ORIGINAL
(Red)

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUIBANK,

Plaintiff

vs.

JOSEPH WISEMAN and RUTH WISEMAN, His wife,

Defendants

CIVIL DIVISION

No. G.D. 82-04455

Issue Number

MOTION FOR RECONSIDERATION OF DEFENDANTS' PETITION TO STRIKE OR TO OPEN JUDGMENT

Code

Filed on Behalf of JOSEPH WISEMAN and RUTH WISEMAN, His Wife, Defendants

Counsel of Record for this party:

Bela A. Karlowitz, Esquire
Pa. I.D. #01260

Patrick H. Autry, Esquire
Pa. I.D. #34604

BERKMAN RUSLANDER POHL LIEBER & ENGEL
Firm #021
20th Floor, Frick Building
Pittsburgh, Pennsylvania
15219

(412) 392-2000

BPDR 000113

ORIGINAL (Red)

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

CIVIL DIVISION

EQUIBANK, Plaintiff	)	
vs.	)	No. G.D. 82-04455
JOSEPH WISEMAN and RUTH WISEMAN, His wife, Defendants	)	

MOTION FOR RECONSIDERATION OF DEFENDANTS' PETITION TO STRIKE OR TO OPEN JUDGMENT

AND NOW, COME the Defendants Joseph Wiseman and Ruth Wiseman (collectively "the Wisemans"), by their undersigned attorneys, and make this Defendants' Motion for Reconsideration of Defendants' Petition To Strike or To Open Judgment.

1. On April 26, 1982, counsel for the Wisemans presented Defendants' Petition To Strike or To Open Judgment in the above-captioned matter, and requested that this Honorable Court grant a rule on the Plaintiff to show cause why the judgment entered should not be stricken or, in the alternative, opened.

ORIGINAL (Red)

2. The request for a rule upon the Plaintiff was denied presumably upon the grounds that the warrant of attorney authorizing confession permitted the plaintiff to enter judgment without alleging the occurrence of default or condition precedent; and also upon the grounds that the Defendants had failed to plead a meritorious defense to the entry of the judgment.

3. Defendants request reconsideration of that Petition and incorporates it by this reference as if fully set forth. A copy of said Petition is attached hereto as Exhibit "A."

4. Defendant requests reconsideration for the following reasons:

(a) Pa. R. Civ. P. 2959(b) states, in relevant part that, "If the petition states prima facie grounds for relief the court shall issue a rule to show cause and may grant a stay of proceedings."

(b) Defendants' Petition alleged prima facie grounds upon which the judgment should be stricken or opened. Said grounds are contained in the Petition which is attached as Exhibit "A."

(c) Argument before the court by counsel for the Plaintiff was directed at the merits of the arguments recited in the Petition, and did not challenge the prima facie validity of the Petition and the allegations therein.

(d) Execution proceedings have been commenced in the above-captioned

BPDR 000515

ORIGINAL (Red)

matter and a Sheriff's Sale of the Defendants' property is scheduled to be held on May 3, 1982 at 10:00 A.M.

WHEREFORE, for the reasons set forth above, and for the reasons set forth in Defendants' Petition To Strike or To Open Judgment, Defendants respectfully request that this Honorable Court grant a rule on the Plaintiff to show cause why the judgment entered at G.D. 82-04455 should not be stricken or opened, all proceedings to be stayed meanwhile.

BERKMAN RUSLANDER POHL LIEBER & ENGEL

By _____
Bela A. Karlowitz, Esquire

By _____
Patrick H. Autry, Esquire

Attorneys for Defendants, JOSEPH WISEMAN and RUTH WISEMAN, His wife

BPDR 000116

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUIBANK,

Plaintiff

vs.

JOSEPH WISEMAN and RUTH WISEMAN, His Wife,

Defendants

CIVIL DIVISION

No. G.D. 82-04455

Issue Number

DEFENDANTS' PETITION TO STRIKE OR TO OPEN JUDGMENT

Code

Filed on Behalf of JOSEPH WISEMAN and RUTH WISEMAN, Defendants

Counsel of Record for this party:

William M. Hoffman, Esquire
Pa. I.D. #01240

Patrick H. Autry, Esquire
Pa. I.D. #34604

BERKMAN RUSLANDER POHL LIEBER & ENGEL
20th Floor, Frick Building
Pittsburgh, Pennsylvania 15219

(412) 392-2000

EXHIBIT "A"

ORIGINAL (Red)

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

CIVIL DIVISION

EQUIBANK, Plaintiff	)	
vs.	)	No. G. D. 82-04455
JOSEPH WISEMAN and RUTH WISEMAN, His Wife, Defendants	)	

DEFENDANTS' PETITION TO STRIKE OR TO OPEN JUDGMENT

AND NOW COME Defendants Joseph Wiseman and Ruth Wiseman (collectively "the Wisemans"), by their undersigned attorneys, and file this Defendants' Petition to Strike or to Open Judgment for the following reasons:

1) Plaintiff, Equibank, is a Pennsylvania corporation with its principal place of business at Two Oliver Plaza, Pittsburgh, Pennsylvania, 15222.

2) Defendants, the Wisemans, are individuals residing at 538 North Neville Street, Pittsburgh, Pennsylvania, 15213.

BPDR 000115

3) Equibank filed a Complaint in Confession of Judgment in the Court of Common Pleas of Allegheny County, Pennsylvania, on February 26, 1982, at G.D. 82-04455 and commenced execution proceedings against the Wisemans on March 2, 1982, at the same number. A copy of the Complaint in Confession of Judgment is attached hereto as Exhibit "A".

4) Judgment was entered under a warrant of authority contained in a Mortgage Note from Joseph Wiseman and Ruth Wiseman to Equibank, N.A., dated March 21, 1979, and attached hereto as Exhibit "B". Said Mortgage Note accompanied a Mortgage of the same date, which is attached hereto as Exhibit "C".

5) Pursuant to the terms of the Mortgage Note, the Wisemans promised to pay to Equibank the sum of $1,700,000.00 upon default by Wiseman Oil Company, Inc., on its obligations to Equibank, with liability to be limited to the recovery of real estate described in the Mortgage.

6) Wiseman Oil Company, Inc., is in Chapter 11 Bankruptcy proceedings in the United States Bankruptcy Court for the Western District of Pennsylvania, and Equibank has an action now pending against the company in that proceeding for payment of the obligations of Wiseman Oil Company, Inc., to Equibank.

7) As appears from the documents attached as exhibits to this Petition, the judgment entered in the within proceeding against the Wisemans was improper, invalid, and must therefore be stricken for the following reasons:

(a) By the express terms of the Mortgage Note, the Wiseman's obligation becomes effective only "upon default by Wiseman Oil Company, Inc., on its obligations to Equibank, N.A." and Equibank did not allege any incident of default in its Complaint in Confession of Judgment.

(b) By the express terms of the Mortgage Note, the note is effective only "so long as any sums are due to Equibank by Wiseman Oil Company," and Equibank did not allege that any sums are due to Equibank by Wiseman Oil Company in its Complaint in Confession of Judgment.

(c) Pa. R. Civ. P. 2952(e) requires that a complaint in confession of judgment shall contain "an averment of the default or of the occurrence of the condition precedent" where such is required by the instrument upon which confession is based.

(d) Equibank has failed to aver default or the occurrence of a condition precedent as required by the terms of the instrument.

8) In the alternative, the judgment should be opened and the Wisemans let into a defense on the merits in this proceeding, for the following reasons:

ORIGINAL (Red)

(a) There exists no consideration between the Wisemans and Equibank for the Mortgage Note, and that due to this, there exists no basis upon which a confession of judgment can be obtained.

(b) Equibank has not yet exhausted its remedies against Wiseman Oil Company, Inc., and it would be inequitable and unjust under the circumstances to permit recovery against the Wisemans.

WHEREFORE, pursuant to Pa. R. Civ. P. 2959, Defendants respectfully request this Honorable Court to grant a rule upon Plaintiff to show cause why the judgment entered in the within entitled cause should not be stricken off or, in the alternative, opened, and the Defendants let into a defense or defenses; meanwhile all proceedings to be stayed including without limitation proceedings at Execution GD 81-04455 in the Court of Common Pleas of Allegheny County, Pennsylvania.

BERKMAN RUSLANDER POHL LIEBER & ENGEL

By _____
William M. Hoffman
Patrick H. Autry
Attorneys for Defendants, JOSEPH WISEMAN and RUTH WISEMAN, his wife

BPDR 000571

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUIBANK,

Plaintiff,

vs.

JOSEPH WISEMAN AND
RUTH WISEMAN, HIS WIFE,

Defendants.

CIVIL DIVISION

No. GD: 6D32-04455

Issue No.:

Code No.:

COMPLAINT IN CONFESSION
OF JUDGMENT

Filed on behalf of Equibank,
Plaintiff

Counsel of record for this
party:

Robert G. Sable, Esq.
PA I.D. No. 00984

LAMPL, SABLE & MAKOROFF
Firm No. 363
710 Fifth Avenue
Suite 3000
Pittsburgh, PA 15219
(412) 471-4996

COUNSEL FOR EQUIBANK

EXHIBIT "A"

ORIGINAL
(Red)

In the Court of Common Pleas of ALLEGHENY County, Pa.

CIVIL DIVISION

EQUIBANK,

versus *Plaintiff(s)*

JOSEPH WISEMAN AND
RUTH WISEMAN, HIS WIFE,

Defendant(s)

No. 6D32-04455 19

COMPLAINT IN CONFESSION OF JUDGMENT

1. (a) The Plaintiff(s) and the last known address(es) thereof are: Two Oliver Plaza, Pittsburgh, Pennsylvania 15222.

(b) The Defendant(s) and the last known address(es) thereof are: Joseph Wiseman and Ruth Wiseman, his wife, 538 North Neville Street, Pittsburgh, Pennsylvania 15213.

2. (a) The original instrument, (or photostatic copy or like reproduction showing signature(s) of the Defendant(s), which is a true and correct reproduction of the original) is attached hereto, marked as Exhibit "A", and is fully incorporated herein by reference thereto.*

~~*(b) If none of the above is available, state the reasons thereof as follows:*~~

*3. There has been no assignment or transfer of the instrument, (except as follows:)** None

*4. Judgment has not been entered on the instrument in any jurisdiction, (except as follows:)** None

*5. The Plaintiff(s) aver(s): *(a) The instrument authorizes the entry of Judgment without default thereon or the occurrence of a condition precedent; or, * (b) Default has occurred as follows:*

* STRIKE OUT INAPPLICABLE PORTIONS ON BOTH SIDES

BPDR 000[illegible]

No. 122 - Declaration on Instrument P. O. NALY CO., 427 Fourth Avenue, Pittsburgh, Pa. 15219

6. *The itemization of the amount due is as follows:*

*(Principal) * ~~(Penal)~~ Sum	$ 1,700,000.00
Other Authorized Items (Specify):	
	$
* *Interest from* _____ *to* _____	$
* *Attorney Fees (* 5%)	$ 85,000.00
Total	$ 1,785,000.00

and brings said instrument into court to recover the said sum.

7. *Said Instrument and Warrant was executed by the Defendant(s) on the* 21st *day of* March *, 19* 79 *, at* Pittsburgh, Pennsylvania

Wherefore, the Plaintiff(s) as authorized by the warrant of attorney contained in the instrument demand(s) judgment against the Defendant(s) in the total sum of $ 1,785,000.00 *, under and pursuant to the terms of said Instrument, attached hereto as Exhibit "A".*

Robert G. Sable

Attorney(s) for Plaintiff(s)
ROBERT G. SABLE, ESQ.

AFFIDAVIT

Commonwealth of Pennsylvania } ss.
County of ALLEGHENY }

PERSONALLY BEFORE ME, the undersigned authority, appeared H.P. PERNISEK, SENIOR VICE PRESIDENT OF EQUIBANK

who being duly sworn according to law, deposes and says that

and that the averments contained in the foregoing Complaint are true and correct upon affiant's personal knowledge as to a part and upon information and belief as to the remainder; and certifies that the addresses set forth in Paragraph One thereof are the respective precise residence address(es) of the Plaintiff(s) and the last known address(es) of the Defendant(s).

H. P. Pernisek

SUBSCRIBED AND SWORN TO before me, this H.P. PERNISEK, SENIOR VICE PRESIDENT

25th *day of* February *, 19*82

Jeanne Karyl Kelly

My Commission Expires

Jeanne Karyl Kelly, Notary Public
Pittsburgh, Allegheny County
My Commission Expires Feb. 14, 1983
Member, Pennsylvania Association of Notaries

CONFESSION OF JUDGMENT

Pursuant to the authority contained in the Warrant of Attorney, the original or a copy of which is attached to the complaint filed in this action, I appear for the Defendant(s) and confess judgment in favor of the Plaintiff(s) and against Defendant(s) as follows:

*(Principal) ~~(Penal)~~ Sum	$ 1,700,000.00
Other Authorized Items (Specify):	
	$
* *Interest from* _____ *to* _____	$
* *Attorney fees (* 5 %)	$ 85,000.00
Total	$ 1,785,000.00

Dated: _____ *, 19* ____

Robert G. Sable

ATTORNEY(S) FOR DEFENDANT(S)
PRO HAC VICE

Attach instrument or reproduction here

INDIVIDUAL

LOAN NUMBER

Mortgage Note

$1,700,000.00

Pittsburgh, Pennsylvania

March 21, 1979

For Value Received, Joseph Wiseman and Ruth Wiseman (hereinafter called "the Undersigned") promise to pay to the order of Equibank N.A., its successors or assigns, in lawful money of the United States of America, the sum of One Million, Seven Hundred Thousand ---------- Dollars ($1,700,000) as follows:

Upon default by Wiseman Oil Company, Inc. on its obligations to Equibank, N.A.

