and says as follows:

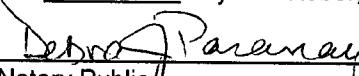
1. That he is counsel for the Plaintiff in the above referenced matter.
2. That to the best of his knowledge, information and belief, the last known address of Defendant is 412 Treasure Lake, Dubois, PA 15801.

TUCKER ARENSBERG, P.C.



Thomas E. Reiber, Esquire  
Attorney for First Commonwealth Bank, Plaintiff

Sworn to and subscribed before me  
this 3rd day of October, 2008.

  
Debra J. Paranay  
Notary Public

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA	
Notarial Seal	
Debra J. Paranay, Notary Public	
City Of Pittsburgh, Allegheny County	
My Commission Expires May 9, 2009	

333702.1:BF/#11555-131955

Member, Pennsylvania Association of Notaries

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,	)	CIVIL DIVISION
f/k/a DEPOSIT BANK,	)	
	)	
Plaintiff,	)	No. 08-677-CD
	)	
vs.	)	
	)	
THOMAS J. DUNLAP, d/b/a	)	
TOMMY D'S RESTAURANT	)	
AND CATERING,	)	
	)	
Defendant,	)	
	)	
and	)	
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Terre Tenant.	)	

TO THE SHERIFF OF CLEARFIELD COUNTY:

Please use the following legal description for preparation of the Sheriff's Deed:

**LEGAL DESCRIPTION OF REAL ESTATE**

ALL those certain pieces or parcels of land situate in the City of DuBois, Clearfield County, Pennsylvania, being bounded and described as follows, to-wit:

THE FIRST THEREOF:

SITUATE on the corner of South Brady Street and West Washington Avenue and being bounded on the North by the property of DuBois Lodge No. 349, Benevolent Protective Order of Elks; on the East by South Brady Street; on the South by West Washington Avenue; and on the West by lands now or formerly of Hibner-Hoover Hardware Company; and being 26 feet, more or less in width on South Brady Street and extending Westward to the lands now or formerly of Hibner-Hoover Hardware Company, a distance of 139 feet, more or less.

BEING the same premises granted and conveyed unto Thomas J. Dunlap by Deed of Patrick Valentine, Jennie Petraitis and Louis Valentine, t/a Flaming Hearth, dated October 16, 1985, and recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania on November 5, 1985 in Deed Book Volume 1049, page 176.

CLEARFIELD COUNTY TAX PARCEL I.D. NO. 7.2-010-000-00199

THE SECOND THEREOF:

BEGINNING at a post on the North side of South Brady Street, also known as State Route 219, being also the Southeast corner of land of Thomas J. Dunlap;

hence along the easterly line of land of Thomas J. Dunlap in a Northwesterly direction, 138 feet to other lands of the DuBois Parking Authority; thence by same in a Northeasterly direction 50 feet to the Northwest corner of land of Paul D. Horchen; thence along the Westerly line of land of Paul D. Horchen in a Southeasterly direction 138 feet to a point in the Northerly line of South Brady Street (State Route 219) in a Southwesterly direction 50 feet to a post and the place of beginning.

UNDER AND SUBJECT TO all outstanding leases of oil and gas and it is hereby excepted and reserved from the above described parcel of land all oil and gas, with rights of ingress and egress for removal of the same. Also excepting and reserving the right to store gas under the above described premises.

EXCEPTING AND RESERVING all of the coal as the same has been reserved and/or conveyed in prior deeds.

UNDER AND SUBJECT TO all easements, servitudes and rights-of-way pertaining to the above described premises.

BEING the same premises granted and conveyed unto Thomas J. Dunlap, single, by Deed of the City of DuBois dated July 10, 1995, and recorded in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania on September 28, 1995 in Deed Book Volume 1707, page 233.

CLEARFIELD COUNTY TAX PARCEL I.D. NO. 7.2-010-000-00198.

Both parcels being known as 42 S. Brady Street, DuBois, Pennsylvania.

TUCKER ARENSBERG, P.C.



Thomas E. Reiber, Esquire  
Michael J. Stauber, Esquire  
Attorneys for First Commonwealth Bank,  
f/k/a Deposit Bank, Plaintiff

333702.1:BF/#11555-131955

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,	)	CIVIL DIVISION
f/k/a DEPOSIT BANK,	)	
	)	
Plaintiff,	)	No. 08-677-CD
	)	
vs.	)	
	)	
THOMAS J. DUNLAP, d/b/a	)	
TOMMY D'S RESTAURANT	)	
AND CATERING,	)	
	)	
Defendant,	)	
	)	
and	)	
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Terre Tenant.	)	

TO THE SHERIFF OF CLEARFIELD COUNTY:

Please use the following legal description of property for advertising purposes:

**SHORT LEGAL DESCRIPTION OF REAL ESTATE**

ALL THE RIGHT, TITLE, INTEREST AND CLAIMS OF THOMAS J. DUNLAP,  
D/B/A TOMMY D'S RESTAURANT AND CATERING, OF, IN AND TO THE  
FOLLOWING DESC'D PROPERTY:

A.T.C. PIECES OR PARCELS OF LAND SIT. IN CITY OF DUBOIS,  
CLEARFIELD COUNTY, PA. BEING KN AS 42 S. BRADY STREET, DUBOIS,  
PA. BEING MORE FULLY DESC'D AT DBV 1049 PG 196 AND DBV 1707, PG  
233. CLEARFIELD COUNTY PARCEL I.D. NOS. 7.2-010-000-00199 AND 7.2-  
010-000-00198.

