

08-1912-CD

Gumberg Assoc. vs Ronald Kimberly

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IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

GUMBERG ASSOCIATES – SANDY PLAZA,
by J. J. GUMBERG CO., Agent,

Plaintiff,

v.

RONALD KIMBERLY,
d/b/a JACKSON HEWITT TAX SERVICE,

Defendant.

CIVIL DIVISION

No. 08-1912-CD

COMPLAINT

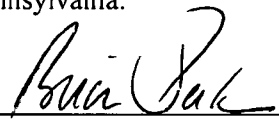
Filed on behalf of Plaintiff:

Gumberg Associates - Sandy Plaza, by
J. J. Gumberg Co., Agent

Counsel of Record for this party:

H. Brian Peck, Esquire
PA I.D. #41004
The Crossroads Law Firm
3901 Washington Road, Ste. 204
McMurray, PA 15317
(724) 969-0626

I hereby certify that the real
property at issue is located in
Sandy Township, Clearfield County,
Pennsylvania.


H. Brian Peck, Esquire

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FILED
OCT 08 2008
William A. Shaw
Prothonotary/Clerk of Courts
icc Sheriff
Atty pd. 95.00
Page 1

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

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|-----------------------------------|---|-----|
| GUMBERG ASSOCIATES – SANDY PLAZA, |) | |
| by J. J. GUMBERG CO., Agent |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. |
| |) | |
| RONALD KIMBERLY, |) | |
| d/b/a JACKSON HEWITT TAX SERVICE, |) | |
| |) | |
| Defendant. |) | |

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 attorney, and filing in writing with the court your defense or objections to the claims set forth against you. You are warned that, if you fail to do so, the case may proceed against 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 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 OR KNOW A LAWYER OR CANNOT AFFORD ONE, THEN YOU SHOULD GO TO, OR TELEPHONE, THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

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| by J. J. GUMBERG CO., Agent, |) | |
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| |) | |
| RONALD KIMBERLY, |) | |
| d/b/a JACKSON HEWITT TAX SERVICE, |) | |
| |) | |
| Defendant. |) | |

COMPLAINT

AND NOW, comes the Plaintiff, GUMBERG ASSOCIATES – SANDY PLAZA, by J. J. GUMBERG CO., Agent, by counsel, and files this Complaint and in support thereof states:

1. The Plaintiff, GUMBERG ASSOCIATES – SANDY PLAZA, is a Pennsylvania limited partnership, which regularly conducts business in Clearfield County, Pennsylvania, and the J. J. Gumberg Company ("Gumberg"), with offices located at Brinton Executive Center, 1051 Brinton Road, Pittsburgh, Pennsylvania 15221-4599, is its duly authorized agent.

2. The Defendant, RONALD KIMBERLY d/b/a JACKSON HEWITT TAX SERVICE, is an individual with offices located at 132 East Market Street, Dubois, Pennsylvania 16830.

3. The Defendant conducts business in a store in the Sandy Plaza (hereinafter also referred to as the "Shopping Center") situate in Sandy Township, Clearfield County, Pennsylvania, pursuant to a Lease ("Lease") entered into between J. J. Gumberg Co., as Agent for Gumberg Associates – Sandy Plaza and the Defendant dated December 5, 2005, and Lease Amendments dated August 29, 2006 and December 18, 2006 respectively. True and correct copies of the Lease and Lease Amendments are attached hereto as Exhibits "A", "B" and "C" and are incorporated herein by reference.

4. The Plaintiff is the fee simple owner of the Shopping Center known as Sandy Plaza located in Sandy Township pursuant to a Deed ("Deed") recorded at Clearfield County Recorder's Office Instrument No. 200409777 on June 17, 2004.

5. The Plaintiff's interests in the Deed and in the Lease have not been conveyed, transferred or assigned.

6. Tenant continues to conduct business in the Leased Premises as of the date of this Complaint.

7. Under the Lease which terminates by its terms on April 30, 2009, the Defendant is obligated to pay Gumberg (as Agent for the Plaintiff) minimum annual rent of \$933.33 on the first day of each calendar month during the Term of the Lease, as amended.

8. By the terms of the Lease, the Defendant covenanted and agreed to pay, as additional rent, its proportionate share of real property taxes and other assessments pertaining to the Shopping Center in the manner and upon the conditions set forth in the Lease. Lease, Article VII.

9. By the terms of the Lease, the Defendant covenanted and agreed to pay, as additional rent, its proportionate share of insurance premiums pertaining to the Shopping Center in the manner and upon the conditions set forth in the Lease. Lease, Article VIII.

10. By the terms of the Lease, the Defendant covenanted and agreed to pay, as additional rent, a share of the costs of operation and maintenance of the Shopping Center's "Common Areas" in the manner and upon the conditions set forth in the Lease. Lease, Article XVI.

11. By the terms of the Lease, the Defendant covenanted and agreed to contract for, in Defendant's own name, and pay for all utility service rendered or furnished to the Leased Premises. Lease, Article XXII.

12. By the terms of the Lease, the Defendant agreed to pay the Plaintiff's reasonable attorneys' fees incurred in recovering the Lease Premises after termination of the Lease for Defendant's breach. Lease, Article XXVI (2).

13. By the terms of the Lease, in the event any installment of fixed minimum rent or other charges accruing under the Lease becomes overdue for more than ten (10) days, a "Late Charge" of ten (\$.10) cents per each dollar so overdue shall be paid by the Defendant. Lease, Article V (2).

14. The Lease provides that the Defendant will be in default for failure to pay any rents or other charges or sums within five (5) days of such default or fails to perform any other of the terms, conditions or covenants of the lease for more than ten (10) days. Lease, Article XXVI (1).

15. The Defendant is in default of the Lease for failing to pay monthly installments of rent and other sums due, has received notice of said default as evidenced by the Notice of Default, a copy of which is attached hereto as Exhibit "D", and has failed to cure said default during the cure period provided in the Lease.

16. The arrearage on the Lease as of September 29, 2008 was **\$4,060.55**, calculated as follows:

| | |
|--|-------------------|
| CAM Reimbursement (billed 1/30/08) | \$ 798.23 |
| August 2008 Rent | \$ 933.33 |
| August 2008 Common Area Maintenance | \$ 122.50 |
| August 2008 Taxes | \$ 116.67 |
| September 2008 Rent | \$ 933.33 |
| September 2008 Common Area Maintenance | \$ 122.50 |
| September 2008 Taxes | \$ <u>116.67</u> |
| Subtotal: | \$3,143.23 |
| Late Charges (10%) | \$ 314.32 |
| Attorney Fees and Costs as of 9/29/08 | \$ <u>603.00</u> |
| Total: | \$4,060.55 |

17. The Defendant has failed or otherwise refused to comply with Gumberg's demand for payment.

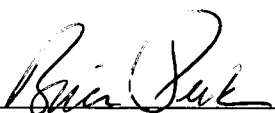
WHEREFORE, GUMBERG ASSOCIATES – SANDY PLAZA, by J.J. GUMBERG CO., Agent prays for a judgment against RONALD KIMBERLY d/b/a JACKSON HEWITT TAX SERVICE in the amount of \$4,060.55 plus any and all additional rents and charges which will become due under the Lease from date of filing to date of entry of judgment, plus attorneys fees and costs of this action.

GUMBERG ASSOCIATES – SANDY PLAZA, by
J. J. Gumberg Co., Agent,

By Counsel,

Dated: October 6, 2008

By:



H. Brian Peck, Esquire
Pa I.D. #41004
The Crossroads Law Firm
3901 Washington Road, Ste. 204
McMurray, PA 15317
(724) 969-0626

LEASE

BY

AND

BETWEEN

GUMBERG ASSOCIATES - SANDY PLAZA

as Landlord

AND

RONALD KIMBERLY

d/b/a JACKSON HEWITT TAX SERVICE

as Tenant

Exhibit A

Gumberg v. Jackson Hewitt

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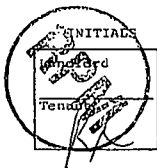
LEASE

THIS LEASE dated December 6, 2005 and made in Pittsburgh, Pennsylvania, by and between GUMBERG ASSOCIATES - SANDY PLAZA, as Landlord, by J.J. GUMBERG CO., AGENT, Brinton Executive Center, 1051 Brinton Road, Pittsburgh, Pennsylvania 15221-4599 and RONALD KIMBERLY d/b/a JACKSON HEWITT TAX SERVICE, as Tenant, 132 East Market Street, Clearfield, Pennsylvania 16830

WITNESSETH

ARTICLE I - SUMMARY OF BASIC LEASE PROVISIONS

1. Shopping Center: Sandy Plaza
2. Room Number: 105
3. Room Size: 2,400 square feet
4. Term of Lease: Approximately Three (3) years
5. Commencement of Term: The first to occur of: (i) the date Tenant opens for business in the Premises or (ii) forty-five (45) days after the date Landlord delivers possession of the Premises to Tenant
6. Expiration of Term: April 30, 2009
7. Rent Commencement Date: The ninety-first (91st) day after the Commencement of the Term of this Lease
8. Fixed Minimum Rent: \$1,600.00 per month
9. ~~Percentage Rent: % in excess of \$ for Lease Years one through~~
10. Taxes: \$200.00 per month adjusted annually
11. Insurance: ~~\$ per month adjusted annually~~ included in Common Area Payment
12. ~~Merchant's Association or Marketing Fund Dues \$ per month adjusted annually~~
13. Common Area Maintenance: \$210.00 per month adjusted annually
14. ~~Utilities: \$ per month subject to adjustment~~
15. ~~Trash Collection: \$ per month subject to adjustment~~
16. Tenant's Trade Name: Jackson Hewitt Tax Service
17. Permitted Use: to conduct a tax preparation business including but not limited to electronic tax filing and refund anticipation loans and for selling such other products and services typically offered by Jackson Hewitt Tax Service
18. Tenant's Notice Address: Ronald Kimberly d/b/a Jackson Hewitt Tax Service, 132 East Market Street, Clearfield, Pennsylvania 16830
19. Landlord's Notice Address: Gumberg Associates - Sandy Plaza c/o J.J. Gumberg Co., Brinton Executive Center, 1051 Brinton Road, Pittsburgh, Pennsylvania 15221-4599



20. Landlord's Remittance Information: Make all rental checks payable to Sandy Plaza c/o J.J. Gumberg Co., with a Federal Tax identification number of 25-1386710 and mail to J.J. Gumberg Co., Brinton Executive Center, 1051 Brinton Road, Pittsburgh, Pennsylvania 15221-4599
21. Tenant's time to Cure Defaults:
- | | |
|---------------|---|
| Monetary: | Payment required within <u>five (5)</u> days after written notice |
| Non-monetary: | Cure required within <u>ten (10)</u> days after written notice. |
22. Security Deposit: \$2,010.00
- ~~23. Guarantor:~~
- Address:
24. Exhibits: The following exhibits are incorporated in this Lease by reference as though set forth herein in detail:
- Exhibit "A" - Plot Plan of the Shopping Center
Exhibit "B" - Sign Criteria
Exhibit "C" - No-Lien Agreement

The recitation of facts contained in this Article I of the Lease shall not be deemed exhaustive, but shall be construed and incorporated into the specific terms of the Lease applicable thereto. The foregoing list is for convenience only. If there is a conflict between the provisions of this Article I and any other provision of the Lease, the full explanatory provision of the Lease shall control.

ARTICLE II - DEFINITION OF TERMS

- "Lease Year" shall mean each successive twelve month period beginning with the Rent Commencement Date, and each yearly anniversary thereof, provided the Rent Commencement Date of this Lease is on the first day of the month. If the Rent Commencement Date is any day other than the first day of the month, then the Lease Year shall begin on the first day of the month following the end of the month during which the Rent Commencement Date occurred. "Partial Lease Year" shall mean any period prior to the first Lease Year or any period subsequent to the last Lease Year.
- "Floor Area" shall mean the actual number of square feet of floor space of all floors, basements and mezzanines of the Leased Premises or Shopping Center as may be applicable without deduction or exclusion for any space occupied or used by columns, stairs, or other interior construction or equipment within the exterior faces of exterior walls, except party walls (walls shared by separate tenants) in which case the center of the wall in question shall be used instead of the exterior face thereof.
- "Shopping Center" shall mean that portion of the land in the Shopping Center development and the improvements thereon, whether owned or leased by Landlord.
- "Common Area" shall mean such parking areas, mall areas, walkways, aisles, stairways, traffic corridors, approaches, exits, entrances and roadways and other areas and improvements in the Shopping Center as are designated from time to time by Landlord for the general use, in common, of tenants, their employees, agents, customers and business invitees, exclusive of space in present and/or future buildings designated for rental to tenants for commercial purposes and exclusive of roads and highways maintained by a public authority.
- "Landlord", to the extent that covenants or obligations on the part of Landlord are concerned shall be limited to mean and include only the owner (or tenant of the ground or underlying lease of which this Lease is a sublease) for the time being of the Shopping Center, buildings and the land on which they stand. If the Shopping Center, or the ground or underlying lease be sold or transferred, the seller (or assignor of the ground or underlying lease of which this Lease is a sublease) shall be automatically and entirely released of all covenants and obligations under this Lease from and after the date of such conveyance or transfer, provided the purchaser on such sale (or the sublessee or assignee of the ground or underlying lease as



aforesaid) has assumed and agreed to carry out all covenants and obligations of Landlord hereunder, its being intended hereby that the covenants and obligations contained in this Lease to be performed on the part of Landlord shall be binding upon Landlord, its successors and assigns, only during their respective successive periods of ownership.

6. "Rent Commencement Date" shall mean the date when fixed monthly rent and all additional rents as set forth in this Lease shall commence.

ARTICLE III - LEASED PREMISES

1. In consideration of the payments of rents and other charges provided for herein and the performance of the covenants hereinafter set forth, Landlord hereby leases to Tenant and Tenant hereby rents from Landlord the following described premises, herein called "Leased Premises" or "Premises" situated in the Township of Sandy, County of Clearfield, Commonwealth of Pennsylvania a ground floor room being approximately 24 feet wide by 100 feet deep, containing 2,400 square feet of floor area located in the Sandy Plaza Shopping Center, herein referred to as "Shopping Center". The street address of the Leased Premises will be Sandy Plaza, Room #105, State Route 255 and Shaffer Road, DuBois, Pennsylvania 15801. The Leased Premises' boundaries are outlined in red on a site plan of the Shopping Center set forth in Exhibit "A" which is attached hereto and thereby made a part of this Lease solely for the purpose of illustrating the general location of the Premises in the Shopping Center and for no other purpose whatsoever.
2. Notwithstanding the foregoing, Tenant grants to Landlord, at any time during the Term of this Lease or any extension or renewal hereof, the right to relocate Tenant to other premises in the Shopping Center, in space roughly approximate in floor area to the Leased Premises, as Landlord in its sole discretion may choose, for the unexpired portion of the Term of the Lease, or any extension or renewal hereof. Landlord shall give Tenant at least thirty (30) days written notice of Landlord's intention to relocate Tenant. Landlord shall bear all expenses incurred in physically moving Tenant from the Leased Premises to the new premises within the Shopping Center. However, if the proposed relocated premises is unacceptable to Tenant, Tenant may terminate this Lease effective on the proposed relocation date by notifying Landlord of its intention to do so within fifteen (15) days after Landlord's notice of relocation. Provided, however, Landlord may revoke its notice of relocation after receipt of Tenant's notice of termination, and this Lease shall continue as though Landlord's notice of relocation had not been given.

ARTICLE IV - TERM OF LEASE (Approximately Three (3) Years)

LEASE BEGINS The first to occur of: (i) the date Tenant opens for business in the Premises or (ii) forty-five (45) days after the date Landlord delivers possession of the Premises to Tenant;

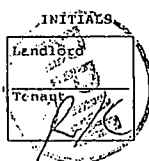
LEASE ENDS April 30, 2009;

unless sooner terminated or extended as hereinafter provided. If for any reason, Landlord shall not be able to deliver possession of the Leased Premises at the time stipulated herein as the beginning date of the Lease term, Landlord shall not be liable for its failure to deliver possession nor shall such a failure excuse Tenant's obligations hereunder except that in the event of delay the Lease beginning and expiration dates shall be adjusted to the extent of any such delay so as to commence as of the end of any such delay and expire as of the last day in such calendar month as will constitute the full Lease term in number of years and months set forth above. Tenant's rentals and charges shall be abated for the period of any such delay to the day possession is tendered to Tenant and shall be prorated as a Partial Lease Year for any additional days of tenancy as may result.

If the term of this Lease begins on a day other than the first day of a month, the term shall be extended by a partial calendar month necessary to cause this Lease to end on the last day of a month.

ARTICLE V - MINIMUM RENT

1. Tenant hereby covenants and agrees to pay as fixed minimum rent for the Leased Premises to Landlord and at the office of Landlord, or at such other place designated by Landlord, in



advance, without any prior notice or demand being required therefor and without any deduction, setoff or abatement whatsoever, the sum of:

(a) \$1,600.00 on the first day of each calendar month of the first through the third Lease Year inclusive, plus any initial Partial Lease Year;

~~(b) \$ on the first day of each calendar month of the through the Lease Year inclusive;~~

~~(c) \$ on the first day of each calendar month of the through the Lease Year inclusive.~~

2. Such rent for any Partial Lease Year shall be prorated at the rate for the first Lease Year if occurring at the beginning of the Lease term or at the rate for the last Lease Year if occurring at the end of the Lease term. In the event any installment of fixed minimum rent or other charges accruing under this Lease shall become overdue for more than ten (10) days, a "Late Charge" of ten (\$.10) cents per each dollar so overdue shall be paid by Tenant for the purpose of defraying the expense incident to handling such delinquent payment. This late charge shall be in addition to, and shall not preclude Landlord from, any other remedy at law or in equity. Tenant expressly acknowledges and agrees that Tenant shall be in default of this Lease if Tenant shall repeatedly be late in the payment of rent or other charges required to be paid hereunder regardless of whether or not Tenant shall have timely cured any such payment.

ARTICLE VI PERCENTAGE RENT

- ~~1. In addition to the payment of the fixed minimum rent, as hereinbefore provided, Tenant shall pay to Landlord as percentage rent for each Lease Year or Partial Lease Year of the term of this Lease, an amount, if any, equal to (%) percent (the "percentage") of Adjusted Gross Sales made in, on or from the Leased Premises during such Lease Year or Partial Lease Year in excess of the "percentage base", which as used herein shall mean:~~

~~(a) \$ in Adjusted Gross Sales per year for the first through the Lease Year inclusive, plus any initial Partial Lease Year;~~

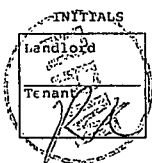
~~(b) \$ in Adjusted Gross Sales per year for the through the Lease Year inclusive;~~

~~(c) \$ in Adjusted Gross Sales per year for the through the Lease Year inclusive.~~

2. "Adjusted Gross Sales", as used herein shall mean the amount of gross sales of all merchandise or services sold or rendered in, on, about or from the Leased Premises by Tenant or any assignees, subtenants, licensees or concessionaires, whether for cash or on a charge, credit or time basis, without reserve or deduction for inability or failure to collect and including, but not limited to, such sales and services: (1) where orders originate and/or are accepted by Tenant in the Leased Premises but delivery or performance thereof is made from or at any place other than the Leased Premises; (2) pursuant to mail, electronic mail, telegraph, telephone, internet or other similar orders received or filled at or in the Leased Premises; (3) by means of mechanical and other vending machines in the Leased Premises; (4) which Tenant in the normal and customary course of business would credit or attribute to its business upon the Leased Premises or any part or parts thereof, adjusted by the deduction if originally included in gross sales or exclusion, as the case may be, from gross sales of the following: (1) amounts of refunds, allowances or discounts to customers, provided that if such refunds, allowances or discounts are in the form of credits to customers, such credits shall be included in gross sales when used; (2) exchanges of merchandise between stores of Tenant where such exchanges are made solely for the operation of Tenant's business and not for the purposes of consummating a sale which has been made at, in, or from the Leased Premises and/or for the purpose of depriving Landlord of the benefit of such sale which otherwise would have been made at, in, or from the Leased Premises; (3) returns to shippers and manufacturers for credits; (4) sale of trade fixtures or store operating equipment after use thereof in the conduct of Tenant's business in the Leased Premises; (5) all sums and credits received in settlement of claims for loss or damage to merchandise; (6) amount of any excise or sales tax levied upon retail sales and payable over to the appropriate governmental authority, provided that specific record is made at the time of each sale of the amount of sales tax and the amount thereof is expressly charged to the customer.