~~$ ========== on ========== and like and equal sum on the ========== day of each month thereafter until the entire principal balance together with interest thereon is paid in full, said monthly payments to be applied first to interest at the rate of ========= % per annum on the unpaid principal balance and the remainder to the reduction of the principal. The final payment of principal and interest, if not sooner paid shall be due and payable on the ========== day of ==========~~

Prepayment options:

The mortgagor may at his option make on any payment date, additional principal payments in an amount which is in accordance with the plan of amortization of the indebtedness, without surrender charge or notice.

This note accompanies a mortgage of even date herewith given to Equibank, N.A. as collateral security for the obligations of Wiseman Oil Company, Inc. to Equibank, N.A., which mortgage shall be retained by Equibank as security for the outstanding indebtedness of Wiseman Oil Company so long as any sums are due to Equibank by Wiseman Oil Company. The liability of the undersigned hereunder shall be limited to the recovery of the real estate described in the accompanying mortga

In addition thereto, in the event any payment provided for herein shall become overdue, the Undersigned agrees to pay a late charge in an amount not exceeding four per cent (4%) of any such overdue payment as compensation for the additional service resulting from the default, all payments to be made at the Oliver Plaza (Pittsburgh) Office of Equibank N.A., or elsewhere as shall be directed by any holder hereof.

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

The Undersigned hereby empowers any attorney of any court of record within the United States of America or elsewhere to appear for the Undersigned and, with or without complaint filed, confess judgment, or a series of judgments, against the Undersigned in favor of any holder hereof, as of any term, for the unpaid balance of the principal debt, and all other sums paid by the holder hereof to or on behalf of the Undersigned pursuant to the terms of this Note or said Mortgage, together with unpaid interest thereon, cost of suit and an attorney's commission for collection of five percent (5%) of the total indebtedness or $200, whichever is the larger amount, on which judgment or judgments one or more

executions may issue forthwith upon failure to comply with any of the terms and conditions of this Note or said Mortgage. The Undersigned hereby forever waives and releases all errors in said proceedings, waives stay of execution, the right of inquisition and extension of time of payment, agrees to condemnation of any property levied upon by virtue of any such execution, and waives all exemptions from levy and sale of any property that now is or hereafter may be exempted by law.

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

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

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

Witnessed by:

Bruce G Cunningham	Joseph Wiseman (SEAL)
Bruce G Cunningham	Joseph Wiseman Ruth Wiseman (SEAL)
	Ruth Wiseman (SEAL)
	(SEAL)

04-047 (2-74)

EXHIBIT "A"

INDIVIDUAL

LOAN NUMBER

Mortgage

Made this 21 day of March, 19 79,

Between

JOSEPH WISEMAN and RUTH WISEMAN, of the City of Pittsburgh, County of Allegheny, and Commonwealth of Pennsylvania

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

And

Equibank N.A., (hereinafter called "Mortgagee"), a national banking association organized and existing under the laws of the United States of America having its principal place of business in the City of Pittsburgh, Allegheny County, Pennsylvania.

Whereas, Mortgagor has executed and delivered to Mortgagee a certain Mortgage Note (hereinafter called the "Note")

of even date herewith, payable to the order of Mortgagee in the principal sum of One Million Seven Hundred Thousand Dollars ($1,700,000.00), lawful money of the United States of America, together with interest thereon at the rate provided in the Note, in the manner and at the times therein set forth, with the final payment of principal and interest,

if not sooner paid due and payable on the upon the default ~~day of~~ of Wiseman Oil Company, Inc., in its obligations to Equibank N.A.
and containing certain other terms and conditions, all of which are specifically incorporated herein by reference,

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

All

that certain lot or piece of ground situate in Moon Township, Allegheny County, Pennsylvania, to wit:

Beginning at a point at the southeasterly corner of property now or formerly of F. J. LeMayne, and the centerline of Ewing Road, a public road, thence along the said centerline the following four (4) distances and courses: North 2° 32' East a distance of 31.41 feet to a steel mon; thence North33° 51' East a distance of 152.14 feet to a steel mon; thence North 25° 31' East a distance of 62.21 feet to a point; thence North 6° 11' East a distance of 262.49 feet to a point, being northwesterly corner of property now or formerly G. E. Walz; thence along said line South 75° 23' East a distance of 517.42 feet to a point; being northwesterly corner of Lot No. 2, thence along line of Lot No. 2 South 18° 49' 05" East a distance of 203.54 to a point on the northerly right-of-way line of the Montour Railroad; 80 feet wide, thence along the said right-of-way line and changing direction by an arc of a circle having a radius of 905.37 feet and deflecting to the right a distance of 233.77 feet to a point; thence continuing by same South 80° 17' West a distance of 491.79 feet to a point at place of beginning.

Having erected thereon an oil re-refining and processing plant.

Containing 198,998 square feet or 4.5683 acres.

Together with the right to lay, maintain, repair, and remove one gas line and one sewer pipe line under a certain strip of land 20 feet wide situate in Moon Township aforesaid, being part of said original tract, the gas line and sewer line to be located at or near the easterly corner of the tract above described, such point or points as may be agreed upon by the parties hereto.

84-164 (10-73)

RECORDER OF DEEDS

together with free and uninterrupted use and liberty and privilege of and passage in and along said strip of land 20 feet wide situate as aforesaid, located between southerly lines of tract herein described and northerly right of way of Montour Railroad, together with free ingress, egress and regress to and for Grantee, its successors and assigns at all times and seasons forever hereafter along and upon said strip of land in common with said F. J. LeMoyne, one of grantees, his heirs and assigns, and tenants and occupants of remainder of said original tract owned by said F. J. LeMoyne and in common with owners or occupants of land along or contiguous to Montour Railroad and their tenants or under tenants.

To have and to hold in common with each other and forever as a roadway for wagons, other vehicles and pedestrians, all and singular, the use, liberty, and privilege granted as aforesaid. This conveyance is made under and subject to any premises hereunder described.

Excepting and reserving also unto Pittsburgh Coal Co., its successors and assigns, all the coal of the several veins in and underlying above described tract of land, together with free and uninterrupted right of way into and under said land but not upon surface thereof at such points and in such manner as mayb e proper and necessary for purpose of digging, mining, draining and ventilating and carrying away said coal and other coal now owned or hereafter owned by Pittsburgh Coal Co., its successors and assigns, with waiver of all surface damages and damages of any sort arising out of any and all of the operations aforesaid; together with the privilege of mining and removing thru said described tract of land other coal now owned or hereafter acquired by Pittsburgh Coal Co., its successors and assigns.

Excepting also unto Pittsburgh Coal Co., its successors and assigns, the right to construct, maintain, and operate a line of telegraph and telephone and power poles with necessary wires and arms thereon along boundary line upon which said premises abut with waiver of all surface damages and damages of any sort arising thereupon together with improvements and privileges.

Mortgagors - herein, for themselves their heirs and assigns, hereby grant, bargain, sell and convey to mortgagee, its successors and assigns, a right of way across the property of grantors contiguous to land herein described for such lawful purposes as grantees its successors and assignsmay require for ingress, egress, regress and utilities.

Being part of the same property conveyed to the mortgagors herein by Perry A. Sletteland et ux by deed dated June 18, 1945, and recorded September 21, 1945, in Deed Book Volume 2845, page 42, in the Recorder's Office of Allegheny County, Pennsylvania.

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

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

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

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

(1) From time to time until said debt and interest are fully paid, Mortgagor shall: (a) pay and discharge, when and as the same shall become due and payable, all taxes, assessments, sewer and water rents and all other charges and claims assessed or levied from time to time by any lawful authority upon any part of the mortgaged premises and which shall or might have priority in lien or payment to the debt secured hereby, (b) pay all ground rents reserved from the mortgaged premises and pay and discharge all mechanics' liens which may be filed against said premises and which shall or might have priority in lien or payment to the debt secured hereby, (c) pay and discharge any documentary stamp or other tax, including interest and penalties thereon, if any, now or hereafter becoming payable on the Note evidencing the debt secured hereby, (d) provide, renew and keep alive by paying the necessary premiums and charges thereon such policies of hazard and liability insurance as Mortgagee may from time to time require upon the buildings and improvements now or hereafter erected upon the mortgaged premises, with loss payable clauses in favor of Mortgagor and Mortgagee as their respective interests may appear; in the event of foreclosure of this Mortgage or other transfer of title to the property covered hereby in lieu of foreclosure, all right, title and interest of the Mortgagor in and to any and all insurance policies then in effect concerning this property, and all sums due thereunder, shall pass to the purchaser at judicial sale or the Mortgagee, and (e) promptly submit to Mortgagee evidence of the due and punctual payment of all the foregoing charges.

(2) The Mortgagee may at its option require that sums sufficient to discharge the charges covered in Paragraph 1 hereof be paid in installments to the Mortgagee concurrently with the regular installments of principal and interest due hereunder. Such added installments shall not be, nor be deemed to be, trust funds but may be commingled with the general funds of the Mortgagee, and no interest shall be payable in respect thereof. Upon demand of the Mortgagee, the Mortgagor agrees to deliver to the Mortgagee such additional monies as are necessary to make up any deficiency in the amount necessary to enable the Mortgagee to pay the items covered in Paragraph 1 hereof. In the event of a default by the Mortgagor in the performance of any of the terms, covenants or conditions herein or in the evidence of the debt secured

6739 584

BPDR 0005128

Other real estate owned by the mortgagors hereunder.

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

(4) In the event Mortgagor neglects or refuses to pay the charges mentioned at (1) above, or fails to maintain the buildings and improvements as aforesaid, Mortgagee may do so, add the cost thereof to the principal debt secured hereby, and collect the same as a part of said principal debt.

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

(6) That should the premises or any part thereof be taken or damaged by reason of any public improvement or condemnation proceedings, or under right of eminent domain, or in any other manner, the Mortgagee shall be entitled to all compensations, awards, and any other payment or relief therefor, and shall be entitled at its option to commence, appear in, and prosecute in its own name any action or proceedings or to make any compromise or settlement in connection with such taking or damage. All such compensation, awards, damages, right of action, and proceeds are hereby assigned to the Mortgagee, who may after deducting therefrom all its expenses, including attorney's fees, release any monies so received by it or apply the same on any indebtedness secured hereby. The Mortgagor agrees to execute such further assignments of any compensation, awards, damages, and rights of action and proceeds as the Mortgagee may require.

(7) If at any time prior to repayment in full of the indebtedness secured hereby and without the prior written consent of Mortgagee, Mortgagor sells or otherwise transfers the mortgaged premises or any portion thereof, the entire unpaid balance of the indebtedness secured hereby shall at the option of the Mortgagee and without notice become due and payable to the same extent as if payment has been demanded at maturity and payment had been refused.

(8) The indebtedness secured hereby shall be immediately due and payable in the event: Mortgagor shall become insolvent or a voluntary or involuntary petition in bankruptcy or a similar action is filed in State or Federal Court or a receiver, trustee or conservator is appointed for any portion of Mortgagor's property, provided the due date shall not be accelerated if any such action which is involuntary shall be vacated or dismissed within sixty (60) days from the date thereof.

This mortgage is given to Equibank, N.A. as collateral security for the obligations of Wiseman Oil Company, Inc. and shall be retained by Equibank as security for the outstanding indebtedness of Wiseman Oil Company so long as any sums are due to Equibank by Wiseman Oil Company, Inc. The liability of the undersigned shall be limited to the recovery of the real estate described herein.

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

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

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

Witnessed by:

Bruce A. Cameron	Joseph Wiseman	(SEAL)
Bruce A. Cameron	Ruth Wiseman	(SEAL)
		(SEAL)
		(SEAL)

Commonwealth of Pennsylvania }
County of Allegheny } ss.

On this, the 21st day of March, 1979, before me, a notary public the undersigned officer, personally appeared Joseph and Ruth Wiseman satisfactorily proven to me to be the persons whose names are subscribed to the within Mortgage, and acknowledged that they executed the same for the purposes therein contained.

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

My commission expires:

Janice L. Courson

JANICE L. COURSON, NOTARY PUBLIC
PITTSBURGH, ALLEGHENY COUNTY
MY COMMISSION EXPIRES MAR 15, 1979

BPDR 0005129

Certificate of Residence of Mortgagee

Equibank N.A., Mortgagee within named, hereby certifies that its principal place of business is at Fifth Avenue at Smithfield Street, Pittsburgh, Pennsylvania.

By Robert G. Sall

Mortgage

FROM

Joseph Wiseman and
Ruth Wiseman

TO

Equibank N.A.

Recorder mail to:

Equibank N.A.
Two Oliver Plaza
Pittsburgh, PA 15222
Attn. H. P. Pernisek
Commercial Loan Adjustment

Commonwealth of Pennsylvania
County of ALLEGHENY } ss:

Recorded in the Office of the Recorder of Deeds in and for said County on the 21st day of March, 19 79 in Mortgage Book Volume 6739, page 583.

