



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK N.A.,  
a National Banking Association

Plaintiff,

vs.

J W KITKKO & SONS; CHARLES  
KITKKO, individually AND  
JOHN KITKKO, individually.

Defendants.

CIVIL DIVISION

NO.: 08-1253-CD

**PRAECIPE FOR WRIT OF SUMMONS**

Filed on behalf of Plaintiff  
WELLS FARGO BANK, a National  
Banking Association

Counsel of Record for This Party:

ANTHONY S. POSA, ESQUIRE  
PA I.D. #89777

*Payne, Welsh & Klingensmith*  
105 Penn Plaza  
Turtle Creek, PA 15145  
FIRM #658

(412)823-8100

**JURY TRIAL DEMANDED**

**THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION  
OBTAINED SHALL BE USED FOR THAT PURPOSE.**

**FILED** Aug 10 2008  
M 11:23 AM  
JUL 10 2008  
William A. Shaw  
Prothonotary/Clerk of Courts  
3 writs to Atty  
\$95.00  
No CC



Anthony S. Posa, Esquire

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

SUMMONS

Wells Fargo Bank, N.A.

Vs.

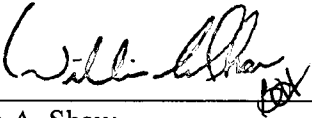
NO.: 2008-01253-CD

J W Kitkko & Sons;  
Charles Kitkko, individually and  
John Kitkko, individually

TO: J W KITKKO & SONS  
CHARLES KITKKO  
JOHN KITKKO

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

Date: 7/10/2008

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

Issuing Attorney:  
Anthony S. Posa Esq  
105 Penn Plaza  
Turtle Creek, PA 15145  
(412) 823-8100

FILED <sup>(F)</sup>

MAY 27 2009

W/12:30/AM

William A. Shaw

Prothonotary/Clerk of Courts

3 CHAT TO SHERIFF

W/REINSTATE

EW 2005

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK N.A.,  
a National Banking Association

Plaintiff,

vs.

J W KITKKO & SONS; CHARLES  
KITKKO, individually AND  
JOHN KITKKO, individually.

Defendants.

CIVIL DIVISION

NO.: 08-1253-CD

**PRAECIPE TO REINSTATE  
WRIT OF SUMMONS**

Filed on behalf of Plaintiff  
WELLS FARGO BANK, a National  
Banking Association

Counsel of Record for This Party:

**ANTHONY S. POSA, ESQUIRE**  
**PA I.D. #89777**

**Payne, Welsh & Klingensmith**  
105 Penn Plaza  
Turtle Creek, PA 15145  
FIRM #658

(412)823-8100

**JURY TRIAL DEMANDED**

**THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION  
OBTAINED SHALL BE USED FOR THAT PURPOSE.**

Anthony S. Posa, Esquire  
Pa. I.D. No. 89777

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

**SUMMONS**

**Wells Fargo Bank, N.A.**

**Vs.**

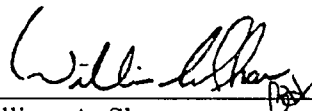
**NO.: 2008-01253-CD**

**J W Kitkko & Sons;  
Charles Kitkko, individually and  
John Kitkko, individually**

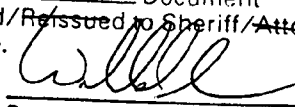
**TO: J W KITKKO & SONS  
CHARLES KITKKO  
JOHN KITKKO**

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

Date: 7/10/2008

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

Issuing Attorney:  
Anthony S. Posa Esq  
105 Penn Plaza  
Turtle Creek, PA 15145  
(412) 823-8100

MAY 27 2009 Document  
Reinstated/Reissued to Sheriff/Attorney  
for service.  
  
\_\_\_\_\_  
Deputy Prothonotary



FILED

MAY 27 2004

William A. ...  
Prothonotary ...

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
NO: 08-1253-CD

WELLS FARGO BANK, N.A.

VS

SERVICE # 1 OF 3

J W KITKKO & SONS; CHARLES KITKKO, Ind. & JOHN KITKKO, indiv  
PRAECIPE & SUMMONS

SERVE BY: 06/26/2009 HEARING: PAGE: 105726

DEFENDANT: J W KITKKO & SONS - spelling?  
ADDRESS: 189 FERNWOOD DRIVE  
HOUTZDALE, PA 16651

150 ROSE ST.  
PO Box 27 GLEN HOPE PA 16645.

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/PIC

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS: VACANT

OCCUPIED

ATTEMPTS

Could not locate 06-03-09

6-10-09 - w/H left NOTICE  
1:41 PM

William A. Shaw  
Prothonotary/Clerk of Courts

FILED  
0/8:30 AM  
JUN 16 2009

**SHERIFF'S RETURN**

NOW, 6-18-09 AT 11:30 (AM) PM SERVED THE WITHIN

PRAECIPE & SUMMONS ON J W KITKKO & SONS, DEFENDANT

BY HANDING TO Charles Kitko Defendant / PIC

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM / HER THE CONTENTS THEREOF.

ADDRESS SERVED 150 Rose St. P.O. Box 27, Glen Hope PA 16645

NOW \_\_\_\_\_ AT \_\_\_\_\_ AM / PM POSTED THE WITHIN

PRAECIPE & SUMMONS FOR J W KITKKO & SONS

AT (ADDRESS) \_\_\_\_\_

NOW \_\_\_\_\_ AT \_\_\_\_\_ AM / PM AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO J W KITKKO & SONS

REASON UNABLE TO LOCATE \_\_\_\_\_

SWORN TO BEFORE ME THIS

\_\_\_\_\_ DAY OF \_\_\_\_\_ 2009

So Answers: CHESTER A. HAWKINS, SHERIFF

BY:

Deputy Signature  
Jerome M. Newkirk  
Print Deputy Name

FILED

JUN 16 2009

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
NO: 08-1253-CD

WELLS FARGO BANK, N.A.

VS

J W KITKKO & SONS; CHARLES KITKKO, Ind. & JOHN KITKKO, indiv  
PRAECIPE & SUMMONS

SERVICE # 2 OF 3

SERVE BY: 06/26/2009 HEARING: PAGE: 105726

DEFENDANT: CHARLES KITKKO - spelling?  
ADDRESS: 189 FERNWOOD DRIVE  
HOUTZDALE, PA 16651

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/AAR

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS: VACANT

ATTEMPTS 1-10-09 11-4 Left notice 1:14 pm

FILED

0/8:30m  
JUN 16 2009

William A. Shaw  
County Clerk of Courts

**SHERIFF'S RETURN**

NOW, 6-18-09 AT 11:10 AM/PM SERVED THE WITHIN

PRAECIPE & SUMMONS ON CHARLES KITKKO, DEFENDANT

BY HANDING TO Charles Kitko / Defendant / REC

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM / HER THE CONTENTS THEREOF.

ADDRESS SERVED 150 Rose St P.O. Box 27 Glen Hope PA 16645

NOW \_\_\_\_\_ AT \_\_\_\_\_ AM / PM POSTED THE WITHIN

PRAECIPE & SUMMONS FOR CHARLES KITKKO

AT (ADDRESS) \_\_\_\_\_

NOW \_\_\_\_\_ AT \_\_\_\_\_ AM / PM AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO CHARLES KITKKO

REASON UNABLE TO LOCATE \_\_\_\_\_

SWORN TO BEFORE ME THIS

\_\_\_\_\_ DAY OF \_\_\_\_\_ 2009

So Answers: CHESTER A. HAWKINS, SHERIFF

BY: Jerome M. Neelings  
Deputy Signature

Jerome M. Neelings  
Print Deputy Name

FILED

JUN 16 2009

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 105726  
NO: 08-1253-CD  
SERVICE # 3 OF 3  
PRAECIPE & SUMMONS

PLAINTIFF: WELLS FARGO BANK, N.A.

VS.

DEFENDANT: J W KITKKO & SONS; CHARLES KITKKO, Ind. & JOHN KITKKO, indiv

SHERIFF RETURN

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NOW, May 28, 2009, SHERIFF OF CAMBRIA COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN PRAECIPE & SUMMONS ON JOHN KITKKO.

NOW, June 22, 2009 AT 1:49 PM SERVED THE WITHIN PRAECIPE & SUMMONS ON JOHN KITKKO, DEFENDANT. THE RETURN OF CAMBRIA COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN.

FILED  
07/31/09  
AUG 18 2009  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 105726  
NO: 08-1253-CD  
SERVICES 3  
PRAECIPE & SUMMONS

PLAINTIFF: WELLS FARGO BANK, N.A.

VS.

DEFENDANT: J W KITKKO & SONS; CHARLES KITKKO, Ind. & JOHN KITKKO, indiv

SHERIFF RETURN

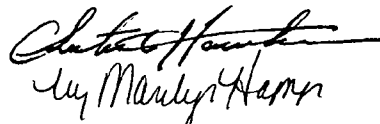
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	PAYNE	7267	30.00
SHERIFF HAWKINS	PAYNE	7267	70.00
CAMBRIA CO.	PAYNE	7266	91.20

Sworn to Before Me This

\_\_\_\_\_ Day of \_\_\_\_\_ 2009

So Answers,



Chester A. Hawkins  
Sheriff

CASE # PLAINTIFF  
90138-09 WELLS FARGO 08-1253  
DATE 6/22/09

DEFENDANT  
J W KITKKO AND SONS

AT 19:49 HRS. SERVED THE WRIT OF SUMMONS UPON JOHN KITKKO  
BY HANDING A TRUE AND ATTESTED COPY THEREOF JANE KITKO,  
WIFE OF JOHN, SHE BEING THE PERSON IN CHARGE AT 267 TROXELL  
SPRING RD. APT. 42911, FLINTON, PA. 16640 AND MAKING  
CONTENTS THEREOF KNOWN TO HER. MY COSTS PAID BY ATTORNEY  
FOR PLAINTIFF.

SHERIFF'S COSTS 88.20  
PRO 3.00  
TOTAL COSTS 91.20

SO ANSWERS,

*Bob Kalar*

SHERIFF

SWORN (AND SUBSCRIBED TO BEFORE ME THIS 25TH DAY OF JUNE, 09.  
PRO *[Signature]*



*W. A. Shaw*

**FILED**

**AUG 18 2009**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK N.A.,  
a National Banking Association

Plaintiff,

vs.

J W KITKKO & SONS; CHARLES  
KITKKO, individually AND  
JOHN KITKKO, individually.

Defendants.

CIVIL DIVISION

NO.: 08-1253-CD

**COMPLAINT IN CIVIL ACTION**

Filed on behalf of Plaintiff  
WELLS FARGO BANK, a National  
Banking Association

Counsel of Record for This Party:

ANTHONY S. POSA, ESQUIRE  
PA I.D. #89777

*Payne, Welsh & Klingensmith*  
105 Penn Plaza  
Turtle Creek, PA 15145  
FIRM #658

(412)823-8100

**JURY TRIAL DEMANDED**

**THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION  
OBTAINED SHALL BE USED FOR THAT PURPOSE.**

**FILED**

SEP 28 2009

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK N.A.,  
a National Banking Association

Plaintiff,

vs.

J W KITKKO & SONS; CHARLES  
KITKKO, individually AND  
JOHN KITKKO, individually.

Defendants

) CIVIL DIVISION

) NO.:

**NOTICE TO DEFEND**

**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 an 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.**

Court Administrator  
Clearfield County Courthouse  
Clearfield, PA 16830  
(814) 765-2641, ext 51

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK N.A.,	)	CIVIL DIVISION
a National Banking Association	)	
	)	NO.:
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
J W KITKKO & SONS; CHARLES	)	
KITKKO, individually AND	)	
JOHN KITKKO, individually.	)	
	)	
Defendants	)	

**COMPLAINT- CIVIL ACTION**

AND NOW, comes the Plaintiff, Wells Fargo Bank, N.A., a National Banking Association by and through its attorneys, Anthony S. Posa, Esquire, and Payne, Welsh & Klingensmith, and files the within Complaint in Civil Action and in support thereof avers as follows:

1. Plaintiff, Wells Fargo Bank, N.A., a National Banking Association, is a corporation with an office located at Wells Fargo Plaza, 100 W. Washington Street, Phoenix, Arizona 85003 and is engaged in the business of consumer and commercial credit.
2. Defendant, J W Kitkko & Sons, is a business with an address believed to be 189 Fernwood Road, Houtzdale, PA 16651.
3. Defendant, Charles Kitkko is an adult individual with an address believed to be 189 Fernwood Road, Houtzdale, PA 16651.

4. Defendant, John Kitkko, is an adult individual with an address believed to be 267 Troxell Spring Rd., Apt. 42911, Flinton, PA 16640.

5. Defendants applied for a Visa Business Card from Plaintiff.

6. Plaintiff approved said application for credit and thereafter issued a Visa Business Card bearing account number 4856200220420437 to Defendants with a credit line of \$27,500.00 at an interest rate of 25.99% payable in monthly installments of principal and interest.

7. Defendants are in default of the terms of the extension of credit, having not made payments to Plaintiff as promised since December 28, 2007 thereby rendering the entire unpaid balance immediately due and payable.

8. Defendants applied for a BusinessLine line of credit from Plaintiff on or about May 14, 2005, a copy of the Acceptance Certificate is attached hereto and made part thereof and marked as Exhibit "A".

9. Plaintiff approved said application for credit and thereafter issued a BusinessLine line of credit bearing account number 5474648801595101 in the amount of \$27,500.00 at an interest rate of 12.75% (Prime + 7.75%) payable in monthly installments of principal and interest.

10. Defendants are in default of the terms of the extension of credit, having not made payments to Plaintiff as promised since February 19, 2008 thereby rendering the entire unpaid balance immediately due and payable.

11. True and correct copies of the BusinessLine Customer Agreement and Visa Business Card Customer Agreement outlining the terms of the extension of credit are attached hereto as Exhibit "B" and incorporated by reference.

12. The current balance owed by Defendants on the BusinessLine account no. 5474648801595101 is \$29,685.25 plus ongoing interest at a rate of 12.75% (Prime + 7.75%) from March 31, 2008 ; The current balance owed by Defendants on the Visa Business Card account number 4856200220420437 is \$24,905.04 plus ongoing interest from December 29, 2007 which is ongoing at a rate of 25.99%. An Affidavit signed by an agent of Plaintiff attached hereto and made part hereof and marked as Exhibit "C."

13. Plaintiff avers that per the Agreement between the parties that Defendant will pay Plaintiff's attorney's fees.

14. Plaintiff avers that such attorney's fees will amount to \$1,500.00 should this matter proceed to trial.

15. Although repeatedly requested to do so by Plaintiff, Defendant have willfully failed and/or refused to pay the principal balance, finance charges, attorney's fees or any part thereof owed to Plaintiff regarding this account.

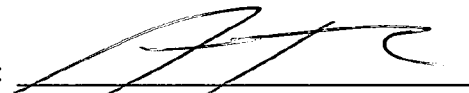
16. Plaintiff has suffered damages in the amount of \$56,090.29 plus ongoing interest on each principal balance at the specified rates as a result of the breach by Defendants.

WHEREFORE, Plaintiff, Wells Fargo Bank, demands Judgment in its favor and against the Defendants in the amount of \$56,090.29 with continuing finance charges thereon at the specified rates plus costs, fees and any other relief this Court deems proper.

**THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION  
OBTAINED SHALL BE USED FOR THAT PURPOSE.**

Respectfully submitted,

By:

A handwritten signature in black ink, appearing to read 'A. Posa', is written over a horizontal line.