3. ~~Within fifteen (15) days after the end of each calendar month during the Lease term (including the calendar month next following the expiration date of the Lease term) Tenant shall submit to Landlord a written statement, signed by Tenant, setting forth gross sales as made on, in, at or arising out of the Premises during the immediately preceding calendar month. The percentage rent shall become due and payable fifteen (15) days after the last day of each quarter annual period of the term of this Lease with respect to gross sales during said period. The percentage rent for said period shall be determined by deducting one quarter (1/4) of the percentage base as such term is defined above from the adjusted gross sales for said period and multiplying the excess, if any, by the percentage as such term is defined above. Within thirty (30) days after the end of each Lease Year or Partial Lease Year, Tenant shall deliver to Landlord a statement of gross sales for the Lease Year or Partial Lease Year, signed by Tenant and certified under oath to be true and correct, whereupon appropriate adjustment of percentage rent to an annual basis shall be made and Tenant shall pay to Landlord therewith any balance of percentage rent due for such Lease Year or, if Tenant has made overpayment of percentage rent as shown by such annual statement, Tenant shall be allowed a credit against the installments of future percentage rent, provided that if such overpayment is for the last Lease Year and Tenant has fully paid all rents and charges and performed all the obligations of Tenant under this Lease, the Landlord shall refund to Tenant the amount of such overpayment within thirty (30) days after Tenant has duly vacated the Premises.~~
4. ~~Tenant covenants and agrees to keep upon the Premises, or at its principal office, books and records in accordance with generally accepted accounting practice in which gross sales shall be recorded. The books and records of account shall also include all federal, state and local tax returns and all pertinent original sales records of Tenant relating to Tenant's sales. Pertinent original sales records shall be separately maintained for the Premises and shall include: (a) cash register tapes, including tapes from temporary registers; (b) serially numbered sales slips; (c) the originals of all mail orders at and to the Premises; (d) the original records of all telephone orders at and to the Premises; (e) settlement report sheets of transactions with subtenants, concessionaires and licensees; (f) the original records showing that merchandise returned by customers was purchased at the Premises by such customers; (g) memorandum receipts or other records of merchandise taken out on approval; (h) such other sales records, if any, which would normally be examined by an independent accountant pursuant to accepted audit standards in performing an audit of Tenant's sales. Such books and records, including Tenant's bank accounts, relating to its business operations in the Premises shall be open to inspection of the Landlord and Landlord's duly authorized agents at all reasonable times, during business hours, at any time during the term of this Lease and for a period of at least three (3) years after the termination of this Lease. If Landlord should make an audit of Tenant's records and Tenant's gross sales statements should be found to be understated by more than three percent (3%) then Tenant in addition to paying the percentage rent due for such understatement shall pay to Landlord the cost of audit.~~
5. ~~Tenant acknowledges and agrees that percentage rent is express economic inducement and consideration to Landlord for granting this Lease to Tenant, and if Tenant shall fail to prepare and deliver any statement of gross sales with adjustments required herein, Landlord, in addition to its other rights and remedies, may upon ten (10) days written notice to Tenant elect either to: (a) treat Tenant's failure as a breach of this Lease entitling Landlord to terminate this Lease or Tenant's right to possession of the Premises, or both; and/or (b) charge Tenant as additional rent and as agreed fair compensation and liquidated damages due to Landlord's inability to determine otherwise because of Tenant's failure to submit sales report information, the greater of either an amount equal to double the fixed minimum rent, or an amount equal to one third of total percentage rent due by Tenant as reflected in the last three sales reports submitted by Tenant or if less than three sales reports have been submitted then the amount equal to percentage rent due in the last sales report Tenant submitted; and/or (c) to make an audit of all books and records of Tenant, including Tenant's bank accounts, which in any way pertain to or show gross sales, and to prepare the statement or statements which Tenant has failed to prepare and deliver. Such audit shall be made and such statement or statements shall be prepared by an accountant selected by Landlord. The statement or statements so prepared shall be conclusive on Tenant and the Tenant shall pay on demand all expenses of such audit and preparation of statements and all sums as may be shown by such audit to be due as percentage rent.~~
6. ~~If Tenant shall fail to pay Percentage Rent in an amount equal to at least twenty five (25%) percent of the annual fixed minimum rent payable pursuant to Article V of this Lease in at~~



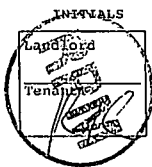
~~least one (1) of the first five (5) Lease Years of the term of this Lease, then Landlord may elect to terminate this Lease by notice to Tenant given within six (6) months after the end of the fifth Lease Year and this Lease shall terminate and be null and void ninety (90) days after the date of such notice; provided, however, Tenant may render such notice of termination inoperative if Tenant shall, within thirty (30) days after receipt of such notice, agree in writing to increase the fixed minimum rent payable for the sixth Lease Year and each Lease Year thereafter to an amount equal to one hundred twenty five (125%) percent of the fixed minimum rent set forth in the Lease as payable for the sixth Lease Year and each Lease Year thereafter.~~

ARTICLE VII - REAL ESTATE TAXES

1. Tenant agrees to pay its proportionate share of real estate taxes pertaining to the Shopping Center for each year or partial year during the term of this Lease and any renewal or extension thereof, including any period during which Tenant shall transact business in the Leased Premises prior to the commencement of the term of this Lease. For the purposes of this Article, the term "real estate taxes" shall include all real estate taxes, assessments, water and sewer rents (except water meter charges and sewer rent based thereon), occupation or business privilege taxes and other governmental impositions and charges of every kind and nature whatsoever, extraordinary as well as ordinary, general and special, foreseen and unforeseen, or any other tax, imposition or charge in substitution or replacement therefor, and each and every installment thereof (including any interest on amounts which may be paid in installments) which shall or may, during the Lease term, be levied, assessed, imposed, become due and payable, or liens upon, or arising in connection with, the use, occupancy or possession of, or grow due or payable out of, or for, the Shopping Center or any part thereof, and all costs incurred by Landlord in contesting or negotiating the same with governmental authority. Tenant's proportionate share shall be computed by multiplying the total amount of real estate taxes in each year by a fraction, the numerator of which shall be the Floor Area of the Leased Premises and the denominator of which shall be rentable Floor Area (other than, and excluding, Floor Area in leases where tenants pay all taxes levied on their premises as though a separate land parcel and other than, and excluding at Landlord's option, Floor Area in leases for upper level non-retail space, supermarkets and department stores) in the Shopping Center available for leasing to tenants as of the beginning of the calendar year in which such taxes are paid. Tenant hereby waives any right it may have by statute or otherwise to protest real estate taxes.

Nothing herein contained shall be construed to include as a tax which shall be the basis of real estate taxes, any inheritance, estate, succession, transfer, gift, franchise, corporation, income or profit tax or capital levy that is or may be imposed upon Landlord; provided, however, that if, at any time during the Lease term the methods of taxation prevailing at the commencement of the Lease term shall be altered so that in lieu of or as a substitute for the whole or any part of the taxes now levied, assessed or imposed on real estate as such, there shall be levied, assessed or imposed (i) a tax on the rents received from such real estate, or (ii) a license fee measured by the rents receivable from the Landlord from the Shopping Center or any portion thereof, or (iii) a tax or license fee imposed upon Landlord which is otherwise measured or based in whole or in part upon the Shopping Center or any portion thereof, or (iv) an income or franchise tax, then the same shall be included in the computation of real estate taxes hereunder, computed as if the amount of such tax or fee so payable were that due if the Shopping Center were the only property of Landlord subject thereto.

2. Tenant agrees to pay its share of real estate taxes, as additional rent, within ten (10) days after billing by Landlord. If the term of this Lease shall begin or end other than on the first or last day of a calendar year, these charges shall be billed and adjusted on the basis of such fraction of a calendar year. Should the taxing authorities include in such real estate taxes any machinery, equipment, fixtures, inventory or other personal property or assets of Tenant, the Tenant shall also pay the entire real estate taxes for such items.
3. Tenant agrees to pay to Landlord each month in advance, during the first calendar year of this Lease, the sum of \$200.00 and the total amount of said monthly payments accumulated in Tenant's account shall be applied toward Tenant's proportionate share of taxes pertaining to the Shopping Center when said taxes are billed to the Tenant. After the first calendar year and any time thereafter, Landlord may advise Tenant of any increase in said monthly payment which increased payment shall be one-twelfth (1/12) of the estimated tax billing for the current



year. Tenant shall thereafter pay said increased amount to Landlord each month in advance. The increased payment shall be applied toward Tenant's proportionate share of taxes pertaining to the Shopping Center.

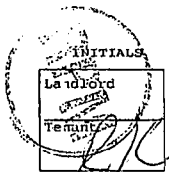
ARTICLE VIII - INSURANCE PREMIUMS

1. Tenant agrees to pay within ten (10) days after billing, as additional rent, its proportionate share of insurance premiums pertaining to the Shopping Center for each year or partial year during the term of this Lease, including any period during which Tenant shall transact business in the Leased Premises prior to the commencement of the term of this Lease. For the purpose of this Article, the term "insurance" at Landlord's election may include, but is not limited to, Fire, Flood, Extended Coverage, Vandalism and Malicious Mischief, Boiler, Rental, Liability and Sprinkler Leakage. Tenant's proportionate share shall be computed by multiplying the total amount of insurance premiums in each year by a fraction, the numerator of which shall be the Floor Area of the Leased Premises and the denominator of which shall be the total rentable Floor Area (other than, and excluding, Floor Area in leases where tenants pay all insurance for their premises as though a separate land parcel and other than, and excluding at Landlord's option, Floor Area in leases for upper level non-retail space, supermarkets and department stores) in the Shopping Center covered by the insurance policy(s).
2. In addition to Tenant's pro rata participation in any regular premium, as hereinabove provided, Tenant shall be billed for all of any special hazard premium charges (including rent insurance relating thereto), whenever made, applicable to Tenant as determined by the insuring company, its authorized agent or the Fire Insurance Rating Organization having jurisdiction and any such finding or schedule shall be deemed to be conclusive.
3. Tenant agrees to pay to Landlord each month in advance, during the first calendar year of this Lease, ~~the sum of \$~~ an estimated sum and the total amount of said monthly payments accumulated in Tenant's account shall be applied toward Tenant's proportionate share of insurance premiums pertaining to the Shopping Center when said insurance premiums are billed to the Tenant. After the first calendar year and any time thereafter, Landlord may advise Tenant of any increase in said monthly payment which increased payment shall be one-twelfth (1/12) of the estimated insurance premiums for the current year. Tenant shall thereafter pay said increased amount to Landlord each month in advance. The increased payment shall be applied toward Tenant's proportionate share of insurance premiums pertaining to the Shopping Center. Notwithstanding the foregoing, Landlord shall have the right and option at any time during the term of this Lease, to include the cost of insurance premiums together with Tenant's Estimated Common Area Payment.

ARTICLE IX - DESCRIPTION AND CONDITIONS OF ANY LANDLORD'S WORK IN THE LEASED PREMISES

1. Tenant hereby acknowledges that it has inspected, and is informed about, the condition of the Leased Premises and accepts the Premises in its present "as is" condition, and as suitable for Tenant's intended purposes, without change and without any Landlord's work required to be done, except:

None
2. Only if there is specified above any work to be performed by the Landlord, then Landlord agrees to perform the above work provided that any changes, except substantial changes, from the above described work reasonably necessary or advisable during the work shall not require any approval of Tenant nor shall any such modifications affect or change this Lease or invalidate the same.
3. If any Landlord's work cannot be started, or if having been started, completion of the same is delayed by governmental restrictions or the inability of Landlord to obtain materials, or because of strikes or other labor difficulties or other causes beyond the control of Landlord, Landlord shall be under no liability to Tenant because of Landlord's inability to commence the work or to complete the same, for any of said causes, but Landlord agrees to complete the work as soon thereafter as possible; provided, however, during any such delay, Tenant's rent herein stipulated to be paid shall be equitably abated and the dates of the Lease term shall be



adjusted to the extent of any such delay but in no event shall such delay otherwise excuse Tenant's obligations under this Lease.

4. Upon completion of any Landlord's work, Tenant shall acknowledge such fact to Landlord by Estoppel Certificate in accordance with Article XXVIII and any failure on Tenant's part to respond, shall be conclusively presumed to be tantamount to Tenant's duly executed Estoppel Certificate having been executed and delivered to Landlord.

ARTICLE X - DESCRIPTION AND CONDITIONS OF ANY TENANT'S WORK IN THE LEASED PREMISES

1. Tenant may enter the Leased Premises on, or before if available, the commencement date of the Lease term to install its fixtures and equipment, provided that Tenant has obtained insurance in the proper amount as set for in Article XV of this Lease, and has obtained the prior written consent of Landlord.
2. As additional consideration for, and to induce Landlord to grant this Lease, Tenant shall perform in the Leased Premises at Tenant's own expense and without cost to Landlord the following additional work:

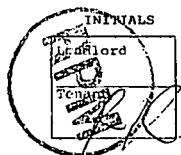
Tenant shall remodel, fixture and decorate the Leased Premises and perform all work necessary to open and operate its business in the Leased Premises.

Tenant shall promptly erect a storefront sign in accordance with Landlord's Sign Criteria attached hereto as Exhibit "B". Tenant must, within ten (10) days after the execution of this Lease, furnish drawings and specifications, prepared by an architect licensed to do business in the state in which the Shopping Center is located, of any Tenant work, including fixtures, equipment, carpeting, other floor covering and wall covering and all improvements to the Leasehold to Landlord for written approval by Landlord before beginning the work. Tenant agrees to complete its work in accordance with said approved plans and specifications prior to opening for business in the Premises.

Prior to Tenant's commencing any work in, on or about the Premises at any time during the Lease term or any extension thereof (or prior to the Lease term if Tenant has possession of the Premises), Landlord requires that Tenant provide Landlord, at Tenant's sole cost and expense, a lien and completion bond or a payment and performance bond, naming Landlord as obligee, in an amount equal to twice the estimated cost of any required or permitted construction, repairs, replacements, alterations, fixtures and/or improvements, to insure Landlord against any liability for mechanics' or materialmen's liens and to insure the completion of such work.

Prior to commencing any work in, on or about the Leased Premises, Tenant shall file with the Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania, a No-Lien Agreement, as attached as Exhibit "C", designating Landlord as Owner and Tenant as Contractor. Landlord may, at its discretion, file said agreement at Tenant's sole cost and expense and provide proof of said filing to Tenant. If Tenant shall file said agreement, it shall provide proof of said filing to Landlord.

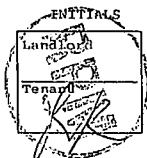
3. All of Tenant's work (including fixturing) shall conform to all applicable statutes, ordinances, regulations and codes and Tenant shall obtain all required permits and licenses therefor. Tenant's work shall not be in conflict with any union contract to which Landlord, its agents, contractors or any subcontractors might be a party. Tenant shall make good faith attempts to negotiate with and utilize union craftsmen and laborers in performing any work done by Tenant in or upon the Premises. All of Tenant's work shall be performed in compliance with such rules and regulations established by Landlord and without interference or disruption to Landlord or other tenants of the Shopping Center. Tenant shall furnish to Landlord all certificates and approvals of Tenant's work that may be required by any governmental authority for issuance of a Certificate of Occupancy.
4. If Tenant installs any electrical equipment that overloads the lines in the Premises or the building in which the Premises are located, Tenant shall, at its own cost and expense, promptly make whatever changes are necessary to remedy such condition and to comply with all requirements of Landlord, its insuring company or authorized agent, and the Board of Fire



Insurance Underwriters and any similar body and any governmental authority having jurisdiction thereof. In the event that this Lease so permits and Tenant engages in the preparation of food or packaged foods or engages in the use, sale or storage of inflammable or combustible material, Tenant shall install chemical extinguishing devices (such as aulul) approved by the Fire Insurance Rating Organization. If gas is used in the Premises, Tenant shall install gas cut off devices (manual and automatic).

ARTICLE XI - USE OF PREMISES: CONTINUOUS OPERATION

1. The Leased Premises shall be occupied only by Tenant and used solely for the purpose of conducting a tax preparation business including but not limited to electronic tax filing and refund anticipation loans and for selling such other products and services typically offered by Jackson Hewitt Tax Service and by no other person or entity and for no other purpose without the prior written consent of Landlord.
2. Tenant shall operate its business during the term of this Lease under the name and style of Jackson Hewitt Tax Service and will not change such name without the prior written consent of Landlord.
3. Tenant covenants and agrees to use, maintain and occupy the Leased Premises in a careful, safe and proper manner and will not commit waste therein. Tenant will keep the Premises and appurtenances including adjoining areas and sidewalks in a clean, safe and healthy condition and will clean the snow, ice, dirt and rubbish from the sidewalks contiguous to the Premises during the term of this Lease at Tenant's own expense. Tenant will not permit the Premises to be used in any way which will injure its reputation or that of the building or Shopping Center of which it is a part or that may be a nuisance, annoyance, inconvenience or damage to the other tenants of such building, Shopping Center or of the neighborhood. Tenant shall not display any merchandise outside its storeroom and shall not place garbage, rubbish, trash, merchandise containers or other incidentals to Tenant's business outside its storeroom.
4. A primary consideration to Landlord is the agreement of Tenant to continuously operate and maintain its business in the Leased Premises. Not later than forty-five (45) days after the date Landlord delivers possession of the Premises to Tenant, ~~and upon the commencement of the term of this Lease~~ Tenant shall ~~proceed with due dispatch and diligence to~~ open for business in the Leased Premises and shall thereafter continuously, actively and diligently operate its business on the whole of the Premises at least from 10:00 A.M. to 9:00 P.M. of each business day, and from 12:00 P.M. to 5:00 P.M. on Sunday, or longer as may be determined by the Merchants' Association, or as otherwise in keeping with the hours of the majority of the department stores in the Shopping Center, in a high grade and reputable manner maintaining in the Premises an adequate staff of employees and a full and complete stock of merchandise during business hours throughout the term of this Lease unless prevented from so doing by fire, strikes, casualty or other causes beyond the control of Tenant. Should Tenant fail to remain open for business during the standard hours of operation, as those hours are defined herein or as subsequently modified, Tenant shall pay to Landlord liquidated damages of One Hundred (\$100.00) Dollars per day for each day of noncompliance. This remedy is in addition to all other remedies Landlord may have at law, in equity or pursuant to the provisions of this Lease. If Tenant fails to open for business within thirty (30) days after the commencement of the term or fails thereafter to keep the Premises open each business day fully fixtured, stocked and staffed for normal business operations during the hours specified herein, then, at Landlord's option, Tenant (in addition to any and all other remedies provided herein or by law to Landlord for Tenant's default) shall pay as additional rent ~~in lieu of any percentage rent that might have been earned during that period as consideration for the negative impact that Tenant's failure to open the Premises or keep the Premises open will have on the remainder of the Shopping Center during that period during each month the Premises are not open or in which such hours are not maintained an amount equal to double the fixed minimum rent provided for in Article V of this Lease. or an amount equal to percentage rent, plus thirty (30%) percent thereof, shown to have been due in the last sales report from Tenant when the Premises were fully open and all required hours were maintained, whichever is greater.~~ This amount represents the agreed liquidated damages to Landlord as the exact amount of damages to Landlord cannot be ascertained with certainty. The right to receive such liquidated damages shall be in addition to all other rents and charges due under this Lease and all other rights or remedies Landlord may have, which rights or remedies include, but shall not be limited to, the right to terminate this Lease.

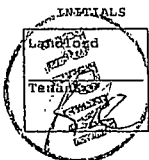


5. Tenant covenants and agrees not to use or occupy or suffer or permit the Leased Premises or any part thereof to be used or occupied for any purpose contrary to law or the rules or regulations of any public authority or the requirements of any insurance underwriters or rating bureaus or in any manner so as to increase the cost of insurance to Landlord over and above the normal cost of such insurance for the use above permitted for the type and location of the building of which the Premises are a part. Tenant will, on demand, reimburse Landlord for all extra premiums caused by Tenant's use of the Leased Premises, whether or not Landlord has consented to such use. Nothing contained herein shall permit a use other than the use hereinbefore provided. Tenant shall promptly comply with all present and future laws, regulations or rules of any municipality, county, state, federal and other governmental authority and any bureau and department thereof, and of the National Board of Fire Underwriters or any other body exercising similar functions which may be applicable to the Premises, including the making of any required structural changes thereto. If Tenant shall install any electrical equipment that overloads the lines in the Leased Premises, Tenant shall at its own expense make whatever changes are necessary to comply with the requirements of the insurance underwriters and governmental authorities having jurisdiction thereover.

~~ARTICLE XII - MERCHANTS' ASSOCIATION OR MARKETING FUND~~

- ~~1. Landlord, in its sole discretion, may establish a Merchants' Association or a Marketing Fund for the purpose of promoting, marketing, advertising and otherwise publicizing the Shopping Center, in such manner as the Merchants' Association or the Landlord, as the case may be, shall decide. Upon the establishment of the Merchants' Association or the Marketing Fund, Tenant shall comply with all Lease obligations with respect thereto.~~
- ~~2. Tenant shall become a member of any Merchants' Association established by Landlord, shall remain a member in good standing, participating fully in all Merchants' Association activities and promotions, complying with all rules and regulations not in conflict with this Lease and shall timely pay all dues and assessments, or, if Landlord shall establish a Marketing Fund in lieu of a Merchants' Association, Tenant shall participate in the Marketing Fund and make payments thereto.~~
- ~~3. Tenant shall pay Merchants' Association or Marketing Fund dues monthly in advance as "additional rent", and at the same time as the payment of fixed minimum rent, in the sum of \$ (calculated on the basis of 0 per square foot per year). Said dues shall be increased each January during the Lease term by the greater of:
(a) ten percent (10%); or
(b) CPI increase calculated pursuant to Article XXXVIII of this Lease. (If Article XXXVIII shall be deleted with respect to increases in fixed minimum rent, it shall nevertheless be used to calculate increases required for said dues.)~~

~~Tenant shall make said payments directly to the Landlord or at the direction of Landlord, directly to the Merchants' Association or Marketing Fund.~~
- ~~4. Tenant shall also pay in addition to Merchants' Association or Marketing Fund dues, a grand opening assessment in an amount equal to one full year's Merchants' Association or Marketing Fund dues for the promotions conducted at the initial grand opening of the Shopping Center or a grand opening after remodeling or renovation.~~
- ~~5. Additionally, Tenant covenants and agrees to advertise not less than five (5) times in any calendar year in any Merchants' Association or Marketing Fund sponsored circular, flyer, insert or other printed advertisement, each of which shall consist of one quarter (1/4) tabloid page or one eighth (1/8) full size page.~~
- ~~6. If Tenant shall advertise regularly in the trade area, with Landlord's prior consent Tenant may elect to pay each January during the Lease term, to the Landlord or the Merchants' Association or the Marketing Fund as the case may be, the annual flat fee of \$1,500.00 in lieu of Tenant's obligation to participate in joint advertising sponsored by the Merchants' Association or Marketing Fund.~~



7. ~~Tenant shall also refer to the Shopping Center in designating the location of the Leased Premises in all newspaper or other advertising. Tenant shall include the address and identity of its business activity in the Leased Premises in all advertisements made by Tenant in which the address and identity of any other business activity of like character conducted by Tenant within the trade area shall be mentioned; and shall use in such advertising only the Tenant's trade name as provided in Article XI of this Lease.~~

ARTICLE XIII - ALTERATIONS

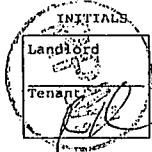
Tenant covenants and agrees not to make or permit to be made any alterations, improvements and/or additions to the Leased Premises or any part thereof except by and with Landlord's prior written consent, which consent shall be in Landlord's sole discretion. All alterations, improvements and additions to the Premises shall be made in accordance with all applicable laws and shall at once when made or installed be deemed to have attached to the freehold and to have become the property of Landlord and shall remain for the benefit of Landlord at the end of the term or other expiration of this Lease in as good order and condition as they were when installed, reasonable wear and tear excepted; provided, however, if prior to the termination of this Lease, or within thirty (30) days thereafter, Landlord so directs, Tenant shall promptly remove the additions, improvements, fixtures and installations which were placed in the Leased Premises by Tenant which are designated in Landlord's notice and repair any damage occasioned by such removal, and in default thereof Landlord may effect such removals and repairs at Tenant's expense. In the event of making such alterations, improvements and/or additions as herein provided, Tenant further agrees to defend, indemnify and save Landlord harmless from all expense, liens, claims or damages to either persons or property arising out of, or resulting from, the undertaking or making of the alterations, additions and improvements.