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

Recorder

RECORDER OF DEEDS
ALLEGHENY COUNTY, PA.
MAR 21 3 59 PM '79

Vol 6739 586

A F F I D A V I T

Before me, the undersigned authority, personally appeared Ruth Wiseman, who being duly sworn according to law, deposes and says that she has read the foregoing Defendants' Petition To Strike Or To Open Judgment and that the allegations of fact contained herein are true and correct to the best of her knowledge, information and belief.

Ruth Wiseman

Ruth Wiseman

Sworn to and subscribed
before me this 15th
day of April,
1982.

Martha C. Hutcheson

Notary Public

NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES JAN. 24, 1983
BONDED THRU GENERAL INS. UNDERWRITERS

A F F I D A V I T

Before me, the undersigned authority, personally appeared Joseph Wiseman, who being duly sworn according to law, deposes and says that he has read the foregoing Defendants' Petition To Strike Or To Open Judgment and that the allegations of fact contained herein are true and correct to the best of his knowledge, information and belief.

Joseph Wiseman

Joseph Wiseman

Sworn to and subscribed before me this 15th day of April, 1982.

Martha C. Hutchison

Notary Public

NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES JAN. 24, 1983
BONDED THRU GENERAL INS. UNDERWRITERS

CERTIFICATE OF SERVICE

I certify that a true and correct copy of Defendants' Petition to Strike or to Open Judgment was served upon counsel for the Plaintiff by first-class mail, postage pre-paid, this 19 day of April, 1982, at the following address:

Robert G. Sable, Esquire
~~P. Scott Gray, Esquire~~
Lampl, Sable & Makoroff
710 Fifth Avenue
Suite 3000
Pittsburgh, PA 15219

BERKMAN RUSLANDER POHL LIEBER & ENGEL

By Patrick H. Autry
Patrick H. Autry

Attorney for Defendants Joseph and Ruth Wiseman

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

CIVIL DIVISION

EQUIBANK,	)	
	)	
Plaintiff	)	
	)	
vs.	)	No. G.D. 82-04455
	)	
JOSEPH WISEMAN and RUTH WISEMAN, His Wife,	)	
	)	
Defendants.	)	

ORDER OF COURT

AND NOW, this _____ day of April, 1982, upon consideration of Defendants' Petition to Strike or to Open Judgment and upon motion of Patrick H. Autry, attorney for Defendants, a Rule is granted on Equibank, Plaintiff, to show cause why the judgment entered in the above-entitled cause should not be stricken off or, in the alternative, opened, and Defendants let into a defense or defenses.

All proceedings to stay meanwhile including without limitation proceedings at Execution No. GD 82-04455 in the Court of Common Pleas of Allegheny County, Pennsylvania.

Returnable sec. reg. sec. leg.

By the Court,

BPDR 000533

_____ J.

LAW OFFICES
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MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

May 1, 1982

EQUIBANK
Two Oliver Plaza
Commercial Loan Adjustment Dept.
13th Floor
Pittsburgh, PA 15222

Att: William M. Densmore, Vice Pres.

In re: NORTH STAR COAL COMPANY vs. WISEMAN OIL COMPANY AND EQUIBANK

Dear Mr. Densmore:

Enclosed herewith are copies of Briefs on the captioned adversary matter.

Very truly yours,

LAMPL, SABLE & MAKOROFF

F. Scott Gray/gp

F. Scott Gray

FSG/ gp

Enclosures

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	)	Bankruptcy No. 81-3367
WISEMAN OIL COMPANY, INC.	)	Chapter 11
Debtor	)	
NORTH STAR COAL COMPANY,	)	
Plaintiff	)	
vs.	)	Adversary No. 82-418
WISEMAN OIL COMPANY, INC. and EQUIBANK,	)	
Defendants	)	

BRIEF OF WISEMAN OIL COMPANY, INC.

I. THE AGREEMENT BETWEEN WISEMAN OIL COMPANY, INC. AND NORTH STAR COAL COMPANY CONSTITUTES THE RENTAL OF A SPACE FOR STORAGE OF INVENTORY AND NOT A BAILMENT OR A WAREHOUSE ARRANGEMENT

North Star Coal Company ("North Star") argues that the agreement between it and Wiseman Oil Company, Inc. ("Wiseman Oil") constitutes a warehousing arrangement and not a rental arrangement and that, as such, a warehouseman's lien has arisen for the amount owed for certain obligations incurred under said agreement.

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(Rcd)

North Star bases its claim upon a letter agreement dated June 29, 1981, which has been signed by Stephen K. Wiseman, Executive Vice President of Wiseman Oil, and Alexander C. Speyer, III, Vice President of North Star.

The mere entering into an arrangement for the leasing of storage space is insufficient under Pennsylvania statutory and common law to create a bailment. Although there are arguably significant differences between the landlord/tenant and bailor/bailee relationships, counsel for North Star in his brief has begged the question of whether the agreement between the parties constituted anything more than the rental of space for storage.

The document upon which North Star bases its claims is not a warehouseman's receipt. Paragraph (1) of the document refers twice to the "rental charge" on five tanks at the Monaca Terminal of North Star. The rental charge is a fixed charge and bears no relationship to the contents of the tanks. Under the terms of the agreement, Wiseman Oil is to be charged a flat rate of $11,000 per month, in advance, whether there is any liquid in the tanks or not. The rental charge is based upon the amount of space leased, rather than upon the contents of the tanks. Were this a true storage charge, as that term is used in the Uniform Commercial Code, the charge would be related to the goods stored. Section 7-209 of the U.C.C. states, in relevant part, that:

> A warehouseman has a lien against the bailor on the goods covered by a warehouse receipt or on the proceeds thereof in his possession for charges

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ORIGINAL
(Red)

> for storage .... in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law.

In the instant case, North Star requests a fixed rate which is based upon the number of tanks leased, rather than upon the goods stored within those tanks. The rental charge is not "related" to the goods except to the extent that the goods are placed in the tanks. However, under the terms of the agreement, even if no oil was placed in the Monaca Terminal, the charge would remain the same.

Another and perhaps the most essential, distinguishing feature of the bailor/bailee, as opposed to the landlord/tenant, relationship is that bailed goods must be delivered into the warehouseman's possession. Counsel for North Star has recognized this point of law in this brief. However, Paragraph (2) of the letter agreement reads:

> Material can arrive by either truck or barge. In the case of truck, your [Wiseman Oil's] drivers will be responsible for pumping oil into the tanks. In the case of barge, Wiseman will be responsible for providing a tankerman and shoreman, or paying North Star for those services.

On the basis of the terms of the agreement, it is difficult to see how North Star can argue that goods were actually delivered into the possession of North Star. Wiseman Oil assumed the task of pumping oil into the tanks located at the Monaca Terminal. North Star did little more than provide the space.

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North Star argues, too, that Wiseman Oil did not have free and ready access to the oil in the tanks and that, therefore, a bailment occurred from which a warehouseman's lien arose. This contention is belied by the terms of Paragraph (6) of the agreement which reads:

> North Star's normal hours of operation will be from 7:00 A.M. to 3:00 P.M. five days a week. Any additional manpower provided will be for the account of Wiseman.

The clear implication of this clause is that Wiseman had free access to the oil contained within the tanks, at any time, provided Wiseman was prepared to pay additional funds for access to the oil.

Finally, the document upon which North Star bases its claim does not approach the specificity which the Uniform Commercial Code, and Pennsylvania common law, ascribe to a "warehouse receipt." Section 7-202 of the U.C.C., while not prescribing any particular form for a warehouse receipt, does indicate that the form should bear, inter alia, "(f) a description of the goods or of the packages containing them..."

The agreement submitted by North Star contains no such description, aside from a reference to "waste oil." Indicative of the functions of a warehouseman is a duty to know what goods have been stored - the agreement submitted by North Star does not even indicate the amount of waste oil stored. Further, North Star has failed to produce any other documents

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which might constitute warehouse receipts for deliveries of oil placed in the Monaca Terminal.

Pennsylvania common law is clear on at least one point - that a bailment or warehousing arrangement does not arise automatically from a contract for storage. Many courts have ruled, in cases similar to the instant case, that a storage lease may constitute no more than a landlord/tenant relationship.

In Bash v. Reading Cold Storage and Ice Company, 100 Pa. Super. 359 (1930), the Superior Court of Pennsylvania held that a bailment did not arise in a situation where: 1) the plaintiff rented a room for the storage of furs from a cold storage warehouse company; 2) the plaintiff had the exclusive possession of and right to use the room; 3) the plaintiff was responsible for the deposit and removal of the furs and was not obliged to advise the defendant of either; 4) no receipts for the goods were given; and 5) plaintiff possessed a key to the room, but had access to the room only during regular business hours. The court based its ruling on the fact that possession of the goods had not passed from the plaintiff to the defendant.

The instant situation is little different. Although North Star may be in the business of providing storage space for goods, this fact is not dispositive of the case, just as it was not dispositive in Bash. The central element is possession. In the instant case, Wiseman: 1) had exclusive possession of and the right to use the oil tanks; 2) was largely responsible for depositing and removing oil at the terminal; and 3) received no receipts for deposits into the Monaca Terminal.

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A similar result was reached in Lieber v. Smith, 14 D&C 3d 647 (Court of Common Pleas, Philadelphia 1980), where the court rejected an argument that a lease of space for the storage of a pleasure boat and household furnishings created a bailment under the Uniform Commercial Code, rather than a landlord/tenant relationship. In that case, the court noted that:

> The determinative factor in resolving whether a relationship should be characterized as a bailment, with the corresponding duties and responsibilities of that status, is whether the alleged bailor delivered custody and control of the personalty to the alleged bailee ... [citations omitted]. The quantum of such possession or control in the bailee over the personalty must be such that the bailee may effectively exclude the possession of the owner for the period of the bailment: McBride v. McNally, 243 Pa. 206, 89 Atl. 1131 (1914); Sparrow v. Airport Parking Co. of America [221 Pa. Super. 32, 289 A.2d 87 (1972)]; Maher v. Chapins Lunch Co., 119 Pa. Superior Ct. 213, 180 Atl. 739 (1935); See also, 3 U. Pitt. L. Rev. 51 (1936).
>
> 14 D&C 3d at 650.

Wiseman Oil argues that due to the freedom of access which it had to the oil and to the tanks, no transfer of possession to North Star was either contemplated or occurred.

The Lieber court also based its decision upon the inherent deficiency of an alleged "warehouse receipt." A warehouse receipt is "a written acknowledgement of the receipt of designated

BPDR 0005141

property in the warehouseman's possession for storage." 14 D&C 3d at 651. The court further indicated that the agreement was "entered into prior to any delivery of goods," and was therefore deficient as a warehouse receipt. The court also indicated that if a bailment relationship was intended, the description of the goods contained on the agreement would have accurately described the goods stored. In part due to the deficiencies of the "receipt" in Lieber, the court ruled that nothing more than a landlord/tenant relationship was created.

The document submitted by North Star is not characteristic of that which would accompany a bailment. The goods are not described - even the gallonage stored, a crucial figure, is omitted. Also, it is clear that the document contemplates future deposits of oil in the Monaca Terminal. Its execution preceeded deposits of oil into the tanks, rather than accompanied such deposits.

The agreement between North Star and Wiseman Oil constitutes at most a lease of space which Wiseman Oil might use for the storage of oil. The terms of the agreement and the facts surrounding the agreement indicate that such is the case. As a result, a landlord/tenant relationship, rather than a bailor/bailee relationship, has arisen. Charges resulting from the agreement constitute nothing more than rent, and therefore may not form the basis of a warehouseman's lien. Even in the case of a commercial lease, a lien for the rent owed may be

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avoided pursuant to §545 of the Bankruptcy Code. In re Furniture Discount Stores, Inc., 11 B.R. 5 (Bankruptcy Ct., N.D. Texas, 1980).

II. THE LIEN, IF ANY, WHICH NORTH STAR ASSERTS AGAINST WISEMAN OIL IS AVOIDABLE UNDER SECTION 545 OF THE BANKRUPTCY CODE AS A LIEN FOR RENT OR A LIEN OF DISTRESS FOR RENT.

Section 545 of the Bankruptcy Code states that the trustee may avoid the fixing of a statutory lien on property of the debtor to the extent that such lien is: 1) for rent; or 2) a lien of distress for rent.

Even if the Court feels that a true bailment has arisen, the lien for storage charges constitutes no more than a lien for rent. Any legal distinction between the terms "rent" or "storage charges" is, at best, a tenuous one.

Counsel for Wiseman Oil submits that this is a case of first impression in the Bankruptcy Court and argues that whatever distinctions there may be between charges for "storage" and charges for "rent" are irrelevant in the context of a bankruptcy. For the purposes of this bankruptcy, storage charges amount to nothing more than rent on a space in which inventory is stored. Further, the policy considerations behind the trustee's power in Section 545 of the Bankruptcy Code to invalidate a lien for rent or of distress for rent apply equally to this case.

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Section 545 of the Bankruptcy Code empowers the trustee to avoid the fixing of a statutory lien for rent, or of distress for rent. Section 101(38) of the Bankruptcy Code defines "statutory lien" to mean:

> [A] lien arising solely by force of a statute on specified circumstances or conditions, or lien of distress for rent, whether or not statutory, but does not include security interest or judicial lien, whether or not such interest on lien is provided by or is dependent on a statute and whether or not such interest or lien is made fully effective by statute.