Anthony S. Posa, Esquire  
Pa. I.D. #89777  
Attorney for Plaintiff

## Pre-Qualified BusinessLine® Acceptance Certificate

## Important Personal Information

Owner #1 Name (please print) <b>Charles A. Kitko</b>	
Social Security Number <b>196448011</b>	
Home Street Address (No P.O. Boxes, please) <b>189 Fernwood Rd.</b>	
City <b>Houtzdale</b>	Home Phone Number <b>(814) 378-5856</b>
State <b>PA</b>	Zip <b>16651</b>
Owner #2 Name (please print) <b>John K. Kitko</b>	
Social Security Number <b>180643460</b>	
Home Street Address (No P.O. Boxes, please) <b>267 Troxell Spring Rd.</b>	
City <b>Finton</b>	Home Phone Number <b>(814) 687-4007</b>
State <b>PA</b>	Zip <b>16640</b>

## Important Business Information

Business Name <b>J.W. Kitko &amp; Sons</b>	
Business Street Address (No P.O. Boxes, please) <b>150 Rose St.</b>	
City <b>Glen Hope</b>	State <b>PA</b> Zip <b>16645</b>
Business Phone Number <b>(814) 672-3590</b>	Business Fax Number <b>(814) 672-5291</b>
Annual Revenue/Sales <b>\$700,000</b>	Business Taxpayer ID Number <b>251544313</b>
Type of Ownership: <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Corporation	
<input type="checkbox"/> Other	

## Required Signature(s)

I certify that I have read and agree with the Terms and Conditions on the reverse side, including the personal guaranty.		
<b>X</b>	<b>Charles A. Kitko Pres</b>	<b>5/14/05</b>
Owner #1 Signature	Title	Date
<b>X</b>	<b>John K. Kitko Sec.</b>	<b>5-14-05</b>
Owner #2 Signature	Title	Date

5204211332

Easy cash access and great rates—reply today!

Mail this Certificate or fax it toll-free to 1-866-261-6788.

Offer expires 5/20/05.

Charles Kitko, President  
KITKO J W & SONS WOOD PRODUCTS  
160 Rose St  
Glen Hope, PA 16645

Reservation #: 001160540332/CHV

Note: Please abbreviate your business name so it does not exceed 24 characters and owner name so it does not exceed 21 characters. This is how they will appear on your personalized checks.

## Optional Credit Protection Program

- ☐ YES! I want to defer my BusinessLine payments if I were to have an injury or illness that prevented me from working. I have read the Program Summary on the reverse side.

Please attach a voided check to the application if you select either of the following features:

## Electronic Funds Transfer

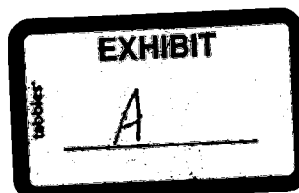
- ☐ YES! I want funds transferred to my business checking account right away! Please make an **Electronic Funds Transfer** immediately in the amount specified:
- ☐ \$5,000 ☐ \$10,000 ☐ \$15,000 ☐ Up to my credit limit\*  
☐ Other \$ \_\_\_\_\_

## Telephone Transfer (No Charge)

- ☐ YES! Check here for 24-hour access allowing you to transfer funds from your BusinessLine account to your existing business checking account.\*

S2649C (4/05)

L2483





**WELLS  
FARGO**

## Business Card

(Visa® Business Card and MasterCard BusinessCard®)

### Customer Agreement

Effective May 1, 2005

This Business Card Customer Agreement ("Agreement") governs the Visa® or MasterCard® Business Card Account ("Account") that Wells Fargo Bank, N.A. ("Bank", "we") is establishing for use by your business organization ("Customer", "you") and your designated representative(s) whose name appears on a Business Card issued at your request ("Authorized User"). Customer accepts and agrees to be bound by the terms and conditions of the Agreement from the time the Account is opened. Use of the Account, SUPERCHECKS™ drafts, or a request for a transfer from the Account by an Authorized User, shall be evidence of the Customer's acceptance of the terms and conditions of this Agreement, including but not limited to applicable Finance Charges and Other Charges. The Account will be used for business purposes only. In no event shall the Account be used for any transaction that is illegal under any applicable law. Customer represents that it is not a Money Service Business as defined by federal law, or has identified itself to Bank as such a business and has complied with all applicable laws, rules and regulations governing such businesses. Customer agrees to comply with each and every term and condition of this Agreement as set forth below:

**CREDIT LIMIT.** The Credit Limit of an Account is shown in separate correspondence provided to Customer at the time an Account is opened, and on each of the monthly periodic (billing) statements issued for that Account. Customer agrees not to use or permit the use of an Account in any way that will cause an Account to exceed its Credit Limit. Customer agrees that it is responsible for repaying outstanding advances under the Account, including but not limited to those that exceed its Credit Limit. Bank may, at its option, assess an Overdraft Fee, close the Account, exercise any of its other remedies under this Agreement, and reduce your Credit Limit without notice to you, except in those situations where notice is required by law.

**PROMISE TO PAY.** Customer agrees to pay Bank, when due, the total of all purchases and advances made on the Account. Customer also promises to pay the total of any Finance Charges and Other Charges due on an Account, as stated in this Agreement, and all costs and expenses including any attorney's fees incurred in enforcing this Agreement.

**CARD SERVICES.** Customer will be issued one or more Business Cards as requested by Customer. An Account bearing a distinct account number and Credit Limit will be established for each Business Card issued for use by an Authorized User. The following services are available, up to the amount of the Credit Limit on each Account:

**Purchases:** A Business Card may be used to purchase goods or services wherever Visa or MasterCard credit cards are accepted.

**Cash Advances:** Cash may be advanced from an Account by presenting the Business Card at a financial institution or an automated teller machine ("ATM") that accepts Visa or MasterCard credit cards ("Cash Advances"). You can also get a Cash Advance and perform balance inquiries using your Business Card with a Personal Identification Number ("PIN") at all Wells Fargo® ATMs, or any ATM which displays any of the logos appearing on the back of your Business Card.

**SUPERCHECKS™ ADVANCES.** SUPERCHECKS drafts are designed for use with an Account. The drafts may be used like normal bank checks. When the Bank receives a draft, the Bank will pay it by advancing the amount of the draft from the Account unless the Account is delinquent, in default, closed or the draft would cause the balance to go over the Credit Limit of the Account.

BLD-010 (5/05) M-75683 Page 1

You may not write SUPERCHECKS drafts as payment for your Account. All SUPERCHECKS drafts must be written in U.S. dollars. No fees are assessed when ordering SUPERCHECKS; however, Transaction Finance Charges may apply when the drafts are used. If you have a dispute with a merchant regarding property or services that you are unable to resolve with the merchant, and you used a SUPERCHECKS draft as payment, you will not have the right to assert against us any claims or defenses involving that transaction.

**AUTHORIZATIONS.** All transactions on your Account are subject to prior approval by Bank ("Authorizations"). Bank reserves the right to limit the number of Authorizations given during any period of time (day, weekend, week, etc.) and Bank may deny an Authorization if Bank suspects that the Account is being used without Customer's permission. If our Authorization system is not working fully, we may be unable to give an Authorization even though the transaction would not exceed the Credit Limit and your Account is in good standing. Bank shall not be liable for failing to give any such Authorization.

**SUPERCHECKS Stop Payment:** Bank does not guarantee the stop payment of a SUPERCHECKS draft; however, we will make every attempt to stop payment of the draft within a reasonable period of time after we receive your stop payment order, provided all information given to us is accurate and complete, and the draft has not already been paid. The stop will remain on our system for six months, unless the stop is revoked or the item is stopped. After six months, if Customer decides to re-enter the stop payment, the Bank must be contacted at that time.

**OVERDRAFT PROTECTION.** If Customer establishes Overdraft Protection on a designated Wells Fargo® Business Checking Account ("Checking Account"), Bank will automatically make an advance to cover the overdraft amount created by any transaction in the Checking Account initiated by a person authorized to write checks or draw money from the Checking Account, unless (i) the Account is delinquent, otherwise in default or closed, (ii) the advance would cause the Account balance to go over the Credit Limit, (iii) the overdraft advance transaction is created by payments to the Account, or (iv) a zero balance has been maintained in the Checking Account for more than one month. Additionally, Bank reserves the right to terminate Overdraft Protection without notice if overdraft advance transactions are the result of payments to the Account, or if a zero or negative balance is maintained in the Checking Account for more than one (1) month. Overdraft Protection is an optional feature that may not be available on an Account. Transaction Finance Charges apply to each Overdraft Protection advance. Periodic Finance Charges apply to all Overdraft Protection advance balances from the date of each Overdraft Protection advance.

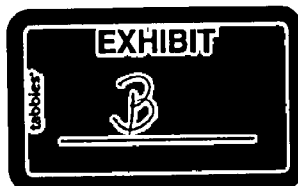
**BUSINESS MILES REWARDS™ PROGRAM.** The Business Miles™ program allows Customers to earn points redeemable for specific rewards. If Customer elects to participate in the Business Miles program, a \$50 enrollment fee will be billed annually to each Account enrolled separately in the membership program. In the event the Primary Account holder elects to have Sub-Account holder's points credited to the Primary Account, there will be no extra charge for this benefit except for the annual enrollment fee charged to the Primary Account holder's Account. Complete details provided upon enrollment.

Business Miles Rewards Program fees will not be refunded in whole or in part after assessment even if the Account is subsequently suspended, closed, or terminated for any reason.

**BILLING OPTIONS:** Account may be established with Individual Billing or Consolidated Billing.

- **Individual Billing:** Each Business Card will produce a separate periodic statement that must be paid individually.
- **Consolidated Billing:** When Consolidated Billing is selected, a single Control Account is established for billing purposes. The Control Account consolidates all linked sub-Account transactions onto a single periodic statement. All payments must be made to the Control Account.

**PAYMENTS.** Customer will receive a separate periodic statement every month for each Account. The New Balance shown on the statement is the total of all unpaid obligations that have been posted to an Account as of the Statement Closing Date shown on the statement. Customer may



pay the Total Amount Due shown on the statement or any greater amount, but Bank must receive at least the Total Amount Due shown on the statement, in immediately, a: a table U.S. funds drawn on a U.S. bank, by the Current Payment Due Date shown on the statement. We may refuse to accept any payments by third-party check or draft that have been endorsed to us or which have been drawn by anyone other than you.

**Current Payment Due:** The Current Payment Due displayed on the statement is equal to the total of Finance Charges, Annual and Inactivity Fees, Late Fees, Overdraft Fees, and Returned Check Fees (each as defined below), rounded to the next higher dollar, with a \$25 minimum. If your New Balance is less than \$25, the Current Payment Due will be equal to the New Balance.

**Alternative Minimum Payments:** Some Accounts are established with additional Minimum Payment Requirements. Please refer to the separate documents provided at Account opening for a description of the Alternative Minimum Payment calculations.

**Automatic Payments:** Automatic Payment service facilitates pre-scheduled automatic payments from a deposit account designated by you to pay your Account any month a balance is due. You may authorize payment of the Total Amount Due, or a greater amount. We may require that you provide such an authorization as a condition of approving your Account and/or keeping your Account open. Please see separate correspondence from Bank regarding such a requirement. If an automatic payment is returned or reversed for any reason, Bank may terminate the Automatic Payment service without notice and/or close your Account.

**Total Amount Due:** The Total Amount Due shown on the statement is equal to the Current Payment Due PLUS any Past Due Amount. If there is no Past Due Amount, then the Total Amount Due shown on the remittance coupon is equal to the Current Payment Due.

#### Other Payment Information:

- Fees for additional Bank products/services charged to your Account may or may not be included in the Current Payment Due. If fees for these products are to be included in the Current Payment Due, those fees will be described in the separate information provided with those products/services.
- Your monthly payments or any credits will be applied in an order determined by Bank at its sole discretion. Generally, payments are first applied to any Bank Fees and Finance Charges then to balances with lower interest rates and then to balances with higher interest rates.
- Payments that are received at the payment processing address (printed on each statement) by 5 p.m. on any business day will be credited as of the day of receipt. Payments received after 5 p.m. or on non-business days may be credited as of the next business day. Payments made at other Bank locations may not be credited for up to five business days.
- We may, at our discretion, withhold a portion of the available credit on your Account up to the amount of any payment(s) in order to ensure that the check or other payment instrument is honored.
- We may accept late payments, partial payments, post-dated checks, or any form of payment containing a restrictive endorsement, without losing any of our rights under this Agreement. Our acceptance of checks or money orders labeled "payment in full" or words to that effect, will not constitute an accord and satisfaction nor a waiver of any rights we have to receive full payment. If you intend to pay your Account in full with an amount less than the total balance owing on your Account, payments must be sent to: Wells Fargo Loss Control, PO Box 53476, Phoenix, AZ 85072. Please note that such payments will not discharge your full debt.

**FINANCE CHARGE.** The total Finance Charge is the sum of the Periodic Finance Charge plus the Transaction Finance Charge assessed on the Account to which it pertains for the billing period, subject to the Minimum Finance Charge. The method used to determine the balance or balances upon which these finance charges are computed is as follows:

**A. Periodic Finance Charge:** For each type of balance on your Account (i.e. the Cash Advance balance, the Purchase balance or Other balance) the Periodic Finance Charge is calculated by multiplying the Average Daily Balance ("ADB") during the billing cycle by the number of days in the billing cycle and then multiplying this product by the applicable Daily Finance Charge Rate.

**Calculation of Average Daily Balance:** To calculate your Average Daily Balance each month,

we calculate the daily balance for each day in the billing period ("Daily Balance"), add the Daily Balances together, and divide that total amount by the number of days in the billing period. Average Daily Balances for Cash Advances, Purchases, and Other categories are calculated separately and may be subject to different rates.

For each category of balance (Cash Advances, Purchases, and Other), we calculate the Daily Balance by starting with the beginning balance related to that category plus any new activity (Cash Advances, Purchases, and Other) posted as of that day, plus any related unpaid Finance, Transaction, or Other Charges, and add a Periodic Finance Charge equal to the previous day's balance multiplied by the applicable Daily Finance Charge Rate. We subtract the amount of any payments or credits applied to that balance category.

The Average Daily Balance on which the Periodic Finance Charge is calculated will not include any part of the New Balance from the previous periodic statement or any new purchases posted to the Account during the current billing period if the New Balance from the previous statement is paid by the Payment Due Date shown on that previous statement, or if the New Balance was zero. In that case, the Average Daily Balance will be based only on the new Cash Advances posted during the current billing period.

**Daily Finance Charge Rate:** The Daily Finance Charge Rate will either be a fixed rate or a variable rate. Please refer to separate correspondence from the Bank provided at the time your Account is opened or at a later date to determine your interest rate. A Default interest rate (see below) may be imposed if you default under this Agreement. The Daily Finance Charge Rate for Cash Advances, Purchases, and Other balances may differ. The Daily Finance Charge Rate is calculated by dividing the applicable interest rate by 365.

If your Account is subject to a variable rate, that rate will be determined for each monthly billing cycle by taking the highest Wells Fargo Prime Rate in effect during the Determination Date Range and adding a Spread. The Bank initially determines your Spread based on the evaluation of your credit risk. The Bank may subsequently change the Spread at Bank's sole discretion. Please refer to separate correspondence from the Bank regarding your Spread.

**Wells Fargo Prime Rate:** For purposes of this calculation, the Wells Fargo Prime Rate is the rate announced by the Bank from time to time as its "Prime Rate." The Determination Date Range for changing your variable interest rate will be the 30 calendar days previous to each of your Statement Closing Dates, so the Daily Finance Charge Rate shown on your statement may or may not change in the month following a change in the Wells Fargo Prime Rate. Any changes in your Daily Finance Charge Rate will apply to both current and future balances on the Account and the Daily Finance Charge Rate will continue to vary even if the Account is closed.

**B. Transaction Finance Charge:** The Transaction Finance Charge is a one-time charge made each time certain types of advances are posted to the Account.

- The charge for each advance or transfer made at an ATM is 3% of the amount of the advance, subject to a \$10 minimum and \$75 maximum.
- The charge for each cash advance made via SUPERCHECKS® checks, over-the-counter, telephone transfer, electronic transfer, Online Banking, funding Bill Pay transactions, or other source is 3% of the amount of the advance, subject to a \$10 minimum and \$75 maximum.
- The charge for each Overdraft Protection advance is 3% of the amount of the advance, subject to a \$10 minimum and a \$15 maximum.
- The charge for each advance transacted at a casino, other wager or lottery ticket purchase, or advance via wire transfer is 4% of the amount of each such transaction or purchase, subject to a \$10 minimum and no maximum.