ARTICLE XIV - MAINTENANCE AND REPAIRS

1. Landlord agrees to keep and maintain the roof and structural portions of the Leased Premises except any damage thereto caused by any act, omission or negligence of Tenant, its employees, agents, invitees, licensees, assignees, contractors or persons making deliveries to the Leased Premises, in which event such damage shall be promptly repaired by, and at the sole expense of Tenant. Other than as herein provided, Landlord shall not be responsible to maintain or make any other improvements or repairs of any kind in or upon the Leased Premises. Anything to the contrary notwithstanding, Landlord shall not be obligated or liable for any failure or delay of its maintenance or repairs until the expiration of a reasonable period of time after written notice from Tenant that such maintenance or repair is needed.
2. Tenant covenants and agrees to make all repairs and keep and maintain in slightly appearance, good order, condition and repair, including replacement if necessary, the Leased Premises and every part thereof, except as hereinbefore provided, including, without limitation, the exterior and interior portions of the store front, fascia and sign parapet area, all doors, door checks, security gates, show windows including plate and window glass, other glass, utility facilities, plumbing and sewage facilities within the Leased Premises or under the floor slabs, including free flow up to the main sewer line, fixtures, electric, heating, air-conditioning including exterior mechanical equipment, exterior utilities facilities and exterior electrical equipment servicing the Leased Premises, and interior walls, floors, ceiling, and loading docks, if any, all in compliance with and as may be required by, applicable building, safety and fire codes, including legally required fire extinguishers and safety or health improvements. If Tenant refuses or neglects to commence or complete improvements, repairs and/or replacements promptly and adequately, Landlord may, but shall not be required to, make or complete the improvements, repairs, and/or replacement and Tenant shall pay the cost thereof to Landlord upon demand. Tenant also covenants and agrees to make all repairs and replacements to any sidewalks and curbs adjacent to the Premises.

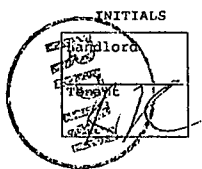
ARTICLE XV - INDEMNITY AND TENANT'S INSURANCE

1. Tenant covenants and agrees that it will at all times protect, defend, indemnify, save and keep harmless the Landlord and Landlord's agent against and from all claims, loss, cost, damage or expense arising out of, or from, any accident or other occurrence in the Leased Premises and/or adjacent sidewalks and curbs causing injury to any person or property (including the Leased Premises) whomsoever or whatsoever, Tenant's occupancy or use of the Leased Premises or any act or omission of Tenant, its agents, employees, invitees or contractors. Tenant further covenants and agrees that it will protect, save and keep Landlord harmless and



fully indemnified against and from any penalty or damage or charges imposed for any violations of any law or ordinance whether occasioned by the act or neglect of Tenant or those holding under Tenant, and also will protect, indemnify, save and keep harmless Landlord and Landlord's agent and other tenants and occupants of the Shopping Center against and from any and all claims and against and from any and all loss, cost, damage, liens or expense arising out of any failure of Tenant in any respect to comply with and perform all the requirements and provisions of this Lease. The obligations imposed on Tenant by this section accruing prior to any termination of this Lease shall survive such termination.

2. Tenant agrees pursuant to this covenant, at its own cost and expense, to procure and continue in force general liability insurance covering any and all claims for injuries to persons or damage to property in or upon the Leased Premises and for adjacent areas, including all damage from signs, glass, awnings, fixtures or other appurtenances now or hereafter erected on the Premises, and insuring during the term of this Lease, and any renewal or extension thereof, the indemnity agreement contained in this Article. Such insurance at all times shall be in the amount of not less than One Million Dollars (\$1,000,000.00) for injury to one person and not less than One Million Dollars (\$1,000,000.00) for injuries to more than one person in one accident. Tenant also shall carry property damage insurance in an amount of not less than Five Hundred Thousand Dollars (\$500,000.00) for damage to property arising out of any one occurrence. If requested by Landlord in writing, Tenant shall increase the limits of its public liability insurance coverage, but Tenant shall not be obligated to increase said limits more often than every three (3) years. All policies of insurance shall provide that Landlord shall receive at least fifteen (15) days prior written notice of the cancellation of any such insurance policy and shall name Tenant, Landlord, Landlord's agent and such other parties as Landlord shall designate, as additional insureds as their interests may appear, or bear an endorsement holding and saving Landlord, Landlord's agent and such other parties free, harmless and indemnified against any and all claims whatsoever arising out of injury to or death of any person, or damage to any property resulting from the use and occupancy of the Leased Premises. Such insurance shall be written with a company or companies authorized to engage in the business of general liability insurance in the state in which the Leased Premises are located and there shall be delivered to Landlord customary insurance certificates evidencing such paid up insurance. In the event Tenant fails to furnish evidence of such policies, Landlord may obtain such insurance and the premiums on such insurance, together with an administrative charge of One Hundred Dollars (\$100.00) shall be deemed additional rent to be paid by Tenant to Landlord upon demand.
3. Landlord may, from time to time, install electronically controlled/monitored security systems for the mall, common area, and/or Shopping Center. Tenant may, from time to time, install electronically controlled/monitored security systems for the Leased Premises. Landlord assumes no responsibility and/or liability for any loss sustained in any instance where the security systems malfunction or fail to function for any reason whatsoever, and Tenant and any party claiming under Tenant shall file no claim against Landlord because of damages sustained as a result of the malfunctioning of any such security systems.
4. Tenant shall not use in, on or about the Leased Premises, for original construction or for maintenance, repairs, alterations, improvements, additions, changes or in any other manner, any product, material, equipment or any other item of any nature whatsoever, which contains asbestos in any form. Tenant shall at all times defend, protect, indemnify, save and keep harmless the Landlord against and from all claims, loss, cost, damage or expense arising out of or from Tenant's breach of this section of Article XV. Tenant further covenants and agrees that it will not use, keep or suffer to be kept, or generate or store any hazardous substances, pollutants or contaminants (collectively, "Hazardous Substance") in, upon or about the Premises or the Shopping Center. Tenant shall promptly remove and clean up any Hazardous Substance brought on, to or about the Premises or the Shopping Center in violation of this provision. Tenant shall indemnify Landlord for all costs and expenses incurred by Landlord to correct any violation of this covenant, or to remove, neutralize or render harmless any Hazardous Substance, or to comply with the requirements of any regulatory body having jurisdiction over hazardous substances, or to contest the actions of any such regulatory body with respect to the Shopping Center. Tenant's agreement to indemnify Landlord, just given, shall survive the expiration date of this Lease. In the event of a breach of this covenant, then in addition to any other remedies available to Landlord, Landlord at its sole option may declare Tenant to be immediately in default hereof and in forfeiture of its rights to occupy the Premises under this Lease, and may cause the Tenant to be immediately removed from the

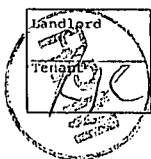


Premises, which events shall not release Tenant from its covenants to pay rent or otherwise relieve Tenant from any monetary obligation under this Lease.

ARTICLE XVI - COMMON AREA

1. Landlord hereby grants to Tenant, during the term of this Lease, a nonexclusive use of the Common Area as from time to time constituted, such use to be in common with Landlord, Landlord's tenants and occupants in the Shopping Center and the parties' respective employees, agents, customers and invitees.
2. The Common Area shall be subject to the exclusive control and management of Landlord and Landlord shall have, and hereby reserves, the unrestricted right to close any or all portions of the parking areas to such extent as may, in the opinion of Landlord's counsel, be legally sufficient to prevent a dedication thereof or the accrual of any rights to any person or to the public therein or to close temporarily, if necessary, all or any part of the parking areas in order to discourage non-customer parking. All space, areas, and facilities in the Shopping Center not within the Leased Premises, which Tenant may be permitted to use and/or occupy, are to be used and/or occupied under a revocable and nonexclusive license and if such license be revoked, or if the amount, size or configuration of such space, areas and/or facilities be diminished or changed, this Lease shall remain in full force and effect and Landlord shall not be subject to any liability, nor shall Tenant be entitled to any compensation or diminution of rent, nor shall such revocation, change or diminution be deemed constructive or actual eviction. The Common Area shall be subject to such rules and regulations as Landlord may, from time to time, adopt and Landlord expressly reserves the unrestricted right at any time to make changes, additions, deletions, alterations or improvements in and to such Common Area including, without limitation, changing its layout, adding to or subtracting from its shape and size, altering its locations, erecting thereon store buildings or other structures or improvements of any kind and adding extensions to buildings and structures thereon, provided that Tenant's access to the Leased Premises shall not be substantially and materially impaired.
3. Landlord agrees to maintain the Common Area in reasonably good repair and reasonably clear of snow and debris, lighted when necessary and open during each business day. Also, Landlord agrees to keep any enclosed mall areas lighted when necessary and maintained at a comfortable temperature during the normal business hours set by Landlord.
4. Landlord agrees to carry public liability insurance on the Common Area of the Shopping Center providing coverage of not less than Five Hundred Thousand Dollars (\$500,000.00) against liability for injury to or death of any one person and One Million Dollars (\$1,000,000.00) for any one occurrence. Landlord will also carry fire, extended coverage and such other hazard insurance, as deemed appropriate by Landlord, on the Common Area and other improvements constructed upon the Shopping Center for not less than the amount as required by Landlord's mortgagee, if any, or as Landlord shall elect.
5. COMMON AREA MAINTENANCE. Tenant shall pay, as additional rent, the sum of \$210.00 per month (the "~~Minimum~~ Estimated Common Area Payment") as ~~minimum~~ estimated payment for Tenant's share of the cost of the operation and maintenance of the Common Area, including those costs incurred for security, lighting, painting, striping, cleaning, policing, inspecting, landscaping, trash compacting, repairing and replacing, including parking lot and roof, which may be incurred by Landlord in its discretion, including a reasonable allowance for Landlord's overhead cost, management fees, depreciation of and taxes on maintenance equipment and supplies, the cost of insurance set forth in Article VIII, personal property taxes on the Common Area, and the cost of all water consumed and sewage charged in the Shopping Center which is not separately metered to tenants. Tenant's actual share of such cost ~~in excess of the Minimum Common Area Payment~~ shall be determined by multiplying Landlord's ~~excess~~ cost by a fraction, the numerator of which shall be the Floor Area in the Leased Premises and the denominator of which shall be the Floor Area (other than, and excluding, Floor Area in leases where tenants either pay for or maintain all their premises as though a separate land parcel and other than, and excluding at Landlord's option, Floor Area in leases for upper level non-retail space, supermarkets and department stores) in the Shopping Center leased by Landlord during the preceding calendar year and, if applicable, pro-rating the product so obtained for any lesser period that the Lease term is less than the full calendar year. Tenant shall be billed annually for any increase attributable to Tenant's actual share of the actual cost of common area expense in excess of the ~~Minimum~~ Estimated

INITIALS



Common Area Payment for the preceding calendar year and Tenant agrees to pay such increase, if any, as additional rent, within thirty (30) days after billing by Landlord therefor; or, in the event Tenant's actual share of the actual cost shall be less than the total of Tenant's Estimated Common Area Payment for the preceding calendar year, Tenant shall receive a credit for the excess amount it has paid, to be applied against future Common Area Payments due hereunder.

6. LANDLORD'S RIGHT TO PROVIDE ENCLOSED MALL. If the Leased Premises do not currently open onto an enclosed mall, Landlord hereby expressly reserves the right during the term of this Lease, or thereafter, to convert and change the Shopping Center by constructing an enclosed mall, or further extending any existing mall structure so that the Leased Premises shall be included in an enclosed mall and, in such event, if the Premises shall be included in any enclosed mall, Tenant hereby agrees to pay its share of the cost of the operation and maintenance of the enclosed mall in accordance with the terms and conditions set forth in the preceding Section 5 of this Article XVI excepting only that Tenant shall pay an increased monthly Estimated Common Area Payment, as reasonably estimated by Landlord, from and after the date Tenant receives the use of the newly enclosed mall.
7. Landlord reserves the right, from time to time, to utilize portions of the Common Area (including common mall area, if applicable) for carnival type shows, rides and entertainment, outdoor shows, display, automobile and other product shows, business promotions, the leasing of kiosks or sales space, or such other uses which in Landlord's judgment tend to attract the public. Further, Landlord reserves the right to utilize the lighting standards and other areas in the parking lot (and common mall area, if applicable) for advertising purposes and, additionally, to designate one or more parking areas for employee parking and Tenant shall cause its employees to park only in such designated area(s) or, if none designated, then only in the outer areas of the parking lot. Within ten (10) days after the request by Landlord, Tenant shall deliver to Landlord a list of Tenant's and its employees' automobiles which list shall set forth the description of, and the state automobile license numbers assigned to, such automobiles. Thereafter, Tenant shall advise Landlord of any changes, additions or deletions in such list. If any automobile appearing on said list is parked in any area of the Shopping Center other than the area designated by Landlord at any time after Landlord has given notice to Tenant or Tenant's store manager that the same automobile has previously been parked in violation of this provision, then Tenant shall pay to Landlord the sum of Ten (\$10.00) Dollars per day for each such automobile for each day (or part thereof) it is parked in violation of this provision. Tenant shall pay such sum to Landlord within ten (10) days after receipt of notice from Landlord.

ARTICLE XVII - MECHANIC'S LIEN

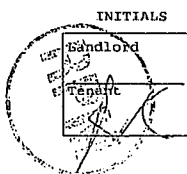
Prior to Tenant's performing any construction, repairs, improvements or other work in, on or about the Leased Premises for which a lien could be filed against the Premises, the building where the Premises are located or the Shopping Center, Tenant covenants and agrees that if the Shopping Center is located in Pennsylvania or in any other state the laws of which provide for "No Lien Agreements" (including any other name or form of contract or covenant against mechanic's liens) then Tenant shall enter into a written "No Lien Agreement" (designating Landlord as Owner and Tenant as Contractor) which shall provide that no lien shall be filed by anyone on account of labor or material furnished in connection with such work, and such written agreement shall be filed and recorded, in accordance with the Mechanic's Lien Law of Pennsylvania or as may be otherwise authorized by the laws of the state in which the Shopping Center is located, prior to the commencement of such work. The interest of the Landlord in the Shopping Center and the Leased Premises shall not be subject to liens for improvements made by the Tenant or on behalf of the Tenant, and no lien shall be filed by anyone on account of labor or materials furnished in connection with such work. Notwithstanding the foregoing, if, for whatever reason, any mechanic's or other lien shall be filed against the Leased Premises, the building of which they are a part, or the Shopping Center, purporting to be for labor or material furnished or to be furnished at the request of Tenant, then Tenant shall at its expense cause such lien to be discharged of record by payment, bond or otherwise as allowed by law, within ten (10) days after the filing thereof. If Tenant shall fail to cause such lien to be discharged of record within such ten (10) day period, Landlord, in addition to any other rights and remedies it may have under this Lease may, but shall not be obligated to, cause such lien to be discharged by payment, bond or otherwise, without investigation as to the validity thereof or as to any offsets or defenses thereto, and Tenant shall, upon demand, promptly within ten (10) days reimburse Landlord for all amounts paid and costs incurred, including attorney's fees and interest thereon at the maximum legal rate from the



respective dates of Landlord's payments therefor, in having such lien discharged of record and, further, Tenant also shall otherwise indemnify and save Landlord harmless from any claim or damage resulting therefrom.

ARTICLE XVIII - DESTRUCTION AND RESTORATION

1. If the Leased Premises shall be damaged during the term of this Lease to the extent of fifty percent (50%) or more of the cost of replacement thereof, or damaged by any uninsured event, Landlord shall have the option to rebuild or to terminate this Lease to be exercised by notice to Tenant given not more than ninety (90) days after the date Landlord receives its insurance settlement, or if uninsured, not more than one (1) year after the date of damage.
2. If the Leased Premises shall be damaged during the term of this Lease to the extent of less than fifty percent (50%) of the cost of replacement by fire or other event covered by Landlord's policy of fire and extended coverage insurance, then upon notice by Landlord to Tenant given not more than ninety (90) days after the date Landlord receives its insurance settlement the parties shall restore the Premises to substantially the same condition in which they existed prior to the damage, provided, however, and excepting, that if such an event occurs during the last five (5) years of this Lease, then Landlord shall have the option to: (1) rebuild but does not agree to do so unless Tenant, within thirty (30) days after receipt of the insurance settlement by Landlord, enters into a renewal of this Lease on agreed terms and conditions with the renewal lease to commence upon the date of completion of such rebuilding; or (2) rebuild or terminate this Lease to be exercised by notice to Tenant given not more than ninety (90) days after the date Landlord receives its insurance settlement.
3. Landlord's obligation to rebuild and repair under this Article XVIII shall, in any event, be limited to restoring the foundations, columns, structural frames, beams, roof and concrete floor slab of the building in which the Premises are located. Landlord shall restore the perimeter walls of the Premises and shall install a door connecting the Premises with the outside or contiguous common service area, if any. Landlord will restore electrical conduits and cold water to the perimeter of the Premises if necessary. Landlord will rebuild, repair or restore the above to substantially the condition in which the same existed prior to the damage and Tenant agrees that, promptly after completion of such work by Landlord, Tenant shall commence and diligently proceed at its sole cost and expense to rebuild, repair, restore and replace its leasehold improvements, fixtures, equipment, furnishings and merchandise and open for business in the Premises.
4. Tenant agrees to continue the operation of its business in the Premises to the extent reasonably practicable from the standpoint of good business during any period of reconstruction, restoration or repair of the Leased Premises and/or of the building. Fixed minimum rent, as set forth in Article V, shall be abated proportionately to the portion of the Premises which is untenable during any period in which, by reason of any such damage or destruction there is a substantial interference with the operation of Tenant's business in the Premises, having regard to the extent to which Tenant may be required to discontinue its business in the Premises, and such abatement shall continue for the period commencing with such destruction or damage and ending with the completion by the Landlord of such work or repair and/or reconstruction as Landlord is obligated to do. If, however, such damage or destruction is caused by Tenant's negligence, fault, neglect or omission, then and in that event, fixed minimum rent shall not abate. Nothing in this section shall effect or be construed to abate or diminish ~~percentage rent~~, additional rent or other charges hereunder.
5. Tenant shall carry insurance against fire and such other risks as are from time to time included in standard extended coverage insurance for the full insurable value of all improvements provided by Tenant. Tenant shall also carry such insurance for the full insurable value of Tenant's merchandise, trade fixtures, furnishings, wall covering, carpeting, drapes, equipment and all other items of personal property of Tenant located on or within the Leased Premises. All insurance policies required to be carried pursuant to this section shall name Landlord as an additional insured, as its interest may appear, and Tenant shall furnish Landlord evidence of such insurance coverage. Such insurance policies may not be modified or terminated without fifteen (15) days advance notice to Landlord.



ARTICLE XIX - PROPERTY IN LEASED PREMISES

1. All leasehold improvements, such as light fixtures, heating and air-conditioning equipment, track lighting, mirrors permanently affixed to the walls, dressing rooms, carpeting, built in cabinets and other construction to be done by Tenant shall, when installed, attach to the freehold and become and remain the property of Landlord; provided, however, Landlord shall have the right to elect to have Tenant remove any of the improvements as provided for in Article XIII. All store fixtures or trade fixtures, signs, and drapes shall remain the property of Tenant, subject at all times to the Landlord's lien for rent and other sums which may become due to Landlord under this Lease.
2. Tenant agrees that all personal property which may at any time be in the Leased Premises shall be at Tenant's sole risk, or at the risk of those claiming under Tenant. Landlord shall not be liable for injury and/or any damage to persons or such property or for any loss suffered by the business or occupation of Tenant including, without limitation: (a) by theft or otherwise; (b) from fire, explosion or falling plaster; or (c) for any and all damage caused by water or dampness from rain or snow, leaks from the roof or any part of the Premises, street or subsurface or any source whatsoever or from the bursting, overflowing or leaking of sewer lines, steam pipes, or appliances or from the heating or air-conditioning systems or plumbing fixtures or from electric wires or from gas or odors or fire or other damage or caused in any manner whatsoever. Landlord shall not be liable for any such injury or damages caused by other tenants or persons in the Premises, occupants of adjacent property or the Shopping Center, or the public, or caused by operations in construction of any private, public or quasi-public work. All property of Tenant kept or stored on the Premises shall be so kept or stored at the sole risk of Tenant only, and Tenant shall hold Landlord harmless and indemnify Landlord from any claims arising out of damages or loss to the property.
3. Tenant agrees to pay promptly when due all taxes assessed against Tenant's fixtures, furnishings, equipment and stock-in-trade placed in or on the Leased Premises. Any such taxes paid by Landlord shall be due and payable, as additional rent, within ten (10) days after billings therefor are rendered to Tenant.