Congress contemplated that a warehouseman's lien be considered a statutory lien. Senate Report No. 95-989, 95th Congress, 2d Session, pp. 26-27 (1978) reads, in relevant part:

> A statutory lien is only one that arises automatically, and is not based on an agreement to give a lien or on judicial action. Mechanics', materialmen's, and warehousemen's liens are examples.
>
> Senate Report, reproduced in 1981 Collier Pamphlet, Bankruptcy Code, Part 3, p. 17.

North Star argues that since the subject matter of a bailment is "personal property," and the subject matter of a landlord/tenant relationship is "space," an inherent distinction between the two is created. However, it should be noted that the remedy afforded to the landlord in enforcing his lien for rent is directed against the personal property of the tenant which is

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located within the property leased. As noted in 49 Am. Jur. 2d, Landlord and Tenant, §678:

> In determining the question of what property is subject to the contractural lien of the landlord, the terms of the lease are controlling as between the parties. Usually the lien is expressed to be upon the personal property of the tenant which may be brought upon the leased premises ....

Thus, although there may be a distinction between the subject matters of the bailment and landlord/tenant relationships, the practical effect of the levy in each case is the same. Both charges for storage, and rental charges for leased space may result in an execution against personal property.

North Star also argues that in providing storage for oil at the Monaca Terminal it was providing a service rather than providing space. North Star contends, essentially, that the rental value of the space is of no consequence in the bailment situation.

While Wiseman will concede that there are certain distinctions between a bailee and a landlord (chiefly in regard to liability for loss of goods, and misdelivery), it exalts form over substance to say that a marginal difference in the mechanics of a storage arrangement may result in the loss of the trustee's right to avoid a lien for rent or of distress for rent. North Star argues that because it had locks on the tanks at Monaca Terminal, and because it performed an oversight function

BPDR 0005145

during the removal of oil, the charges are not rent within the scope of Section 545 of the Code.

One can imagine the landlord who provides security locks on an apartment building, as well as a doorman, making the same argument.

Conceding that North Star may have performed certain functions which elevate it above the average landlord does not invalidate the argument that the bulk of the $11,000/month charge was to cover the rental value of the space which Wiseman Oil used at the Monaca Terminal. Because the charge is essentially a rental, North Star's lien may be avoided under Section 545 of the Bankruptcy Code.

The legislative purpose of Section 545 justifying avoidance of certain statutory liens is clearly applicable to the instant case. Collier states:

> Statutory liens may, however, easily become a means of frustrating the bankruptcy scheme of distribution, which recognizes but a limited number of priorities superior to the right of the general creditors to pro rata distribution.
>
> 4 Collier on Bankruptcy, 15th ed., ¶545.01, p. 545-6.

The overarching purpose of Section 545 is to prevent statutory liens, created at the state level, from establishing preferences for certain economic classes. Wiseman Oil argues that North Star should not be "preferred" in light of this legislative directive.

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(Red)

Obviously, Section 545 is not intended to divest all statutory liens created by the states. Certain statutory liens remain unaffected. Collier suggests that:

> The policy justifications invoked in support of various statutory liens are not of equal merit from the standpoint of sound bankruptcy administration. Statutory liens in favor of such beneficiaries as contractors, mechanics, and materialmen secure persons who have contributed to an enhancement of the value of the debtor's estate, and to withhold protection of such liens in bankruptcy cases would give a windfall to other creditors.
>
> 4 Collier on Bankruptcy, 15th ed., ¶545.01, p. 545-6.

North Star argues, with some force, that storage has enhanced the value of the oil at the Monaca Terminal. The Court must decide whether the "enhancement" provided by a warehouseman is as direct as that rendered by the contractor, mechanic or materialman individuals who would contribute actual physical improvement to the estate of the debtor, rather than a theoretical economic enhancement.

Admittedly, North Star has given Wiseman Oil a space in which it might conveniently store raw oil until needed for refining. However, the arrangement is indistinguishable from a commercial lease for a warehouse where the lessor stores his inventory until he has a buyer. Yet, it could not be argued by the landlord in an action against the lessee in the bankruptcy court that the landlord's lien was beyond the purview of Section 545 of the Bankruptcy Code.

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Section 545(3), (4) of the Bankruptcy Code is derived from Section 67c(1)(c) of the Bankruptcy Act which was added in 1966 amendments to the former law. By those 1966 amendments it was decided that all liens for rent were to be invalidated because of the priority given under the Act to the claims of landlords. House Report No. 686, 89th Cong., 1st Sess. (1965). To the extent that North Star has an administrative claim against the Estate of Wiseman Oil for the reasonable expenses incurred for storage of oil at the Monaca Terminal, North Star already possesses a "priority." Therefore, the rationale expressed in the House Report applies equally to the instant case.

For the foregoing reasons, Wiseman Oil requests this Honorable Court to dismiss North Star's Complaint for Relief from Automatic Stay and Adequate Protection.

Respectfully submitted,

BERKMAN RUSLANDER POHL LIEBER & ENGEL

By _____
Patrick H. Autry, Esquire

Attorneys for WISEMAN OIL COMPANY, INC.

BPDR 0005148

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	:	
WISEMAN OIL COMPANY, INC.,	:	BANKRUPTCY NO. 81-3367
Debtor.	:	CHAPTER 11
NORTH STAR COAL COMPANY,	:	
Plaintiff,	:	
VS.	:	ADVERSARY NO. 82-418
WISEMAN OIL COMPANY, INC. and EQUIBANK,	:	
Defendants.	:	

BRIEF OF NORTH STAR TRANSFER COMPANY

I. A WAREHOUSEMAN'S LIEN CANNOT BE AVOIDED UNDER SECTION 545 OF THE BANKRUPTCY CODE AS A LIEN FOR "RENT" OR "DISTRESS FOR RENT".

The distinction between a warehouseman and a landlord is clear. In the case of a warehouseman, possession is delivered to the warehouseman subject to a duty to redeliver possession to the owner of the goods, subject to conditions, in the future. In other words, the relationship is one of bailor and bailee. In the case of a landlord tenant relationship, the tenant retains possession of the personal property.

This distinction gives rise to two important legal distinctions:

First, there is a rule of presumption of negligence applied to a bailee based upon the theory that where the bailee has exclusive possession of the goods, the acts attending loss or injury must be peculiarly within his own knowledge and, therefore, he is required to excuse or justify a failure to return the goods in a proper condition. Zell vs. Dunkle et al., 156 Pa. 353 (358); Duffy's Garage vs. Sweeley, 66 Pa. Super. Ct. 583. In the case of a landlord tenant relationship, any loss to the goods is a loss of the tenant, absent proof of negligence on the part of the landlord. Bash vs. Reading Cold S & I Company, 100 Pa. Super. Ct. 359 (1930).

Secondly, in a landlord tenant relationship, the subject matter of a contract is a rental of the place where the goods are deposited, while in a bailment, the subject matter is always personal property. In other words, in the landlord tenant situation, the tenant is given possession of the location where the goods are to be stored; whereas in the warehouseman situation, the warehouseman takes

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possession of the personal property and stores them on his own premises which remain under his possession, 8 Am. Jur. 2d 764-765 (see attached).

In the matter before the Court, possession remained in North Star. Access to the tanks by Wiseman Oil was only during times permitted by North Star and was subject to the requirement that an employee of North Star had to be present when any loading or unloading took place. This rule was enforced by means of locks on the valves. Wiseman could neither put oil in nor remove it without unlocking the valves. Possession of the key to the lock was retained by North Star at all times and was never given to any employee of Wiseman Oil.

Also, as set forth in Paragraph 1 of the letter of agreement, the rental included four throughputs. This means that the tanks could be filled and emptied four times beyond which, an additional charge would be rendered. By way of example, if a tank has a capacity of 100,000 gallons, Wiseman could pump into that tank 400,000 gallons and remove an equivalent amount without incurring the throughput charge. The reason for this is that North Star provided the services of supervising the pumping of materials into the tank, unlocking the tank to provide access to it for adding or removing oil, supervising the removal of the oil, maintaining the coastguard permits

BPDR 0005151

necessary to loading and unloading the tank by barge, and similar services. Each time such a service is performed, manpower of North Star was utilized and risk is incurred. Consequently, they included in the basic charge for throughputs. Any amount over this would incur additional charges.

The final distinction between these two relationships is that the landlord-tenant relationship is governed by the Landlord and Tenant Act of 1951, 68 P.S. §250.101 et sec. Under this Pennsylvania law, no lien is obtained by a landlord on a tenant's property until the landlord actually distrains for rent. It is the levy itself which creates the lien.

This is contrasted with the lien of the warehouseman, which is set forth in 12 A P.S. §7-209 which gives the warehouseman a lien on goods in his possession for storage and other charges. This lien arises immediately upon receipt of goods by the warehouseman and no action is necessary to perfect it. The reason for this clearly arises from the differences in the relationships between the parties. Whereas, the landlord merely leases a space to a tenant, the tenant retaining possession and therefore the duties and obligations related to placing the goods in the rented premises, removing them and caring for them while there, the warehouseman performs the service of

BPDR 0005152

receiving possession, caring for them, insuring them and returning them unharmed to the bailee. In other words, the warehouseman provides a service, not a space. This service of maintaining the goods in an unharmed condition an returning them to the bailee is akin to the service an automobile repairman performs in repairing an automobile. It contributes to the value of the goods by preserving it unharmed through a period of time and while in the possession of the warehouseman.

This subject is discussed fully in Using Public Warehouses. For the convenience of the Court, photocopies of the title page and first chapter are attached. Highlighted are passages particularly relevant to the Wiseman - North Star relationship. The author, John A. Frederick, Ph.D., discusses warehousing in terms of storing finished products prior to distribution. However, the argument is equally applicable to storage of raw materials prior to manufacture of finished goods.

The advantage here is to permit raw materials to be purchased when available at favorable prices and stored until needed for production (refining). This permits productive capacity to be most effectively utilized by assuring a constant supply of raw materials (oil to be refined) to be used as needed. Efficient refinering

BPDR 0005153

operation would require that raw materials be available when needed. However, it may not be available from suppliers in sufficient quantity and at a favorable price at that time. Hence, warehousing fills the gap and thus adds value to the goods.

Consequently, it is clear that Section 545 of the Bankruptcy Code, in specifying "rent" and "distress for rent" specifically intended to exclude from its action the statutory lien of a warehouseman. Consequently, North Star, having a valid security interest, perfected by possession in accordance with Section 9-305 of the U.C.C., may obtain relief from stay for lack of adequate protection under Section 361 and in accordance with Section 362(d) and may sell the oil in accordance with Article 7 of the U.C.C.

It should be noted that this lien extends not only to charges and expenses in relation to the goods deposited, but also to "expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law".

BPDR 0005154

This would include a lien for legal charges incurred in this proceeding and in any subsequent sale proceeding.

II. A WAREHOUSEMAN'S LIEN HAS PRIORITY OVER A PERFECTED SECURITY INTEREST OF EQUIBANK.

North Star's lien is superior to the lien of Equibank for the reasons set forth in Section 7-209(3) which states as follows:

> "A warehouseman's lien for charges and expenses under subsection (1) or a security interest under subsection (2) is also effective against any person who so entrusted the bailor with possession of the goods that a pledge of them by him to a good faith purchaser for value would have been valid but is not effective against a person as to whom the document confers no right in the goods covered by it under Section 7-503."

Section 7-503 is not applicable since it relates to a deposit by a bailor who wrongfully obtains possession. The Uniform Commercial Code's comment makes this clear in subparagraph 3 which states:

> Subsections (1) and (2) validate the lien and security interest "against the bailor." As against third parties, subsection (3)(a) continues the rule under the prior uniform statutory provision that to validate the lien the owner must have entrusted the goods to the depositor, and that the circumstances must be such that a pledge by the depositor to a good faith purchaser for value would have been valid. Thus the owner's interest will not be subjected to a lien or security interest arising out of a deposit of his goods by a thief. The warehouseman may be protected because of the actual, implied or apparent authority of the depositor, because of a

BPDR 0005155

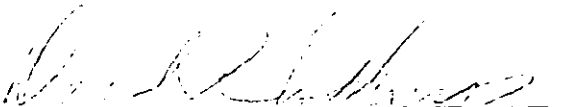
Factor's Act, or because of other circumstances which would protect a bona fide pledgee, unless those circumstances are denied effect under Section 7-503."

Consequently, it can be seen that this section refers us to Section 9-312, which in turn refers us to Section 9-307 of the U.C.C. Equibank's security agreement permits the sale of the oil in the ordinary course of business. Placing the oil in the hands of a warehouseman for storage pending its refining is equivalent to a sale. Consequently, Equibank specifically subordinated their security interest to the warehouseman's lien. In exchange, they take back a security interest in all proceeds received. Section 9-307 of the U.C.C. makes it clear that a buyer in the ordinary course of business takes free of a security interest created by the seller even though the security interest is perfected and even though the buyer knows of its existence. North Star is the position of a good faith purchaser for value as set forth in subparagraph 3 of 7-209 and consequently has an interest superior to that of Equibank.

DATED: April 14, 1982

RESPECTFULLY SUBMITTED,

DAVID J. HUMPHREYS, P. A.