**C. Minimum Finance Charge:** There will be a Minimum Finance Charge of \$1 for each billing period in which a Finance Charge is assessed.

**WHEN FINANCE CHARGE BEGINS.** The Periodic Finance Charge for Purchases begins on the date the transaction was made, except that no Periodic Finance Charge will be imposed during the current billing period on new Purchases posted to an Account during the current billing

period if Customer has paid in full the New Balance by the Current Payment Due Date shown on the previous periodic statement. This period of time after the Statement Closing Date and through the Current Payment Due Date is referred to as the "grace" period and applies to Purchases only and not Cash Advances. The Periodic Finance Charge for Cash Advances including SUPERCHECKS transactions may begin the earlier of: the transaction date, the date a SUPERCHECKS draft is deposited by the payee, or the date we receive the SUPERCHECKS draft for posting to your Account.

**OTHER CHARGES.** The total of Other Charges that may be charged to the Account is the sum of:

**Fees That May Be Assessed Annually:** Bank may assess an Annual Fee for the first year and each year thereafter for each Account. Alternatively, Bank may assess an Inactive Account Fee for each year that is less than 12 purchases/has since have posted to the Account. Please refer to separate correspondence for pricing details.

If Customer elects to participate in the Business Miles Rewards Program or other loyalty rewards programs, an enrollment/maintenance fee may be billed annually. Details provided upon enrollment.

Bank may assess an Annual or Inactive Account fee on each closed Account for each year a balance is maintained in the Account.

Annual and Inactive Fees will not be refunded in whole or in part after assessment even if the Account is subsequently suspended, closed, or terminated for any reason.

**Late Charge:** If Bank does not receive at least the Total Amount Due by the Current Payment Due Date shown on your periodic statement, Bank may assess a Late Charge of \$25. However, if the New Balance shown on your previous statement is less than \$100, the Late Charge will be \$25. If an Account has been delinquent two or more times in the past 12 billing cycles, Bank may assess a Late Charge of \$50. We may individually contact Customers to inform them of other Late Charge amounts in cases of default.

**Overlimit Fee:** If your Account balance exceeds your Credit Limit, Bank may assess an Overlimit Fee that is 1.5% of the overlimit amount, subject to a \$25 minimum and a \$75 maximum, any time your balance exceeds your Credit Limit.

**Returned Check Fee:** If payment on an Account is made with a check or other item that is not honored for any reason, Bank may assess a \$25 fee. If Customer pays more than one Account with an item, a \$25 fee may be assessed to each affected Account. The bank on which the check or item was drawn may impose a separate fee for the dishonored item.

**Stop Payment Fee:** If Customer requests that Bank place a "Stop Payment" on a SUPERCHECKS draft, Bank may assess a charge of \$15 for each Stop Payment request.

**Foreign Currency Conversion Fee:** If Customer originates a transaction in a foreign currency, Bank may assess a 3% Currency Conversion Fee on the converted dollar amount of each such transaction. See below for additional information.

**Research Fee:** Certain Bank services incurred in connection with the Account are subject to additional fees. If Customer requests that Bank research the Account, for example, to update Customer's business records, \$5 may be assessed for each sales slip copy Bank provides. \$5 may be assessed for each monthly statement Bank provides and \$20 per hour may be assessed for other Bank research services. The hourly charge will apply as follows:

1-15 Minutes	\$5
16-30 Minutes	\$10
31-45 Minutes	\$15
46-60 Minutes	\$20

These fees will not be charged if Customer makes a good faith inquiry about a suspected error on a periodic statement.

**DEFAULT.** The following constitute defaults under this Agreement: (1) a payment is not made when it is due; (2) the terms of this Agreement are breached in any way; (3) Customer defaults

under the terms of any other obligation to Bank; (4) a bankruptcy petition is filed by or against Customer or any guarantor of Customer's Account; (5) a significant change occurs in the ownership or organizational structure of Customer or in the type or volume of Customer's business; (6) Customer becomes insolvent or is dissolved, or Bank otherwise believes in good faith that the prospect of payment and/or performance under this Agreement is impaired; (7) payments to Account are returned or reversed for any reason; (8) Customer fails to submit required information the Bank deems necessary; (9) Customer's Account balance exceeds the Credit Limit; or (10) Bank observes excessive or suspicious Account usage or suspects an Account is involved in filing. Customer will be charged the applicable Finance Charge Rate after any default under this Agreement.

**BANKER'S LIEN AND RIGHT OF SET-OFF.** Bank has a general lien under South Dakota law on any of Customer's personal property in Bank's possession. In the event Customer does not make payment on an Account as agreed, Bank may exercise its right of set-off against any obligation Bank owes to Customer, including a set-off against any deposit account(s) Customer has with Bank to the extent permitted by law.

**REMEDIES.** In the event of any default or failure to meet any condition under the preceding paragraphs, Bank may, at its option and without prior notification:

- (1) close any or all Accounts to all use, including other types of accounts that the owner or guarantor is responsible for or is a signer on;
- (2) accelerate payment of the full balance on any or all Accounts and thereby require immediate payment of the full balance of such Accounts, including, without limitation, any Finance Charge and Other Charges;
- (3) for monthly Account payments at a higher amount;
- (4) immediately terminate any promotional rates and/or raise the interest rate on existing and new balances. Generally the Default Interest rate will be equal to Wells Fargo Prime Rate +15.99%, subject to a minimum of 23.99%. However, we may assess different or higher Default interest rates after individually contacting customers; and/or
- (5) for the Late Charge at a higher amount.

#### ARBITRATION PROGRAM

(a) **Binding Arbitration:** Upon the demand of any party, whether made before the institution of any judicial proceeding or not more than 60 days after service of a complaint, third party complaint, cross-claim, counterclaim or any answer thereto or any amendment to any of the above, any Dispute (as defined below) shall be resolved by binding arbitration in accordance with the terms of this Arbitration Program. A "Dispute" shall include any action, dispute, claim or controversy of any kind, whether in contract or in tort, statutory or common law, legal or equitable, or otherwise, now existing or hereafter arising between the parties in any way arising out of, pertaining to or in connection with (1) any agreement, document or instrument to which this Arbitration Program is attached or in which it appears or is referenced, or any related agreements, documents, or instruments (collectively, the "Document" or "Documents"); (2) all past, present or future loans, lines of credit, notes, instruments, drafts, credits, accounts, deposit accounts, safe deposit boxes, safekeeping agreements, guarantees, letters of credit, goods or services, or other transactions, contracts or agreements of any kind whatsoever; (3) any past, present or future incidents, omissions, acts, errors, practices, or occurrences causing injury to either party whereby the other party or its agents, employees or representatives may be liable, in whole or in part; or (4) any other aspect of the past, present or future relationships of the parties including any agency, independent contractor or employment relationship but excluding claims for workers' compensation and unemployment benefits ("Relationship"). Any party to this Arbitration Program may by summary proceedings bring any action in court to compel arbitration of any Dispute. Any party who fails or refuses to submit to binding arbitration following a lawful demand by the opposing party shall bear all costs and expenses incurred by the opposing party in compelling arbitration of any Dispute. The parties agree that by engaging in activities with or involving each other as described above, they are participating in transactions involving interstate commerce or "commerce" as that term is used in the Federal Arbitration Act, Title 9 of the United States Code (FAA). The parties understand that by this agreement they have decided that their disputes shall be resolved by binding arbitration rather than in court, and once

decided by arbitration, a dispute can later be brought, filed or pursued in court before a judge or jury.

(b) **Governing Rules:** All Disputes between the parties submitted to arbitration shall be resolved by binding arbitration administered by the American Arbitration Association (the "AAA") or some other administrator mutually agreeable to the parties. In accordance with the Commercial Arbitration Rules of the AAA, the Federal Arbitration Act (Title 9 of the United States Code) and to the extent the foregoing are inapplicable, unenforceable or invalid, the applicable substantive law designated in the Documents relating to the Dispute. In the event of any inconsistency between the Arbitration Program and such rules and statutes, this Arbitration Program shall control. Judgment upon any award rendered hereunder may be entered in any court having jurisdiction; provided, however, that nothing contained herein shall be deemed to be a waiver by any party that is a bank of the protections afforded to it under 12 U.S.C. § 31 or a similar state law which may be applicable, such as Texas Banking Code art. 342.452.

(c) **No Waiver, Preservation of Remedies, Multiple Parties:** No provision of, nor the exercise of any rights under this Arbitration Program shall limit the right of any party, during any Dispute, to seek, use, and employ ancillary or preliminary remedies, judicial or otherwise, for the purpose of realizing upon, preserving, protecting, increasing or proceeding under forcible entry and detainer for possession of any real or personal property, and any such action shall not be deemed an election of remedies. Such rights that include, without limitation, rights and remedies relating to (1) foreclosing against any real or personal property collateral or other security; (2) exercising self-help remedies including self-right of or (3) obtaining provisional or ancillary remedies such as injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction. Such rights can be exercised at any time except to the extent such action is contrary to a final award or decision in any arbitration proceeding. The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary remedies or exercise of self-help remedies shall not constitute a waiver of the right of any party, including the plaintiff, to submit the Dispute to arbitration, nor render inapplicable the compulsory arbitration provisions hereof. In Disputes involving indebtedness or other monetary obligations, each party agrees that the other party may proceed against all liable persons, jointly or severally, or against one or more of them, less than all, without impairing rights against other liable persons. Nor shall a party be required to join the principal obligor or any other liable persons, such as sureties or guarantors, in any proceeding against a particular person. A party may release or settle with one or more liable persons without releasing or impairing rights to proceed against any persons not so released. This Arbitration Program shall not apply to a dispute concerning indebtedness secured by real estate if the single action rule statutes of California, Idaho or any other applicable law would preclude enforcement of a mortgage, lien or security interest securing such indebtedness as a result of the arbitration of such dispute, unless the holder of such mortgage, lien or security interest specifically elects in writing to proceed with the arbitration.

(d) **Arbitrator Powers and Qualifications; Awards:** Arbitrators are empowered to resolve Disputes by summary rulings. Arbitrators shall resolve all Disputes in accordance with the applicable substantive law. Any arbitrator selected shall be required to be a practicing attorney and shall be required to be experienced and knowledgeable in the substantive laws applicable to the subject matter of the Dispute. All statutes of limitation applicable to any Dispute shall apply to any proceeding in accordance with this Arbitration Program. With respect to a Dispute in which the claims or amounts in controversy do not exceed \$1,000,000, a single arbitrator shall be chosen and shall resolve the Dispute by rendering an award not to exceed \$1,000,000, including all damages of any kind whatsoever, including costs, fees and expenses. Submission to a single arbitrator shall be a waiver of all Parties' claims to recover more than \$1,000,000. A Dispute involving claims or amount in controversy exceeding \$1,000,000 shall be decided by a majority vote of a panel of three arbitrators (an "Arbitration Panel"), the determination of any two of the three arbitrators constituting the determination of the Arbitration Panel, provided, however, that all three Arbitrators on the Arbitration Panel must actively participate in all hearings and deliberations. Arbitrators, including any Arbitration Panel, may grant any remedy or relief deemed just and equitable and within the scope of the Arbitration Program and may also grant such ancillary relief as is necessary to make effective any award. Arbitrators, including any Arbitration Panel, shall have the power to award recovery of all costs and fees (including attorney's fees, administrative fees, and arbitrator's fees) to prevailing party. Arbitrators shall be

empowered to impose sanctions and to take such other actions as they deem necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the applicable State Rules of Civil Procedure and applicable law. Arbitrator(s) shall be empowered, at the written request of any Party, in any Dispute, 1) to consolidate in a single proceeding any multiple party claims that are substantially identical or based upon the same underlying transaction; 2) to consolidate any claims and Disputes between other Parties which arise out of or relate to the subject matter hereof, including all claims by or against borrowers, guarantors, sureties and/or owners of collateral; and 3) to administer multiple arbitration claims as class actions in accordance with Rule 23 of the Federal Rules of Civil Procedure. In any consolidated proceeding the first arbitrator(s) selected in any proceeding shall conduct the consolidated proceeding unless disqualified due to conflict of interest. Arbitrator(s) and Arbitration Panel(s) shall be required to make specific, written findings of fact and conclusions of law. The determination of an Arbitrator or Arbitration Panel shall be binding on all parties and shall not be subject to further review or appeal except as otherwise allowed by applicable law.

(e) **Miscellaneous:** To the maximum extent practicable, the AAA, the Arbitrator (or Arbitration Panel, as appropriate) and the parties shall take any action necessary to require that an arbitration proceeding hereunder shall be conducted within 180 days of the filing of the Dispute with the AAA. Arbitration proceedings hereunder shall be conducted at a location mutually agreeable to the parties, or if they cannot agree, then in the state of the applicable substantive law designated in the Documents relating to the Dispute at a location selected by the Arbitrator. With respect to any Dispute, each party agrees that all discovery activities shall be expressly limited to matters directly relevant to the Dispute and any Arbitrator, Arbitration Panel and the AAA shall be required to fully enforce this requirement. Each party agrees to keep all Disputes subject to arbitration proceedings strictly confidential, except for disclosures of information required in the ordinary course of business of the parties or by applicable law or regulation. This Arbitration Program shall be continued in accordance with the Federal Arbitration Act, other applicable Federal law, and applicable law of the state of South Dakota unless and except to the extent that another state's law is specifically designated for certain purposes herein. With respect to proceedings involving residents of Colorado, the provisions of CRS 13-22-201 et seq. and CRS 13-21-102(5) shall apply. With respect to proceedings involving residents of the State of Washington, the Arbitrator(s) shall not have the power to award punitive or exemplary damages except where such damages are specifically provided for by a Washington statute upon which the award could have been based if litigated in a Washington court. This Arbitration Program constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior arrangements and other communications on dispute resolution except with respect to Arbitration Programs governing disputes to which the Arbitration Program does not apply by virtue of paragraph (c) hereof. The provisions of this Arbitration Program shall survive any termination, amendment, or expiration of the Documents or the Relationship, unless the parties otherwise expressly agree in writing. This Arbitration Program may be amended, changed, or modified only by a specific modification in writing agreed to by all affected parties. If any term, covenant, condition or provision of this Arbitration Program is found to be unlawful, invalid or unenforceable, such defect shall not affect the legality, validity or enforceability of the remaining parts of this Arbitration Program, and all such remaining parts hereof shall be valid and enforceable and have full force and effect as if the illegal, invalid or unenforceable part had not been included.

**LIMITATION ON LAWSUITS.** Customer agrees that any lawsuit based upon any cause of action which Customer may have against Bank must be filed within one year from the date that it arises or Customer will be barred from filing the lawsuit. This limitation is intended to include tort, contract, and all other causes of action for which Customer and Bank may lawfully contract to set limitations for bringing suit.

**TELEPHONE TRANSFERS.** Customer authorizes Bank to make transfers, up to the available Credit Limit, between the Account and other designated accounts specified in writing, upon Bank's receipt of instructions from any of Customer's owners or principals. Ten days after a Customer applies for telephone transfer capabilities, the first telephone transfer request can be made. Each telephone transfer request may take up to three business days for processing. Bank will have no liability for any transfer made upon the written or verbal request of any person believed by Bank in good faith to have been authorized by Customer to submit the request. Customer will indemnify and hold Bank harmless from and against any damages, liabilities, costs

or expenses (including attorney's fees) arising out of any claim by Customer or any third party against Bank in connection with Bank's performance of transfers as described above.

**FOREIGN CURRENCY TRANSACTIONS.** If you use your Business Card to engage in a transaction in a currency other than U.S. dollars ("Foreign Currency Transaction"), that amount will be converted into U.S. dollars before posting to your Account.