ARTICLE XX - ACCESS TO LEASED PREMISES

Tenant agrees to permit Landlord, its agents and employees, to inspect or examine the Leased Premises at any reasonable time and to make such repairs, alterations, improvements or additions in the Leased Premises, or to the building of which the Leased Premises are a part, as Landlord may deem desirable or necessary for preservation or improvement or which Tenant has covenanted herein to do and has failed so to do, without the same being construed as an eviction of Tenant in whole or in part, and the rent shall in no manner abate nor shall Landlord be liable by reason of any damage, loss or injury to, interruption of or interference with Tenant's property or business because of the prosecution of such work.

ARTICLE XXI - SURRENDER OF LEASED PREMISES

1. Tenant agrees to deliver up and surrender to Landlord possession of the Leased Premises upon expiration of this Lease, or its earlier termination as herein provided, broom clean and in as good condition and repair as the same shall be at the commencement of the term of this Lease, or may have been put by Landlord or Tenant during the continuance thereof, ordinary wear and tear and damage by fire or the elements beyond Tenant's control excepted.
2. Tenant shall at Tenant's expense remove all property of Tenant and all alterations, additions and improvements as to which Landlord shall have made the election as provided for in Article XIII, repair all damage to the Leased Premises caused by such removal and restore the Premises to the condition in which they were prior to the installation of the articles so removed. Any property not so removed at the expiration or termination of the Lease term and as to which Landlord shall not have made said election shall be deemed to have been abandoned by Tenant and may be retained or disposed of by Landlord as Landlord shall desire without any liability to Tenant, and Tenant hereby expressly waives and releases all claims against Landlord therefor. Tenant's obligation to observe or perform this covenant shall survive the expiration or termination of this Lease and Tenant hereby agrees to indemnify and save Landlord harmless therefor.

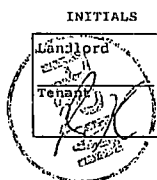


ARTICLE XXII - UTILITIES

1. Tenant agrees immediately upon obtaining access to the Leased Premises to contract for, in Tenant's own name, and to pay for all utility service rendered or furnished to the Premises, including heat, water, gas, electricity, sprinkler charges, fire line charges, sewer rental, sewage treatment facilities and the like, together with all taxes levied or other charges on such utilities and governmental charges based on utility consumption, standby utility capacity, or potential utility use. If any such utilities are not separately metered or assessed or are only partly separately metered or assessed and are used in common with other tenants of the Shopping Center, Tenant will pay to Landlord an apportionment of such charges for utilities used in common based on the gross area leased to each tenant using such common facilities, in addition to Tenant's payments of the separately metered charges; or, in the alternative, Tenant may, upon request to Landlord and upon Landlord's prior written consent if granted, provide separate meters at Tenant's sole expense in accordance with the requirements for any Tenant's work as provided for in Article X of this Lease. If Landlord shall supply any such services, Tenant will purchase same from Landlord at the individual user rate for the service in question made by any public utility corporation or governmental agency supplying such utilities in the area. Any such charges for service supplied by Landlord, or charges for utilities which may be rebilled by Landlord, shall be due and payable, as additional rent, within ten (10) days after billings therefor are rendered to Tenant. In no event shall Landlord be liable for the quality, quantity, failure or interruption of such service to the Premises.
2. Landlord may, with notice to Tenant, or without notice in the case of an emergency, cut off and discontinue gas, water, electricity and any or all other utilities whenever such discontinuance is necessary in order to make repairs or alterations, or when Tenant's payment therefor, or any other rents or charges due pursuant to this Lease, are delinquent. No such action by Landlord shall be construed as an eviction or disturbance of possession or as an election by Landlord to terminate this Lease, nor shall Landlord be in any way responsible or liable for such action and Tenant hereby expressly waives and releases all claims against Landlord therefor.
3. If the non-payment of utility charges payable by Tenant could give rise to a lien against the real estate or Landlord's being liable for any payment therefor, then Landlord may pay such charges directly to the utility companies for Tenant's account and all such payments plus a fifteen (15%) percent service charge shall constitute sums due from Tenant to Landlord, payable forthwith as additional rent and shall give Landlord the same rights and privileges as herein elsewhere provided for defaults by Tenant under this Lease.
4. If the Leased Premises are a Kiosk or Tenant supplied booth or structure, then Tenant at its own sole cost and expense shall provide all utility lines and connections in accordance with the provisions of Article X of this Lease for any Tenant's work and expressly subject to Landlord's prior written approval therefor. All utility lines shall be installed with non-exposed conduit.

ARTICLE XXIII - ASSIGNMENT AND SUBLETTING

1. Tenant covenants and agrees not to assign this Lease or to sublet the whole or any part of the Leased Premises, or to permit any other persons to occupy same without the prior written consent of Landlord, references elsewhere herein to assignees, subtenants or other persons notwithstanding. In the event that Tenant requests permission either to assign this Lease or to sublet the whole or any part of the Premises, or this Lease is deemed to be assigned pursuant to Section 2 of this Article, then Landlord may in its sole and absolute discretion, elect to consent, or withhold consent, or cancel this Lease. If Tenant should assign or sublet without Landlord's prior written consent, Landlord at its option may terminate this Lease after discovering that Tenant has assigned or sublet; in which event this Lease shall terminate and end upon thirty (30) days written notice of Landlord's election to so terminate. Any such assignment or subletting, even with the consent of Landlord, shall not relieve Tenant from liability for payment of rent and/or other sums herein provided or from the obligation to keep and be bound by the terms, conditions and covenants of this Lease. The acceptance of rent from any other person shall not be deemed to be a waiver of any of the provisions of this Lease or to be a consent to the assignment of this Lease or subletting of the Premises.



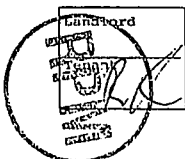
2. If Tenant is a corporation, then any transfer of this Lease from Tenant by merger, consolidation or liquidation, or any change in ownership or power to vote the majority of its outstanding voting stock shall constitute an assignment for the purpose of this Lease.
3. An assignment for the benefit of creditors or by operation of law shall not be effective to transfer any rights to assignee without the prior written consent of Landlord first having been obtained and in this event Landlord may terminate this Lease at any time.
4. If any assignment or subletting, even with the consent of Landlord, results in rental income or other lease charges in an amount greater than those provided for in this Lease, then such excess shall belong to Landlord and shall be payable to Landlord as additional rental herein reserved.

ARTICLE XXIV - TENANT'S ADDITIONAL AGREEMENTS

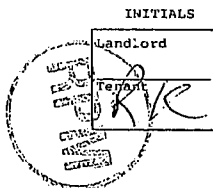
Tenant agrees, at its own cost and expense:

1. **LIGHT DISPLAY WINDOWS:** To keep the display windows, canopies, signs, and sign parapet area, if any, in and/or on the Premises electrically lighted from dusk until 10:00 P.M. on all days during which the Shopping Center is open for business and during such other periods as Landlord may reasonably prescribe;
2. **KEEP PREMISES CLEAN:** To keep the Premises (including without limitation, exterior and interior portions of all windows, doors and all other glass) in a neat and clean condition;
3. **KEEP PREMISES ATTRACTIVE:** To maintain the Premises and Tenant's personal property therein as an attractive shopping area in accordance with the general character of the Shopping Center;
4. **STORING MERCHANDISE:** To store, and/or stock in the Premises only such merchandise as Tenant intends to offer for retail sale in or on the Premises within a reasonable time after receipt thereof;
5. **NON-SELLING SPACE:** To use for office, clerical or other non-selling purposes only such space in the Premises as is reasonably required for Tenant's business thereon, and not perform therein any functions for any other store of Tenant or for any other person;
6. **PROMOTION:** To fully cooperate with Landlord and the Merchants' Association and/or Marketing Fund in promoting the use of such trade names and slogans as Landlord may adopt for the Shopping Center;
7. **SHOPPING CENTER NAME:** To use the Shopping Center name and logo, if any be designated by Landlord, in referring to the location of the Premises in all newspaper or other advertising, stationary, other printed material and all references to the location of the Premises and to include the address and identity of its business activity in the Premises in all advertisements made by Tenant in which the address and identity of any other local business activity of like character conducted by Tenant shall be mentioned;
8. **LABOR REGULATIONS:** To take no action which would violate Landlord's Union or Non-Union Contracts, if any, affecting the Shopping Center; nor create or permit any work stoppage, picketing, labor disruption or dispute or any interference with the business of Landlord or any tenant or occupant in the Shopping Center or with the rights and privileges of any customer or other persons(s) lawfully in and upon the Shopping Center; nor cause any impairment or reduction of the goodwill of the Shopping Center;
9. **COMPLY WITH LAWS:** To promptly comply with all laws, ordinances, rules and regulations of governmental authorities (including zoning, building, fire and safety laws and codes) affecting the Premises;
10. **PAY TAXES:** To pay before delinquency any and all taxes, assessments and public charges levied, assessed or imposed upon Tenant's business or upon Tenant's fixtures, furnishings or equipment in the Premises;

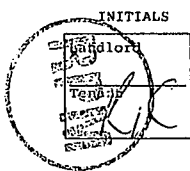
INITIALS



11. **PAY LICENSE FEES:** To pay when and as due all license fees, permit fees and charges of a similar nature for the conducting of any business or undertaking conducted in the Premises;
12. **TENANT'S FIXTURES:** To operate its business in the Premises with adequate equipment and trade fixtures which shall, when initially installed, be new, functional, sufficient and of first class workmanship;
13. **GARBAGE:** To handle and dispose of all rubbish, garbage and waste from Tenant's operations in accordance with regulations established by Landlord and/or governmental authorities and not permit the accumulation (unless in concealed metal containers) or burning of any rubbish or garbage in, on or about the Premises or within the boundaries of any part of the Shopping Center;
14. **HEAT-AIR CONDITION PREMISES:** To shut off all exhaust fans, if any, servicing the Premises at all times when the Premises are closed. If the Leased Premises front on an enclosed mall, Tenant shall maintain positive air pressure so as to prevent the drawing of heated or cooled air from the enclosed mall and shall keep the Premises heated or air conditioned, as the case may be, to at least the same minimum temperature (in the case of heat) or the same maximum temperature (in the case of air conditioning) as Landlord shall attempt to maintain in such mall;
15. **CLEANING PROGRAM:** To participate in any reasonable window cleaning and exterminating program that may be established by Landlord for all or substantially all other retail stores and businesses in the building or Shopping Center in which the Premises are located;
16. **RULES AND REGULATIONS:** To obey and observe (and, as applicable, compel its officers, employees, contractors, licensees, invitees, subtenants, concessionaires and all others doing business with it to obey and observe) all reasonable rules and regulations established by Landlord from time to time with respect to the common areas, facilities, improvements, conduct of Tenant and/or welfare of the Shopping Center;
17. **NOT ABANDON PREMISES:** Not to abandon or leave vacant the Premises;
18. **NOT CHANGE EXTERIOR ARCHITECTURE:** Not to change (whether by alteration, replacement, rebuilding or otherwise) the exterior color and/or architectural treatment of the Premises or of the building in which the same are located, or any part thereof;
19. **NOT USE SIDEWALKS:** Not to use, or permit to be used, the malls or sidewalk adjacent to, or any other space outside, the Premises for merchandise display, sale or any other similar undertaking nor otherwise cause or permit any obstruction of the outside areas;
20. **NOT MISUSE PLUMBING FACILITIES:** Not to use the plumbing facilities for any purpose other than that for which they were constructed, or dispose of any garbage or other foreign substance therein, whether through the utilization of so-called "disposal" or similar units, or otherwise;
21. **NO LIENS:** Not to subject any fixtures, furnishings or equipment in or on the Premises which are affixed to the realty to any mortgages, liens, conditional sales agreements, security interests or encumbrance;
22. **NOT DAMAGE THE PREMISES:** Not to perform any act or carry on any practice which may damage, mar or deface the Premises or any other part of the Shopping Center;
23. **NO VENDING MACHINES:** Not to operate on the Premises or in any part of the Shopping Center any coin or token operated vending machine or similar device (including, without limitation, pay telephones, pay lockers, pay toilets, scales, amusement devices and machines for the sale of beverages, foods, candy, cigarettes or other merchandise and/or commodities);
24. **NO AWNINGS:** Not to install any awnings in or on the Premises which are visible to public view outside the Premises;



25. **WINDOW CLEANING AND JANITORIAL SERVICES:** Not to permit window cleaning or other exterior maintenance and janitorial services in and for the Premises to be performed except by such person(s) as shall be approved by Landlord and except during reasonable hours designated for such purposes by Landlord;
26. **FREIGHT HANDLING EQUIPMENT:** Not to use any fork-lift truck, tow truck or any other powered machine for handling freight in the interior delivery system, if any, (except the truck passageway portion thereof) or in the Premises unless the same be powered by electricity;
27. **NOT EXCEED FLOOR LOADS:** Not to place a load on any floor in the interior delivery system, if any, or in the Premises exceeding the floor load per square foot which such floor was designed to carry, or to have installed, or operated or maintained therein any heavy item of equipment except in such manner as to achieve a proper distribution of the weight;
28. **NOT EXCEED ELECTRICAL LOAD:** Not to install, operate or maintain in the Premises any electrical equipment which will overload the electrical system therein, or any part thereof, beyond its reasonable capacity for proper and safe operation as determined by Landlord in light of the over-all system and requirements therefor in the Shopping Center, or which does not bear underwriters' approval;
29. **NOT PERMIT ODORS, NOISE, ETC.:** Not to cause or permit any offensive or obnoxious vibration, noise, odor or other undesirable effect to emanate from the Premises or any machine or other installation therein, or otherwise cause or permit the Premises to constitute a nuisance, annoyance or interference with the safety, comfort or convenience of Landlord or any of the other occupants of the Shopping Center or their customers, agents or invitees or any other persons lawfully in or upon the Shopping Center. Upon notice by Landlord to Tenant that any of the aforesaid is occurring, Tenant shall forthwith (but in all events within five (5) days) remove or control the same. If any such condition is not so remedied, the Landlord may, at its discretion, treat such failure as an event of default;
30. **NOT INTERFERE WITH INSURANCE:** Not to use, occupy, do or permit anything to be done in the Premises which in any manner shall make it impossible for Landlord and/or Tenant to obtain at standard rate any insurance required or desired, or which will invalidate or increase the cost to Landlord of any existing insurance, or which will cause structural injury to any building, or which would constitute a public or private nuisance, or which will violate any present or future laws, regulations, ordinances or requirements (ordinary or extraordinary, foreseen or unforeseen) of the federal, state or municipal governments, or of any department, subdivisions, bureaus or offices thereof, or of any other governmental, public or quasi-public authorities now existing or hereafter created having jurisdiction of the Premises, building or Shopping Center of which they form a part;
31. **NOT INJURE REPUTATION:** Not to use or occupy the Premises for any purpose calculated to injure the reputation of the Premises, Shopping Center and/or neighborhood in which they are located, or currently or in the future, impair the value of the Premises and/or Shopping Center;
32. **NO FLEA MARKET:** Not to use or operate the Premises as so-called "flea market", "army and navy store", or for a "cut-rate" or "flea market" type of business, provided, however, that this provision shall not preclude the conduct of periodic, seasonal, promotional, or clearance sales;
33. **NO FIRE SALE:** Not to conduct or permit any fire, bankruptcy, auction or "going out of business" sale or similar practice (whether real or fictitious) in the Premises or utilize any unethical method of business operation;
34. **NO SOLICITATION:** Not to either solicit business or distribute advertising or promotional matter in the Common Area;
35. **NOT ERECT SIGNS:** Not to erect or maintain any sign on the exterior of the Leased Premises except with the prior written consent of Landlord. Where such written consent has been obtained by Tenant, Tenant covenants and agrees that all such signs shall be in accordance with Landlord's sign requirements, including, without limitation, that such sign



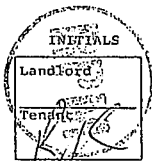
may advertise only Tenant's trade name or style, type of business, and must comply in design, architecture, size, colors (which shall include the color background of exterior walls, fascia and sign parapets on which signs are placed and which Landlord shall have the right to change from time to time), which Landlord reserves the right to designate from time to time; and any applicable statutes, ordinances, codes, rules and/or regulations of any governmental authority; and that Tenant shall maintain any and all such signs, exterior wall, fascia and sign parapet areas in good condition and repair at all times. Upon vacating the Premises, Tenant agrees, at its expense, to remove all signs and repair any and all damage caused by the installation, maintenance or removal of such signs. Landlord shall have the right to remove any signs in violation of these provisions at Tenant's expense without notice to Tenant and without any liability for any damages caused thereby. At any time during the term of this Lease, should Landlord renovate or remodel the Shopping Center and in conjunction therewith require updated Tenant signage, Tenant shall at Landlord's request promptly remove its existing signage and thereafter promptly replace its signage in accordance with Landlord's revised sign and design criteria, all at Tenant's sole cost and expense. In the alternative, and at Landlord's option, Landlord may remove Tenant's signage, at Tenant's sole cost and expense, during the renovation or remodeling, and Tenant shall thereafter promptly replace its signage as stated above.

ARTICLE XXV - EMINENT DOMAIN

1. In the event the Leased Premises or any part thereof shall be permanently taken or condemned, or transferred by agreement in lieu of condemnation, for any public or quasi-public use or purpose by any competent authority, and whether or not this Lease shall be terminated, the entire compensation award therefor, both leasehold and reversion, shall belong to the Landlord without any deduction therefrom for any present or future estate of Tenant and Tenant hereby assigns to Landlord all its right, title and interest in and to any such award. Tenant shall, however, be entitled to claim, prove and receive in such condemnation proceedings such award as may be allowed for fixtures and other equipment installed by it but only if or to the extent such award shall be in addition to the award for the land and the building and other improvements (or portions thereof) containing the Leased Premises.
2. If the entire Leased Premises shall be taken or condemned as aforesaid, then this Lease shall terminate and shall become null and void from the time possession thereof is required for public use and from that date the parties hereto shall be released from further obligation hereunder; but in the event a portion only of the Leased Premises itself shall be so taken or condemned, then Landlord may elect to terminate this Lease or repair and restore the portion not affected by the taking, and thereafter fixed minimum rent ~~and percentage rent~~ and other charges to be paid by Tenant shall be equitably and proportionately adjusted.
3. In the event a portion of the Shopping Center shall be taken, condemned or transferred as aforesaid and as a result thereof Landlord in its sole discretion elects to discontinue the operation of the Shopping Center, Landlord may cancel this Lease by giving Tenant notice of its election and this Lease shall terminate and shall be null and void ninety (90) days after said notice, excepting and reserving to the parties any rights or remedies each may have had against the other which accrued prior to the termination date, and the provisions with respect to the awards shall be as set forth above in Section 1 of this Article XXV.

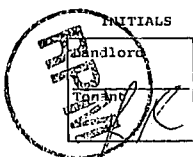
ARTICLE XXVI - DEFAULT BY TENANT

1. In the event of any failure of Tenant to pay any rents, additional rents, or other charges or sums within five (5) days after written notice of such default; or any failure to perform any other of the terms, conditions or covenants of this Lease to be observed or performed by Tenant for more than ten (10) days after written notice of such other default shall have been given to Tenant; or if Tenant or an agent of Tenant shall falsify or fail to timely submit any report required to be furnished to Landlord pursuant to the terms of this Lease; or if Tenant shall discontinue operating its business, leave or abandon the Premises, or suffer this Lease to be taken under any writ of execution or in bankruptcy or receivership; then Landlord, notwithstanding all other rights or remedies it may have by law and in equity, shall have the right: (a) if the Shopping Center is located in Pennsylvania or in any other state the laws of which provide for acceleration upon default, to declare all rent and other payments for the entire unexpired term of this Lease at once due and payable and if not paid forthwith upon Landlord's demand then to resort to legal process for collection of all accelerated payments due



under this Lease; or (b) to terminate this Lease and resort to legal process for collection of damages and/or eviction; or (c) to re-enter and attempt to relet without terminating this Lease and remove all persons and property from the Leased Premises and such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant, all without service of notice or resort to legal process and without Landlord's being deemed guilty of trespass, or becoming liable for any loss or damage which may be occasioned thereby.