BY: 

David J. Humphreys, Esquire
Counsel for North Star
1000 Lawyers Building
Pittsburgh, PA 15219
(412) 391-6533

BPDR 0005156

has only the bare charge or custody of the property, and not true possession thereof or any special property therein, while a bailee is under a special contract with respect to the property and is generally regarded as having true possession, as distinguished from mere custody, sufficient, according to many authorities, to give him a special property in the goods.[11] One may, however, occupy the status of servant at some times or for some purposes and that of bailee at other times or for other purposes with respect to the same property, and the character of the relationship in the light of the particular transaction or circumstances must be determined.[12]

Where an employer lends his car or other property to an employee for the latter's own use or pleasure, or permits the employee to use the car, a bailment relation, superseding the relation of master and servant, is created and the master and servant relation with respect to the use of the car is not restored until the driver is again acting under the employer's direction and control.[14]

§ 31. Bailor and bailee or landlord and tenant; storage of goods.

While an analogy is sometimes drawn between the relationship of a bailee to a bailor and that of a tenant to his landlord,[15] the respective definitions of the relationships are ordinarily sufficient to differentiate them.[16] A tenant, but not a bailor, has the exclusive possession and control of, and dominion over, the portion of the other party's premises where the goods are kept, for the

gross proceeds received for the produce. First Nat. Bank v Canal Ins. Co. (Fla App D1) 328 So 2d 230.

11. Washakie Livestock Loan Co. v Meigh, 50 Wyo 480, 62 P2d 523, 107 ALR 1063.

The possession of a servant, unlike that of a bailee, is but the possession of the master. See Sharon v Shaw, 2 Nev 289; Moore v Kelley, 5 Vt 34.

12. Johnson v H. M. Bullard Co., 95 Conn 251, 111 A 70, 12 ALR 766; Lloyd v Northern P. R. Co., 107 Wash 57, 181 P 29, 6 ALR 307.

13. Where the owner of an automobile rents it to another for operation as a taxicab on a mileage basis, the latter receiving no salary from the owner, furnishing his own gasoline, being free to accept or reject any calls for service, and entitled to retain all fares received, the relationship between the parties is that of bailor and bailee and not master and servant. Dean v Ketter, 328 Ill App 206, 65 NE2d 572.

There can be no bailment in an employer-employee situation where the property of the employer is used in the course and scope of the employment. Dail v Bergeron (La App) 293 So 2d 894.

The relationship of bailor-bailee as between a hotel guest and the hotel does not arise where the guest gives the keys of his automobile to a bellboy at a time when the latter is off duty, dressed in civilian clothes, and attending a party in the guest's hotel room at which he becomes intoxicated, and the bellboy is acting as agent for the guest when driving the latter's automobile for his own pleasure instead of delivering it to the hotel garage as instructed by the guest. Smith v Hotel Antlers Co., 126 Ind App 385, 135 NE2d 89.

But when a guest parks his automobile at an inn or has it parked for him there or at another facility provided by the inn, most of the cases have concluded that an innkeeper in control of the guest's car was a bailee for hire and owed a duty of ordinary care to protect the guest's property. Annotation: 52 ALR 3d 435, 444 § 4[a].

14. An employee who has the use of his employer's motor vehicle to go to and from the place of employment is a bailee while in possession of the vehicle after working hours. Sullivant v Pennsylvania Fire Ins. Co., 223 Ark 721, 268 SW2d 372.

An employee who is entitled, as part of his compensation, to the use of his employer's automobile for his own pleasure is a mere bailee while so using the car. Lloyd v Northern P. R. Co., 107 Wash 57, 181 P 29, 6 ALR 307.

15. H. K. Porter Co. v Boyd (CA3 Pa) 171 F 305; Pulliam v Burlingame, 81 Mo 111; Nudd v Montanye, 38 Wis 511.

16. As to nature of relation of landlord and tenant, see 49 Am Jur 2d, LANDLORD AND TENANT § 1.

8 Am Jur 2d

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duration of the term of his lease.[17] In a relation of landlord and tenant, the subject matter of the contract is the rental of the place where the goods are deposited, while in a bailment the subject matter is always personal property. Perhaps with this in mind, the courts often give consideration, in doubtful cases, to the manifest intention of the parties—whether the care of personal property or only the rental of a place to put it was contemplated.[18] While the fact that one rents a definite space in which to store goods does not show conclusively that the arrangement is a lease rather than a bailment,[19] one who merely grants storage room, without assuming, expressly or impliedly, any duty or responsibility with respect to the care or control of the property stored, is not a bailee.[20]

In general it may be said that where personal property is left on another's premises under circumstances from which either a relation of bailor and bailee or landlord and tenant may be predicated, the test is whether the person leaving the property has made such a delivery to the owner of the premises as to amount to a relinquishment, for a time, of his exclusive possession, control, and dominion over the property, so that the latter can exclude, within the limits of the agreement, the possession of all others.[21] If he has, the general rule is that the transaction is a bailment.[22] If there is no such delivery and

17. Morgan v Citizens' Bank, 190 NC 209, 129 SE 585, 42 ALR 1299.

18. Zweeres v Thibault, 112 Vt 264, 23 A2d 529, 138 ALR 1131. See Schaefer v Washington Safety Deposit Co., 281 Ill 43, 117 NE 781; Jones v Morgan, 90 NY 4; McDonald v Wm. D. Perkins & Co., 133 Wash 622, 234 P 456, 40 ALR 859 (holding defendant liable as bailee, though not deciding on exact relationship).

19. Zweeres v Thibault, 112 Vt 264, 23 A2d 529, 138 ALR 1131.

Practice Aids.—Receipt—Incidental storage of property. 3 Am Jur Legal Forms 2d, Bailments and Personal Property Leases § 36:211.

—Conditions of storage of bailed property. 3 Am Jur Legal Forms 2d, Bailments and Personal Property Leases § 36:231.

—Storage agreement—General form. 20 Am Jur Legal Forms 2d, Warehouses § 258:73.

—Storage agreement—Reference to tariffs or schedules. 20 Am Jur Legal Forms 2d, Warehouses § 258:74.

—Storage agreement—Household goods. 20 Am Jur Legal Forms 2d, Warehouses § 258:75.

—Storage agreement—Manufacturer's products. 20 Am Jur Legal Forms 2d, Warehouses § 258:76.

20. Weddington v Stalkin, 122 Ind App 670, [illegible] NE2d 239; Dahl v St. Paul Fire & Marine Ins. Co., 36 Wis 2d 420, 153 NW2d 624.

Practice Aids.—Lease of storage space—General form. 20 Am Jur Legal Forms 2d, Warehouses § 258:112.

—Lease of storage space—Household goods. 20 Am Jur Legal Forms 2d, Warehouses § 258:113.

—Lease of storage space—Rental of frozen food locker. 20 Am Jur Legal Forms 2d, Warehouses § 258:114.

21. Ex parte Mobile L. & R. Co., 211 Ala 525, 101 So 177, 34 ALR 921; 1420 Park Road Parking, Inc. v Consolidated Mut. Ins. Co. (Mun Ct App Dist Col) 168 A2d 900; Morgan v Citizens' Bank, 190 NC 209, 129 SE 585, 42 ALR 1299; Matthews v Caroline & N. R. Co., 175 NC 35, 94 SE 714; Broaddus v Commercial Nat. Bank, 113 Okla 10, 237 P 583, 42 ALR 1331; Spare v Belroy Housing Corp., 179 Wash 385, 38 P2d 207.

22. Moore's Trucking Co. v Gulf Tire & Supply Co., 18 NJ Super 467, 87 A2d 441, certif den 10 NJ 22, 89 A2d 306. See Morgan v Citizens' Bank, 190 NC 209, 129 SE 585, 42 ALR 1299; Tillinghast v Johnson, 34 RI 136, 82 A 788; Zweeres v Thibault, 112 Vt 264, 23 A2d 529, 138 ALR 1131; Spare v Belroy Housing Corp., 179 Wash 385, 38 P2d 207; McDonald v Wm. D. Perkins & Co., 133 Wash 622, 234 P 456, 40 ALR 859.

Whether a set of circumstances creates a lessor-lessee relationship or one of bailor-bailee is a question of fact, dependent on possession of the property and control over it. Travelers Ins. Co. v Pond (Ohio CP) 143 NE2d 189.

The characterization of the relationship as a bailment or a lease does not depend on the physical structure of the place where the article is stored, but rather is based solely on whether the alleged bailor delivered custody and con-

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relinquishment of exclusive possession, control and dominion over the goods is dependent in no degree on the co-operation of the owner of the premises and access to the goods is in no wise subject to the latter's control, it is generally held that the owner of the goods is a tenant or lessee of the space on the premises where they are left.[23]

§ 32. —Particular transactions.

Applying the distinguishing rules noted in the preceding section it is held that there is a bailment where, for a consideration, goods are left for safekeeping in another's warehouse, though they are placed in a separate room to which the depositor retains the key,[24] or where valuables are deposited in a safe-deposit box in a bank or safe-deposit company.[25] Also, where a tenant arranges with his landlord for storage of property in a portion of the rented premises under the landlord's control, the courts usually hold that a bailment is created.[26] It has been held that a bailment is created when a loaded trailer is driven into a warehouse and the tractor is unhooked and driven away, where the customary procedure is for the warehouse employees to unload the trailer and notify its owner when to send for it, and the trailer is customarily locked in the warehouse if not unloaded before the end of the working day.[27] On the other hand, the landlord of an office building is not the bailee of contents of the offices, though his employees retain keys thereto in order to gain access for duties of maintenance,[28] and it is held that the proprietor of a locker service who has no control over the depositor who places property in a locker to which he retains the key does not become a bailee of the contents of the locker.[29] In cases involving parking or storage of automobiles, the relation of

trol of the item to the bailee. Taylor v Philadelphia Parking Authority, 398 Pa 9, 156 A2d 525.

23. Ex parte Mobile L. & R. Co., 211 Ala 525, 101 So 177, 34 ALR 921; T. R. Booth & Co. v Loy, 100 Ill App 2d 333, 241 NE2d 315, later app 128 Ill App 2d 383, 262 NE2d 19; Moore's Trucking Co. v Gulf Tire & Supply Co. 18 NJ Super 467, 87 A2d 441, certif den 10 NJ 22, 89 A2d 306; Cornelius v Berinstein, 183 Misc 685, 50 NYS2d 186; Travelers Ins. Co. v Pond (Ohio CP) 143 NE2d 189; Broaddus v Commercial Nat. Bank, 113 Okla 10, 237 P 583, 42 ALR 1331; Taylor v Philadelphia Parking Authority, 398 Pa 9, 156 A2d 525; Bash v Reading Cold Storage & Ice Co., 100 Pa Super 359; Zweeres v Thibault, 112 Vt 264, 23 A2d 529, 138 ALR 1131.

24. See 78 Am Jur 2d, WAREHOUSES § 26.

25. See 10 Am Jur 2d, BANKS §§ 470, 471 et seq.

26. Barclay, Inc. v Maxfield (Mun Ct App Dist Col) 48 A2d 768; Dalton v Hamilton Hotel Operating Co., 242 NY 481, 152 NE 268.

Annotation: 58 ALR2d 1289, 1300, § 6[a].

27. Moore's Trucking Co. v Gulf Tire & Supply Co., 18 NJ Super 467, 87 A2d 441, certif den 10 NJ 22, 89 A2d 306.

Generally, a warehouseman who offers to store goods for a price is a bailee for hire when goods are accepted and stored in the warehouse. The essence of the transaction is delivery to the bailee for a purpose (generally safekeeping or custody) and its acceptance for that purpose by the bailee. Dahl v St. Paul Fire & Marine Ins. Co., 36 Wis 2d 420, 153 NW2d 624.

28. That the landlord of an office building furnishes janitor service to his tenants, and that the landlord and his servants possess keys and have access to the offices at all times outside of office hours, do not constitute the landlord a bailee of the tenants' offices and contents during such time, where the tenants and their employees possess keys and have access to the offices at all times. Broaddus v Commercial Nat. Bank, 113 Okla 10, 237 P 583, 42 ALR 1331.

29. Marsh v American Locker Co., 7 NJ Super 81, 72 A2d 343, 19 ALR2d 326, affd 6 NJ 77 A2d 315.

Annotation: 19 ALR2d 331.

The renting of a locker at a bowling alley for the entire bowling season has been held to create the relationship of landlord and tenant rather than bailor and bailee. Cornelius v Berinstein, 183 Misc 685, 50 NYS2d 186.

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USING PUBLIC WAREHOUSES

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Warehousing Creates Values

Warehousing or storage has always been regarded as a very important function of distribution. It is an activity absolutely essential to modern methods of producing manufactured products and is vital likewise to the distribution of agricultural products. In fact, both manufactured and agricultural products may be stored many times during their journey from producer to consumer in order to make adjustments between irregularities in production and demand. There are also other reasons for storage and warehousing which have arisen with the development of extensive commercial and territorial division of labor as well as mass methods of manufacture. The services of public warehouses are the result of the development of industrial society with all its complexities and interdependence, specialization, and systems of exchange. To keep pace with industrial and commercial demands for something more than simple storage, the public warehousing industry has developed and expanded its services until it has reached the position it occupies today as one of the most important agencies of distribution.

The more important reasons why there is a need for storage and, consequently, the services of public warehousing may be summarized as follows:

1. *To equalize seasonal production and more or less uniform consumption.*
2. *To equalize uniform production and seasonal consumption.*
3. *To compensate for roundabout methods of production and the inability of producers to maintain perfect balance between supply and demand.*

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The need and demand for storage arises as soon as more goods of any sort are produced than can be immediately consumed. This has always been so. The principle of simple storage, the holding and the preserving of goods between the time of their production and their use, is as old as man. Warehousing as a commercial enterprise, however, is of comparatively modern origin. As we know it today, warehousing is more than mere preserving. Warehousing does imply storage, but warehousing also connotes the additional element of trade and profit. Warehousing is storing for the purpose of commercial gain to the persons placing the products in storage. Such gain arises out of the fact that added value has been given to goods by virtue of their being held in a warehouse for a period of time, and wealth results from such an operation.