**Foreign Currency Transaction Procedures:** If a Foreign Currency Transaction occurs, and the transaction is not converted to U.S. dollars by the merchant itself, MasterCard International or Visa International, depending on which card is used, will convert the transaction into a U.S. dollar amount by using its currency conversion procedure in effect at the time the transaction is processed. Currently, their regulations and procedures provide that the currency conversion rate they use is either: (1) a wholesale market rate, which rate may vary from the rate Visa International or MasterCard International itself receives; or (2) a government-mandated rate for the applicable currency as determined under Visa or MasterCard regulations and procedures as applicable. The rate may differ from the rate in effect when the transaction occurred or when it was posted to the cardholder's Account. Bank may assess a Currency Conversion Fee by increasing the currency conversion rate by 3%.

**Point Of Sale Currency Conversion:** Some merchants outside of the United States offer cardholders the option of having card transactions converted to U.S. dollars by the merchant itself during the transaction. If that option is chosen the transaction is actually originated in U.S. dollars and the currency conversion rate is determined solely by the merchant. No Currency Conversion Fee is assessed by the Bank for these merchant-converted Foreign Currency Transactions.

**CREDIT REPORTS AND RE-EVALUATION OF CREDIT.** Customer authorizes Bank to obtain business and personal credit bureau reports in the name of the Customer and guarantor(s) at any time. Customer agrees to submit to Bank current financial information in the name of the Customer and to submit or cause guarantor(s) to submit to Bank current financial information in the name of the guarantor(s) at any time upon request. Such information shall be used for the purposes of evaluating or re-evaluating Customer's and guarantor(s)' creditworthiness. Upon determination that Customer's or guarantor(s)' creditworthiness has changed adversely or does not satisfy Bank's current credit standards, Bank may close or lower the Credit Limit on any or all Accounts. Bank may report its credit experience with Customer and its Account(s) to third parties. Customer agrees that Bank may release information about Customer or Customer's Account to other Wells Fargo companies.

**ECOA INFORMATION.** If any application for additional business credit is denied, you have the right to a written statement of the specific reasons for the denial. To obtain the statement, please contact the Business Direct Loan Center, PO Box 29482, Phoenix, AZ 85038-9482, or call (800) 231-6244, within 60 days from the date you are notified of our decision. We will send you a written statement of reasons for the denial within 30 days of receiving your request for the statement.

**Notice:** The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law is: District Office of the Comptroller of the Currency, 1301 McKinley St. Suite 3450, Houston, TX 77010.

**RIGHT TO TERMINATE AN ACCOUNT.** Bank may terminate any or all of Customer's Accounts at any time, or reduce the amount of Customer's Credit Limit on any or all of its Accounts, without notice, subject to applicable law, even though Customer may not have defaulted on any Account. If Bank terminates an Account, Customer agrees to destroy any Business Card(s) or SUPERCHECKS drafts issued on that Account. Customer agrees that it will continue to be responsible for full payment of the balance on the closed Account(s) and all charges to the Account(s), including, without limitation, SUPERCHECKS advances, Purchases and Cash Advances that post after termination of the Account and any Finance Charge and Other Charges. Any principal/borrower of Customer may cancel the Account at any time upon written notification to Bank.

**CHANGE IN TERMS OF AN ACCOUNT.** Bank may unilaterally change any of the terms of any of Customer's Accounts at Bank's sole discretion at any time. Bank will provide Customer with such notice as is required by law, by mailing such notice to Customer at the latest address shown in Bank's records. Subject to applicable law and provided Bank does not notify Customer otherwise, any changes will apply to the current balance of its Accounts as well as to future balances.

**LIABILITY FOR UNAUTHORIZED USE.** Bank will not hold Customer liable for the unauthorized use of Account subject to the following:

(1) Customer must notify Bank immediately if Customer suspects or knows that a Business Card or SUPERCHECKS drafts are lost or stolen, or in the possession of an unauthorized person, by calling 1-800-225-5935 (if outside of the United States by calling (916) 563-6782);

(2) Customer must follow up the telephone notification within ten days by providing written notice of the suspected or actual loss or theft of a Business Card or SUPERCHECKS drafts to: Wells Fargo Fraud Investigation, PO Box 272580, Concord, CA 94527;

(3) Bank will hold Customer liable for the unauthorized use of an Account if ten or more Business Cards have ever been issued to or at the request of the Customer. Use of a Business Card or SUPERCHECKS drafts by an Authorized User at any time, even if an Authorized User is no longer associated with or employed by Customer, does not constitute unauthorized use, subject to applicable law.

**BILLING ERRORS.** Customer agrees to notify Bank of any billing errors regarding a merchant transaction posted to the Account within 30 days after receipt of the statement reflecting the error. If Bank is unable to resolve the error with the responsible merchant, Customer agrees to pay Bank the amount in question and further pursuit of the issue with the merchant will become Customer's responsibility.

**LAWS GOVERNING THIS AGREEMENT.** The laws of the state of South Dakota (excluding its conflict of law provisions) and of the United States of America shall govern this Agreement. If any part of this Agreement cannot be enforced, this fact will not affect the rest of this Agreement. Bank may delay or forego enforcing any of its rights or remedies under this Agreement without losing them. Notwithstanding anything to the contrary, this Agreement shall not require or permit the payment, taking, reserving, receiving, collection or charging of any sums constituting interest that exceed any maximum amount of interest permitted by applicable law. Any such excess interest shall be credited against the then unpaid principal balance or refunded to Customer. Without limiting the foregoing, all calculations to determine whether interest exceeds the maximum amount shall be made by amortizing, pre-paying, allocating and spreading such sums over the full term of the loan, including all prior and subsequent renewals and extensions. Chapter 346 of the Texas Finance Code (which regulates certain revolving credit accounts) shall not apply to any revolving loan Accounts existing under this Agreement.

**IMPORTANT NOTICE TO CUSTOMERS WHO CONTACT BANK BY PHONE.** To ensure that Customer's inquiries are handled promptly, courteously and accurately, some of the telephone calls between Bank employees and Customers may be monitored or recorded by Bank's supervisory or management personnel.

**TELEPHONE SERVICE.** You may contact us toll free from within the United States at 1-800-CALLWELLS (1-800-225-6935). If you need to contact us from outside the United States you may call (916) 563-6782.

**TTY/TDD SERVICE.** For TTY/TDD service, contact a telephone relay service provider.

#### **BANK ADDRESSES.**

- Send payments to: WF Business Payment Processing, PO Box 54349, Los Angeles, CA 90054
- Send inquiries and correspondence to: Wells Fargo Business Operations Support, PO Box 348750, Sacramento, CA 95834

**CHANGES OF ADDRESS, TELEPHONE NUMBER, OR NAME.** Customer agrees to immediately notify Bank in writing of any change of business or mailing address, telephone number, or business name.

BLD-010 (5/05)

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M-75563

and extensions. Chapter 346 of the Texas Finance Code (which regulates certain revolving credit accounts) shall not apply to any revolving loan accounts existing under this Agreement.

**IMPORTANT NOTICE TO CUSTOMERS WHO CONTACT BANK BY PHONE.** To ensure that Customer's inquiries are handled promptly, courteously and accurately, some of the telephone calls between Bank employees and Customers may be monitored or recorded by Bank's supervisory or management personnel.

**TELEPHONE SERVICE.** You may contact us toll free from within the United States at 1-800-CALLWELLS (1-800-225-5935). If you need to contact us from outside the United States you may call (916) 569-6782.

**TTY/TDD SERVICE.** For TTY/TDD service, contact a telephone relay service provider.

**BANK ADDRESSES.**

- Send payments to: WF Business Payment Processing, PO Box 54349, Los Angeles, CA 90054
- Send inquiries and correspondence to: Wells Fargo, Business Operations Support, PO Box 348750, Sacramento, CA 95834

**CHANGES OF ADDRESS, TELEPHONE NUMBER, OR NAME.** Customer agrees to immediately notify Bank in writing of any change of business or mailing address, telephone number, or business name.

**WELLS  
FARGO**

## **BusinessLine®**

### **Customer Agreement Effective March 1, 2005**

This *BusinessLine* Customer Agreement ("Agreement") governs the *BusinessLine* Account ("Account") that Wells Fargo Bank, N.A. ("Bank", "we") is establishing for use by your **business organization** ("Customer", "you") and your designated representatives. Customer accepts and agrees to be bound by the terms and conditions of the Agreement from the time the Account is opened. Use of the Account, SUPERCHECKS™ drafts or a *BusinessLine*™ MasterCard® ("Business Card"), or a request for a transfer from the Account by anyone authorized by the Customer, shall evidence the Customer's acceptance of the terms and conditions of this Agreement, including but not limited to the applicable Finance and Other Charges. The Account will be used for business purposes only. In no event shall the Account be used for any transaction that is illegal under any applicable law. Customer agrees to comply with each and every term and condition of this Agreement as set forth below:

**PROMISE TO PAY.** Customer agrees to pay Bank, when due, the total of all purchases and advances made on the Account. Customer also promises to pay the total of any Finance Charges and Other Charges due on the Account, as stated in this Agreement, and all costs and expenses including any attorney's fees incurred in enforcing this Agreement.

**CREDIT LIMIT.** The Credit Limit of an Account is shown in separate correspondence provided to Customer at the time an Account is opened, and on each of the monthly periodic (billing) statements issued for that Account. Customer agrees not to use or permit the use of an Account in any way that will cause an Account to exceed its Credit Limit. Customer agrees that it is responsible for repaying outstanding advances under the Account, including but not limited to those that exceed its Credit Limit. Bank may, at its option, assess an Overlimit Fee, close the Account, exercise any of its other remedies under this Agreement, and reduce your Credit Limit without notice to you, except in those situations where notice is required by law.

**CARD SERVICES.** Customer will be issued one Business Card per Account. The following services are available, up to the amount of the Credit Limit of the Account.

**Purchases:** A Business Card may be used to purchase goods or services wherever MasterCard® credit cards are accepted.

**Cash Advances:** Cash may be advanced from an Account by presenting the Business Card at a financial institution or an automated teller machine ("ATM") that accepts MasterCard credit cards. You can also get Cash Advances and perform balance inquiries using your Business Card with a Personal Identification Number ("PIN") at all Wells Fargo® ATMs, or any ATM which displays any of the logos appearing on the back of your Business Card.

**AUTHORIZATIONS.** All transactions on your Account are subject to prior approval by Bank ("Authorizations"). Bank reserves the right to limit the number of Authorizations given during any period of time (day, weekend, week, etc.) and Bank may deny an Authorization if Bank suspects that the Account is being used without Customer's permission. If our Authorization system is not working fully, we may be unable to give an Authorization even though the transaction would not exceed the Credit Limit and your Account is in good standing. Bank shall not be liable for failing to give any such Authorization.

**OVERDRAFT PROTECTION.** If Customer establishes Overdraft Protection on a designated Wells Fargo® Business Checking Account ("Checking Account"), Bank will automatically advance funds from the Account to cover the overdraft amount created by any transaction in the Checking Account initiated by a person authorized to write checks or draw money from the Checking Account, unless (i) the Account is delinquent, otherwise in default or closed, (ii) the advance would cause the Account balance to go over the Credit Limit, (iii) the overdraft advance transaction is created by payments to the Account, or (iv) a zero or negative balance has been maintained in the Checking Account for more than one month. Bank reserves the right to terminate Overdraft Protection without notice if overdraft advance transactions are the result of payments to the Account, or if a zero or negative balance is maintained in the Checking Account for more than one month. Transaction Finance Charges apply to each Overdraft Protection advance.

**SUPERCHECKS™ ADVANCES.** SUPERCHECKS drafts are designed for use with the Account. The drafts may be used like normal bank checks. When the Bank receives a draft, the Bank will pay it by advancing the amount of the draft from the Account unless the Account is delinquent, in default, closed or the draft would cause the balance to go over the Credit Limit of the Account. You may not write SUPERCHECKS drafts as payment for your Account. All SUPERCHECKS drafts must be written in U.S. dollars. No fees are assessed when ordering SUPERCHECKS. If you have a dispute with a merchant regarding property or services that you are unable to resolve with the merchant, and you used a SUPERCHECKS draft as payment, you will not have the right to assert against us any claims or defenses involving that transaction.

**SUPERCHECKS Stop Payment:** Bank does not guarantee the stop payment of a SUPERCHECKS draft; however, we will make every attempt to stop payment of the draft within a reasonable period of time after we receive your stop payment order, provided all information given to us is accurate and complete, and the draft has not already been paid. The stop will remain on our system for six months, unless the stop is revoked or the item is stopped. After six months, if Customer decides to re-enter the stop payment, the Bank must be contacted at that time.

**PAYMENTS.** Customer will receive a periodic statement every month for the Account. The New Balance shown on the statement is the total of all unpaid obligations that have been posted to the Account as of the Closing Date shown on the statement. Customer may pay the Total Amount Due shown on the statement or any greater amount, but Bank must receive at least the Total Amount Due shown on the statement, in immediately available U.S. funds drawn on a U.S. bank, by the Current Payment Due Date shown on the statement. We may refuse to accept any payments by third party check or draft which have been endorsed to us or that have been drawn by anyone other than you.

**Current Payment Due:** The Current Payment Due shown on the statement is equal to the total of Finance Charges; Opening, Annual, and Inactivity Fees; Late Charges; Overlimit Fees; and Returned Check Fees (each defined below); rounded to the next higher dollar, with a \$25 minimum. If your New Balance is less than \$25, the Current Payment Due is equal to the New Balance.

**Total Amount Due:** The Total Amount Due shown on the statement is equal to the Current Payment Due PLUS any Past Due Amount. If there is no Past Due Amount, then the Total Amount Due shown on the remittance coupon is equal to the Current Payment Due.

**Other Payment Information:**

- Fees for additional Bank products/services charged to your Account may or may not be included in the Current Payment Due. If fees for these products are to be included in the Current Payment Due, those fees will be described in the separate information provided with those products/services.
- Your monthly payments or any credits will be applied in an order determined by Bank at its sole discretion. Generally, payments are first applied to any Bank Fees and Finance Charges then to balances with lower interest rates and then to balances with higher interest rates.
- Payments that are received at the payment processing address (printed on each statement) by 5 p.m. on any business day will be credited as of the day of receipt. Payments received after 5 p.m. or on non-business days may be credited as of the next business day. Payments made at other Bank locations may not be credited for up to five business days.
- We may, at our discretion, withhold a portion of the available credit on your Account up to the amount of any payment(s) in order to ensure that the check or other payment instrument is honored.
- We may accept late payments, partial payments, post-dated checks, or any form of payment containing a restrictive endorsement, without losing any of our rights under this Agreement. Our acceptance of checks or money orders labeled "payment in full", or words to that effect, will not constitute an accord and satisfaction nor a waiver of any rights we have to receive full payment. If you intend to pay your Account in full with an amount less than the total balance owing on your Account, payments must be sent to: Wells Fargo Loss Control, PO Box 53476, Phoenix, AZ 85072. Please note that such payments will not discharge your full debt.

**FINANCE CHARGE.** The total Finance Charge is the sum of the Periodic Finance Charge plus the Transaction Finance Charge assessed on the Account. The method used to determine the balance or balances upon which these are computed is as follows:

**A. Periodic Finance Charge:** For each type of balance on your Account (i.e., the Cash Advance balance, the Purchase balance or Other balance) the Periodic Finance Charge is calculated by multiplying the Average Daily Balance ("ADB") during the billing cycle by the number of days in the billing cycle and then multiplying this product by the applicable Daily Finance Charge Rate.

**Calculation of Average Daily Balance:** To calculate your Average Daily Balance each month, we calculate the daily balance for each day in the billing period ("Daily Balance"), add the Daily Balances together, and divide that total amount by the number of days in the billing period. Average Daily Balances for Cash Advances, Purchases, and Other categories are calculated separately and may be subject to different rates.

Exh.

For each category of balance (Cash Advances, Purchases, and Other), we calculate the Daily Balance by starting with the beginning balance related to that category plus any new activity (Cash Advances, Purchases, and Other) posted as of that day, plus any related unpaid Finance Charges, Transactions, or Other Charges, and add a Periodic Finance Charge equal to the previous day's balance multiplied by the applicable Daily Finance Charge Rate. We subtract the amount of any payments or credits applied to that balance category.