2. If Landlord, without terminating this Lease, either (a) elects to re-enter and attempts to relet, as hereinbefore provided, or (b) takes possession pursuant to legal proceedings, or (c) takes possession pursuant to any notice provided by law, then Landlord may, from time to time, make such alterations and repairs as may be necessary in order to relet the Premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease) and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable. Upon each reletting, all rentals received by the Landlord from such reletting shall be applied: first, to the payment of any indebtedness other than rent due hereunder from Tenant to Landlord; second, to the payment of any costs and expenses of such reletting, including brokerage fees and attorney's fees; third, to the payment of rent due and unpaid hereunder; and then the residue, if any, shall be held by Landlord and applied to payment of future rent as the same may become due and payable hereunder. If such rentals received from such reletting during any month are less than that to be paid during that month by Tenant hereunder, Tenant shall pay any such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. No such re-entry or taking possession of the Premises by Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of such intention is given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach. Should Landlord at any time terminate this Lease for any breach, in addition to any other remedies it may have, it may recover from Tenant all damages it may incur by reason of such breach, including the cost of recovering the Premises, reasonable attorney's fees, and including the worth at the time of such termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this Lease for the remainder of the stated term, all of which amounts shall be immediately due and payable from Tenant to Landlord. ~~In determining the rent which would be payable by Tenant hereunder, subsequent to default, the annual rent for each year of the unexpired term shall be equal to the annual fixed minimum and greatest percentage rents due by Tenant from the commencement of the term to the time of default, or the average thereof during the preceding three (3) full Lease Years, if this period is shorter.~~
3. If Tenant or any Surety of this Lease shall become bankrupt, or file any debtor proceedings or take or have taken against Tenant or any Surety of this Lease in any court pursuant to any statute either of the United States or of any state, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Tenant's or any such Surety's property, or if Tenant or any such Surety makes an assignment for the benefit of creditors or petitions for or enters into an arrangement, then and in that event, this Lease shall at the option of the Landlord be canceled and terminated and any party claiming on behalf of the Tenant or such Surety shall not have any rights whatsoever under this Lease.
4. No waiver of any covenant or condition or of the breach of any covenant or condition of this Lease shall be taken to constitute a waiver of any subsequent breach of such covenant or condition nor to justify nor authorize the non-observance on any other occasion of the same or of any other covenant or condition hereof, nor shall the acceptance of rent by Landlord at any time when Tenant is in default under any covenant or condition hereof, be construed as a waiver of such default or of Landlord's right to terminate this Lease on account of such default, nor shall any waiver or indulgence granted by Landlord to Tenant be taken as an estoppel against Landlord, its being expressly understood that if at any time Tenant shall be in default in any of its covenants or conditions hereunder, an acceptance by Landlord of rental during the continuance of such default or the failure on the part of Landlord promptly to avail itself of such other rights or remedies as Landlord may have, shall not be construed as a waiver of such default, but Landlord may at any time thereafter, if such default continues, terminate this Lease on account of such default in the manner hereinbefore provided.



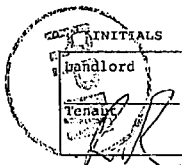
5. In addition to any other remedies Landlord may have at law or equity and/or under this Lease, Tenant shall pay upon demand all Landlord's costs, charges and expenses, including fees of counsel, agents and others retained by Landlord, incurred in connection with the recovery of sums due under this Lease, or because of the breach of any covenant under this Lease or for any other relief against Tenant. In the event Tenant shall bring any action against Landlord for relief hereunder and Landlord shall prevail, Tenant shall pay Landlord's reasonable attorney fees and all court costs.
6. The rights and remedies given to Landlord by this Lease shall be deemed to be cumulative and no one of such rights and remedies shall be exclusive at law or in equity of the rights and remedies which Landlord might otherwise have by virtue of a default under this Lease, and the exercise of one such right or remedy by Landlord shall not impair Landlord's standing to exercise any other right or remedy.

ARTICLE XXVII - DEFAULT BY LANDLORD

1. Landlord shall in no event be charged with default in the performance of any of its obligations hereunder unless and until Landlord shall have failed to perform such obligations within thirty (30) days (or such additional time as is reasonably required to correct any such default) after written notice to Landlord by Tenant properly specifying wherein Landlord has failed to perform any such obligations. Such notice shall be computed from the date of Landlord's receipt.
2. If the holder of record of any mortgage covering the Leased Premises shall have given prior written notice to Tenant that it is the holder of the mortgage and that such notice includes the address at which such notices to such mortgagees are to be sent, then Tenant agrees to give notice to the holder of record of such mortgage simultaneously with any notice given to Landlord to correct any default of Landlord as hereinabove provided and agrees that the holder of record of such mortgage shall have the right, within sixty (60) days after receipt of said notice, to correct or remedy such default before Tenant may take any action under this Lease by reason of such default. Any notice of default given to Landlord shall be null and void unless simultaneous notice has been given to the first mortgagee.

ARTICLE XXVIII - ESTOPPEL CERTIFICATE, ATTORNMENT AND SUBORDINATION

1. Within ten (10) days after request by Landlord, Tenant shall deliver to Landlord a written statement certifying that Landlord has completed construction of the Leased Premises, if any, that Tenant has accepted possession of the Leased Premises, that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), and the dates to which the basic rent and other charges have been paid in advance, if any, its being intended that any such statement delivered pursuant to this Article may be relied upon by Landlord, any prospective purchaser or mortgagee of the Leased Premises or the Shopping Center.
2. Upon request of Landlord, in the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage made by Landlord covering the Leased Premises, Tenant shall attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as Landlord under this Lease.
3. Upon request of Landlord or Landlord's lender, Tenant will, in writing, either subordinate its rights hereunder, or make its rights superior to the lien of any mortgage or mortgages, or the lien resulting from any other method of financing or refinancing, now or hereafter in force against the land and/or buildings of which the Leased Premises are a part or against any buildings hereafter placed upon the land of which the Leased Premises are part, and to all advances made or hereafter to be made upon the security thereof.
4. Tenant, upon request of any party in interest, shall execute promptly such instruments or certificates to carry out the intent of Sections 1, 2, and 3 of this Article. Tenant hereby irrevocably appoints Landlord as attorney-in-fact for Tenant with full power and authority to execute and deliver in the name of Tenant any such instruments or certificates. If fifteen (15) days after the date of written request by Landlord to execute such instruments, Tenant shall not have executed and delivered the same, Landlord may, at its option, cancel this Lease



without incurring any liability on account thereof, and the term hereby granted is expressly limited accordingly.

ARTICLE XXIX - HOLDING OVER

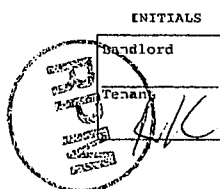
If Tenant shall remain in possession of all or any part of the Leased Premises after the expiration of the term of this Lease and Landlord elects to accept rent thereafter, then Tenant shall be deemed a Tenant of the Premises from month-to-month at twice the rental and subject to all of the terms and provisions hereof, except only as to the term of this Lease; provided, however, that if the rent during the term of this Lease is at varying rates, the rent payable during such period as Tenant shall continue to hold the Premises or any part thereof shall be twice the highest rate of fixed minimum rent, ~~percentage rent~~ and additional rent heretofore paid during the original term, or any renewal or extensions, of this Lease.

ARTICLE XXX - QUIET ENJOYMENT

1. Landlord covenants and agrees that if Tenant timely pays the rents and other charges herein provided and performs all of the covenants and agreements herein stipulated to be performed on the Tenant's part, Tenant shall, at all times during said term, have the peaceable and quiet enjoyment and possession of the Premises without any manner of hindrance from Landlord or any persons lawfully claiming through Landlord, except as to such portion of the Premises as shall be taken under power of eminent domain or shall have suffered a casualty requiring repairs or restoration for which Landlord is responsible, in which event the time required for said repairs or restoration is also excepted.
2. Anything herein to the contrary notwithstanding, Landlord expressly reserves the right to make changes, additions, deletions, alterations or improvements in and to the Shopping Center and/or its facilities. The parties acknowledge that the construction of the Shopping Center is not restricted to one story construction, and that Landlord expressly reserves the right at any time during this Lease term or any extension hereof, to construct upper level space above any building, now or hereafter existing in the Shopping Center. In such event, Landlord shall not be subject to any liability therefor nor shall any such happenings constitute a default to Landlord's covenant of quiet enjoyment for which Tenant would be entitled to any compensation, rent reduction, lease amendment or termination or any other redress or remedy.

ARTICLE XXXI - SECURITY AGREEMENT

1. For valuable consideration and as security for the payment of rent and other charges becoming due hereunder, Tenant hereby grants to Landlord a security interest in the following described collateral: (a) all inventory in the Leased Premises during the term of this Lease; (b) all equipment and other personalty placed in the Leased Premises during the term of this Lease; (c) all of the proceeds and products of said inventory, equipment and personalty.
2. Upon the happening of any of the following events or conditions, namely: (a) default in the payment of rent or performance of any of the obligations or of any covenant or liability contained or referred to in this Lease; (b) making of any levy, seizure or attachment of the collateral; (c) death, dissolution, termination of existence, insolvency, business failure, appointment of a receiver, assignment for the benefit of creditors or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Tenant or any guarantor or surety for Tenant; thereupon, or any time thereafter (such default not having previously been cured) Landlord shall then have all the remedies of a secured party under the laws of the state in which the Leased Premises are located, including, without limitation, the right to take possession of the collateral and for that purpose Landlord may enter upon the Leased Premises and remove the same therefrom. Landlord will give Tenant at least ten (10) days prior written notice of any public sale thereof or of the date after which any private sale or any other intended disposition is to be made, and at any such sale the Landlord may purchase the collateral.
3. This security agreement and the security interest in the collateral created hereby shall be terminated when all of the rent and other charges becoming due during the term of this Lease or extension thereof have been paid in full.



ARTICLE XXXII - REIMBURSEMENT

All terms, covenants and conditions herein contained to be performed by Tenant shall be performed at its sole expense and if Landlord shall pay any sum of money or do any act which requires the payment of money by reason of the failure, neglect or refusal of Tenant to perform such terms, covenants or conditions, the sum of money so paid by Landlord shall be payable by Tenant to Landlord with the next succeeding installment of rent together with interest at the rate of twelve percent (12%) per annum or such interest rate as shall be permitted by law if less. If Landlord shall perform any work that is an obligation of Tenant, then Tenant shall pay to Landlord the cost of the work, together with the sum equal to fifteen percent (15%) of such cost for overhead, and an additional sum equal to ten percent (10%) of said amount for profit and, as provided for above, interest upon failure of prompt payment.

ARTICLE XXXIII - WAIVER

One or more waivers of any covenant or condition by Landlord shall not be construed as a waiver of a subsequent breach of the same or any other covenant or condition, and the consent or approval by Landlord to or of any act by Tenant requiring Landlord's consent or approval shall not be construed to waive or render unnecessary Landlord's consent or approval to or of any subsequent similar act by Tenant.

ARTICLE XXXIV - NO ACCORD AND SATISFACTION

No acceptance by Landlord of a lesser sum than the rents or other charges then due shall be deemed to be other than on account of the earliest of such stipulated rents or charges, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent or other charge be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or pursue any other remedy provided in this Lease or by law.

ARTICLE XXXV - NOTICE

Any notice which Landlord or Tenant may be required to give to the other party shall be in writing and shall be mailed Registered or Certified Mail, Return Receipt Requested, to the other party at the address specified in Article I hereof, or the Leased Premises if such notice is to the Tenant, or to such other address as either party shall have designated to the other, and the time of the rendition of such shall be when same is deposited in an official United States Post Office, postage prepaid, unless otherwise provided herein.

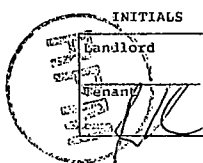
ARTICLE XXXVI - FORCE MAJEURE

Landlord shall be excused for the period of any delay in the performance of any obligation hereunder or non-performance of any such obligations or of this Lease, when prevented from so doing by cause beyond Landlord's control which shall include, without limitation, all labor disputes, civil commotion, war, war-like operations, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, administrative hearings or judicial litigation including any adverse findings, orders, verdicts or judgments therein, fire or other casualty, inability to obtain any material, services or financing or through acts of God or through any other causes beyond Landlord's control whatsoever.

ARTICLE XXXVII - SECURITY DEPOSIT

Landlord acknowledges that it has received from Tenant \$2,010.00 which sum is, during the term of this Lease and any extensions thereof, security for the full and faithful performance and observance by Tenant of the covenants, terms and conditions of this Lease, including, but not limited to the payment of rent, additional rent and charges on the part of the Tenant to be kept and performed. No interest shall be payable on said deposit. In the event of any default hereunder, Landlord may use, apply or retain the whole or any part of the security so deposited to the extent required for the payment of any rent and additional rent or any other sum as to which Tenant is in default, or any sum that Landlord may expend or may be required to expend by reason of Tenant's default in respect to any of the covenants, terms or conditions of this Lease including, but not limited to, any damages or deficiency in the reletting of the Leased Premises, whether such damages or deficiency occurred before or after summary proceedings or other re-entry by Landlord. In the event

INITIALS
Landlord
Tenant



that Tenant shall fully and faithfully comply with all of the terms, provisions, covenants and conditions of this Lease, the security deposit shall be returned to Tenant within sixty (60) days after the date fixed as the termination of this Lease, including any extensions, and after delivery of entire possession of the Leased Premises to Landlord in as good order and condition as they were when delivered to Tenant, in slightly appearance and broom clean condition, reasonable wear and tear only excepted. Landlord shall always have the right to apply said security deposit, or from time to time such one or more parts or portions thereof or the part or portion thereof not previously applied, to the curing of any default that may then exist, without prejudice to any other remedy or remedies which Landlord may have on account thereof. In the event of a sale or leasing of the land and/or building of which the Premises form a part, Landlord shall have the right to transfer the security deposit to the transferee or Tenant, and Landlord shall thereupon be released by Tenant from all liability for the return of such security deposit; and Tenant agrees to look to the new Landlord only for the return of the security deposit; and it is agreed that the provisions hereof shall apply to every transfer or assignment made of the security to a new Landlord. Tenant further covenants that it will not assign, nor encumber, nor attempt to assign or encumber the moneys deposited herein as security and that neither Landlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance.

~~ARTICLE XXXVIII COST OF LIVING ADJUSTMENT~~

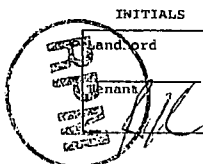
~~As used herein, "Price Index" shall mean the Consumer Price Index, All Urban Consumer (United States, All Items), as compiled and published by the Bureau of Labor Statistics, United States Department of Labor, which became effective January, 1978. If such Price Index should in the future be compiled on a different basis, appropriate adjustments will be made for purposes of computations under this Article. If the United States Department of Labor no longer compiles and publishes such Price Index, any comparable index published by any other branch or department of the Federal Government shall be used for the purpose of computing the adjustments herein provided for, and if no such index is compiled and published by any branch or department of the Federal Government, the statistics reflecting cost of living changes, as compiled by any institution, organization or individual generally recognized as an authority by financial and insurance institutions shall be used as a basis for such adjustments.~~

~~Recognizing the length of the term of this Lease and inflationary tendencies in recent years, Tenant agrees that in the event the Price Index reflects an increase in the cost of living over and above such costs as reflected by such Price Index as it exists in the month of the beginning date of the term of this Lease (hereinafter called the "Base Index"), the Minimum Rent payable hereunder shall be adjusted as follows:~~

- ~~1. There shall be an annual adjustment for each Lease Year commencing with the second Lease Year of the term of this Lease based upon the percentage increase (if any) between the Base Index and the Price Index for the month of December in each prior Lease Year.~~
- ~~2. The percentage increase thus determined shall be multiplied by the applicable monthly charge for fixed minimum rent as set forth in Article V of this Lease for the respective Lease Year to be adjusted and the total sum of such monthly charge and the amount so determined shall constitute the monthly fixed minimum rent charge payable for the respective Lease Year.~~

~~To illustrate, assuming that the beginning date of the term of the Lease is in the month of March and for that month of March the Base Index is 102.00 and the Price Index for the upcoming month of December occurring in the first Lease Year is 105.06 the monthly fixed minimum rent for the second Lease Year would be the total sum of the monthly minimum rent charge set forth for the second Lease Year in Article V of the lease plus an additional amount equal to 3.00% of such charge. In calculating the 3.00% change in the index from one time period to another (as used in this example) the more recent figure of 105.06 is divided by the earlier figure of 102.00 and multiplied by 100 so that the more recent figure is 103.00% of the earlier figure and therefore the percent change is 3.00%.~~

- ~~3. The same formula shall be used in adjusting the monthly fixed minimum rent for the third Lease Year and each ensuing Lease Year of the term of this Lease, including any option periods (if exercised), with the Price Index for the month of December occurring in the prior Lease Year to the Lease Year being adjusted being used, but no such adjustment shall result in a reduction of the monthly fixed minimum rent below the greater of (a) the monthly fixed minimum rent for the respective Lease Year as set forth in Article V of this Lease; or (b) the~~

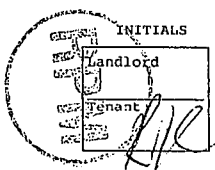


~~highest monthly fixed minimum rent thereafter payable in any prior Lease Year as determined in accordance with subsections 1. and 2. hereof.~~

ARTICLE XXXIX - MISCELLANEOUS

1. RECORDING: Tenant shall not record this Lease without the prior written consent of Landlord. Either party shall, upon request of the other party, execute and acknowledge a "short form" memorandum of this Lease for recording purposes.
2. BROKERS: Tenant represents and warrants to Landlord that there are no claims for brokerage commissions or finder's fees in connection with this Lease. Tenant covenants and agrees to defend, indemnify and hold harmless the Landlord from and against all liabilities arising from any such claims.
3. GOVERNING LAW: This Lease shall be construed, governed and enforced in accordance with the laws of the Commonwealth of Pennsylvania unless prohibited by the laws of the State in which the Shopping Center is located and in such event, but only to the extent required, so much of such State's laws shall govern this Lease and its enforcement as are applicable.
4. INVALIDITY OF PROVISIONS: If any provision of this Lease shall be held to be invalid or unenforceable, the remaining provisions of this Lease shall in no way be affected or impaired and such remaining provisions shall continue in full force and effect.
5. SUCCESSORS: Except as otherwise provided in this Lease, the respective rights and obligations provided in this Lease shall bind and shall inure to the benefit of the parties hereto, their legal representatives, heirs, successors and assigns; provided, however, that no rights shall inure to the benefit of any successor of Tenant unless Landlord's written consent for the transfer to such successor has first been obtained as provided in Article XXIII.
6. GENDER: As used in this Lease, the word "person" shall mean and include, where appropriate, an individual, corporation, partnership or other entity; the plural shall be substituted for the singular, and the singular for the plural, where appropriate; the words of any gender shall mean and include any other gender.
7. JOINT AND SEVERAL LIABILITY: In the event that two or more individuals, corporations, partnerships or other business associations (or any combination of two or more thereof) shall sign this Lease as Tenant, the liability of each to pay rent, additional rent and other charges and to perform all other obligations under this Lease shall be joint and several. In a like manner, in the event that the Tenant shall be a partnership or other business association, the members of which are, by virtue of statute or general law, subject to personal liability, then the liability of each such member shall be joint and several.
8. CAPTIONS: Captions, titles of articles, titles of exhibits and riders (if any) and the Index of Lease are for convenience and reference only, and are in no way to be construed as defining, limiting or modifying the scope or intent of the various provisions of this Lease.
9. COUNTERPARTS: This Lease can be executed in any number of printed or electrostatically reproduced counterparts each of which, when fully executed, shall be deemed an original, and it shall not be necessary in making proof of this Lease to produce or account for more than one such counterpart.
10. COMPLETE AGREEMENT: This writing contains the entire agreement between the parties, and no agent, representative, salesman or officer of Landlord has authority to make or has made any statement, agreement or representation, either oral or written, in connection herewith, modifying, adding to or changing the terms and conditions herein set forth. No dealings between the parties or customs shall be permitted to contradict or modify the terms hereof. No modification of this Lease shall be binding unless such modification shall be in writing and signed by the parties.
11. NET LEASE: The parties intend this Lease to be a Net Lease whereby all costs and expense of performance, except those specifically and expressly reserved to Landlord herein, are for Tenant's account.

INITIALS
Landlord
Tenant



ARTICLE XL - NO RIGHT OF REDEMPTION, COUNTERCLAIM OR JURY TRIAL

Tenant, for itself and for all persons claiming through or under it, hereby expressly waives any and all rights which are or may be conferred upon Tenant by any present or future law to redeem the Premises, or to any new trial in any action of ejection under any provision of law, after re-entry thereupon, or upon any part thereof, by Landlord, or after any warrant to dispossess or judgment in ejection. If Landlord shall acquire possession of the Premises by summary proceedings, or in any other lawful manner without judicial proceedings, it shall be deemed a re-entry within the meaning of that word as used in this Lease. In the event that Landlord commences any summary proceedings or action for nonpayment of rent or other charges provided for in this Lease, Tenant shall not interpose any counterclaim of any nature or description in any such preceding or action. Tenant and the Landlord both waive a trial by jury of any or all issues arising in any action or proceeding between the parties hereto or their successors, under or connected with this Lease, or any of its provisions.

ARTICLE XLI - CONFESSION OF JUDGMENT

IN ADDITION TO THE OTHER REMEDIES HEREIN PROVIDED TO LANDLORD, THE TENANT HEREBY EMPOWERS THE PROTHONOTARY, CLERK OR ANY ATTORNEY OF ANY COURT OF COMPETENT JURISDICTION TO APPEAR FOR TENANT AND, WITH OR WITHOUT ONE OR MORE COMPLAINTS FILED, ENTER A JUDGMENT OR JUDGMENTS AGAINST THE TENANT IN FAVOR OF THE LANDLORD, OR ITS SUCCESSORS OR ASSIGNS, AS OF ANY TERM FOR SUCH UNPAID RENTALS AND OTHER SUMS DUE UNDER SAID LEASE, WHETHER BY ACCELERATION OR OTHERWISE, TOGETHER WITH COSTS OF SUIT AND ATTORNEY'S COMMISSION OF FIFTEEN PERCENT (15%) FOR COLLECTION, WITH RELEASE OF ALL ERRORS AND WITHOUT STAY OF EXECUTION. NO SINGLE EXERCISE OF THE FOREGOING POWER TO CONFESS JUDGMENT SHALL BE DEEMED TO EXHAUST THE POWER, WHETHER OR NOT ANY SUCH EXERCISE SHALL BE HELD BY ANY COURT TO BE INVALID, VOIDABLE OR VOID; BUT FROM TIME TO TIME AS OFTEN AS LANDLORD, ITS SUCCESSORS AND ASSIGNS, SHALL ELECT, IT MAY EXERCISE SUCH POWER TO CONFESS UNTIL SUCH TIME AS LANDLORD, ITS SUCCESSORS AND ASSIGNS, SHALL HAVE RECEIVED PAYMENT IN FULL OF SUCH AMOUNTS DUE TO LANDLORD FROM TENANT. IN THE EVENT OF DEFAULT BY TENANT HEREUNDER, TENANT ALSO EMPOWERS ANY ATTORNEY OR ANY COURT OF COMPETENT JURISDICTION TO APPEAR FOR TENANT AND ENTER A JUDGMENT IN FAVOR OF LANDLORD, OR ITS SUCCESSORS OR ASSIGNS, AND AGAINST TENANT FOR POSSESSION OF THE LEASED PREMISES.