In economic terms, warehousing creates "time values" for the goods stored. The primary function of warehousing is storing; and this, together with the other incidental and minor functions performed by various types of public warehouses, endows goods with enhanced values. Stored goods represent surplus wealth, but unless the surplus, through warehousing operations, will increase in value by reason of the storage, it will not be stored. Modern warehousing creates values in goods which are in excess of consumers' immediate needs, and which are of small value at the moment, by preserving them until they can be used.

This economic service of the public warehousing industry is particularly important in handling agricultural products. Here a fluctuating supply and demand cause a heavy storing of commodities, followed by slower withdrawal until the quantity in storage is nearly or entirely depleted, barring annual surpluses and the activities of price support programs. Warehousing can be used to a large extent to equalize the relations between supply and demand for agricultural products, to preserve them from damage and deterioration, and to reduce waste.

For manufactured products, warehousing performs a like economic service by making it possible to smooth out seasonal or other irregularities in manufacturing. With few exceptions, manufacturers are able to control their production. For them, it is consumption which shows seasonal or other variations. Theoretically, manufacturers' production ought to continue at a fairly even pace during the year, or from year to year, since continuous production is essential for most such producers. For the manufacturer with a large fixed investment in buildings and equipment, uninterrupted operation is the keynote of manufacturing profits.

Makers of goods which are not in demand throughout the year, or manufacturers who have not been able to diversify their production so as to overcome seasonal demand, have had to choose between irregular operation and regular operation combined with warehousing of their output until the seasonal demand arises. Public warehousing steps in here to play a most important part in the production and the distribution of these seasonal products.

Public warehouses permit manufacturers to reduce the amount of storage space required at their plants and thus to reduce investment. As goods are produced, they can be shipped to public merchandise warehouses to be carried as spot stocks close to their ultimate destination. This method of storage is especially valuable in the case of seasonal products where factory storage would be an idle investment during the greater part of the year. Among the largest users of public merchandise warehouses are those manufacturers whose production is seasonal. It is generally admitted, from an investment point of view, that it is not advisable for manufacturers of seasonal products to provide all their own storage space and facilities, either at the factory or elsewhere.

Since warehousing tends to prevent irregularity in manufacturing, it promotes regularity of employment by reducing seasonal lay-offs of labor. Wherever the use of the country's warehousing facilities smooths out production peaks and valleys and induces evenness of output throughout the year, it helps labor.

4. *To meet situations where there is a surplus of production of a perishable agricultural commodity in one locality and con-*

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sumption of the surplus takes place in another or many other localities. Public warehouses, particularly cold storage warehouses, promote orderly distribution of perishable agricultural products. Producers of agricultural products are generally dissociated from consumers, since the latter—both household and industrial—have become concentrated to such an extent in certain parts of the country that only a very small part of the agricultural products demanded by them can be produced nearby.

5. *To meet the irregularity of consumer demand.* Demand for products sold to both household consumers and industrial users is not stable from day to day, from month to month, or from season to season in all cases. For the manufacturer, public warehousing is the answer to decentralized distribution, which in so many lines seems no longer obtainable through the traditional wholesale channels. The time when it was possible to make all shipments direct from factories to retailers or wholesalers has gone, probably never to return—this despite the increasing rapidity of railroad freight services, store-door delivery and pick-up by railroads, motor truck lines, air freight services, and express services, both by land and by air. The creation of spot stocks of manufactured products at strategically located points seems to be the most economical way in which speedier deliveries can be made and by which dealers may be provided with reserves of goods to meet consumers' erratic demands.

6. *To effect transportation economies.* Some storage in connection with transportation is always necessary. Goods may have to be stored at shipping points until a sufficient quantity is accumulated for economical shipment or until transportation facilities become available.

Making small shipments by less-carload or less-truckload from the factory is expensive. Usually the answer is the establishment of spot stocks from which these small order deliveries can be made at the least expense and in the quickest time. In some cases, it has been found that the carrying of such stocks in public warehouses costs very little because of the savings in the difference in rates for carloads shipped to the warehouse and

less-carload shipments to customers which otherwise would have to be made. Thus storage frequently reduces the costs of distribution, for wherever less-carload lots can be consolidated into carloads, even for a part of the total journey, a saving results.

7. *To assist in financing between the time of production and the time of consumption.* Finished manufactured goods, agricultural products, and other raw materials in storage, if they are in the custody of a bona fide public warehouse, need no longer be considered as representing nothing but dead value until sold or used.

While the public warehouse will always remain an important depository of goods awaiting consumption or sale, it has become increasingly important in financing. Under the present banking-commercial structure, finished goods and raw materials held at the factory or in a manufacturer's or other producer's private warehouse cannot qualify independently, on their own inherent specific value, as collateral for loans which are to be discounted or rediscounted by Federal Reserve banks. A different situation develops when the goods repose with a licensed bailee (a public warehouseman), whose negotiable and nonnegotiable receipts qualify for discount under specific conditions.

8. *To meet changing distribution conditions.* It is no longer possible to satisfy either the wholesale or the retail trade by making all shipments direct from factories. Retailers, for example, "want what they want when they want it," yet do not wish to carry heavy inventories themselves. Nevertheless, retailers or other distributors must always have goods on hand. For a manufacturer to allow his consumer outlets to be out of stock means lost sales and encourages substitution. Decentralized distribution is particularly important where there is heavy expenditure for national advertising. Goods must be kept constantly available at points of effective consumption or a considerable part of the expenditure for advertising is in danger of being wasted.

9. *To reduce the costs of distribution.* Industry is faced with many problems, but one of the most important is how to develop new and more economical methods of getting goods to

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consumers when they want them, at prices they can afford to pay. Developments in distribution have lagged behind those in production, and an uneconomic system has grown and fastened itself upon us whereby goods are moved from points of production to points of effective consumption in such an expensive manner that many of the savings realized through the application of research in production have been nullified.

Various attempts have been made to lessen the costs of distribution, but the methods used so far prove that these costs are not necessarily reduced by eliminating certain steps or middlemen. Costs can be reduced only by performing the functions of distribution more economically and efficiently, or by eliminating certain functions or movements of goods rather than middlemen such as the wholesaler and the independent retailer. In the already existing public warehouses—particularly the general merchandise and refrigerated warehouses strategically located throughout the country—we have the facilities to enable manufacturers and other producers to eliminate many movements of their commodities between points of production and effective consumption.

The proper integration of physical costs and financial costs of all stages of distribution, offered by the use of the facilities of public warehouses, provides a process for obtaining distribution as fundamentally economical as the results of modern production engineering have produced. This will mean more efficient distribution at lower cost and make it possible for more consumers to buy at prices they can afford to pay, because these prices will bear a lower cost load for distribution. The result will be increased production for manufacturers or at least a profitable market absorption of their present production. Most public warehousing is not an additional service performed at an additional cost to the ultimate consumers, be they industrial or household, but rather a series of services economically carried out in place of services that otherwise would be performed for them by other agencies at higher costs.

The public warehouseman, therefore, has a very definite place

in distribution. His services enable manufacturers to meet demands of customers, and, were it not for such warehouses, the small producer would be at a serious disadvantage as compared with the large, and the large producer would find his costs of distribution materially increased.

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the storage under the terms of an agreement with the owner of the goods.[17]

The assignee of a warehouse receipt is liable for storage charges from the date of assignment, and irrespective of any agreement on the part of the bailor's agent to pay them.[18]

On termination of a contract for storage by the warehouseman for the reason that the goods are perishable, hazardous, or declining in value and imperiling the warehouseman's security, the warehouseman is entitled, under the Code, to recover compensation, and the warehouseman may sell them in accordance with the provisions of the pertinent statute on enforcement of his warehouseman's lien for expenses and charges.[19]

§ 7. Lien

A warehouseman has an express statutory lien as against the bailor on goods covered by a warehouse receipt, for charges for storage or transportation and other specified costs and charges, present or future, in relation to the goods.

At common law, warehousemen have a specific, and not a general, lien on property stored with them, for their proper charges in connection with the specific bailment, and the consequent right to retain possession of it, or a portion of it, until the charges are paid.[20] In order to create the common-law lien,

17. Removal of tenant's goods

Where tenant, under lease author- [illegible] landlord to enter for repairs [illegible] to take all reasonable actions [illegible] thereto, after fire seriously [illegible] building, refused to allow [illegible] of contents from her apart- [illegible] and landlord then ordered mov- [illegible] storage company to remove [illegible] contents, tenant was liable [illegible] and storage company for [illegible] charge for removal and [illegible]—Breler v. Miller North [illegible] Co., 1959, 154 A.2d 282, [illegible] Super. 379.

[illegible] Owner as assignee

[illegible] a bailee of household goods [illegible] installment lease stores the [illegible] a storage warehouse without the knowledge or consent of the bailor, and the agent of the latter, on discovering this fact, takes an assignment of the warehouse receipt, and notifies the warehouseman of the true ownership of the goods, the latter may recover from the bailor the storage charges, at least from the date of the assignment, and irrespective of any agreement on the part of the bailor's agent to pay them.—Rhoads v. Walsh, 1912, 48 Pa.Super. 465.

19. 12A P.S. § 7-206.

20. Steinman v. Wilkins, 1844, 7 Watts & S. 466.

Pennsylvania Industrial Finance Ass'n v. Thomas, 1933, 18 D. & C. 367.

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there must be a delivery of the property.[21] Such specific lien is dependent on the goods being deposited with the warehouseman by one having the right to possession thereof,[22] and on the warehouseman's possession of the property being independent of, and distinct from, that of the owner.[23] The common-law lien of a warehouseman extends, in the absence of agreement or statute, only to a public warehouseman, that is, one who carries on the business of receiving and keeping goods for compensation.[24]

Warehousemen acquired a lien under the Uniform Warehouse Receipts Act for all lawful charges for storage and for preservation, including claims for money advanced for sundry specified purposes and other charges and expenses arising from the storage or deposit of goods with warehousemen.[25] By vir-

21. First Nat. Bank v. Childs, 1874, 10 Phila. 452, 31 L.I. 309, 2 Foster 199, 21 P.L.J. 177, 6 Leg.Gaz. 221, affirmed McMillen v. First Nat. Bank, 31 L.I. 397, 1 W.N.C. 55.

Secret delivery

Where pledged property has been secretly delivered to a storage company or to a bailee for hire, a lien for storage or repairs cannot be imposed upon it.—Leitch v. Sanford Motor Truck Co., 1924, 123 A. 658, 279 Pa. 160.

22. Williams v. Miller, 1918, 69 Pa. Super. 551.

Payment of charges

Where a bailee ends the bailment and secretly deposits the chattel bailed in an incorporated storage warehouse, the storage company has no lien for charges for storage as against the real owner, and cannot refuse to return the chattel to the real owner unless the latter pays the charges. —Estey Co. v. Dick, 1910, 41 Pa. Super. 610.

23. F. A. North Co. v. Hall, 1928, 20 Del. 324.

Power of possessor of personal property to create lien for repairs and storage charges superior to existing interests of others, see 90 U.Pa. L.Rev. 910 (1942).

Possession obtained from bailee

In action for conversion of piano, plaintiffs established prima facie title by showing that they had leased the piano to the person by whom it was placed in storage, and thereupon established a default by the lessee in performance of her agreement contained in the lease. The defendant storage company proved no title, but claimed a lien for storage, hauling, and other charges. Judgment for defendant was in error. A warehouseman who obtains possession of goods from a bailee cannot retain possession against the owner by lien for storage charges.—S. Jacobs & Son v. North Kensington Storage Co., 1923, 81 Pa.Super. 140.

24. Mitchell v. Standard Repair Co., 1923, 119 A. 410, 275 Pa. 328.

25. Pennsylvania Industrial Finance Ass'n v. Thomas, 1933, 18 D. & C. 367.

Uniform Warehouse Receipts Act—warehousemen's lien, see 100 U.Pa. L.Rev. 473 (1951).

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tue of the former statute, every warehouseman had a lien on all goods deposited and stored with him by the owner thereof, or by any person with the owner's knowledge or consent, for his storage charges and for all the funds advanced by him for necessary charges connected with the goods, and such lien extended to and included all legal demands for storage and expenses which he might have against the owner, and it was lawful for him to retain the property until such money was paid.[26] Provisions in that act required, however, that negotiable receipts state the lien, and generally prevented a warehouseman storing goods under such a receipt from asserting a lien for charges other than those enumerated in the receipt.[27]

Under the Uniform Warehouse Receipts Act, a warehouseman was not only entitled to keep the goods until his lien was satisfied, but also he could sell the goods to enforce his lien if he complied with all of the requirements of the statute.[28]

Advances

Nonnegotiable warehouse receipts for shipment of turkeys which stated that turkeys were held subject to warehouseman's advances were subject to a lien for warehouseman's advances.—In re Quaker City Cold Storage Co., 1943, 138 F.2d 566.