**Daily Finance Charge Rate:** The Daily Finance Charge Rate will either be a fixed rate or variable rate. Please refer to separate correspondence from the Bank provided at the time your Account is opened or at a later date to determine your interest rate. The Daily Finance Charge Rate for Cash Advances, Purchases, and Other balances may differ. The Daily Finance Charge Rate is calculated by dividing the applicable interest rate by 365.

If your Account is subject to a variable rate, that rate will be determined for each monthly billing cycle by taking the highest Wells Fargo Prime Rate in effect during the Determination Date Range and adding a Spread. The Bank initially determines your Spread based on the evaluation of your credit risk. The Bank may subsequently change the Spread at Bank's sole discretion. Please refer to separate correspondence from the Bank regarding your Spread.

**Wells Fargo Prime Rate:** For purposes of this calculation, the Wells Fargo Prime Rate is the rate announced by the Bank from time to time as its 'Prime Rate.' The Determination Date Range for changing your variable interest rate will be the 30 calendar days previous to each of your Statement Closing Dates, so the Daily Finance Charge Rate shown on your statement may or may not change in the month following a change in the Wells Fargo Prime Rate. Any changes in your Daily Finance Charge Rate will apply to both current and future balances on the Account and the Daily Finance Charge Rate will continue to vary even if the Account is closed.

A 7.5% minimum Prime Rate has been set for your Account. The Prime Rate used to calculate your Periodic Finance Charge will not be less than 7.5%.

**B. Transaction Finance Charge:** The Transaction Finance Charge is a one-time charge made each time certain types of advances are posted to the Account.

- The charge for each advance or transfer made at an ATM is 3% of the amount of the advance subject to a \$10 minimum and no maximum.
- The charge for each Cash Advance obtained over-the-counter from a bank or financial institution is 3% of the amount of the advance subject to a \$10 minimum and no maximum.
- The charge for each Overdraft Protection advance is 3% of the amount of the advance subject to a \$10 minimum and a \$15 maximum.
- The charge for each advance transacted at a casino, other wager or lottery ticket purchase, or advance via wire transfer is 4% of the amount of each such transaction or purchase subject to a \$10 minimum and no maximum.
- There is NO TRANSACTION FINANCE CHARGE for using SUPERCHECKS drafts to advance funds.
- There is NO TRANSACTION FINANCE CHARGE for using telephone transfer, or Wells Fargo Online® Banking services to advance funds to your Checking Account.

**WHEN FINANCE CHARGE BEGINS.** The Periodic Finance Charge for Purchases and Advances begins on the date the transaction was made. The

Periodic Finance Charge for SUPERCHECKS transactions may begin the earlier of: the transaction date, the date a SUPERCHECKS draft is deposited by the payee, or the date we receive the SUPERCHECKS draft for posting to your Account.

**OTHER CHARGES.** The total of Other Charges that may be charged to your Account is the sum of:

**Fees That May Be Assessed Annually:** Bank may assess an Opening Fee or Annual Fee for the first year and an Annual Fee each year thereafter. Alternatively, Bank may assess an Inactivity Fee for each year that the Account activity remains below the threshold established by Bank. Please refer to separate correspondence for pricing details.

Annual Fees and Inactivity Fees will not be refunded in whole or in part after assessment, even if the Account is subsequently suspended, closed or terminated for any reason. Bank may assess an Annual Fee or Inactivity Fee on each closed Account for each year a balance is maintained in the Account.

**Late Charge:** If Bank does not receive at least the Total Amount Due by the Current Payment Due Date shown on your periodic statement, Bank may assess a Late Charge of \$35. However, if the New Balance shown on your previous statement is less than \$100, the Late Charge will be \$25. If an Account has been delinquent three or more times in the past 12 billing cycles, Bank may assess a Late Charge of \$50. We may individually contact Customers to inform them of other Late Charge amounts in cases of default.

**Overlimit Fee:** If your Account balance exceeds your Credit Limit, Bank may assess an Overlimit Fee that is 1.5% of the overlimit amount, subject to a \$29 minimum and a \$75 maximum, any time your balance exceeds your Credit Limit.

**Returned Check Fee:** If payment on the Account is made with a check or other item that is not honored for any reason, Bank may assess a \$29 fee. If Customer pays more than one Account with an item, a \$29 fee may be assessed against each affected Account. The bank on which the check or item was drawn may impose a separate fee for the dishonored item.

**Stop Payment Fee:** If Customer requests that Bank place a 'Stop Payment' on a SUPERCHECKS draft, Bank may assess a charge of \$15 for each Stop Payment Request.

**Foreign Currency Conversion Fee:** If Customer originates a transaction in a foreign currency, Bank may assess a 3% Currency Conversion Fee on the converted dollar amount of each such transaction. See below for additional information.

**Research Fee:** Certain Bank services incurred in connection with the Account are subject to additional fees. If Customer requests that Bank research the Account, for example, to update Customer's business records, \$5 may be assessed for each sales slip copy Bank provides, \$3 may be assessed for each monthly statement Bank provides and \$20 per hour may be assessed for other Bank research services. The hourly charge will apply as follows:

1-15 Minutes.....	\$5
16-30 Minutes.....	\$10
31-45 Minutes.....	\$15
46-60 Minutes.....	\$20



These fees will not be charged if Customer makes a good faith inquiry about a suspected error on a periodic statement.

**DEFAULT.** The following constitute defaults under this Agreement: (1) a payment is not made when it is due; (2) the terms of this Agreement are breached in any way; (3) Customer defaults under the terms of any other obligation to Bank; (4) a bankruptcy petition is filed by or against Customer or any guarantor of Customer's Account; (5) a significant change occurs in the ownership or organizational structure of Customer or in the type or volume of Customer's business; (6) Customer becomes insolvent or is dissolved, or Bank otherwise believes in good faith that the prospect of payment and/or performance under this Agreement is impaired; (7) returned items for insufficient funds; (8) failure to submit required information the Bank deems necessary; (9) Customer's Account balance exceeds the Credit Limit; or (10) Bank observes excessive or suspicious Account usage or suspects an Account is involved in kiting. Customer will be charged the applicable Finance Charge Rate after any default under this Agreement.

**BANKER'S LIEN AND RIGHT OF SET-OFF.** Bank has a general lien under South Dakota law on any of Customer's personal property in Bank's possession. In the event Customer does not make payment on the Account as agreed, Bank may exercise its right of set-off against any obligation Bank owes to Customer, including a set-off against any deposit account(s) Customer has with Bank to the extent permitted by law.

**REMEDIES.** In the event of any default or failure to meet any condition under the preceding paragraphs, Bank may, at its option, and without prior notification:

- (1) close any or all Accounts to all use, including other types of accounts that the owner or guarantor is responsible for or a signer on;
- (2) accelerate payment of the full balance on any or all Accounts and thereby require immediate payment of the full balance of such Accounts including, without limitation, any Finance Charge and Other Charges;
- (3) fix monthly Account payments at a higher amount;
- (4) immediately terminate any promotional rates and/or raise the Finance Charge Rate on existing and new balances; and/or
- (5) fix the Late Charge at a higher amount.

**ARBITRATION PROGRAM.**

**(a) Binding Arbitration:** Upon the demand of any party, whether made before the institution of any judicial proceeding or not more than 60 days after service of a complaint, third party complaint, cross-claim, counterclaim or any answer thereto or any amendment to any of the above, any Dispute (as defined below) shall be resolved by binding arbitration in accordance with the terms of this Arbitration Program. A "Dispute" shall include any action, dispute, claim, or controversy of any kind, whether in contract or in tort, statutory or common law, legal or equitable, or otherwise, now existing or hereafter arising between the parties in any way arising out of, pertaining to or in connection with (1) any agreement, document or instrument to which this Arbitration Program is attached or in which it appears or is referenced, or any related agreements, documents, or instruments (collectively, the "Document" or "Documents"); (2) all past, present, or future loans, lines of credit, notes, instruments, drafts, credits, accounts, deposit accounts, safe deposit boxes, safekeeping agreements, guarantees, letters of credit, goods or services, or other transactions, contracts or agreements of any kind whatsoever; (3) any past, present or future incidents, omissions, acts, errors, practices, or occurrences causing injury to either party

whereby the other party or its agents, employees or representatives may be liable, in whole or in part; or (4) any other aspect of the past, present or future relationships of the parties including any agency, independent contractor or employment relationship but excluding claims for workers' compensation and unemployment benefits ("Relationship"). Any party to this Arbitration Program may by summary proceedings bring any action in court to compel arbitration of any Dispute. Any party who fails or refuses to submit to binding arbitration following a lawful demand by the opposing party shall bear all costs and expenses incurred by the opposing party in compelling arbitration of any Dispute. The parties agree that by engaging in activities with or involving each other as described above, they are participating in transactions involving interstate commerce or "commerce" as that term is used in the Federal Arbitration Act, Title 9 of the United States Code ("FAA"). The parties understand that by this agreement they have decided that their disputes shall be resolved by binding arbitration rather than in court, and once decided by arbitration no dispute can later be brought, filed or pursued in court before a judge or jury.

**(b) Governing Rules:** All Disputes between the parties submitted to arbitration shall be resolved by binding arbitration administered by the American Arbitration Association (the "AAA"), or some other administrator if mutually agreeable to the parties, in accordance with the Commercial Arbitration Rules of the AAA, the Federal Arbitration Act (Title 9 of the United States Code) and to the extent the foregoing are inapplicable, unenforceable or invalid, the applicable substantive law designated in the Documents relating to the Dispute. In the event of any inconsistency between this Arbitration Program and such rules and statutes, this Arbitration Program shall control. Judgment upon any award rendered hereunder may be entered in any court having jurisdiction; provided, however, that nothing contained herein shall be deemed to be a waiver by any party that is a bank of the protections afforded to it under 12 U.S.C. §91 or a similar state law which may be applicable, such as Texas Banking Code art. 342-609.

**(c) No Waiver:** Preservation of Remedies; Multiple Parties. No provision of, nor the exercise of any rights under, this Arbitration Program shall limit the right of any party, during any Dispute, to seek, use, and employ ancillary or preliminary remedies, judicial or otherwise, for the purposes of realizing upon, preserving, protecting, foreclosing or proceeding under forcible entry and detainer for possession of any real or personal property, and any such action shall not be deemed an election of remedies. Such rights shall include, without limitation, rights and remedies relating to (1) foreclosing against any real or personal property collateral or other security; (2) exercising self-help remedies including set-off rights; or (3) obtaining provisional or ancillary remedies such as injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction. Such rights can be exercised at any time except to the extent such action is contrary to a final award or decision in any arbitration proceeding. The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary remedies or exercise of self-help remedies shall not constitute a waiver of the right of any party, including the plaintiff, to submit the Dispute to arbitration, nor render inapplicable the compulsory arbitration provisions hereof. In Disputes involving indebtedness or other monetary obligations, each party agrees that the other party may proceed against all liable persons, jointly or severally, or against one or more of them, less than all, without impairing rights against other liable persons. Nor shall a party be required to join the principal obligor or any other liable persons, such as sureties or guarantors, in any proceeding against a particular person. A party may release or settle with

one or more liable persons without releasing or impairing rights to proceed against any persons not so released. This Arbitration Program shall not apply to a dispute concerning indebtedness secured by real estate if the single action rule statutes of California, Idaho or any other applicable law would preclude enforcement of a mortgage, lien or security interest securing such indebtedness as a result of the arbitration of such dispute, unless the holder of such mortgage, lien or security interest specifically elects in writing to proceed with the arbitration.

**(d) Arbitrator Powers and Qualifications:** Awards. Arbitrators are empowered to resolve Disputes by summary rulings. Arbitrators shall resolve all Disputes in accordance with the applicable substantive law. Any arbitrator selected shall be required to be a practicing attorney and shall be required to be experienced and knowledgeable in the substantive laws applicable to the subject matter of the Dispute. All statutes of limitation applicable to any Dispute shall apply to any proceeding in accordance with this Arbitration Program. With respect to a Dispute in which the claims or amounts in controversy do not exceed \$1,000,000, a single arbitrator shall be chosen and shall resolve the Dispute by rendering an award not to exceed \$1,000,000, including all damages of any kind whatsoever, including costs, fees and expenses. Submission to a single arbitrator shall be a waiver of all Parties' claims to recover more than \$1,000,000. A Dispute involving claims or amount in controversy exceeding \$1,000,000 shall be decided by a majority vote of a panel of three arbitrators (an "Arbitration Panel"). The determination of any two of the three arbitrators constituting the determination of the Arbitration Panel, provided, however, that all three Arbitrators on the Arbitration Panel must actively participate in all hearings and deliberations. Arbitrators, including any Arbitration Panel, may grant any remedy or relief deemed just and equitable and within the scope of this Arbitration Program and may also grant such ancillary relief as is necessary to make effective any award. Arbitrators, including any Arbitration Panel, shall have the power to award recovery of all costs and fees (including attorney's fees, administrative fees, and arbitrator's fees) to prevailing party. Arbitrators shall be empowered to impose sanctions and to take such other actions as they deem necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the applicable State Rules of Civil Procedure and applicable law. Arbitrator(s) shall be empowered, at the written request of any Party in any Dispute, 1) to consolidate in a single proceeding any multiple party claims that are substantially identical or based upon the same underlying transaction; 2) to consolidate any claims and Disputes between other Parties which arise out of or relate to the subject matter hereof, including all claims by or against borrowers, guarantors, sureties and/or owners of collateral; and 3) to administer multiple arbitration claims as class actions in accordance with Rule 23 of the Federal Rules of Civil Procedure. In any consolidated proceeding the first arbitrator(s) selected in any proceeding shall conduct the consolidated proceeding unless disqualified due to conflict of interest. Arbitrator(s) and Arbitration Panels shall be required to make specific, written findings of fact and conclusions of law. The determination of an Arbitrator or Arbitration Panel shall be binding on all parties and shall not be subject to further review or appeal except as otherwise allowed by applicable law.

**(e) Miscellaneous:** To the maximum extent practicable, the AAA, the Arbitrator (or Arbitration Panel, as appropriate) and the parties shall take any action necessary to require that an arbitration proceeding hereunder shall be concluded within 180 days of the filing of the Dispute with the AAA. Arbitration

proceedings hereunder shall be conducted at a location mutually agreeable to the parties, or if they cannot agree, then in the state of the applicable substantive law designated in the Documents relating to the Dispute at a location selected by the Administrator. With respect to any Dispute, each party agrees that all discovery activities shall be expressly limited to matters directly relevant to the Dispute and any Arbitrator, Arbitration Panel and the AAA shall be required to fully enforce this requirement. Each party agrees to keep all Disputes subject to arbitration proceedings strictly confidential, except for disclosures of information required in the ordinary course of business of the parties or by applicable law or regulation. This Arbitration Program shall be construed in accordance with the Federal Arbitration Act, other applicable Federal law, and applicable law of the state of South Dakota unless and except to the extent that another state's law is specifically designated for certain purposes herein. With respect to proceedings involving residents of Colorado, the provisions of CRS 13-22-201 et seq. and CRS 13-21-102(5) shall apply. With respect to proceedings involving residents of the State of Washington, the Arbitrator(s) shall not have the power to award punitive or exemplary damages except where such damages are specifically provided for by a Washington statute upon which the award could have been based if litigated in a Washington court. This Arbitration Program constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior arrangements and other communications on dispute resolution except with respect to Arbitration Programs governing disputes to which the Arbitration Program does not apply by virtue of paragraph (c) hereof. The provisions of this Arbitration Program shall survive any termination, amendment, or expiration of the Documents or the Relationship, unless the parties otherwise expressly agree in writing. This Arbitration Program may be amended, changed, or modified only by a specific modification in writing agreed to by all affected parties. If any term, covenant, condition or provision of this Arbitration Program is found to be unlawful, invalid or unenforceable, such defect shall not affect the legality, validity or enforceability of the remaining parts of this Arbitration Program, and all such remaining parts hereof shall be valid and enforceable and have full force and effect as if the illegal, invalid or unenforceable part had not been included.