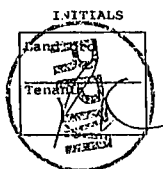
"WARNING" - BY SIGNING THIS PAPER, YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME, A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE LANDLORD INCLUDING FAILURE ON ITS PART TO COMPLY WITH THE AGREEMENT OR ANY OTHER CAUSE.

ARTICLE XLII - EXCULPATION

Anything herein to the contrary notwithstanding, the covenants contained in this Lease to be performed by Landlord, or its agents or representatives, shall not be binding personally upon Landlord, its agents or representatives, or Landlord's respective successors, assigns, executors, heirs or legatees, and no deficiency judgment or other action for personal liability shall be brought or maintained against Landlord or any of the aforementioned parties, its being understood and agreed that execution or any other legal enforcement for collection on any verdict or judgment against Landlord and/or the aforesaid parties shall be expressly limited and exculpated to the real estate of the Leased Premises and Landlord's improvements thereon so that Tenant shall look solely to the equity of Landlord in the Leased Premises for the satisfaction of Tenant's remedies in the event of any Landlord's default hereunder. The parties mutually agree that this Article is and shall be considered an integral part of this Lease.

ARTICLE XLIII - LEASE VALIDITY

The submission of this Lease for examination and/or execution by Tenant does not constitute a reservation of or option for the Premises described herein for the benefit of Tenant and this Lease



shall have no force or validity as a Lease unless and until duly executed by Landlord and delivered by Landlord to Tenant.

ARTICLE XLIV - COMPETITION

Tenant agrees that from and after the date of this Lease and during and throughout the term hereof, Tenant (and if Tenant is a corporation, any officer, director, principal shareholder, parent, subsidiary or affiliated company of Tenant or, if Tenant is a partnership, any general or limited partner of Tenant) will not acquire, open, operate, or have any interest in, directly or indirectly, within a radius of five (5) miles from any outside boundary of the Shopping Center, any additional stores, including departments or concessions in another store (not so owned or operated as of the date of this Lease), conducting any business which is similar to or competing with the business to be conducted by Tenant in the Premises.

ARTICLE XLV - TENANT'S RIGHT TO TERMINATE

Landlord agrees that during the term of this Lease, for so long as Tenant is operating its business in the Premises and is not in default of any term, provision or condition of this Lease, Landlord shall not lease any space in the Shopping Center to H&R Block or to a tenant whose primary business is the preparation of tax returns. This restriction shall not apply to any existing tenant, or such tenant's assignees or sublessees. In the event Landlord violates this restriction, Tenant's exclusive remedy is to terminate this Lease, to be exercised by written notice to Landlord within thirty (30) days after the opening of such competitive use, and in such event this Lease shall terminate effective thirty (30) days after Landlord receives Tenant's notice of termination.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Landlord and Tenant have caused this Lease to be signed as of the date and year and in the place first above written.

Signed in the presence of:

LANDLORD:
GUMBERG ASSOCIATES - SANDY PLAZA
BY: J.J. GUMBERG CO., AGENT

Risa Evans

By:

Ira J. Gumberg
President



Maureen Jensen

By:

Larry J. Elbow
Assistant Secretary

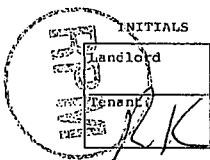
TENANT:
RONALD KIMBERLY
d/b/a JACKSON HEWITT TAX SERVICE

Charles Hanouff

By:

Ronald Kimberly [seal]
Ronald Kimberly, individual

Thurman Krifer



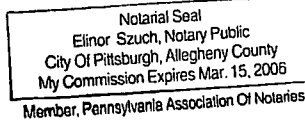
COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF ALLEGHENY) SS:

Personally appeared before me, the undersigned, a Notary Public, in and for said County and Commonwealth, Ira J. Gumberg and Larry J. Lebow known to me to be the President and Assistant Secretary, respectively of J.J. Gumberg Co., Agent of Gumberg Associates - Sandy Plaza, who acknowledge that they did sign and seal the foregoing instrument for, and on behalf of, said Corporation, being thereunto duly authorized and that the same is their free act and deed as such officers and the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Pittsburgh, Pennsylvania, this 10th day of December, 2005.

Elinor Szuch
Notary Public

My Commission Expires:



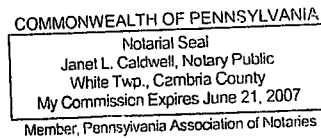
STATE OF Pennsylvania)
COUNTY OF Cambria) SS:

Personally appeared before me, the undersigned, a Notary Public, in and for said County and State, the above named Ronald Kimberly who said that he did sign the foregoing instrument and that the same is his free act and deed.

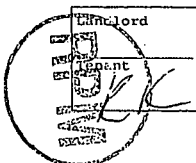
IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Cambria Cty, Pennsylvania, this 17th day of December, 2005.

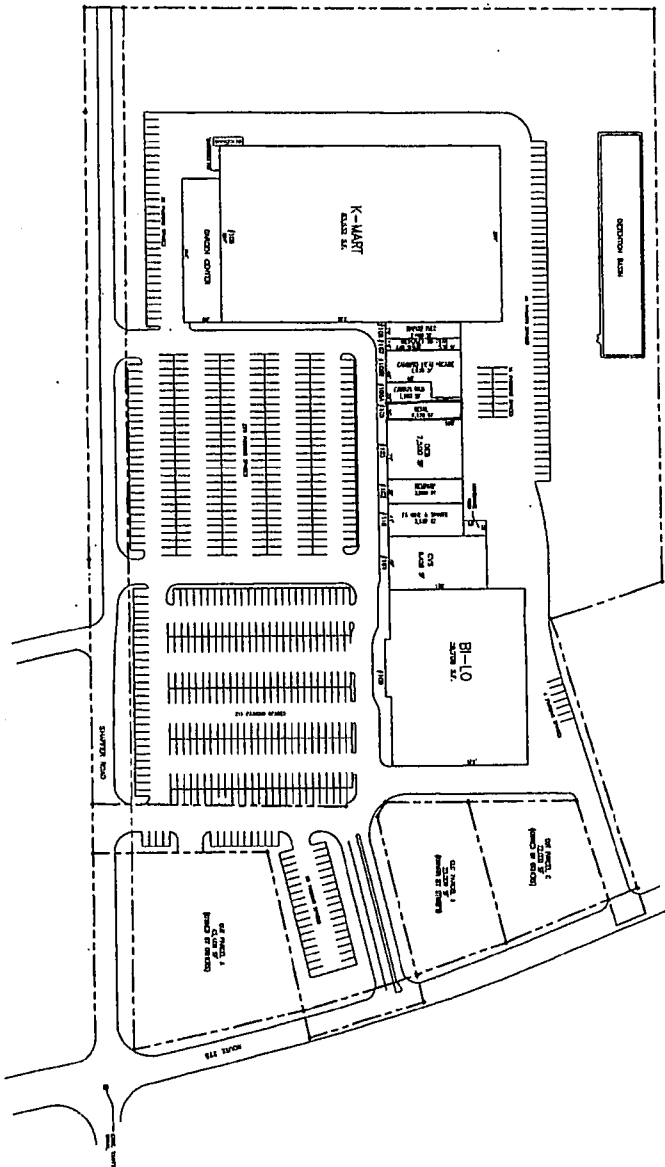
Janet L. Caldwell
Notary Public

My Commission Expires: June 21, 2007



INITIALS





This Exhibit is solely for the purpose of showing the approximate location of the leased premises within the shopping center and for no other reason whatsoever. Landlord reserves the right to relocate, change, expand or delete parking spaces or parking areas, curbs, fountains, entrances, service areas, food building areas, etc., including expansion or demolition of existing or new buildings.

EXHIBIT - A

Lepidula, Emarginata, baccata, etrus and guano, etc. etc. in 2000 to 25000 and that makes a very big difference. As a rule the observed percentages of *Emarginata* layers are not representative of normal observed soil acidity and the breakdown is likely to be around 1000. One or two other species are likely to be present even if the soil is not very acidic.

2012

| | | | | | |
|---|--|--------------|--|------------------------|--|
| DATE 7/2/86 | | APPROVED BY: | | DATA ENT. UNIT. | |
| SCALE 1"-50' | | | | CROSS SECTION | |
| FILED | | | | 3-587 1 OF 1 | |
| City & Suburban Engineering, Inc. 125 West 19th Street Louisville, KY 40202 | | | | DRAWING NUMBER SP-1 | |

SANDY PLAZA

SIGN CRITERIA

(REVISED 11/13/98)

Tenant expressly acknowledges and agrees that Landlord will not give its written consent to erect or maintain any sign on the exterior of the Leased Premises unless, in addition to meeting the requirements set forth hereinbefore in Article XXIV, Section 35, of this Lease, Tenant meets the following requirements:

- (a) Tenant shall erect only one sign on the Leased Premises and such sign shall consist of individually lighted single letters with a neon tube light source contained within each letter (no box type signs).
- (b) Each of said single letters shall be no more than twenty-four inches (24") in height.
- (c) The entire sign shall be no wider than seventy-five percent (75%) of the width of the storefront of the Leased Premises.
- (d) Letters to be mounted three-fourths of an inch (3/4") off of signband fascia.
- (e) Prior to fabrication of its sign, Tenant shall submit to Landlord three (3) sets of shop drawings for storefront signage. Drawings are to be of sufficient scale and show appropriate details.
- (f) No figures are permitted.
- (g) No double lines of letters are permitted.

NO OTHER SIGNS WILL BE PERMITTED



Exhibit "B"

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

OWNER:
GUMBERG ASSOCIATES -
SANDY PLAZA
By J. J. GUMBERG CO., AGENT
Brinton Executive Center
1051 Brinton Road
Pittsburgh, PA 15221

Plaintiff

vs.

CONTRACTOR:
RONALD KIMBERLY
d/b/a JACKSON HEWITT TAX SERVICE
132 East Market Street
Clearfield, PA 16830

Defendant

CIVIL DIVISION

CASE NUMBER:

TYPE OF PLEADING:
No-Lien Agreement

CODE AND CLASSIFICATION:

FILED ON BEHALF OF: Plaintiff

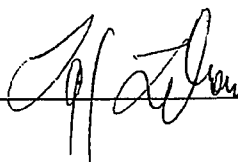
OWNER:
GUMBERG ASSOCIATES -
SANDY PLAZA

CERTIFICATE OF LOCATION:

I hereby certify that the
location of the real estate
affected by this lien is:

Township of Sandy

By: _____

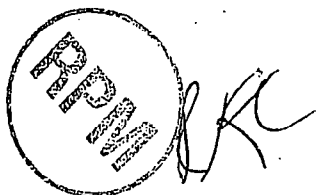


COUNSEL OF RECORD:

Larry J. Lebow, Esquire
J. J. Gumberg Co.
Brinton Executive Center
1051 Brinton Road
Pittsburgh, PA 15221
(412) 244-4000

Attorney's ID#: 29485

EXHIBIT "C"



NO-LIEN AGREEMENT

THIS AGREEMENT, made the 17th day of December, 2005, by and between RONALD KIMBERLY d/b/a JACKSON HEWITT TAX SERVICE ("Contractor") and GUMBERG ASSOCIATES - SANDY PLAZA ("Owner"), by J. J. GUMBERG CO., Agent, as follows:

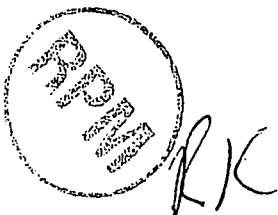
WHEREAS, the Contractor and the Owner have entered into a Contract dated December 6, 2005 ("Contract"), wherein the Contractor is to provide all of the materials and perform labor necessary for certain work to be done by Contractor in Room #105, located at Sandy Plaza, Township of Sandy, County of Clearfield, Commonwealth of Pennsylvania, situate on those parcels of ground, described as follows:

ALL those parcels of land or ground, situate in the Township of Sandy, County of Clearfield, Commonwealth of Pennsylvania, bounded and described in Exhibit "1", attached hereto and made a part hereof.

AND WHEREAS, said Contract between the Contractor and the Owner provides for the use of a certain premises to the Contractor.

NOW, THEREFORE, in consideration of the mutual covenants contained in said Contract, and of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt of which are hereby acknowledged, it is hereby stipulated and agreed by and between said named parties, as a part of said Contract, that no lien shall be filed against the Owner's parcels of ground and/or the buildings, by either the Contractor, or any subcontractor, or any parties acting through or under the Contractor for work or labor done or material supplied and furnished for said-described proposed work for the Owner, located as aforesaid.

It is the full intent of the Contractor, for itself, its successors and assigns, and for any and all subcontractor(s), materialmen, person(s), firm(s), association(s) or corporation(s), who provide labor and/or furnish material, claiming for itself, or by, through, or under the Contract, above recited, that the right to file a Mechanic's Lien under the provisions of any Act of Assembly in such cases made and provided, for work done or materials furnished in and about the erection, construction, repair or alteration of the building and improvement, above described, be and is hereby waived.



IN WITNESS WHEREOF, the parties, intending to be legally bound, have hereunto set their hands and seals this 17th day of December, 2005.

WITNESSES:

Charles Kameff

Thorman Kiefer

WITNESSES:

Rosa Evans

Marylin Jacobs

CONTRACTOR:

RONALD KIMBERLY

d/b/a JACKSON HEWITT TAX SERVICE

By: Ronald Kimberly [seal]-----
Ronald Kimberly, individual

OWNER:

GUMBERG ASSOCIATES -

SANDY PLAZA

BY: J. J. GUMBERG CO., AGENT

By: Ira J. Gumberg
President



By: Larry J. Lebow
Assistant Secretary



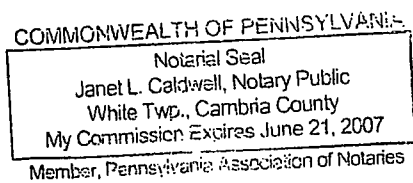
STATE OF Pennsylvania)
COUNTY OF Cambria) SS:

On this 17th day of December, 2005, before me a Notary Public, in and for said County and State, personally appeared Ronald Kimberly, who said that he did sign the foregoing instrument and that the same is his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at Cambria County, Pennsylvania, this 17th day of December, 2005.

Janet L. Caldwell
Notary Public

My Commission Expires: June 21, 2007



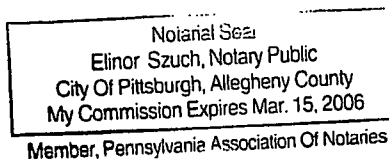
COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF ALLEGHENY) SS:

On this 20th day of December, 2005, before me a Notary Public, in and for said County and Commonwealth, personally appeared Ira J. Gumberg and Larry J. Lebow, who acknowledged themselves to be the President and Assistant Secretary respectively of J. J. Gumberg Co., a corporation, and that they executed the foregoing No-Lien Agreement on behalf of the said corporation for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and notarial seal.

Elinor Szuch
Notary Public

My Commission Expires:



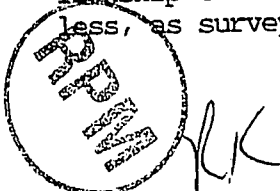
R/K

SANDY PLAZA

DESCRIPTION OF REAL ESTATE

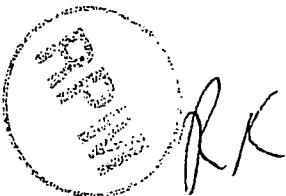
ALL that certain piece or parcel of land situate, lying and being in Sandy Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin on the westerly right of way line of Township Rt. 811, said pin being located a distance of 292.53 feet North 23° 35' East of the centerline of State Rt. 255; thence North 23° 35' East along the Western right of way line of Township Route 811 a distance of 369.5 feet to an iron pin at the Southwest corner of other lands of the Grantors also being conveyed this date to the Grantee; thence South 66° 25' East along said other lands of the Grantors a distance of 348 feet to a point; thence North 23° 35' East along said other lands of the Grantors a distance of 288 feet; thence South 66° 25' East along said other lands of the Grantors a distance of 35 feet; thence North 23° 35' East along other lands of the Grantors a distance of 9 feet; thence South 66° 25' East along said other lands of the Grantors a distance of 37.75 feet; thence North 23° 35' East along said other lands of the Grantors a distance of 265.5 feet to a point; thence North 66° 25' West along said other lands of the Grantors a distance of 420.75 feet to an iron pin on the Western right of way line of Township Route 811; thence North 25° 35' East along the Western right of way line of Township Route 811 a distance of 133 feet to an iron pin at the Southwest corner of lands of The Alpha Environmental Mining Corp.; thence South 66° 25' East along lands of The Environmental Mining Corp. a distance of 750 feet to an iron pin on the Western line of lands of the Morningside Cemetery Association; thence South 23° 35' West along lands of the Morningside Cemetery Association a distance of 725.10 feet to an iron pin at the Northeast corner of lands of the Clearfield County Industrial Development Authority (Bonanza Restaurant); thence South 84° 35' 39.4" West along lands of the Clearfield County Industrial Development Authority a distance of 150 feet to an iron pin; thence South 6° 10' 16.8" West along lands of the Clearfield County Industrial Development Authority, a distance of 394.02 feet to a nail in the centerline of State Route 255; thence along the centerline of State Route 255 North 89° 5' 04.2" West on a cord to the right 40' to a point at the Southeast corner of lands of the Alpha Environmental Mining Corp.; thence North 6° 10' 16.8" East along lands of The Alpha Environmental Mining Corp. a distance of 166.36 feet to an iron pin; thence North 66° 25' East along lands of the Alpha Environmental Mining Corp. a distance of 251.09 feet to an iron pin; thence South 54° 15' 19.4" West along lands of the Alpha Environmental Mining Corp. a distance of 22.73 feet to an iron pin; thence South 9° 15' 19.4" West along lands of The Alpha Environmental Mining Corp. a distance of 241 feet to a point in the centerline of State Route 255; thence along the centerline of State Route 255 North 82° 31' 31.1" West on a long cord to the right 160 feet to a point at the Southeast corner of other lands of The Alpha Environmental Mining Corp.; thence North 10° 40' 44.3" East along lands of The Alpha Environmental Mining Corp. a distance of 239.688 feet to an iron pin; thence North 66° 25' West along lands of The Alpha Environmental Mining Corp. a distance of 227.586 feet to an iron pin on the Western right of way line of Township Route 811 at the place of beginning. Containing 13.01 Acres, more or less, as surveyed by Lee-Simpson Associates, Inc.



ALL that certain piece or parcel of land situate, lying and being in Sandy Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin on the Western right of way line of Township Route 811, said pin being located North 23° 35' East a distance of 662.03 feet from the centerline of State Route 255; thence South 66° 25' East along other lands of the Grantors also being conveyed this date to the Grantee a distance of 348 feet to a point; thence North 23° 35' East along said other lands of the Grantors a distance of 288 feet; thence South 66° 25' East along said other lands of the Grantors a distance of 35 feet; thence North 23° 35' East along said other lands of the Grantors a distance of 9 feet; thence South 66° 25' East along said other lands of the Grantors a distance of 37.75 feet; thence North 23° 35' East along said other lands of the Grantors a distance of 265.5 feet to a point; thence North 66° 25' West along the said other lands of the Grantors a distance of 420.75 feet to an iron pin on the Western boundary of the larger tract out of which this parcel is conveyed, which is along a projection of the Western boundary of Township Route 811; thence South 23° 35' West along a projection of the Western right of way line of Township Route 811 a distance of 562.5 feet to the place of beginning. Containing 4.94 Acres more or less, as surveyed by Lee-Simpson Associates, Inc. its successors and assigns, and that no such heading, air course, water course or gangway shall be of a greater width than sixteen (16) feet with pillars not less than forty (40) feet between each such heading, air course, water course or gangway it being distinctly understood and agreed that Buffalo & Susquehanna Coal & Coke Company herein, its successors and assigns, shall not at any time remove any coal from the premises except on the terms herein stated and for the purposes herein stated. Said party of the second part does hereby release, quitclaim and forever discharge Buffalo & Susquehanna Coal & Coke Company, its successors and assigns, of an from all and every claim for damages for injury to the lands and the waters thereon, therein and under the same, and the buildings now or hereafter erected thereon, and the rights, uses and improvements thereof, that may be caused by operations presently on the property or that may hereafter be caused by the exercise of any of the rights herein reserved, upon the terms and conditions hereof.



LEASE AMENDMENT

AND NOW, this 29th day of August, 2006, this LEASE AMENDMENT (the "Lease Amendment") by and between **GUMBERG ASSOCIATES - SANDY PLAZA**, as "Landlord", by J. J. GUMBERG CO., Agent, Brinton Executive Center, 1051 Brinton Road, Pittsburgh, Pennsylvania 15221

A
N
D

RONALD KIMBERLY d/b/a JACKSON HEWITT TAX SERVICE, as "Tenant", 132 East Market Street, Clearfield, Pennsylvania 16830

WITNESSETH:

WHEREAS, Landlord and Tenant did execute a Lease dated December 6, 2005 (hereinafter referred to as "Lease"), for Room #105 containing approximately 2,400 square feet of floor area (the "Existing Premises") in the Sandy Plaza Shopping Center, Township of Sandy, County of Clearfield, Commonwealth of Pennsylvania (the "Shopping Center"); and

WHEREAS, said Lease is for a term of three (3) years and three (3) months which Lease Commenced January 12, 2006, and expires on April 30, 2009; and

WHEREAS, the parties are desirous of decreasing the size of the Existing Premises by removing therefrom approximately 1000 square feet of floor area (the "Stockroom") thus causing the space leased to Tenant to be approximately 1400 square feet of floor area (the "Remaining Premises"); and

WHEREAS, the parties hereto are desirous of amending said Lease in certain other respects.