**WRIT OF EXECUTION and/or ATTACHMENT  
COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD  
CIVIL ACTION – LAW**

First Commonwealth Bank,  
f/k/a Deposit Bank  
Plaintiff

Vs. NO.: 2008-00677-CD

Thomas J. Dunlap, d/b/a  
Tommy D's Restaurant and Catering,  
Defendant

The United State of America  
Terre Tenant

**TO THE SHERIFF OF CLEARFIELD COUNTY:**

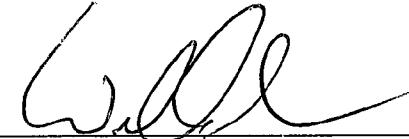
To satisfy the judgment, interest and costs in the above matter you are directed to levy upon and sell the following described property:

(1) See Attached Description

(2)

AMOUNT DUE/PRINCIPAL: \$118,823.63  
INTEREST FROM: \$Additional Interest to Sale Date  
ATTY'S COMM: \$  
DATE: 10/6/2008

PROTH. COSTS PAID: \$162.00  
SHERIFF: \$  
OTHER COSTS: \$



\_\_\_\_\_  
William A. Shaw  
Prothonotary/Clerk Civil Division

Received this writ this \_\_\_\_\_ day  
of \_\_\_\_\_ A.D.  
At \_\_\_\_\_ A.M./P.M.

\_\_\_\_\_  
Sheriff

Requesting Party: Thomas E. Reiber, Esq.  
1500 One PPG Place  
Pittsburgh, PA 15222  
412-566-1212

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
 )  
 Plaintiff, ) No. 08-677-CD  
 )  
 vs. )  
 )  
 THOMAS J. DUNLAP, d/b/a )  
 TOMMY D'S RESTAURANT )  
 AND CATERING, )  
 )  
 Defendant, )  
 )  
 and )  
 )  
 THE UNITED STATES OF AMERICA, )  
 )  
 Terre Tenant. )

TO THE SHERIFF OF CLEARFIELD COUNTY:

Please use the following legal description of property for advertising purposes:

**SHORT LEGAL DESCRIPTION OF REAL ESTATE**

ALL THE RIGHT, TITLE, INTEREST AND CLAIMS OF THOMAS J. DUNLAP,  
D/B/A TOMMY D'S RESTAURANT AND CATERING, OF, IN AND TO THE  
FOLLOWING DESC'D PROPERTY:

A.T.C. PIECES OR PARCELS OF LAND SIT. IN CITY OF DUBOIS,  
CLEARFIELD COUNTY, PA. BEING KN AS 42 S. BRADY STREET, DUBOIS,  
PA. BEING MORE FULLY DESC'D AT DBV 1049 PG 196 AND DBV 1707, PG  
233. CLEARFIELD COUNTY PARCEL I.D. NOS. 7.2-010-000-00199 AND 7.2-  
010-000-00198.

FILED

DEC 31 2008

5 110:15/w  
William A. Shaw  
Prothonotary/Clerk of Courts  
No 4C 60

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK,  
f/k/a DEPOSIT BANK,

Plaintiff,

vs.

THOMAS J. DUNLAP, d/b/a  
TOMMY D'S RESTAURANT  
AND CATERING,

Defendant,

and

THE UNITED STATES OF AMERICA,

Terre Tenant.

CIVIL DIVISION

No. 08-677-CD

VERIFICATION OF SERVICE OF NOTICE  
OF SALE TO LIEN CREDITORS  
PURSUANT TO PA. R.C.P. 3129

Filed on behalf of FIRST  
COMMONWEALTH BANK, f/k/a  
DEPOSIT BANK, Plaintiff

Counsel of record for this party:

Thomas E. Reiber, Esquire  
Pa. I.D. No. 41825  
Michael J. Stauber, Esquire  
Pa. I.D. No. 201022  
TUCKER ARENSBERG, P.C.  
Firm #287  
1500 One PPG Place  
Pittsburgh, Pennsylvania 15222  
(412) 566-1212

**SALE DATE: JANUARY 9, 2009**

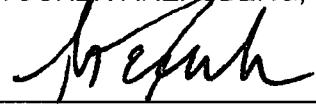
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

FIRST COMMONWEALTH BANK, ) CIVIL DIVISION  
f/k/a DEPOSIT BANK, )  
Plaintiff, ) No. 08-677-CD  
vs. )  
THOMAS J. DUNLAP, d/b/a )  
TOMMY D'S RESTAURANT )  
AND CATERING, )  
Defendant, )  
and )  
THE UNITED STATES OF AMERICA, )  
Terre Tenant. )

**VERIFICATION OF SERVICE OF NOTICE OF SALE  
TO LIEN CREDITORS**

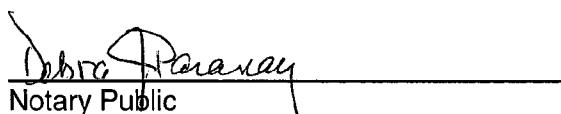
The undersigned does hereby certify that the undersigned personally mailed a copy of the Notice of Sale in the above captioned matter by Certificate of Mailing (P.S. Form #3817) to all Lien Creditors and Parties of Interest by first class mail on the 19th day of November, 2008, as evidenced by P.S. Form 3817 attached hereto as Exhibit "A".

TUCKER ARENSBERG, P.C.



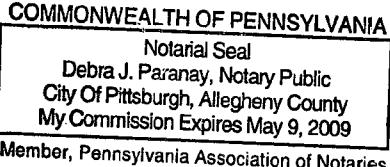
Thomas E. Reiber, Esquire

Sworn to and subscribed before me  
this 29th day of December, 2008.

  
\_\_\_\_\_  
Debra J. Paranay  
Notary Public

My Commission Expires:

342191.1:BF/#11555-131955



Member, Pennsylvania Association of Notaries

336117.1.:BF/#11555-131955