**LIMITATION ON LAWSUITS.** Customer agrees that any lawsuit based upon any cause of action which Customer may have against Bank must be filed within one year from the date that it arises or Customer will be barred from filing the lawsuit. This limitation is intended to include tort, contract, and all other causes of action for which Customer and Bank may lawfully contract to set limitations for bringing suit.

**TELEPHONE TRANSFERS.** Customer authorizes Bank to make transfers, up to the available Credit Limit, between the Account and other designated accounts specified in writing, upon Bank's receipt of instructions from any of Customer's owners or principals. Ten days after a Customer applies for telephone transfer capabilities, the first telephone transfer request can be made. Each telephone transfer request may take up to three business days for processing. Bank will have no liability for any transfer made upon the written or verbal request of any person believed by Bank in good faith to have been authorized by Customer to submit the request. Customer will indemnify and hold Bank harmless from and against any damages, liabilities, costs or expenses (including attorney's fees) arising out of any claim by Customer or any third party, against Bank in connection with Bank's performance of transfers as described above.

**FOREIGN CURRENCY TRANSACTIONS.** If you use your Business Card to engage in a transaction in a currency other than U.S. dollars ("Foreign Currency

Transaction\*), that amount will be converted into U.S. dollars before posting to your Account.

**Foreign Currency Transaction Procedures:** If a Foreign Currency Transaction occurs, and the transaction is not converted to U.S. dollars by the merchant itself, MasterCard International will convert the transaction into a U.S. dollar amount by using its currency conversion procedure in effect at the time the transaction is processed. Currently, their regulations and procedures provide that the currency conversion rate they use is either (1) a wholesale market rate, which rate may vary from the rate MasterCard International itself receives or (2) a government-mandated rate for the applicable currency as determined under MasterCard regulations and procedures, as applicable. This rate may differ from the rate in effect when the transaction occurred or when it was posted to the cardholder's Account. MasterCard International increases its conversion rate by a percentage (currently one percent (1%)) and keeps this increase. In addition, Bank may assess a Currency Conversion Fee by increasing the currency conversion rate by 3%.

**Point Of Sale Currency Conversion:** Some merchants outside of the United States offer cardholders the option of having card transactions converted to U.S. dollars by the merchant itself during the transaction. If that option is chosen the transaction is actually originated in U.S. dollars and the currency conversion rate is determined solely by the merchant. No Currency Conversion Fee is assessed by the Bank for these merchant-converted Foreign Currency Transactions.

**CREDIT REPORTS AND RE-EVALUATION OF CREDIT.** Customer authorizes Bank to obtain business and personal credit bureau reports in the name of the Customer and guarantor(s) of the Account at any time. Customer agrees to submit to Bank current financial information in the name of the Customer and to submit or cause guarantor(s) to submit to Bank current financial information in the name of guarantor(s) at any time upon request. Such information shall be used for the purpose of evaluating or re-evaluating Customer's and guarantor(s)' creditworthiness. Upon determination that Customer's or guarantor(s)' creditworthiness has changed adversely or does not satisfy Bank's current credit standards, Bank may close or lower the Credit Limit on any or all Accounts. Bank may report its credit experience with Customer and its Account(s) to third parties. Customer agrees that Bank may release information about Customer or Customer's Account to other Wells Fargo companies.

**ECOA INFORMATION.** If any application for additional business credit is denied, you have the right to a written statement of the specific reasons for the denial. To obtain the statement, please contact the Business Direct Loan Center, PO Box 29482, Phoenix, AZ 85038-9482, or call (800) 231-9244, within 60 days from the date you are notified of our decision. We will send you a written statement of reasons for the denial within 30 days of receiving your request for the statement.

**Notice:** The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law is: District Office of the Comptroller of the Currency, 1301 McKinley St, Suite 3450, Houston, TX 77010.

**RIGHT TO TERMINATE AN ACCOUNT.** Bank may terminate any or all of Customer's Accounts at any time, or reduce the amount of Customer's Credit Limit on any or all of its Accounts without notice, subject to applicable law, even though Customer may not have defaulted on any Account. If Bank terminates an Account, Customer agrees to destroy any Business Card or SUPERCHECKS drafts issued on that Account. Customer agrees that it will continue to be responsible for full payment of the balance on the closed Account and all charges to the Account, including, without limitation, SUPERCHECKS advances, Purchases, Cash Advances, and Overdraft Protection advances that post after termination of the Account and any Finance Charge and Other Charges. Any principal/owner of Customer may cancel the Account at any time upon written notification to the Bank.

**CHANGE IN TERMS OF AN ACCOUNT.** Bank may unilaterally change any of the terms of any of Customer's Accounts at Bank's sole discretion at any time. Bank will provide Customer with such notice as is required by law, by mailing such notice to Customer at the latest address shown in Bank's records. Subject to applicable law and provided Bank does not notify Customer otherwise, any changes will apply to the current balance of its Accounts as well as to future balances.

**LIABILITY FOR UNAUTHORIZED USE.** Bank will not hold Customer liable for the unauthorized use of Account subject to the following:

- (1) Customer must notify Bank immediately if Customer suspects or knows that a Business Card or SUPERCHECKS drafts are lost or stolen, by calling 1-800-225-5935, (if outside of the United States by calling (916) 569-6782);
- (2) Customer must follow up the telephone notification within ten days by providing written notice of the suspected or actual loss or theft of a Business Card or SUPERCHECKS drafts to: Wells Fargo Fraud Investigation, PO Box 272580, Concord, CA 94527;
- (3) Use of a Business Card or SUPERCHECKS drafts by a person authorized by Customer to use the Account at any time, even if that person is no longer associated with or employed by Customer, does not constitute unauthorized use, subject to applicable law.

**BILLING ERRORS.** Customer agrees to notify Bank of any billing errors regarding a merchant transaction posted to the Account within 30 days after receipt of the statement reflecting the error. If Bank is unable to resolve the error with the responsible merchant, Customer agrees to pay Bank the amount in question and further pursuit of the issue with the merchant will become Customer's responsibility.

**LAWS GOVERNING THIS AGREEMENT.** The laws of the state of South Dakota (excluding its conflict of law provisions) and of the United States of America shall govern this Agreement. If any part of this Agreement cannot be enforced, this fact will not affect the rest of this Agreement. Bank may delay or forego enforcing any of its rights or remedies under this Agreement without losing them. Notwithstanding anything to the contrary, this Agreement shall not require or permit the payment, taking, reserving, receiving, collection or charging of any sums constituting interest that exceed any maximum amount of interest permitted by applicable law. Any such excess interest shall be credited against the then unpaid principal balance or refunded to Customer. Without limiting the foregoing, all calculations to determine whether interest exceeds the maximum amount shall be made by amortizing, pro-rating, allocating and spreading such sums over the full term of the loan, including all prior and subsequent renewals

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK N.A.,  
a National Banking Association

Plaintiff,

vs.

J W KITKKO & SONS; CHARLES  
KITKKO, individually AND  
JOHN KITKKO, individually.

Defendants

CIVIL DIVISION

NO.:

AFFIDAVIT

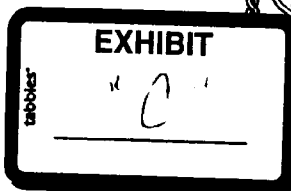
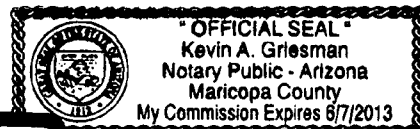
I, Felicia Sevilla, an Work Director of WELLS FARGO do affirm that the amounts owed by J W Kitkko & Sons; Charles Kitkko and John Kitkko are the current balance owed by Defendants on the BusinessLine account no. 5474648801595101 is \$29.685.25 plus ongoing interest at a rate of 12.75% from March 31, 2008; The current balance owed by Defendants on the Visa Business Cards account number 4856200220420437 is \$24,905.04 plus ongoing interest from December 29, 2007 which is ongoing at a rate of 25.99%;

Date: 8/25/09

F. Sevilla  
Wells Fargo Bank, N.A., a National Banking  
Association

SWORN TO AND SUBSCRIBED BEFORE ME THIS 25<sup>TH</sup> DAY OF AUGUST, 2009,  
personally known to me or proved to me on the basis of satisfactory evidence to be the person(s)  
who appeared before me.

[Signature]  
Notary Public



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK N.A.,  
a National Banking Association

Plaintiff,

vs.

J W KITKKO & SONS; CHARLES  
KITKKO, individually AND  
JOHN KITKKO, individually.

Defendants

) CIVIL DIVISION

) NO.:

**VERIFICATION**

I, Felicia Sevilla, an Work Director of Wells Fargo Bank, N.A., a National Banking Association have read the foregoing **COMPLAINT** and verify that the statements therein are correct to the best of my personal knowledge, information and/or belief.

This verification is made subject to the penalties of 18 PA. C.S.A. Section 4904, relating to unsworn falsification to authorities, which provides that if I make knowingly false statements I may be subject to criminal penalties.

8/25/09  
Date

  
Wells Fargo Bank, N.A.

Anthony S. Posa, Esquire  
*Payne, Welsh & Klingensmith*

**FILED**

**SEP 28 2009**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK N.A.,  
a National Banking Association

Plaintiff,

vs.

J W KITKKO & SONS; CHARLES  
KITKKO, individually AND  
JOHN KITKKO, individually.

Defendants.

CIVIL DIVISION

NO.: 08-1253-CD

**PRAECIPE FOR DEFAULT JUDGMENT**

Filed on behalf of Plaintiff  
WELLS FARGO BANK, a National  
Banking Association

Counsel of Record for This Party:

**PETER J. PAYNE, ESQUIRE**  
**PA I.D. #68902**

**Peter J. Payne & Associates**  
105 Penn Plaza  
Turtle Creek, PA 15145

(412)823-8100

**JURY TRIAL DEMANDED**

**THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION  
OBTAINED SHALL BE USED FOR THAT PURPOSE.**

**FILED** *Atty. pd.*  
*MP 1123932* *00.00*  
**JUN 29 2011**  
*S*  
William A. Shaw  
Prothonotary/Clerk of Courts  
*Notice to Defs.*  
*GD*





WELLS FARGO BANK N.A.,  
a National Banking Association

VS.

Defendants.

(412)823-8100.

**THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION  
OBTAINED SHALL BE USED FOR THAT PURPOSE.**



WELLS FARGO BANK N.A.,  
a National Banking Association

NO.:

**vs.**

J W KITKKO & SONS; CHARLES  
KITKKO, individually AND  
JOHN KITKKO, individually.

To: JW Kitkko & Sons  
189 Fernwood Dr.  
Houtzdale, PA 16651

### IMPORTANT NOTICE

**YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.**

**YOU SHOULD TAKE THIS 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.**

Court Administrator  
Clearfield County Courthouse  
Clearfield, PA 16830  
(814) 765-2641, ext 51

DATE:

Anthony S. Posa, Esquire  
Pa. I.D. No. 89777

Anthony S. Posa, Esquire  
Pa. I.D. No. 89777

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK N.A.,  
a National Banking Association

Plaintiff,

vs.

J W KITKKO & SONS; CHARLES  
KITKKO, individually AND  
JOHN KITKKO, individually.

Defendants.

) CIVIL DIVISION

) NO.: 08-1253-CD

) **IMPORTANT NOTICE**

) Filed on behalf of Plaintiff  
) WELLS FARGO BANK, a National  
) Banking Association

) Counsel of Record for This Party:

) **ANTHONY S. POSA, ESQUIRE**  
) **PA I.D. #89777**

) **Payne, Welsh & Klingensmith**  
) 105 Penn Plaza  
) Turtle Creek, PA 15145  
) FIRM #658

) (412)823-8100

**JURY TRIAL DEMANDED**

**THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION  
OBTAINED SHALL BE USED FOR THAT PURPOSE.**





IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK N.A.,  
a National Banking Association

Plaintiff,

vs.

J W KITKKO & SONS; CHARLES  
KITKKO, individually AND  
JOHN KITKKO, individually.

Defendants.

) CIVIL DIVISION

) NO.: 08-1253-CD

CERTIFICATE OF SERVICE

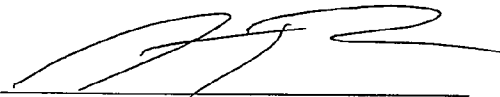
I hereby certify that a true and correct copy of the within *IMPORTANT NOTICE* was  
served by U.S. Mail, first class, postage prepaid, upon the following:

JW Kitkko & Sons  
189 Fernwood Dr.  
Houtzdale, PA 16651

Charles Kitkko  
189 Fernwood Drive  
Houtzdale PA 16651

John Kitkko  
267 Troxell Spring Road  
Apt. 42911  
Flinton PA 16640

10/20/09  
DATE

  
Anthony S. Posa, Esquire  
Pa. I.D. No. 89777

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK N.A.,  
a National Banking Association

Plaintiff,

vs.

J W KITKKO & SONS; CHARLES  
KITKKO, individually AND  
JOHN KITKKO, individually.

Defendants.

) CIVIL DIVISION

) NO.: 08-1253-CD

) **IMPORTANT NOTICE**

) Filed on behalf of Plaintiff  
) WELLS FARGO BANK, a National  
) Banking Association

) Counsel of Record for This Party:

) ***ANTHONY S. POSA, ESQUIRE***  
) ***PA I.D. #89777***

) ***Payne, Welsh & Klingensmith***  
) 105 Penn Plaza  
) Turtle Creek, PA 15145  
) FIRM #658

) (412)823-8100

**JURY TRIAL DEMANDED**

**THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION  
OBTAINED SHALL BE USED FOR THAT PURPOSE.**







WELLS FARGO BANK N.A.,  
a National Banking Association

NO.: 08-1253-CD

Plaintiff,

**VS.**

J W KITKKO & SONS; CHARLES  
KITKKO, individually AND  
JOHN KITKKO, individually.

Defendants.

I hereby certify that a true and correct copy of the within **IMPORTANT NOTICE** was served by U.S. Mail, first class, postage prepaid, upon the following:     -

JW Kitkko & Sons  
189 Fernwood Dr.  
Houtzdale, PA 16651

John Kitkko  
267 Troxell Spring Road  
Apt. 42911  
Flinton PA 16640

Charles Kitkko  
189 Fernwood Drive  
Houtzdale PA 16651

DATE /

Anthony S. Posa, Esquire  
Pa. I.D. No. 89777

**FILED**

**JUN 20 2011**

**William A. Shaw,  
Prothonotary/Clerk of Courts**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK N.A.,  
a National Banking Association

Plaintiff,

vs.

J W KITKKO & SONS; CHARLES  
KITKKO, individually AND  
JOHN KITKKO, individually.

Defendants.

) CIVIL DIVISION

) NO.: 08-1253-CD

) **NOTICE OF ENTRY OF JUDGMENT**  
) **ORDER OR DECREE**

) Filed on behalf of Plaintiff  
) WELLS FARGO BANK, a National  
) Banking Association

) Counsel of Record for This Party:

) **PETER J. PAYNE, ESQUIRE**  
) **PA I.D. #68902**

) **Peter J. Payne & Associates**  
) 105 Penn Plaza  
) Turtle Creek, PA 15145

) (412)823-8100

) **JURY TRIAL DEMANDED**

) **THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION**  
**OBTAINED SHALL BE USED FOR THAT PURPOSE.**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK N.A.,  
a National Banking Association

CIVIL DIVISION

NO.: 08-1253-CD

Plaintiff,

vs.

J W KITKKO & SONS; CHARLES  
KITKKO, individually AND  
JOHN KITKKO, individually.