NOW, THEREFORE, for and in consideration of the sum of Ten (\$10.00) Dollars paid by each of the parties hereto to the other, and for other good and valuable consideration, and in further consideration of the mutual promises and covenants herein contained, the sufficiency and receipt of which are hereby acknowledged by each of the parties hereto.

IT IS AGREED that said Lease be and hereby is amended as follows:

1. In consideration of this Lease Amendment, Landlord and Tenant agree that upon the mutual execution of this Lease Amendment, Tenant grants Landlord the right, but Landlord shall not be obligated, to reduce the size of the Existing Premises within the next six (6) months from 2,400 square feet to 1,400 square feet, as outlined in red as to the Existing Premises and green as to the

INITIALS

| |
|------------|
| Landlord |
| <i>rac</i> |
| Tenant |
| <i>KPK</i> |

Exhibit B

Gumberg v. Jackson Hewitt

Stockroom in Exhibit A-1 attached hereto and made a part hereof. If Landlord does not elect to reduce the size of the Existing Premises within said six (6) month period, then this Lease Amendment shall become null and void and of no further force and effect. *3 month - no later than Dec 29, 2006* *DR*

2. If Landlord elects to reduce the size of the Existing Premises, Landlord shall construct the new demising walls, and Tenant shall be responsible for all improvements to the Remaining Premises, including but not limited to, painting the walls, adjustments to the floor and ceiling and any remodeling or decorating that Tenant desires to perform, and Tenant shall pay Landlord Three Thousand and No/100 Dollars (\$3,000.00) within ten (10) days after Tenant receives Landlord's written request for such payment. *20* *DR*

3. Tenant and Landlord shall cooperate fully with each other, the local zoning officials, new tenant's contractors and Landlord's representatives and contractors to schedule and complete all required construction in a neat, orderly and timely fashion.

4. The "Effective Date" of this Lease Amendment shall be the first day of the calendar month following the opening date of the new tenant in Room #103. *DR*

5. Upon the Effective Date, the following shall occur

a. Exhibit "A" attached to the Lease shall be deleted and removed therefrom and the attached Exhibit "A" shall be substituted in lieu thereof. All references in the Lease to Exhibit "A" shall thereafter refer to the Exhibit "A" attached to this Lease Amendment. *and then construction. Pro-rated of the opening date of the new tenant in Room #103*

b. Article I, Section 3 and Article III, Section 1 of the Lease shall be amended by deleting "2,400" and inserting in lieu thereof "1,400".

c. Article I, Section 8 and Article V, Section 1 (a) of the Lease shall be amended by deleting "\$1,600.00" and inserting in lieu thereof "\$933.33".

d. Article I, Section 10 and Article VII, Section 3 of the Lease shall be amended by deleting "\$200.00" and inserting in lieu thereof "\$116.67".

e. Article I, Section 13 and Article XVI, Section 5 of the Lease shall be amended by deleting "\$210.00" and inserting in lieu thereof "\$122.50".

6. All terms used in this Lease Amendment which have been defined in the Lease shall have the same meaning as those same terms have in the Lease.

7. Except as above modified and amended, the Lease and all of its terms, conditions and covenants are hereby ratified and confirmed and shall continue during the term hereof and remain in full force and effect. The Lease is hereby incorporated by reference into this Lease Amendment and

INITIALS

| |
|------------|
| Landlord |
| <i>res</i> |
| Tenant |
| <i>Kat</i> |

made a part hereof as if fully repeated herein, except as otherwise specifically provided for pursuant to this Lease Amendment.

8. The submission of this Lease Amendment for examination/execution by Tenant does not constitute an amendment of the Lease and this Lease Amendment shall have no force and validity as an amendment of the Lease until duly executed by Landlord and delivered by Landlord to Tenant.

IN WITNESS WHEREOF, and intending to be legally bound hereby, Landlord and Tenant have caused this Lease Amendment to be signed as of the date written first above.

WITNESSES:

LANDLORD:

GUMBERG ASSOCIATES - SANDY PLAZA

BY: J. J. GUMBERG CO., AGENT

Alda Marra

By:

Ira J. Gumberg
President

William Kaprielian

By:

Larry J. Lebow
Assistant Secretary



WITNESSES:

TENANT:

RONALD KIMBERLY

d/b/a JACKSON HEWITT TAX SERVICE

Jennifer R. Gregory

By:

Ronald Kimberly [seal]
Ronald Kimberly, individual

Samuel H. H. H.

INITIALS



COMMONWEALTH OF PENNSYLVANIA)

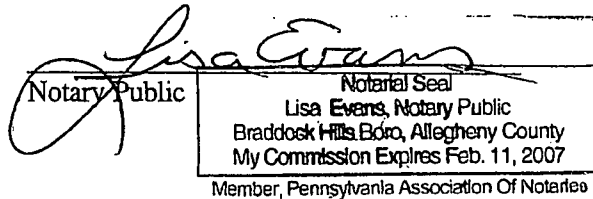
) SS:

COUNTY OF ALLEGHENY)

Personally appeared before me, the undersigned, a Notary Public, in and for said County and Commonwealth, Ira J. Gumberg and Larry J. Lebow, known to me to be the President and Assistant Secretary, respectively of J. J. Gumberg Co., Agent of Gumberg Associates - Sandy Plaza, who acknowledge that they did sign and seal the foregoing instrument for, and on behalf of said Corporation, being thereunto duly authorized and that the same is their free act and deed as such officers and the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Pittsburgh, Pennsylvania, this 6th day of October, 2006.

My commission expires: FEB 11, 2007



STATE OF Pennsylvania)
COMMONWEALTH OF PENNSYLVANIA)

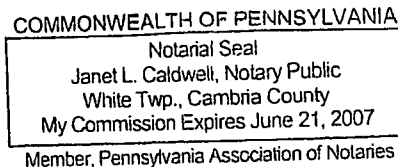
) SS: County of Cambria

Personally appeared before me, the undersigned, a Notary Public, in and for said County and State, the above named Ronald Kimberly, who said that he did sign the foregoing instrument and that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Flinton, PA, this 20th day of September, 2006.

My commission expires: 6-21-07

Janet L. Caldwell
Notary Public



INITIALS



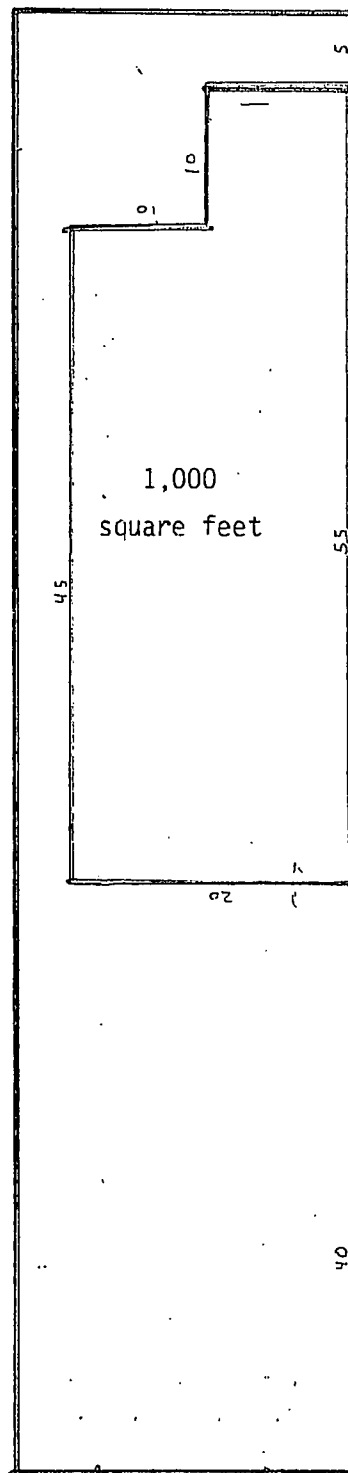


EXHIBIT "A-1"

rei RAC

LEASE AMENDMENT

AND NOW, this 18th day of December, 2006, this LEASE AMENDMENT by and between **GUMBERG ASSOCIATES - SANDY PLAZA**, as "Landlord", by J. J. GUMBERG CO., Agent, Brinton Executive Center, 1051 Brinton Road, Pittsburgh, Pennsylvania 15221

A
N
D

RONALD KIMBERLY d/b/a JACKSON HEWITT TAX SERVICE, as "Tenant", 132 East Market Street, Clearfield, Pennsylvania 16830

W I T N E S S E T H :

WHEREAS, Landlord and Tenant did execute a Lease dated December 6, 2005 for Room #105 containing 2,400 square feet of floor area in the Sandy Plaza Shopping Center, Township of Sandy, County of Clearfield, Commonwealth of Pennsylvania and a Lease Amendment dated August 29, 2006 (hereinafter referred to as the "First Lease Amendment" and collectively hereinafter referred to as "Lease"); and

WHEREAS, said Lease is for a term of three (3) years and three (3) months which Lease commenced January 12, 2006, and expires April 30, 2009; and

WHEREAS, the parties hereto are desirous of amending said Lease by revising paragraph 1 of the First Lease Amendment.

NOW, THEREFORE, for and in consideration of the sum of Ten (\$10.00) Dollars paid by each of the parties hereto to the other, and for other good and valuable consideration, and in further consideration of the mutual promises and covenants herein contained, the sufficiency and receipt of which is hereby acknowledged by each of the parties hereto.

IT IS AGREED that said Lease be and hereby is amended as follows:

1. Paragraph 1 of the First Lease Amendment is hereby deleted in its entirety and the following is substituted in lieu thereof in said First Lease Amendment: "Tenant grants Landlord the right, but Landlord shall not be obligated, to reduce the size of the Existing Premises on or before January 31, 2007 from 2,400 square feet to 1,400 square feet, as outlined in red as to the Existing Premises and green as to the Stockroom in Exhibit A-1 attached hereto and made a part hereof. If Landlord does not elect to reduce the size of the Existing Premises on or before January 31, 2007, then this Lease Amendment shall become null and void and of no further force and effect."

INITIALS

| |
|------------------------|
| Landlord <i>nei</i> |
| Tenant <i>RKle</i> |

Exhibit C

Gumberg v. Jackson Hewitt

2. All terms used in this Lease Amendment which have been defined in the Lease shall have the same meaning as those same terms have in the Lease.

3. Except as above modified and amended, the Lease and all of its terms, conditions and covenants are hereby ratified and confirmed and shall continue during the term hereof and remain in full force and effect. The Lease is hereby incorporated by reference into this Lease Amendment and made a part hereof as if fully repeated herein, except as otherwise specifically provided for pursuant to this Lease Amendment.

4. The submission of this Lease Amendment for examination/execution by Tenant does not constitute an amendment of the Lease and this Lease Amendment shall have no force and validity as an amendment of the Lease until duly executed by Landlord and delivered by Landlord to Tenant.

IN WITNESS WHEREOF, and intending to be legally bound hereby, Landlord and Tenant have caused this Lease Amendment to be signed as of the date written first above.

WITNESSES:
AS TO TENANT

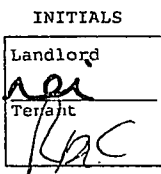
Nancy Thompson

Susan Pardoe

WITNESSES:
AS TO LANDLORD

Lisa Evans

Mary Ann Gaudin



LANDLORD:
GUMBERG ASSOCIATES - SANDY PLAZA
BY: J. J. GUMBERG CO., AGENT

By: Ira J. Gumberg
President

By: Larry J. Lepow
Assistant Secretary



TENANT:
RONALD KIMBERLY
d/b/a JACKSON HEWITT TAX SERVICE

By: Ronald E. Kimberly [seal]
Ronald Kimberly, individual
A.

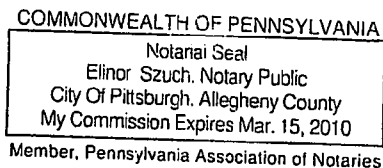
COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ALLEGHENY)

Personally appeared before me, the undersigned, a Notary Public, in and for said County and Commonwealth, Ira J. Gumberg and Larry J. Lebow, known to me to be the President and Assistant Secretary, respectively of J. J. Gumberg Co., Agent of Gumberg Associates - Sandy Plaza, who acknowledge that they did sign and seal the foregoing instrument for, and on behalf of said Corporation, being thereunto duly authorized and that the same is their free act and deed as such officers and the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Pittsburgh, Pennsylvania, this 4th day of January, 2007.

Elinor Szuch
Notary Public

My commission expires:



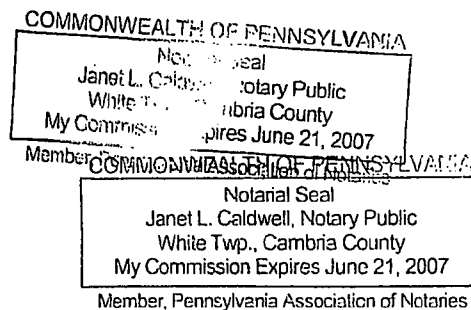
STATE OF Pennsylvania)
) SS:
COUNTY OF Cambria)

Personally appeared before me, the undersigned, a Notary Public, in and for said County and State, the above named Ronald A. Kimberly, who said that he did sign the foregoing instrument and that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Flinton, Pennsylvania, this 3rd day of January, 2007.

Janet L. Caldwell
Notary Public

My commission expires: 6-21-07



Brinton Executive Center
1051 Brinton Road
Pittsburgh, Pennsylvania
15221-4599

412.244.4000
412.244.4049 fax
www.jjgumberg.com

JJ GUMBERG CO.

September 15, 2008

CERTIFIED MAIL #7007 0710 0000 5170 5949
Return Receipt Requested

Ronald Kimberly
d/b/a Jackson Hewitt Tax Service
132 East Market Street
Clearfield, Pennsylvania
16830

NOTICE OF DEFAULT

Re: Jackson Hewitt Tax Service
Sandy Plaza Shopping Center
Dubois, Pennsylvania

Dear Tenant:

Your account is delinquent in the amount of \$3,143.23 which represents your failure to pay the following charges:

| | |
|---------------------------------|----------|
| CAM Adjustment (billed 1/30/08) | \$798.23 |
| August 2008 Rent | \$933.33 |
| August 2008 CAM | \$122.50 |
| August 2008 Taxes | \$116.67 |
| September 2008 Rent | \$933.33 |
| September 2008 CAM | \$122.50 |
| September 2008 Taxes | \$116.67 |

Your failure to make the above payments when due constitutes a default of your Lease Agreement. Landlord hereby demands that you cure the monetary delinquency within five (5) days of the date of this Notice by forwarding a check to the Landlord in the amount of \$3,143.23

If you fail to pay the delinquent amount owed within the time limit as set forth above, the Landlord will take whatever legal action it deems necessary to protect its interests. Should this occur, you will be responsible under the Lease terms for additional charges and costs, as well as any attorney fees, which will substantially increase the above amount owed.

If you have any questions, please do not hesitate to call.

Very truly yours,



Larry J. Lebow
Senior Vice President and Real Estate Counsel

LJL/dmr

Writer's Direct Dial Number: 412.244.4043

Exhibit D

Gumberg v. Jackson Hewitt

SENDER: COMPLETE THIS SECTION

- ☐ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- ☐ Print your name and address on the reverse so that we can return the card to you.
- ☐ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Randy Kimberly
c/o Jackson Hewitt Tax Service
132 E. Market St
Clearfield PA 16830

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Signature] ☐ Agent

B. Received by (Printed Name) *Samuel McFarlane* ☐ Addressee

C. Date of Delivery *Aug 25 2008*

D. Is delivery address different from item 1? ☐ Yes ☐ No

If YES, enter delivery address below:



3. Service Type

- ☒ Certified Mail
- ☐ Registered
- ☐ Insured Mail
- ☐ Express Mail
- ☐ Return Receipt for Merchandise
- ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7007 0710 0000 5170 5833

PS Form 3811, February 2004

Domestic Return Receipt

Commonwealth of Pennsylvania

County of Allegheny

)
) ss:
)

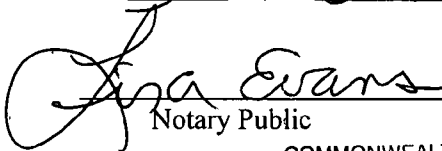
AFFIDAVIT

BEFORE ME, a Notary Public in and for said Commonwealth and County, personally appeared **Fred R. Reitano**, satisfactorily proven to me, who, upon being duly sworn according to law, deposes and says that he is Executive Vice President of J. J. Gumberg Co., and as such is authorized to execute this Affidavit on behalf of J. J. Gumberg Co.; that J. J. Gumberg Co. is the duly authorized agent of GUMBERG ASSOCIATES – SANDY PLAZA, a Pennsylvania limited partnership; that J. J. Gumberg Co., as Agent, is the Landlord in that certain Lease dated December 5, 2005, as amended, at issue in this action; and that he/she has reviewed the Complaint to which this Affidavit is attached as well as other documents pertaining thereto and that the averments contained in said Complaint are true and correct to the best of his/her Information, knowledge and belief.

J. J. Gumberg Co., as Agent
For Gumberg Associates – Sandy Plaza

By: 
Fred R. Reitano
Executive Vice President

SWORN to and subscribed before me
this 3 day of October 2008.


Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Lisa Evans, Notary Public
Braddock Hills Boro, Allegheny County
My Commission Expires Feb. 11, 2011
Member, Pennsylvania Association of Notaries

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NO: 08-1912-CD

GUMBERG ASSOICATES - SANDY PLAZA, by J.J. GUMBERG CO., Agent

vs

RONALD KIMBERLY, d/b/a JACKON HEWITT TAX SERVICE

COMPLAINT

SERVICE # 1 OF 1

5
FILED
010:4261
OCT 14 2008
William A. Shaw
Prothonotary/Clerk of Courts

SERVE BY: 11/07/2008

HEARING:

PAGE: 104762

DEFENDANT: RONALD KIMBERLY d/b/a JACKSON HEWITT TAX SERVICE

ADDRESS: SANDY PLAZA SHOPPING CENTER MALL, #105

S.R. 255 & SHAFFER RD., DUBOIS, PA 15801

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/PIC

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS:

VACANT

OCCUPIED

ATTEMPTS

10-10-08 - Shop
closed until
Jan 2-09
Phoned # and
left message

SHERIFF'S RETURN

NOW, 10-14-2008 AT 1:45 AM / PM SERVED THE WITHIN

COMPLAINT ON RONALD KIMBERLY d/b/a JACKSON HEWITT TAX SERVICE, DEFENDANT

BY HANDING TO Ronald Kimberly / DEFENDANT

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

ADDRESS SERVED CLEARFIELD COUNTY SHERIFF'S OFFICE

NOW _____ AT _____ AM / PM POSTED THE WITHIN

COMPLAINT FOR RONALD KIMBERLY d/b/a JACKSON HEWITT TAX SERVICE

AT (ADDRESS) _____

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

I MAKE RETURN OF **NOT FOUND** AS TO RONALD KIMBERLY d/b/a JACKSON HEWITT TAX SERVICE

REASON UNABLE TO LOCATE _____

SWORN TO BEFORE ME THIS

_____ DAY OF _____ 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY: [Signature]
Deputy Signature

[Signature]
Print Deputy Name

FILED

OCT 14 2008

William A. Shaw
Prothonotary/Clerk of Courts

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

GUMBERG ASSOCIATES – SANDY PLAZA,
by J.J. GUMBERG CO., Agent,

Plaintiff,

v.

RONALD KIMBERLY,
d/b/a JACKSON HEWITT TAX SERVICE,

Defendant.

CIVIL DIVISION

No. 08-1912-CD

**PRAECIPE FOR ENTRY OF
DEFAULT JUDGMENT**

Counsel of Record for
this Party:

H. Brian Peck, Esquire
PA I.D. #41004

The Crossroads Law Firm
3901 Washington Road
Suite 204
McMurray, PA 15317

(724) 969-0626

FILED

Atty pd.

20.00

NOV 11 2008

Notice to Def.

William A. Shaw

Prothonotary/Clerk of Courts

Statement to Atty

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

GUMBERG ASSOCIATES – SANDY PLAZA,
by J.J. GUMBERG CO., Agent,,

CIVIL DIVISION

Plaintiff,

v.

No. 08-1912-CD

RONALD KIMBERLY,
d/b/a/ JACKSON HEWITT TAX SERVICE

Defendant.

**PRAECIPE FOR ENTRY OF JUDGMENT BY DEFAULT
AGAINST DEFENDANT, RONALD KIMBERLY d/b/a/ JACKSON HEWITT TAX SERVICE**

TO: The Prothonotary

Please enter judgment by default against the Defendant, RONALD KIMBERLY d/b/a/
JACKSON HEWITT TAX SERVICE, as follows:

| | |
|--|-----------|
| <u>CAM Adjustment (Billed 1/30 2008)</u> | \$798.23 |
| <u>June 2008</u> | |
| June 2008 Rent | \$933.33 |
| June 2008 CAM | \$122.50 |
| June 2008 Taxes | \$116.67 |
| <u>September 2008</u> | |
| September 2008 Rent | \$933.33 |
| September 2008 CAM | \$122.50 |
| September 2008 Taxes | \$116.67 |
| Tax Adjustment (credit) | (\$59.90) |
| Attorney Fees | \$426.25 |
| <u>October 2008</u> | |
| October 2008 Rent | \$933.33 |
| October 2008 CAM | \$122.50 |
| October 2008 Taxes | \$116.67 |
| Attorney Fees | \$593.05 |

November 2008

| | |
|---------------------|----------|
| November 2008 Rent | \$933.33 |
| November 2008 CAM | \$122.50 |
| November 2008 Taxes | \$116.67 |

Other Charges

| | |
|---------------|-----------------|
| Late Charges | \$542.83 |
| Attorney Fees | <u>\$200.00</u> |

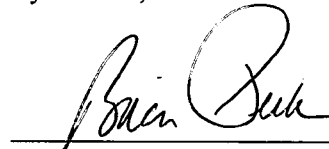
Total: \$7,190.46

plus interest at the rate of six (6%) percent per annum from the date of judgment plus costs of this action.