26. **Claim against one on whose order delivery was to be made**

That public warehouseman, when instructed by depositor's agent to make delivery of peas to or upon order of a designated person, stated in a letter to agent that it would transfer title to order of that person, did not change instructions received by public warehouseman so as to render peas subject to warehouseman's claim against person on whose order delivery was to be made.—Squire v. Merchants' Warehouse Co., 1938, 196 A. 975, 130 Pa.Super. 8.

27. Wilson Distilling Co. v. Fousé Distilling Co., 1943, 51 F.Supp. 744. In re Quaker City Cold Storage Co., 1943, 49 F.Supp. 60, *affirmed* 138 F.2d 566.

Receipts issued by former owner

Where operator of warehouse who issued warehouse receipts to owner of whiskey stored in warehouse subsequently became bankrupt, and thereafter warehouse was sold to another at a judicial sale free of all liens against former operator, provision in *Uniform Warehouse Receipts* Act requiring negotiable receipts to state lien had no application, and could not prevent purchaser from asserting a lien for charges other than those enumerated in outstanding receipts issued by former operator.—Schenley Distillers Corp. v. Kinsey Distilling Corp., 1943, 136 F.2d 350.

28. *Pennsylvania Industrial Finance Ass'n v. Thomas*, 1933, 18 D. & C. 367.

Misstatements

An order of court to warehouseman to sell for storage, as provided by Act December 14, 1863, P.L., 1861, 1127, 6 P.S. §§ 15–17, not vacated on ground of misstatements in application for order.—Post v. Gruver, 1907, 8 Lack.Jur. 329.

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The statutory requirement that before sale, the warehouseman give written notice to the person on whose account the goods were held was in derogation of the common law, and established a remedial procedure to which strict compliance was required.[29]

Under the express provisions of the Uniform Commercial Code, the express lien of a warehouseman is against the bailor on the goods covered by a warehouse receipt, or on the proceeds thereof in his possession, for charges for storage or transportation and other specified costs and charges present or future in relation to the goods. The statute makes clear that the warehouseman has the right to retain a lien on one lot of goods by virtue of charges arising from the deposit of another lot, although against a person to whom a negotiable warehouse receipt is duly negotiated the warehouseman's lien is limited to charges in an amount or at a rate specified on the receipt, or if no charges are so specified then to a reasonable charge for storage of the goods covered by the receipt subsequent to the date of the receipt.[30]

The warehouseman is given the power to reserve a security interest against the bailor for a maximum amount specified on the receipt for charges other than those expressly specified, as for money advanced and interest; and the security interest so arising is governed by the provisions of the Commercial Code relative to secured transactions.[31] The lien or security interest of the warehouseman, besides being effective against the depositor of the goods, is also effective against any person who so entrusted the bailor with possession of the goods that the pledge of them by him to a good faith purchaser for value would have been valid, but is not so effective against a person as to whom the document confers no right in the goods covered

Failure to receive notice

Where warehouseman's written notice of sale of goods is sent to last known address of owner as required by statute, failure of owner to receive notice does not give owner a right of action for damages against warehouseman subsequently selling the goods.—Hirsch v. Hulert Transfer & Storage Co., 1939, 8 A.2d 426, 136 Pa. Super. 605.

29. Hirsch v. Hulert Transfer & Storage Co., 1939, 8 A.2d 426, 136 Pa.Super. 605.

30. 12A P.S. § 7-209(1).

31. 12A P.S. § 7-209(2).

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by it.[32] The lien of the warehouseman, under the statute, is lost as to any goods which he voluntarily delivers or which he unjustifiably refuses to deliver.[33]

Provision is made for the enforcement of a warehouseman's lien by public or private sale of all or any part of the goods deposited at any time or place and on any terms which are commercially reasonable, after notification to those claiming an interest in the goods. The statute describes the attributes of a commercially reasonable practice with regard to sale for the enforcement of a warehouseman's lien, and expressly provides that a sale of more goods than apparently necessary to insure satisfaction of the lien is not commercially reasonable unless the warehouseman has sold the goods in the usual manner in any recognized market, or at a price or in conformity with commercially reasonable practices among dealers in the type of goods sold.[34]

The rights of the warehouseman under the Code are declared to be in addition to all the other rights of a creditor against his debtor,[35] and the rights of the owner or depositor of the goods are protected by making the warehouseman liable for damage caused by failure to comply with requirements of the Code relative to a sale to enforce the lien.[36]

The statute also sets out the individual steps which the warehouseman must take in the enforcement of his lien on goods other than goods stored by a merchant in the course of his business.[37]

Before any sale pursuant to the enforcement of the warehouseman's lien under the express terms of the Uniform Commercial Code, one claiming a right in the goods may pay the amount necessary to satisfy the lien and reasonable expenses, in which case the goods must be retained subject to the terms of the receipts and the provisions of the Code.[38] However, if the sale goes through, the statute provides that the balance, if,

32. 12A P.S. § 7-209(3).
33. 12A P.S. § 7-209(4).
34. 12A P.S. § 7-210(1).
35. 12A P.S. § 7-210(7).
36. 12A P.S. § 7-210(9).
37. 12A P.S. § 7-210(2).
38. 12A P.S. § 7-210(3).

BPDR 0005169

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Brief was had upon, by personal service, this 14th day of April, 1982, to:

LAMPL, SABLE & MAKOROFF
F. Scott Gray, Esquire
Attorneys for Equibank
710 Fifth Avenue
Suite 3000
Pittsburgh, PA 15219

Robert T. Harper, Esquire
Attorney for Wiseman Oil
20th Floor
Frick Building
Pittsburgh, PA 15219

DAVID J. HUMPHREYS, P. A.

BY: David J. Humphreys, Esquire

BPDR 0005170

... C. CAVILL
5 Vogel Place
terloo, Ontario. N2L5V8
19) 886-5925

Birthdate: August 10, 194(
Height: 6'0" Weight: 160 lbs.
Marital Status: Married, 4children
Health: Excellent

JECTIVE: Sales and Management

CKGROUND MMARY: Fifteen years marketing experience includes wholesale and retail Direct Sales; Sales Management; Coordinating Sales Campaigns; Supervision and Development of Personnel; Budget and P&L Responsibility; and Successful Development of New Business.

JCATION: B.A.American University, Washington D.C. Advanced Supervision, Exxon Corporation. Conference Leadership, Exxon Corporation, Selling for Action, Exxon Corporation. Management of Employee Relations, Baltimore Chamber of Commerce. Management Development Seminar, Marcor. Management Skills, Xerox Corp.

PI MENT ST Y: Manufactures Representative-Industrial Lubricants. Developed supplies and markets for lubricants through industrial and commercial users. Marketed all types of industrial lubricants including greases, gear oils, motor oils, etc. to companies including Koppers Company, Perdue Foods, Indianna Grain Coop, Island Crech Coal Company and Lehige Cement. Increased business over 30% in one year. (1979-1981)

Sales Manager: Crown Atlantic Corporation, Dundalk Marine Terminal, Baltimore, Maryland. Crown Atlantic Corporation, secured a distributorship for Polyglycoat auto protection products to be sold to new car dealerships in Maryland, Wash. D.C. and Virginia. My responsibilities included all functions for development of this market including hiring, training and supervision of sales personnel, key account solicitation and closing, retail and wholesale sales programs, etc. The markets development was adversely affected by the slump in total new car sales. (1978-1979)

Marketing Manager: Wiseman Oil Corporation, Pittsburgh, Penn. Responsible for development of industrial, commercial and retail sales of waste petroleum products for this major re-refiner. Functioned essentially as a field sales manager personally closing key accounts. Developed and implemented a marketing program for rapid penetration of major markets in Western New York and Metro Philadelphia, utilizing temporary sales personnel, intensive training programs, cassette tape presentations and area by area solicitation of potential customers. Campaigns resulted in 67% signed account success of market in New York and 71% in Philadelphia. Established subsidiary companies in each area. (1977-1978)

Development and Property Manager. Commercial Developers, Inc. Fall Church, Virginia. Responsible to major real estate developer for management of owned and controlled commercial properties including office buildings, shopping centers and apartment projects. Analyzed, developed and marketed projects in all areas of commercial real estate. Commercial real estate market suffered severe recession in (1973-1976.

Sales Manager. Exxon Corporation, Washington D.C. Direct line supervision of sales representatives responsible for marketing Exxon products and programs through 126 Exxon Service stations in Metropolitan Washington. Led district in sales for three years with average increases of 12% on a substantial base. Developed marketing campaigns which resulted in 19 of 21 new business units exceeding projections by over $250,000 per year. (1969-1973)

Employee Relations Specialist. Exxon Corporation, Region Headquarters, Baltimore, Maryland. Staff specialist responsib for coordination and implementation of region exempt and non-exempt salary budgets for senior region management. Also coordinated management development reviews, E.E.O. reporting and field staffing studies within corporate guidelines. Developed new complement control procedures for region Vice Presider Promoted to sales manager (1968-1969)

Sales Respresentative. Exxon Corporation, Baltimore, Maryland. Direct Sales to 24 Exxon (then Esso) service stations of all products, marketing programs and sales promotions. Turned around sales territory resulting in district sales leadership for two years with increases averaging 27%. Promoted to Employee Relations Specialist. (1964-1968)

XTRA CURRICULAR ACTIVITES: Golf and Tennis.

CU. ICULUM VITAE

PRESIDENT: J. Chalhoub, Professional Engineer

President, The BresLube Group

Mr. Chalhoub has fifteen years experience in the petroleum refining, petrochemical industries and chemical plants, covering management, operations, design and technical service. Mr. Chalhoub has also carried out feasibility studies in Canada and abroad.

EDUCATION:

1968 Ecole Polytechnique de Montreal, B.A.Sc.
Chemical Engineering

PROFESSIONAL ASSOCIATIONS:

Association of Professional Engineers of Ontario.
Order of Engineers of Quebec.
Canadian Society of Chemical Engineers.

EXPERIENCE:

THE BRESLUBE GROUP

Since 1977 President, The BresLube Group

.Responsible for the set-up, start-up and expansion of Canada's largest re-refining operation.

SURVEYER, NENNIGER & CHENEVERT INC., Montreal

1974 - 1977 Project Manager, Feasibility Studies

.Responsible for the preparation of a feasibility study for the production of ethylene in the Montreal area for the Ministry of Industry and Commerce of Quebec.

.Undertook a study for the production of bitumen and lube oils in the Mid-Western State of Nigeria for the Nigerian Government which required investigative visits to three countries and discussions with officials in Nigeria.

Project Engineer

.Engaged in the project engineering leading to a definitive estimate of a grassroots Caprolactam Plant for Inventa/SGF, Becancour, Quebec.

.Design coordination, responsible for the development of mechanical flowsheets, design criteria, equipment layout,

equipment sizing and selection for the utilities and offsites portion of a grassroots Polyethylene plant for CIL Ltd., in Alberta.

- Engaged in the project engineering of a C_3/C_4 merox treating and splitting for B.P. Canada, Montreal Refinery.

- Design coordination, responsible for mechanical/piping engineering of the Standard Chemical Plant Sodium Chlorate expansion. Function covered coordination of the activities of several engineering disciplines, development of mechanical flowsheets and equipment layout, preparation of equipment specifications.

- Participated in the mechanical design of a fatty nitrogen plant for Ashland Oil in Mississauga, Ontario.

- Engaged in process engineering for aromatics extraction facilities for Sun Oil, Sarnia. Participated in the development of mechanical flowsheets, relief system design, review of vendor proposals for tower trays and heat exchangers.

1973 - 1974 <u>Shell Canada Ltd.</u>, <u>Montreal</u>

- Economics and Scheduling. Refinery and Chemical Plant Operations. Activities covered planning and optimization of operations for the refinery operating units, chemical plant as well as the blending facilities for gasoline/distillage/bunker. Prepared short and long range operating estimates. Prepared and reconciled refinery proportional expense budget.

1972 - 1973 Process Engineering Department. Coordinated three refinery-wide evaluations of different Middle East crude oils. Responsible for process design of a lube oil plant expansion.

1971 <u>Shell Canada Ltd.</u>, <u>Toronto</u>

- Prepared process design for the expansion of an atmosphere and vacuum crude distilling unit (105,000 barrels per day). Unit consists of crude and vacuum towers, sta-

bilization and splitting of light and heavy naphtha. Duties covered definition of ultimate capacity and debottlenecking of existing towers, furnaces and other processing equipment. Optimized crude preheat train. Assisted in the mechanical design.

1968 - 1970 Shell Canada Ltd., Montreal

- Operating Engineer, Montreal East Chemical Plant. Responsible for the start-up of the C_6 and C_4 solvents plants producing a variety of petrochemical solvents including MIBK, MIBC, HG, SBA and MEK. Activities covered technical monitoring of units, preparation of operating manuals and training operators and supervisors.

- Operating engineer in charge of daily technical audit and debugging of Alkylation, Isopropyl alcohol and epoxy resin units.

ORIGINAL
(Red)

LAW OFFICES
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710 FIFTH AVENUE
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(412) 471-4996

SANFORD M. LAMPL
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STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
DAVID W. LAMPL
MARY ANNE MCKEEN
F. SCOTT GRAY
ADAM N. POLLOCK

April 16, 1985

David B. Graham, Chairman
Buckeye Reclamation Landfill
Steering Committee
Freedman, Levy, Kroll & Simonds
1730 K Street, Northwest
Washington, D.C. 20006

Dear Mr. Graham:

I received a copy of your letter directed to Wiseman Oil Company. I do not represent Wiseman Oil although I did represent a lending institution which had a lien on the property formerly occupied by Wiseman Oil Company. I have sent a copy of your letter on to the present owner so that he may respond to it if he so desires.