Defendants

**NOTICE OF ENTRY OF JUDGMENT, ORDER OR DECREE**

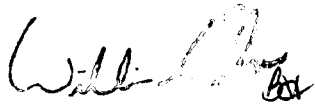
Pursuant to requirements of Pa. Civil Procedural Rule No. 236, you are notified that there was entered in this office today, in the above-captioned case.

X Judgment of \$73,422.78, plus costs and interest for Plaintiff and against Defendants, JW Kitkko & Sons, Chalres Kitkko and John Kitkko.

\_\_\_ Judgment for Defendant(s) and against Plaintiff(s).

\_\_\_ Order of Decree in favor of \_\_\_\_\_

Dated: 6/29/11

  
\_\_\_\_\_  
Prothonotary

To: JW Kitkko & Sons  
189 Fernwood Dr.  
Houtzdale, PA 16651

Charles Kitkko  
189 Fernwood Drive  
Houtzdale PA 16651

John Kitkko  
267 Troxell Spring Road  
Apt. 42911  
Flinton PA 16640

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Sarah A. Elia  
Identification No.: 206946  
2000 Market Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19103  
(267) 295-3364

**FILED**

JAN 23 PM 6:13

**JAN 29 2018**

BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

ICC Atty Elia

*(Signature)*

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

v. :

J W KITKKO & SONS :  
CHARLES KITKKO :  
JOHN KITKKO :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 08-1253-CD

**ENTRY OF APPEARANCE**

To the Prothonotary:

Kindly enter the appearance of the above attorney on behalf of Plaintiff in the above matter.

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

Dated: January 25, 2018

By: \_\_\_\_\_

*(Signature)*

SARAH A. ELIA, ESQUIRE  
Attorney for Plaintiff

**FILED**

**JAN 29 2018**

**BRIAN K. SPENCER**  
**PROTHONOTARY & CLERK OF COURT**

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Peter E. Meltzer  
Identification No.: 39828  
By: Sarah A. Elia  
Identification No.: 206946  
2000 Market Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19103  
(267) 295-3364

**FILED**  
M 3:00 P.M. OK  
**JAN 29 2018**  
BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS  
1cc Atty; 1cc  
w/1cc Write SHFF  
Atty pd. 20.00  
(10)

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

v. :

J W KITKKO & SONS :  
CHARLES KITKKO :  
JOHN KITKKO :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 08-1253-CD

**PRAECIPE FOR WRIT OF REVIVAL**

To the Prothonotary:

Issue writ of revival of lien of judgment entered at Clearfield County Court of Common Pleas, Case No. 08-1253-CD and enter it in the judgment index against J W KITKKO & SONS, CHARLES KITKKO and JOHN KITKKO in the amount of \$73,422.78 plus costs and interest.

Respectfully submitted,

**Weber Gallagher Simpson  
Stapleton Fires & Newby, LLP.**

Dated: 1/25/18

By:   
Sarah A. Elia, Esquire



**FILED**

**JAN 29 2018**

**BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURT**

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Sarah A. Elia  
Identification No.: 206946  
2000 Market Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19103  
(267) 295-3364

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

v.

NO. 08-1253-CD

J W KITKKO & SONS  
CHARLES KITKKO  
JOHN KITKKO

**WRIT OF REVIVAL**

To: J W KITKKO & SONS  
CHARLES KITKKO  
JOHN KITKKO

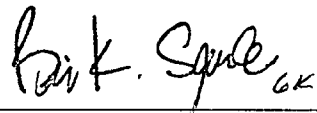
- (1) You are notified that Plaintiff has commenced a proceeding to revive the lien of the judgment entered at Clearfield County Court of Common Pleas, Case No. 08-1253-CD.
- (2) The Plaintiff claims that the amount due and unpaid is \$73,422.78 plus costs and interest.
- (3) You are required within twenty (20) days after service of this writ to file an answer or otherwise plead to this writ. If you fail to do so, judgment of revival in the amount claimed by the Plaintiff may be entered without a hearing and you may lose your property or other important rights.

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.

COURT ADMINISTRATOR  
Clearfield County Courthouse  
230 East Market Street, Suite 228  
Clearfield, PA 16830  
(814) 765-2641, Ext. 5982

Date: 1-29-18

  
Prothonotary



I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial Systems of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.



\_\_\_\_\_  
Signature of Attorney or Pro Se Litigant

Sarah A. Elia, Esquire

\_\_\_\_\_  
Printed Name

206946

\_\_\_\_\_  
Attorney Number (If Applicable)

(267) 295-3364

\_\_\_\_\_  
Telephone

2000 Market Street, Suite 1300

\_\_\_\_\_  
Address

Philadelphia, PA 19103

\_\_\_\_\_  
City/State/Zip Code

selia@wglaw.com

\_\_\_\_\_  
Email Address

*Note: Parties and attorney of record in a case will have access to this confidential information form. Confidentiality of this information must be maintained.*

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Sarah A. Elia  
Identification No.: 206946  
2000 Market Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19103  
(267) 295-3364

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

v. :

NO. 08-1253-CD

J W KITKKO & SONS :  
CHARLES KITKKO :  
JOHN KITKKO :

**CERTIFICATION OF AS TO COMPLIANCE WITH PA. R. CIV. P. 237.1**

I hereby certify that I am the attorney for the plaintiff in this action and further certify that on March 8, 2018, I caused the 10-day notice required by Pa. R.Civ. P. 237.1 to be sent to Defendants. A copy of the 10-day Notice is attached hereto as Exhibit "A".



Sarah A. Elia, Esquire  
Attorney for Plaintiff

Dated: March 21, 2018

EXHIBIT "A"

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Sarah A. Elia  
Identification No.: 206946  
2000 Market Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19103  
(267) 295-3364

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

v. :

NO. 08-1253-CD

J W KITKKO & SONS :  
CHARLES KITKKO :  
JOHN KITKKO :

TO: J W KITTKO & SONS, CHARLES KITTKO, AND JOHN KITTKO

**IMPORTANT NOTICE**

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. 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 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.

**COURT ADMINISTRATOR  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830  
(814) 765-2641 ext. 5010**

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

Date: March 8, 2018

By:                     SE                      
SARAH A. ELIA, ESQUIRE  
Attorney for Plaintiff

This is an attempt by a debt collector to collect a debt. Any information obtained will be used for that purpose.

**CERTIFICATE OF SERVICE**


I hereby certify that on the below date, the foregoing TEN DAY NOTICE OF DEFAULT  
was served via United States mail, first class, postage prepaid, on the following:

J W KITKKO & SONS  
150 Rose Street  
Glen Hope, PA 16645

CHARLES KITKKO  
150 Rose Street  
Glen Hope, PA 16645

JOHN KITKKO  
150 Rose Street  
Glen Hope, PA 16645

By: \_\_\_\_\_

  
Sarah A. Elia

Date: March 8, 2018



**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Sarah A. Elia

Identification No.: 206946

2000 Market Street, 13<sup>th</sup> Floor

Philadelphia, PA 19103

(267) 295-3364

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

v. :

J W KITKKO & SONS :  
CHARLES KITKKO :  
JOHN KITKKO :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 08-1253-CD

**CERTIFICATE OF ADDRESS AND NON-MILITARY SERVICE**

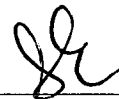
The undersigned hereby certifies that, upon information and belief:

Defendant, J W KITKKO & SONS, has an address at 150 Rose Street, Glen Hope, PA 16645.

Defendant, CHARLES KITKKO, has an address at 150 Rose Street, Glen Hope, PA 16645.

Defendant, JOHN KITKKO, has an address at 150 Rose Street, Glen Hope, PA 16645.

Deponent further avers that, upon information and belief, the above Defendants are not within the protection of the Soldiers' and Sailors' Civil Relief Act of 1940, together with amendments thereto.

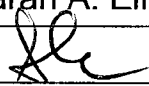


Sarah A. Elia

**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Sarah A. Elia

Signature: 

Name: Sarah A. Elia

Attorney No. (if applicable): 206946

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Sarah A. Elia  
Identification No.: 206946  
2000 Market Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19103  
(267) 295-3364

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

v. :

NO. 08-1253-CD

J W KITKKO & SONS :  
CHARLES KITKKO :  
JOHN KITKKO :

**NOTICE**

PURSUANT TO RULE 236 OF THE PENNSYLVANIA RULES OF CIVIL  
PROCEDURE, NOTICE IS GIVEN THAT A JUDGMENT BY DEFAULT IN THE ABOVE-  
CAPTIONED MATTER HAS BEEN ENTERED AGAINST YOU.

**PROTHONOTARY**

If you have any questions concerning the above, please contact:

Sarah A. Elia, Esquire  
Weber Gallagher Simpson  
Stapleton Fires & Newby, LLP  
2000 Market Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19103  
(267) 295-3364

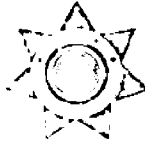
# SHERIFF'S OFFICE OF CLEARFIELD COUNTY

Michael Churner  
Sheriff

Gary A Knaresboro  
Solicitor

John W Murarik  
Chief Deputy

Cynthia Butler-Aughenbaugh  
Office Manager



WELLS FARGO BANK, NA., a NATIONAL BANKING ASSOCIATION  
vs.  
J W KITKCO & SONS (et al.)

Case Number  
2008-1253-CD

## SHERIFF'S RETURN OF SERVICE

- 02/01/2018 · Sheriff Michael Churner, being duly sworn according to law, deposes and says, the Sheriff of Cambria County was deputized to serve the within Writ of Revival (WOREV) on J W KITKCO & SONS.
- 02/01/2018 · Sheriff Michael Churner, being duly sworn according to law, deposes and says, the Sheriff of Cambria County was deputized to serve the within Writ of Revival (WOREV) on JOHN KITKCO.
- 02/02/2018 · 09:55 AM - Deputy Dave Johnston, being duly sworn according to law, deposes and says, the Writ of Revival (WOREV) was served upon J W KITKCO & SONS at 150 ROSE STREET, GLEN HOPE, PA 16645 by handing a true and attested copy to a CHARLES KITKO-OWNER, adult-in-charge at time of service, and made known the contents thereof.
- 02/02/2018 · 09:55 AM - Deputy Dave Johnston, being duly sworn according to law, deposes and says, the Writ of Revival (WOREV) was served upon JOHN KITKCO at 150 ROSE STREET, GLEN HOPE, PA 16645 by handing a true and attested copy to a CHARLES KITKO-OWNER, adult-in-charge at time of service, and made known the contents thereof.
- 02/02/2018 · 11:20 AM - Deputy Jeff Rhone, being duly sworn according to law, deposes and says, the Writ of Revival (WOREV) was served upon J W KITKCO & SONS at 150 ROSE STREET, GLEN HOPE PA 16645 by handing a true and attested copy to the Defendant and made known the contents thereof.
- 02/02/2018 · 11:20 AM - Deputy Jeff Rhone, being duly sworn according to law, deposes and says, the Writ of Revival (WOREV) was served upon J W KITKCO & SONS at 150 ROSE STREET, GLEN HOPE PA 16645 by handing a true and attested copy to the Defendant and made known the contents thereof.
- 02/02/2018 · 11:20 AM - Deputy Jeff Rhone, being duly sworn according to law, deposes and says, the Writ of Revival (WOREV) was served upon CHARLES KITKCO at 150 ROSE STREET, GLEN HOPE PA 16645 by handing a true and attested copy to the Defendant and made known the contents thereof.
- 02/02/2018 · 11:20 AM - Deputy Jeff Rhone, being duly sworn according to law, deposes and says, the Writ of Revival (WOREV) was served upon CHARLES KITKCO at 150 ROSE STREET, GLEN HOPE PA 16645 by handing a true and attested copy to the Defendant and made known the contents thereof.
- 04/18/2018 09:00 AM - The requested Writ of Revival (WOREV) served by the Sheriff of Cambria County upon JOHN KITKCO at CAMBRIA COUNTY SHERIFF'S OFFICE, EBENSBURG, PA 15931. CAMBRIA COUNTY Sheriff, Return of Service attached to and made part of the within record.
- 04/18/2018 09:00 AM - The requested Writ of Revival (WOREV) served by the Sheriff of Cambria County upon JOHN KITKO SEC/TREASURE/OWNER, who accepted for J W KITKCO & SONS, at CAMBRIA COUNTY SHERIFF'S OFFICE, EBENSBURG, PA 15931. CAMBRIA COUNTY Sheriff, Return of Service attached to and made part of the within record.

CAMBRIA COUNTY COSTS: 136.00

SHERIFF COST: \$177.07

April 26, 2018

FILED  
01/2:48pm  
APR 26 2018  
NOC

BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

SO ANSWERS,

*Michael Churner*

MICHAEL CHURNER, SHERIFF

**COSTS**

<b>DATE</b>	<b>CATEGORY</b>	<b>MEMO</b>	<b>CHK #</b>	<b>DEBIT</b>	<b>CREDIT</b>
02/01/2018	Advance Fee	Advance Fee	066952	\$0.00	\$300.00
02/01/2018	RDR			\$9.00	\$0.00
04/26/2018	Deputization			\$9.00	\$0.00
04/26/2018	Postage			\$3.00	\$0.00
04/26/2018	Surcharge			\$80.00	\$0.00
04/26/2018	Mileage			\$25.07	\$0.00
04/26/2018	Service			\$9.00	\$0.00
04/26/2018	Service (Additional Defendant)			\$42.00	\$0.00
04/26/2018	Refund			\$122.93	\$0.00
				<b>\$300.00</b>	<b>\$300.00</b>
<b>BALANCE:</b>				<b>\$0.00</b>	

# SHERIFF'S OFFICE OF CAMBRIA COUNTY

Bob Kolar  
Sheriff



Suzann M. Lehmier  
Solicitor

WELLS FARGO BANK, NA.  
vs.  
J W KITKKO & SONS (et al.)

Case Number  
2018-90021 (2008-1253)

## SHERIFF'S RETURN OF SERVICE

- 04/18/2018 09:00 AM - DEPUTY JEFF VIVIAN SERVED THE REQUESTED WRIT OF REVIVAL (WOREV) BY "PERSONALLY" HANDING A TRUE COPY TO A PERSON REPRESENTING THEMSELVES TO BE JOHN K. KITKO, SEC/TREASURER/OWNER, WHO ACCEPTED AS "ADULT PERSON IN CHARGE" FOR THE DEFENDANT, TO WIT: J W KITKKO & SONS AT THE CAMBRIA COUNTY SHERIFF'S OFFICE, 200 SOUTH CENTER STREET, EBENSBURG, PA 15931.  
(defendant's address is 150 Rose Street, Glen Hope, PA 16645. Acceptance form signed)
- 04/18/2018 09:00 AM - DEPUTY JEFF VIVIAN SERVED THE REQUESTED WRIT OF REVIVAL (WOREV) BY "PERSONALLY" HANDING A TRUE COPY TO A PERSON REPRESENTING THEMSELVES TO BE THE DEFENDANT, TO WIT: JOHN KITKO AT THE CAMBRIA COUNTY SHERIFF'S OFFICE, 200 SOUTH CENTER STREET, EBENSBURG, PA 15931.  
(defendant's address is 267 Troxell Spring Road, PO Box 42911, Flinton, PA 16640)

SHERIFF COST: \$136.00

SO ANSWERS,

BOB KOLAR, SHERIFF

April 24, 2018

### PROTHONOTARY

Affirmed and subscribed to before me this

24TH day of APRIL, 2018

WEBER GALLAGHER SIMPSON STAPLETON FIRES & NEWBY LLP 2000 MARKET STREET 13TH FLOOR PHILADEL

(c) CountySuite Sheriff, Teleosoft, Inc.

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Peter E. Meltzer  
Identification No.: 39828  
By: Sarah A. Elia  
Identification No.: 206946  
2000 Market Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19103  
(267) 295-3364

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

v. :

NO. 08-1253-CD

J W KITKKO & SONS  
CHARLES KITKKO  
JOHN KITKKO

**PRAECIPE FOR WRIT OF REVIVAL**

To the Prothonotary:

Issue writ of revival of lien of judgment entered at Clearfield County Court of Common Pleas, Case No. 08-1253-CD and enter it in the judgment index against J W KITKKO & SONS, CHARLES KITKKO and JOHN KITKKO in the amount of \$73,422.78 plus costs and interest.