A true and correct copy of Local Rule 237.1 "Important Notice" dated November 4, 2008 is attached.

Date: November 18, 2008

GUMBERG ASSOCIATES – SANDY PLAZA
by J. J. GUMBERG CO., Agent
By counsel,



H. Brian Peck, Esquire
PA #I. D. # 41004
The Crossroads Law Firm
3901 Washington Road, Suite 204
McMurray, PA 15317
(724) 969-0626

Attachment: Rule 237.1 "Important Notice" dated November 4, 2008

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

GUMBERG ASSOCIATES - SANDY PLAZA,
by J. J. GUMBERG CO., Agent,

Plaintiff,

v.

RONALD KIMBERLY,
d/b/a JACKSON HEWITT TAX SERVICE,

Defendant.

No. 08-1912-CD

DATE OF NOTICE: November 4, 2008; SENT VIA Certified Mail and First Class Mail

TO: Ronald Kimberly d/b/a Jackson Hewitt Tax Service
132 East Market Street
Clearfield, Pennsylvania 16830

IMPORTANT NOTICE

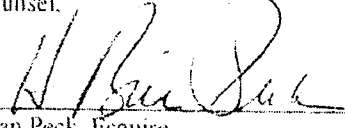
YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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

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

GUMBERG ASSOCIATES - SANDY PLAZA,
by J. J. GUMBERG CO., Agent,
By Counsel,

By:


H. Brian Peck, Esquire
Pa I.D. #41004
3901 Washington Road, Suite 204
McMurray, PA 15317
(724) 969-0626

7007 0710 0000 6753 7770

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

For delivery information visit our website at www.usps.com.

CLEARFIELD PA 16830

| | | |
|---|---------|------------------|
| Postage | \$ 0.42 | 0518 |
| Certified Fee | \$2.70 | 06 |
| Return Receipt Fee (Endorsement Required) | \$2.20 | Postmark Here |
| Restricted Delivery Fee (Endorsement Required) | \$0.00 | |
| Total Postage & Fees | \$ 5.32 | |

11/04/2008

Sent To: Ronald Kimberly d/b/a Jackson Hewitt Tax Serv. EC
 Street, Apt. No.,
 or PO Box No. 132 East Market Street
 City, State, ZIP+4 Clearfield, PA 16830

PS Form 3800, August 2006 See Reverse for Instructions

U.S. POSTAL SERVICE **CERTIFICATE OF MAILING**

MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT PROVIDE FOR INSURANCE-POSTMASTER

Received From: H. BRIAN PECK, Esquire
3901 Washington Road, Suite 204
McMURRAY, PA 15317

One piece of ordinary mail addressed to:
Ronald Kimberly d/b/a Jackson Hewitt Tax
132 East Market Street
Clearfield, PA 16830

0001541-06

\$1.10

U.S. POSTAGE
 PAID
 McMURRAY, PA
 15317
 NOV 04, '08
 AMOUNT

PS Form 3817, January 2001

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

GUMBERG ASSOCIATES – SANDY PLAZA,
by J.J. GUMBERG CO., Agent,

CIVIL DIVISION

Plaintiff,

v.

No. 08-1912-CD

RONALD KIMBERLY,
d/b/a/ JACKSON HEWITT TAX SERVICE

Defendant.

NOTICE OF JUDGMENT

To: Ronald Kimberly d/b/a Jackson Hewitt Tax Service
132 East Market Street
Clearfield, PA 16830

You are hereby notified that on the _____ day of November, 2008, a judgment was entered against RONALD KIMBERLY, d/b/a/ JACKSON HEWITT TAX SERVICE, by default in the above-referenced action as follows:

CAM Adjustment (Billed 1/30 2008)

\$798.23

June 2008

| | |
|-----------------|----------|
| June 2008 Rent | \$933.33 |
| June 2008 CAM | \$122.50 |
| June 2008 Taxes | \$116.67 |

September 2008

| | |
|-------------------------|-----------|
| September 2008 Rent | \$933.33 |
| September 2008 CAM | \$122.50 |
| September 2008 Taxes | \$116.67 |
| Tax Adjustment (credit) | (\$59.90) |
| Attorney Fees | \$426.25 |

October 2008

| | |
|--------------------|----------|
| October 2008 Rent | \$933.33 |
| October 2008 CAM | \$122.50 |
| October 2008 Taxes | \$116.67 |
| Attorney Fees | \$593.05 |

November 2008


| | |
|---------------------|----------|
| November 2008 Rent | \$933.33 |
| November 2008 CAM | \$122.50 |
| November 2008 Taxes | \$116.67 |

Other Charges

| | |
|---------------|-----------------|
| Late Charges | \$542.83 |
| Attorney Fees | <u>\$200.00</u> |

| | |
|---------------|-------------------|
| Total: | \$7,190.46 |
|---------------|-------------------|

plus interest at the rate of six (6%) percent per annum from the date of judgment plus costs of this action.


Deputy 11/24/08

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

Gumberg Associates-Sandy Plaza
J. J. Gumberg Co.
Plaintiff(s)

No.: 2008-01912-CD

Real Debt: \$7,190.46

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Ronald A. Kimberly
Jackson Hewitt Tax Service
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: November 24, 2008

Expires: November 24, 2013

Certified from the record this 24th day of November, 2008.



William A. Shaw, Prothonotary

SIGN BELOW FOR SATISFACTION

Received on _____, _____, of defendant full satisfaction of this Judgment,
Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

Plaintiff/Attorney

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

GUMBERG ASSOCIATES – SANDY PLAZA,
by J.J. GUMBERG CO., Agent,

Plaintiff,

v.

RONALD KIMBERLY,
d/b/a JACKSON HEWITT TAX SERVICE,

Defendant and

NORTHWEST SAVINGS BANK,

Garnishee.

CIVIL DIVISION
CIVIL ACTION – GARNISHMENT

No. 08-1912-CD

**PRAECIPE FOR WRIT
OF EXECUTION/GARNISHMENT**

Counsel of Record for
this Party:

H. Brian Peck, Esquire
PA I.D. #41004

The Crossroads Law Firm
3901 Washington Road
Suite 204
McMurray, PA 15317

(724) 969-0626

FILED

DEC 11 2008

William A. Shaw
Prothonotary/Clerk of Courts

Att. pd.
20.00
ICC & 6 writs
to Sheriff

(610)

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

GUMBERG ASSOCIATES – SANDY PLAZA,
by J.J. GUMBERG CO., Agent,,

CIVIL DIVISION

Plaintiff,

v.

No. 08-1912-CD

RONALD KIMBERLY,
d/b/a/ JACKSON HEWITT TAX SERVICE

Defendant, and

NORTHWEST SAVINGS BANK,

Garnishee.

PRAECIPE FOR WRIT OF GARNISHMENT

To the Prothonotary of Clearfield County, Pennsylvania:

To satisfy the judgment, interest and costs against Ronald Kimberly d/b/a Jackson Hewitt Tax Service, Defendant:

You are directed to attach the property of the Defendant in the possession of Northwest Savings Bank, as Garnishee and to notify the Garnishee that

- (a) the attachment has been issued;
- (b) the Garnishee is enjoined from paying any debt of for the account of the Defendant and from delivering any property of the Defendant of otherwise disposing thereof.
- (c) if the property of the Defendant not levied upon and subject to attachment is found in the possession of anyone other than the named Garnishee, you are directed to notify the Garnishee that the Garnishee has been added as a Garnishee and is enjoined as above stated.

Amount Due:

Judgment: **\$7,190.46** plus interest at the rate of six (6%) percent per annum from the date of judgment plus costs of this action

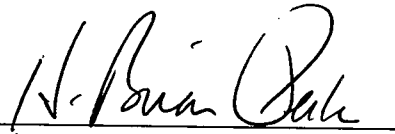
Judgment Costs: _____

Total _____
135.00

Prothonotary costs

Date: December 8, 2008

GUMBERG ASSOCIATES – SANDY PLAZA
by J. J. GUMBERG CO., Agent
By counsel,



H. Brian Peck, Esquire
PA #I. D. # 41004
The Crossroads Law Firm
3901 Washington Road, Suite 204
McMurray, PA 15317
(724) 969-0526

FILED

DEC 11 2008

William A. Shaw
Prothonotary/Clerk of Courts

Prothonotary/Clerk of Courts

WRIT OF EXECUTION and/or ATTACHMENT
COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD
CIVIL ACTION – LAW

Gumberg Associates-Sandy Plaza
by J. J. Gumberg Co., Agent

Vs.

NO.: 2008-01912-CD

Ronald A. Kimberly, d/b/a Jackson Hewitt Tax Service

Northwest Savings Bank
Garnishee

TO THE SHERIFF OF CLEARFIELD COUNTY:

To satisfy the judgment, interest and costs against GUMBERG ASSOCIATES-SANDY PLAZA by J. J. GUMBERG CO., Agent, Plaintiff(s) from RONALD A. KIMBERLY d/b/a JACKSON HEWITT TAX SERVICE, Defendant(s):

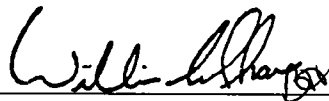
- (1) You are directed to levy upon the property of the defendant(s) and to sell defendant's interest(s) therein:
Personal Property

You are also directed to attach the property of the defendant(s) not levied upon in the possession of: Northwest Savings Bank as garnishee(s):
and to notify the garnishee(s) that: (a) an attachment has been issued; (b) except as provided in paragraph (c), the garnishee(s) is/are enjoined from paying any debt to or for the account of the defendant(s) and from delivering any property of the defendant(s) or otherwise disposing thereof; (c) the attachment shall not include any funds in an account of the defendant with a bank or other financial institution (i) in which funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law, or (ii) that total \$300 or less. If multiple accounts are attached, a total of \$300 in all accounts shall not be subject to levy and attachment as determined by the executing officer. The funds shall be set aside pursuant to the defendant's general exemption provided in 42 Pa.C.S. § 8123.

- (2) If property of the defendant(s) not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify such other person that he or she has been added as a garnishee and is enjoined as above stated.
- (3) **If Social Security or Supplemental Income funds are directly deposited into an account of the defendant, the levy and attachment shall not include any funds that may be traced to Social Security direct deposits. In addition, the levy and attachment shall not include \$300.00 in the account of the defendant.**

AMOUNT DUE/PRINCIPAL: \$7,190.46
INTEREST at the rate of 6% per annum from
the date of judgment
ATTY'S COMM: \$

PROTH. COSTS PAID: \$135.00
SHERIFF: \$
OTHER COSTS: \$
DATE: 12/11/2008



William A. Shaw
Prothonotary/Clerk Civil Division

Received this writ this _____ day
of _____ A.D. _____
At _____ A.M./P.M.

Sheriff

Requesting Party: H. Brian Peck, Esq.
3901 Washington Road, Ste. 204
McMurray, PA 15317
(724) 969-0626

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NO: 08-1912-CD

GUMBERG ASSOCIATES-SANDY PLAZA by J.J. GUMBERG CO. Agent

vs

SERVICE # 1 OF 1

RONALD A. KIMBERLY d/b/a JACKSON HEWITT TAX SERVICE

TO: NORTHWEST SAVINGS BANK, GARNISHEE

WRIT OF EXECUTION; INTERROGATORIES TO GARNISHEE

SERVE BY: 12/23/2008 *ASAP* HEARING: PAGE: 105049

DEFENDANT: NORTHWEST SAVINGS BANK, Garnishee

ADDRESS: 1475 MAIN ST.
COALPORT, PA 16627

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: GARNISHEE

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS: VACANT OCCUPIED

ATTEMPTS

SHERIFF'S RETURN

NOW, 12-15-08 AT 9:43 AM/PM SERVED THE WITHIN

WRIT OF EXECUTION; INTERROGATORIES TO GARNISHEE ON NORTHWEST SAVINGS BANK, Garnishee, DEFENDANT

BY HANDING TO JACK KieTH, MANAGER

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

ADDRESS SERVED 1475 MAIN ST.
COALPORT, PA. 16627

NOW AT AM / PM POSTED THE WITHIN

WRIT OF EXECUTION; INTERROGATORIES TO GARNISHEE FOR NORTHWEST SAVINGS BANK, Garnishee

AT (ADDRESS)

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

I MAKE RETURN OF NOT FOUND AS TO NORTHWEST SAVINGS BANK, Garnishee

REASON UNABLE TO LOCATE

SWORN TO BEFORE ME THIS

DAY OF 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY:

James E. Davis
Deputy Signature
JAMES E. DAVIS
Print Deputy Name

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 105049
NO: 08-1912-CD
SERVICES 1
WRIT OF EXECUTION; INTERROGATORIES TO

GARNISHEE

PLAINTIFF: GUMBERG ASSOCIATES-SANDY PLAZA by J.J. GUMBERG CO. Agent
vs.
DEFENDANT: RONALD A. KIMBERLY d/b/a JACKSON HEWITT TAX SERVICE
TO: NORTHWEST SAVINGS BANK, GARNISHEE

SHERIFF RETURN

RETURN COSTS

| Description | Paid By | CHECK # | AMOUNT |
|-----------------|---------|---------|--------|
| SURCHARGE | PECK | 1844 | 10.00 |
| SHERIFF HAWKINS | PECK | 1844 | 53.68 |

9
FILED
013:2/201
DEC 22 2008
William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before Me This

_____ Day of _____ 2008

So Answers,



Chester A. Hawkins
Sheriff

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

GUMBERG ASSOCIATES – SANDY PLAZA,
by J.J. GUMBERG CO., Agent,

Plaintiff,

v.

RONALD KIMBERLY,
d/b/a JACKSON HEWITT TAX SERVICE,

Defendant and

NORTHWEST SAVINGS BANK,

Garnishee.

CIVIL DIVISION
CIVIL ACTION – GARNISHMENT

No. 08-1912-CD

**PRAECIPE FOR WRIT
OF EXECUTION/GARNISHMENT**

Counsel of Record for
this Party:

H. Brian Peck, Esquire
PA I.D. #41004

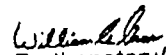
The Crossroads Law Firm
3901 Washington Road
Suite 204
McMurray, PA 15317

(724) 969-0626

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

DEC 11 2008

Attest.


Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

GUMBERG ASSOCIATES – SANDY PLAZA,
by J.J. GUMBERG CO., Agent,,

CIVIL DIVISION

Plaintiff,

v.

No. 08-1912-CD

RONALD KIMBERLY,
d/b/a/ JACKSON HEWITT TAX SERVICE

Defendant, and

NORTHWEST SAVINGS BANK,

Garnishee.

PRAECIPE FOR WRIT OF GARNISHMENT

To the Prothonotary of Clearfield County, Pennsylvania:

To satisfy the judgment, interest and costs against Ronald Kimberly d/b/a Jackson Hewitt Tax Service, Defendant:

You are directed to attach the property of the Defendant in the possession of Northwest Savings Bank, as Garnishee and to notify the Garnishee that

- (a) the attachment has been issued;
- (b) the Garnishee is enjoined from paying any debt of for the account of the Defendant and from delivering any property of the Defendant of otherwise disposing thereof.
- (c) if the property of the Defendant not levied upon and subject to attachment is found in the possession of anyone other than the named Garnishee, you are directed to notify the Garnishee that the Garnishee has been added as a Garnishee and is enjoined as above stated.

Amount Due:

Judgment: **\$7,190.46** plus interest at the rate of six (6%) percent per annum from the date of judgment plus costs of this action

Judgment Costs: _____

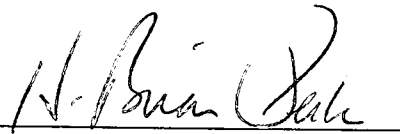
Total: _____

135.00

Prothonotary costs

Date: December 8, 2008

GUMBERG ASSOCIATES – SANDY PLAZA
by J. J. GUMBERG CO., Agent
By counsel,



H. Brian Peck, Esquire
PA #I. D. # 41004
The Crossroads Law Firm
3901 Washington Road, Suite 204
McMurray, PA 15317
(724) 969-0626

**WRIT OF EXECUTION and/or ATTACHMENT
COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD
CIVIL ACTION – LAW**

Gumberg Associates-Sandy Plaza
by J. J. Gumberg Co., Agent

Vs.

NO.: 2008-01912-CD

Ronald A. Kimberly, d/b/a Jackson Hewitt Tax Service

Northwest Savings Bank
Garnishee

TO THE SHERIFF OF CLEARFIELD COUNTY:

To satisfy the judgment, interest and costs against GUMBERG ASSOCIATES-SANDY PLAZA by J. J. GUMBERG CO., Agent, Plaintiff(s) from RONALD A. KIMBERLY d/b/a JACKSON HEWITT TAX SERVICE, Defendant(s):

- (1) You are directed to levy upon the property of the defendant(s) and to sell defendant's interest(s) therein:
Personal Property

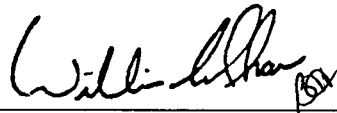
You are also directed to attach the property of the defendant(s) not levied upon in the possession of: Northwest Savings Bank as garnishee(s):

and to notify the garnishee(s) that: (a) an attachment has been issued; (b) except as provided in paragraph (c), the garnishee(s) is/are enjoined from paying any debt to or for the account of the defendant(s) and from delivering any property of the defendant(s) or otherwise disposing thereof; (c) the attachment shall not include any funds in an account of the defendant with a bank or other financial institution (i) in which funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law, or (ii) that total \$300 or less. If multiple accounts are attached, a total of \$300 in all accounts shall not be subject to levy and attachment as determined by the executing officer. The funds shall be set aside pursuant to the defendant's general exemption provided in 42 Pa.C.S. § 8123.

- (2) If property of the defendant(s) not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify such other person that he or she has been added as a garnishee and is enjoined as above stated.
- (3) If Social Security or Supplemental Income funds are directly deposited into an account of the defendant, the levy and attachment shall not include any funds that may be traced to Social Security direct deposits. In addition, the levy and attachment shall not include \$300.00 in the account of the defendant.

AMOUNT DUE/PRINCIPAL: \$7,190.46
INTEREST at the rate of 6% per annum from
the date of judgment
ATTY'S COMM: \$

PROTH. COSTS PAID: \$135.00
SHERIFF: \$
OTHER COSTS: \$
DATE: 12/11/2008



William A. Shaw
Prothonotary/Clerk Civil Division

Received this writ this 11 day
of Dec A.D. 2008
At Clearfield A.M./P.M.

Christopher A. Hawley
Sheriff
by Marlynn Harris

Requesting Party: H. Brian Peck, Esq.
3901 Washington Road, Ste. 204
McMurray, PA 15317
(724) 969-0626

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

Gumberg Associates-Sandy Plaza
J. J. Gumberg Co.
Plaintiff(s)

No.: 2008-01912-CD

Real Debt: \$7,190.46

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Entry: \$20.00

Ronald A. Kimberly
Jackson Hewitt Tax Service
Defendant(s)

Instrument: Default Judgment

Date of Entry: November 24, 2008

Expires: November 24, 2013

5 FILED 11:15
JAN 02 2009
William A. Shaw
Prothonotary/Clerk of Courts
\$7.00 Atty
ICC + 1 cent
of Sat issued
to Atty Prek

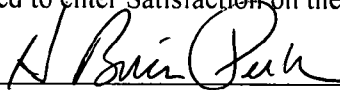
Certified from the record this 24th day of November, 2008.



William A. Shaw, Prothonotary

SIGN BELOW FOR SATISFACTION

Received on December 24, 2008, of defendant full satisfaction of this Judgment,
Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.



Plaintiff/Attorney

Please also settle & discontinue garnishment action
against Northwest Savings Bank at this Check Number.
HBP

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CERTIFICATE OF SATISFACTION OF JUDGMENT

No.: 2008-01912-CD

Gumberg Associates-Sandy Plaza
J. J. Gumberg Co.

Vs.

Debt: \$7,190.46

Atty's Comm.:

Ronald A. Kimberly
Jackson Hewitt Tax Service


Interest From:

Northwest Savings Bank

Cost: \$7.00

NOW, Friday, January 02, 2009 , directions for satisfaction having been received, and all costs having been paid, SATISFACTION was entered of record.

Certified from the record this 2nd day of January, A.D. 2009.



Prothonotary zm

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104762
NO: 08-1912-CD
SERVICES 1
COMPLAINT

PLAINTIFF: GUMBERG ASSOICATES - SANDY PLAZA, by J.J. GUMBERG CO., Agent
vs.
DEFENDANT: RONALD KIMBERLY, d/b/a JACKON HEWITT TAX SERVICE

SHERIFF RETURN

RETURN COSTS

| Description | Paid By | CHECK # | AMOUNT |
|-----------------|---------|---------|--------|
| SURCHARGE | PECK | 1800 | 10.00 |
| SHERIFF HAWKINS | PECK | 1800 | 42.65 |

5
FILED
9/2:00 am
JAN 30 2009
William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before Me This

_____ Day of _____ 2008

So Answers,



Chester A. Hawkins
Sheriff