Respectfully submitted,


**Weber Gallagher Simpson  
Stapleton Fires & Newby, LLP.**

Dated: 1/25/18

By:   
Sarah A. Elia, Esquire

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

**JAN 29 2018**

**A TRUE COPY**  
**ATTEST:**   
PROTHONOTARY-CLERK

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Sarah A. Elia  
Identification No.: 206946  
2000 Market Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19103  
(267) 295-3364

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

v.

NO. 08-1253-CD

J W KITKKO & SONS  
CHARLES KITKKO  
JOHN KITKKO

**WRIT OF REVIVAL**

To: J W KITKKO & SONS  
CHARLES KITKKO  
JOHN KITKKO

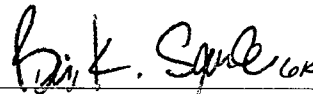
- (1) You are notified that Plaintiff has commenced a proceeding to revive the lien of the judgment entered at Clearfield County Court of Common Pleas, Case No. 08-1253-CD.
- (2) The Plaintiff claims that the amount due and unpaid is \$73,422.78 plus costs and interest.
- (3) You are required within twenty (20) days after service of this writ to file an answer or otherwise plead to this writ. If you fail to do so, judgment of revival in the amount claimed by the Plaintiff may be entered without a hearing and you may lose your property or other important rights.

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.

COURT ADMINISTRATOR  
Clearfield County Courthouse  
230 East Market Street, Suite 228  
Clearfield, PA 16830  
(814) 765-2641, Ext. 5982

Date: 1-29-18

  
Prothonotary



**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Sarah A. Elia  
Identification No.: 206946  
2000 Market Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19103  
(267) 295-3364

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

v. :

NO. 08-1253-CD

J W KITKKO & SONS :  
CHARLES KITKKO :  
JOHN KITKKO :

**WRIT OF REVIVAL**

To: J W KITKKO & SONS  
CHARLES KITKKO  
JOHN KITKKO

- (1) You are notified that Plaintiff has commenced a proceeding to revive the lien of the judgment entered at Clearfield County Court of Common Pleas, Case No. 08-1253-CD.
- (2) The Plaintiff claims that the amount due and unpaid is \$73,422.78 plus costs and interest.
- (3) You are required within twenty (20) days after service of this writ to file an answer or otherwise plead to this writ. If you fail to do so, judgment of revival in the amount claimed by the Plaintiff may be entered without a hearing and you may lose your property or other important rights.

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COURT ADMINISTRATOR  
Clearfield County Courthouse  
230 East Market Street, Suite 228  
Clearfield, PA 16830  
(814) 765-2641, Ext. 5982

Date: 1-29-18

  
Prothonotary

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Sarah A. Elia  
Identification No.: 206946  
2000 Market Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19103  
(267) 295-3364

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

v. :

NO. 08-1253-CD

J W KITKKO & SONS :  
CHARLES KITKKO :  
JOHN KITKKO :

**WRIT OF REVIVAL**

To: J W KITKKO & SONS  
CHARLES KITKKO  
JOHN KITKKO

- (1) You are notified that Plaintiff has commenced a proceeding to revive the lien of the judgment entered at Clearfield County Court of Common Pleas, Case No. 08-1253-CD.
- (2) The Plaintiff claims that the amount due and unpaid is \$73,422.78 plus costs and interest.
- (3) You are required within twenty (20) days after service of this writ to file an answer or otherwise plead to this writ. If you fail to do so, judgment of revival in the amount claimed by the Plaintiff may be entered without a hearing and you may lose your property or other important rights.

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.

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COURT ADMINISTRATOR  
Clearfield County Courthouse  
230 East Market Street, Suite 228  
Clearfield, PA 16830  
(814) 765-2641, Ext. 5982

Date: 1-29-18

  
Prothonotary

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Sarah A. Elia  
Identification No.: 206946  
2000 Market Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19103  
(267) 295-3364

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

v. :

NO. 08-1253-CD

J W KITKKO & SONS  
CHARLES KITKKO  
JOHN KITKKO

**WRIT OF REVIVAL**

To: J W KITKKO & SONS  
CHARLES KITKKO  
JOHN KITKKO

- (1) You are notified that Plaintiff has commenced a proceeding to revive the lien of the judgment entered at Clearfield County Court of Common Pleas, Case No. 08-1253-CD.
- (2) The Plaintiff claims that the amount due and unpaid is \$73,422.78 plus costs and interest.
- (3) You are required within twenty (20) days after service of this writ to file an answer or otherwise plead to this writ. If you fail to do so, judgment of revival in the amount claimed by the Plaintiff may be entered without a hearing and you may lose your property or other important rights.

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.

COURT ADMINISTRATOR  
Clearfield County Courthouse  
230 East Market Street, Suite 228  
Clearfield, PA 16830  
(814) 765-2641, Ext. 5982

Date: 1-29-18

  
Prothonotary

5

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Peter E. Meltzer  
Identification No.: 39828  
By: Sarah A. Elia  
Identification No.: 206946  
2000 Market Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19103  
(267) 295-3364

FILED  
M/JW/IM  
MAY 07 2018  
BRIAN K. SPENCER  
PROTHONOTARY  
lec Abby Elia

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

v. :

NO. 08-1253-CD

J W KITKKO & SONS :  
CHARLES KITKKO :  
JOHN KITKKO :

**MOTION TO CORRECT SPELLING OF DEFENDANTS' NAMES**

Plaintiff, Wells Fargo Bank, N.A., by and through its attorneys, Weber Gallagher Simpson Stapleton Fires & Newby, LLP, files this Motion to Correct Spelling of Defendants' Names pursuant to Pa.R.C.P. 1033, and in support thereof states as follows:

1. This case was initiated by the filing of a Complaint against Defendants, "JW Kitkko & Sons, Charles Kitkko, and John Kitkko."
2. A judgment was entered against Defendants and in favor of Plaintiff on or about June 29, 2011. See Exhibit "A" attached hereto.
3. The judgment against Defendants was revived on or about March 29, 2018. See Exhibit "B" attached hereto.
4. It has come to Plaintiff's attention that Defendants' names were spelled incorrectly at the institution of this case. Specifically, the "Kitkko" in each of the Defendants' names

should be "Kitko". In other words, the Complaint was erroneously filed with an additional "k" in each of the Defendants' names.

5. Accordingly, the judgments entered against the Defendants reflect incorrect spellings of Defendants' names.
6. Attached hereto as Exhibit "C" is the Acceptance Certificate signed by the Defendants regarding the loan at issue in this case, which indicates the Defendants' names are Charles Kitko, John Kitko and J W Kitkko & Sons.
7. Pa.R.C.P. 1033 provides that a party may correct the name of a party.
8. As discussed above, it is clear that there was an error in the spelling of the Defendants' names in this action. Accordingly, the Defendants' names should be correct to read: "J W Kitko & Sons, Charles Kitko and John Kitko."
9. It has been held that in the absence of a proper and compelling ground for refusing an amendment, the court should grant leave to amend. Pellegrine v. Home Ins. Co., 200 Pa. Super. 48, 186 A.2d 662 (Pa. Super. Ct. 1962).

WHEREFORE, for all of the foregoing reasons, Plaintiff requests that the spelling of the Defendants' names be corrected pursuant to the form of Order attached hereto and that the Prothonotary index the judgment against the Defendants to reflect the corrected spelling of the names.

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

Dated:

5/4/18

By:

  
SARAH A. ELIA, ESQUIRE

# EXHIBIT "A"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK N.A.,  
a National Banking Association

CIVIL DIVISION

NO.: 08-1253-CD

Plaintiff,

vs.

J W KITKKO & SONS; CHARLES  
KITKKO, individually AND  
JOHN KITKKO, individually.

Defendants

NOTICE OF ENTRY OF JUDGMENT, ORDER OR DECREE


Pursuant to requirements of Pa. Civil Procedural Rule No. 236, you are notified that there was entered in this office today, in the above-captioned case.

☒ Judgment of \$73,422.78, plus costs and interest for Plaintiff and  
against Defendants, JW Kitkko & Sons, Chalres Kitkko and John Kitkko.

☐ Judgment for Defendant(s) and against Plaintiff(s).

☐ Order of Decree in favor of \_\_\_\_\_

Dated: 10/29/11

**COPY**  
  
Prothonotary

To: JW Kitkko & Sons  
189 Fernwood Dr.  
Houtzdale, PA 16651

Charles Kitkko  
189 Fernwood Drive  
Houtzdale PA 16651

John Kitkko  
267 Troxell Spring Road  
Apt. 42911  
Flinton PA 16640

13 - 18 496

# EXHIBIT "B"



**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Sarah A. Elia  
Identification No.: 206946  
2000 Market Street, 13<sup>th</sup> Floor  
Philadelphia, PA 19103  
(267) 295-3364

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

v. :

NO. 08-1253-CD

J W KITKKO & SONS :  
CHARLES KITKKO :  
JOHN KITKKO :

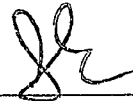
**Praecipe for Judgment of Revival**

To the Prothonotary:

Pursuant to Pa.R.C.P. 3031, enter judgment of revival in the sum of \$73,422.78 in favor of the Plaintiff WELLS FARGO BANK, N.A., A NATIONAL BANKING ASSOCIATION and against Defendants J W KITKKO & SONS, CHARLES KITKKO and JOHN KITKKO because of Defendants' failure to plead to the writ of revival, and assess damages as follows:

Amount claimed in Writ of Revival: \$73,422.78

REAL DEBT \$73,422.78



Sarah A. Elia, Esquire  
Attorney for Plaintiff

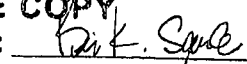
**ASSESSMENT OF DAMAGES**

~~AND NOW~~ this is to be a true and attested copy of the original statement filed in this case.

**MAR 29 2018**

Prothonotary

**A TRUE COPY**

ATTEST:   
PROTHONOTARY-CLERK

# EXHIBIT "C"

**Pre-Qualified BusinessLine® Acceptance Certificate****Important Personal Information**

Owner #1 Name (please print) Charles A. Kitko  
 Social Security Number \_\_\_\_\_  
 Home Street Address (No P.O. Boxes, please) 189 Fernwood Rd. Home Phone Number 814 378-5856  
 City Houtzdale State PA Zip 16651

Owner #2 Name (please print) John R. Kitko  
 Social Security Number \_\_\_\_\_

Home Street Address (No P.O. Boxes, please) 267 Troxell Spring Rd. Home Phone Number 814 687-4007  
 City Eflon State PA Zip 16640

**Important Business Information**

Business Name J.W. Kitko - Sons  
 Business Street Address (No P.O. Boxes, please) 150 Rose St.  
 City Glen Hope State PA Zip 16645  
 Business Phone Number 814 672-3590 Business Fax Number 814 672-5291  
 Annual Revenue/Sales \$ 200,000. Business Taxpayer ID Number \_\_\_\_\_  
 Type of Ownership: ☐ Sole Proprietor ☐ Partnership ☒ Corporation  
☐ Other \_\_\_\_\_

**Required Signature(s)**

I certify that I have read and agree with the Terms and Conditions on the reverse side, including the personal guaranty.

X Charles A. Kitko Pres 5/14/05  
 Owner #1 Signature Title Date  
 X John R. Kitko Sec. 5/14/05  
 Owner #2 Signature Title Date

**Easy cash access and great rates—reply today!**

**Mail this Certificate or fax it toll-free to 1-866-261-6788.**

**Offer expires 5/20/05.**

Charles Kitko, President  
 KITKO J W & SONS WOOD PRODUCTS  
 160 Rose St  
 Glen Hope, PA 16645

Reservation #:

Note: Please abbreviate your business name so it does not exceed 24 characters and owner name so it does not exceed 21 characters. This is how they will appear on your personalized checks.

**Optional Credit Protection Program**

☐ **YES!** I want to defer my BusinessLine payments if I were to have an injury or illness that prevented me from working. I have read the Program Summary on the reverse side.

Please attach a voided check to the application if you select either of the following features:

**Electronic Funds Transfer**

☐ **YES!** I want funds transferred to my business checking account right away! Please make an **Electronic Funds Transfer** immediately in the amount specified:  
☐ \$5,000 ☐ \$10,000 ☐ \$15,000 ☐ Up to my credit limit  
☐ Other \$ \_\_\_\_\_

**Telephone Transfer (No Charge)**

☐ **YES!** Check here for 24-hour access allowing you to transfer funds from your BusinessLine account to your existing business checking account.

5204211332

S2649C (4/05) 1.24HJ

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Peter E. Meltzer

Identification No.: 39828

By: Sarah A. Elia

Identification No.: 206946

2000 Market Street, 13<sup>th</sup> Floor

Philadelphia, PA 19103

(267) 295-3364

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

v. :

NO. 08-1253-CD

J W KITKKO & SONS :

CHARLES KITKKO :

JOHN KITKKO :

**CERTIFICATE OF SERVICE**

I, Sarah A. Elia, counsel for Wells Fargo Bank, N.A., hereby certify that on the below  
date, the foregoing *Plaintiff's Motion to Correct Spelling of Defendants' Names* was served via  
United States mail, First class, postage prepaid, on the following:

J W KITKKO & SONS

150 Rose Street

Glen Hope, PA 16645

CHARLES KITKKO

150 Rose Street

Glen Hope, PA 16645

JOHN KITKKO

150 Rose Street

Glen Hope, PA 16645

Date: May 4, 2018

BY: 

Sarah A. Elia

Attorney for Plaintiff

**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Peter E. Meltzer

Identification No.: 39828

By: Sarah A. Elia

Identification No.: 206946

2000 Market Street, 13<sup>th</sup> Floor

Philadelphia, PA 19103

(267) 295-3364

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

v. :

J W KITKCO & SONS :  
CHARLES KITKCO :  
JOHN KITKCO :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

NO. 08-1253-CD

**FILED**

2:06 PM

**MAY 08 2018**

**ORDER**

BRIAN K. SEPT  
PROTHONOTARY & CLERK

3cc Atty elia

AND NOW, this 8 day of May, 2018, upon consideration of the Motion of Plaintiff

to Correct Spelling of Defendants' Names, and any response thereto, it is hereby

ORDERED that Plaintiff's Motion is GRANTED. The Defendants names are hereby corrected

to be J W Kitko & Sons, Charles Kitko, and John Kitko.

FURTHER ORDERED that the Prothonotary index the judgment entered against  
Defendants in so that it reflects the corrected spelling of the Defendants' names.



FREDRIC J. AMMERMAN  
President Judge

**ORIGINAL**

5  
**WEBER GALLAGHER SIMPSON  
STAPLETON FIRES & NEWBY, LLP**

By: Peter E. Meltzer

Identification No.: 39828

By: Sarah A. Elia

Identification No.: 206946

2000 Market Street, 13<sup>th</sup> Floor

Philadelphia, PA 19103

(267) 295-3364

Attorneys for Plaintiff

WELLS FARGO BANK, N.A., a National Banking :  
Association :

COURT OF COMMON PLEAS  
CLEARFIELD COUNTY

v. :

NO. 08-1253-CD

J W KITKKO & SONS :

CHARLES KITKKO :

JOHN KITKKO :

**CERTIFICATE OF SERVICE**

I, Sarah A. Elia, counsel for Wells Fargo Bank, N.A., hereby certify that on the below date, the foregoing **Order dated May 8, 2018** was served via United States mail, First class, postage prepaid, on the following:

J W KITKKO & SONS

150 Rose Street

Glen Hope, PA 16645

CHARLES KITKKO

150 Rose Street

Glen Hope, PA 16645

JOHN KITKKO

150 Rose Street

Glen Hope, PA 16645

M/MA (Kut)  
**FILED**

9:15  
**MAY 16 2018**

BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURT  
1 cc Atty Elia

Date: May 14, 2018

BY: 

Sarah A. Elia

Attorney for Plaintiff