Very truly yours,

Robert G. Sable

RGS/ket

bcc: William Densmore, V. Pres.

bcc: Joseph Chalhoub

BPDR 0005176

ORIGINAL (Red)

LAW OFFICES OF
FREEDMAN, LEVY, KROLL & SIMONDS

WALTER FREEDMAN
MILTON P. KROLL
ARNOLD LEVY
JEROME H. SIMONDS
PETER E. PANARITES
MICHAEL I. SMITH
GARY O. COHEN
JAY W. FREEDMAN
ARTHUR H. BILL
HARVEY A. LEVIN
THOMAS C. LAUERMAN
DAVID B. GRAHAM
RICHARD G. STOLL, JR.
JOHN S. LOPATTO III
MARC B. DORFMAN
DIANE E. AMBLER
JOAN E. BOROS
MAURICE S. MEYER

1730 K STREET, NORTHWEST
WASHINGTON, D.C. 20006
AREA CODE 202
331-8550
CABLE ATTORNEYS
TELECOPY 202-331-8563

April 10, 1985

Wiseman Oil Company
c/o Mr. Robert G. Stable
Suite 300
710 Fifth Avenue
Pittsburgh, PA 15219-3086

Dear Mr. Stable:

In December, 1984, U.S. EPA sent letters to approximately fifteen companies advising that they were potentially responsible parties ("PRPs") under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") in regard to any response and remedial costs incurred at the Buckeye Reclamation Landfill site in St. Clairsville, Ohio. A number of the notified companies have formed a Steering Committee for purposes of dealing with U.S. EPA regarding this site.

A review of the documents presently available to the Steering Committee indicates that your company may have either generated hazardous substances (as defined by Section 101(14) of CERCLA) that were disposed of at the Buckeye Reclamation Landfill site or that your company may have transported such hazardous substances generated by others to the site. As a result, the Steering Committee believes that your company may also be "PRP" for any response or remedial action at this site.

The Steering Committee has retained a consultant to prepare a Work Plan for the Remedial Investigation/Feasibility Study ("RI/FS") that is required by the National Contingency Plan for sites on the National Priorities List. As you may know, a RI/FS is simply a technical study of a site which is designed to determine whether any environmental or health threats are presented by conditions at such a site and, if so, what engineering work is needed to minimize and/or eliminate such threats. The Steering Committee is presently attempting to persuade U.S. EPA to allow the companies represented by the Steering Committee to proceed with the Work Plan and RI/FS rather than U.S. EPA's consultant. Based upon experience gained at other sites, it is believed that the direct involvement of the

companies in these early, but critical, stages is the best alternative for controlling the scope and cost of actions at the site.

Although your company may not yet have received any notification from U.S. EPA concerning this site, the Steering Committee believes that the interests of all the companies involved at the site are best served by as many companies as possible actively participating in and supporting the activities of the Steering Committee. The Steering Committee is working on behalf of the common interest of all the companies which it represents. Those companies which elect not to participate in the Steering Committee's activities may find their interests not adequately represented and, ultimately, could be confronted with a fixed demand for a portion of the cleanup costs that may not be directly related to what they might consider to be their fair share of such costs. One of the things the Steering Committee is trying to do is to avoid the initiation of litigation and save the companies from incurring unnecessary administrative and legal costs. Companies which do not participate at the present stage may be confronted with litigation initiated by U.S. EPA or those companies that did participate which are seeking contribution from the non-participating companies.

The Steering Committee invites your company to join with those companies already represented by the Steering Committee in attempting to reach a reasonable resolution of this matter that is fair and equitable to all concerned. We recognize that this may be the first indication you may have received concerning your company's involvement with, and potential liability for, this site. We will be happy to discuss this matter in greater detail with you and provide you with that information presently at the Steering Committee's disposal concerning your company's possible involvement at the site. Please feel free to call me at the above number or Stephan K. Todd, the Vice Chairman of the Steering Committee, at (412) 433-2923.

As the project proceeds, the Steering Committee needs to know which companies are participating in the Steering Committee's activities. If we do not hear from your company by Wednesday, May 1, 1985, we will assume that you do not intend to participate in the Steering Committee's activies. Should your company decide not to participate, we believe it is important that you be informed that it is the intent of the Steering Committee to pursue all available remedies to insure that non-participating companies that either

ORIGINAL
(Red)

FREEDMAN, LEVY, KROLL & SIMONDS

transported wastes to or generated wastes that were disposed of at the St. Clairsville, Ohio site pay their full share of the cleanup costs associated with this site.

Sincerely yours,

David B. Graham

David B. Graham
Chairman,
Buckeye Reclamation Landfill
Steering Committee

DBG/rsm

ORIGINAL
(Red)

BRESLUBE
P.O. BOX 130, BRESLAU, ONTARIO, CANADA N0B 1M0
TEL. (519) 648-2291
TELEX 069-55246

FEB 21 1985

Breslube Enterprises

February 8, 1985

Mr. William Densmore,
Vice President,
Equibank, N.A.,
13th Floor, Oliver Plaza,
Pittsburgh, Pennsylvania,
15222

Dear Bill:

I am pleased to announce that Mr. P.S. (Krish) Krishnamoorthy has recently joined The BresLube Group as Vice-President of Manufacturing. In this capacity he will be responsible for the manufacturing activities of BresLube which includes the Breslau, Ontario; Coraopolis, Pennsylvania and the Booth Oil, Buffalo, New York refineries.

Mr. Krishnamoorthy has a Master Degree in Chemical Engineering from the University of Waterloo, Ontario and a Master in Business Administration from McGill University, Montreal, Quebec.

After graduation he spent eight years with Gulf Canada in process and project engineering before assuming positions in commissioning, start-up and operations. He joined SNC/Foster Wheeler, in Montreal, one of Canada's leading engineering contractors, in 1974 as a Senior Process Engineer and advanced to positions in engineering and project management. At the time of joining BresLube Krish was Director of Technology and Senior Project Manager.

The appointment of Mr. Krishnamoorthy to his new position is in line with BresLube's continued progressiveness and growth.

Yours very truly,

JC/mp

Joseph Chalhoub
President

BPDR 0005180

ORIGINAL (Red)

OCT. 9, 1985

State-owned oil recycling plant brings only $65,000 sale price

By C.E. YANDLE
Times staff writer

A state-owned oil recycling plant, that cost $2.5 million to build and operate, has been sold for $65,000.

The plant has been purchased by Breslube Enterprises of Ontario, Canada, said Alan V. Pugh, deputy senior assistant and special counsel to the governor.

"It's the only thing we could get out of it," Pugh said. "The operating costs involved with this — there was just no question we had to get rid of it."

The plant was purchased by the state from the Phillips Petroleum Co. in the late 1970s for $1.4 million and was operated for several years near Garner.

The plant has been stored in a warehouse for 18 months. Storage and maintenance bills have continued to mount.

The plant was set up to recycle motor oil from state vehicles. It opened at a time of rapidly rising oil prices and energy conservation efforts. By 1980, when the plant opened, the oil crisis was over and the price of oil had stabilized.

"Our selling it doesn't mean the entire concept was bad," Pugh said.

Pugh said that in the late 1970s, some experts believed the cost of oil could reach $5 a quart by the mid 1980s. That did not materialize and even if it had, Pugh said he doubted the state still could have made a profit.

"We couldn't make it (recycle a quart of oil) for four times that ($5 amount)," Pugh said. "That just doesn't make it."

The plant's losses were $350,547 in 1981, $452,337 in 1982 and $294,164 the first six months of 1983. At that point, the plant closed and a consultant firm was asked to study the plant. The consultant concluded the plant was a poor investment, calling it a "lemon" and it was closed.

Officials in former Gov. James B. Hunt Jr.'s administration tried to sell the plant and reports indicated they may have come close to selling it to one company for about $400,000. But the sale never materialized.

"There is nothing in the books to reflect a firm commitment or a firm offer," Pugh said. "They (former Hunt administration officials) said a lot of things about what they were going to do with it before we got there, but the bottom line is it was there when we got here Jan. 1."

Because of that, the Martin administration was determined to get rid of the plant as quickly as possible. Pugh agreed the $65,000 sale means the state is taking a loss, but he claimed it was better than continuing to pay upkeep costs.

Legals | Legals

BRESLUBE-PENN INC.

84 MONTOUR ROAD, CORAOPOLIS, PENNSYLVANIA 15108 TEL. (412) 264-4280

December 20, 1982.

P.O. Box 130,
Breslau, Ontario,
Canada, N0B 1M0

DELIVERY BY COURIER

Mr. William M. Densmore,
Vice President,
Equibank N.A.,
Oliver Plaza,
Pittsburgh, Pennsylvania,
15222

Dear Bill:

Re: Cost of Treating Inventory
Left in Tanks on November 30, 1982

We have completed our evaluation regarding the treatment and the disposal of the materials contained in the storage tanks on November 30, 1982.

Summary	Volume (Gallons)	Cost of Treatment
Oily Water	737,280	$ 139,096
Sludge	101,529	71,250
	838,809	$ 210,346

The basis of our cost analysis are as follows:

1. Chemical cost for breaking the oily water emulsions was established by laboratory tests. A factor of 25% was added since the treatment in the laboratory is done under ideal conditions of temperature and mixing.

2. Allowance for energy cost is 3 cents per gallon of oily water. This includes heat to either break the emulsion or boil off the water. Electrical energy is also included.

3. Throughput charges of 9 cents per gallon of oily water. Time to process the material in storage is estimated at two to three months due to winter operation and the difficulty in handling oily water during winter with weather conditions below freezing points. The proposed throughput charges take into consideration labour, fixed costs and delays in the start-up of the fuel processing.

BPDR 0005182

ORIGINAL
(Red)

4. Sludge disposal costs include 60 cents per gallon for disposal charges and freight to a secure chemical landfill site.

5. Sludge costs include $11,250 of labour to empty and clean residues from the bottom of the tanks.

We are proceeding to treat some of the oily water and will be glad to review the above costs in detail with you. We must stress the importance of resolving this issue as soon as possible since the success of our start up period is dependant upon our ability to utilize the maximum number of tanks to attract the lowest cost oil supplies.

Yours very truly,

Joseph Chalhoub,
President

JC/mp

BPDR 0005183

REED SMITH SHAW & MCCLAY
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

UNION TRUST BUILDING

P. O. BOX 2009

PITTSBURGH, PA. 15230

TWX 710-664-2083
FAX 288-3064
CABLE ADDRESS
REEDSMITH PGH

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412-288-3131

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202-457-8100

PHILADELPHIA, PA 19107
215-875-4300

HARRISBURG, PA 17108
717-234-5988

VERO BEACH, FL 32960
305-231-5500

REED SMITH & CHAPIN
DELRAY BEACH, FL 33444
305-272-1228

RECEIVED
JAN 4 1983

December 23, 1982

Howard J. Wein, Esquire
Department of Environmental Resources
1200 Kossman Building
100 Forbes Avenue
Pittsburgh, Pennsylvania 15222

Re: Breslube-Penn Wiseman Oil Company, Inc.

Dear Mr. Wein:

Wiseman Oil Company, Inc., refused to voluntarily permit the transfer of its industrial waste permit to Breslube-Penn, Inc. and refused to sign Breslube-Penn's application to continue to operate the plant at 84 Montour Road, Coraopolis, Pennsylvania. In order to establish Breslube-Penn's right to continue Wiseman Oil Company's permit, the writer filed an Application with the Bankruptcy Court authorizing the abandonment of the waste permit. The Debtor, although not filing objections to the Application, would not consent to an Order which relinquished all right, title and interest in the said permit. The Court approved the abandonment on December 22, 1982 in accordance with the attached Application and certified Order.

Can this certified Application and Order be used in substitution of a signature on Breslube's Application to Abandon Property?

Very truly yours,

Kenneth P. Simon

KPS:cao
Enclosure
cc: Joseph Chalhoub
file

BRESLUBE-PENN INC.

84 MONTOUR ROAD, CORAOPOLIS, PENNSYLVANIA 15108 TEL. (412) 264-4280

December 20, 1982.

P.O. Box 130,
Breslau, Ontario,
Canada, N0B 1M0

DEC 23 1982
EQUIBANK
Comm. Loan Adj.

DELIVERY BY COURIER

Mr. William M. Densmore,
Vice President,
Equibank N.A.,
Oliver Plaza,
Pittsburgh, Pennsylvania,
15222

Dear Bill:

Re: Cost of Treating Inventory
Left in Tanks on November 30, 1982

We have completed our evaluation regarding the treatment and the disposal of the materials contained in the storage tanks on November 30, 1982.

Summary	Volume (Gallons)	Cost of Treatment
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2. Allowance for energy cost is 3 cents per gallon of oily water. This includes heat to either break the emulsion or boil off the water. Electrical energy is also included.

3. Throughput charges of 9 cents per gallon of oily water. Time to process the material in storage is estimated at two to three months due to winter operation and the difficulty in handling oily water during winter with weather conditions below freezing points. The proposed throughput charges take into consideration labour, fixed costs and delays in the start-up of the fuel processing.

... 2

BPDR 0005185

ORIGINAL
(Red)

4. Sludge disposal costs include 60 cents per gallon for disposal charges and freight to a secure chemical landfill site.

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We are proceeding to treat some of the oily water and will be glad to review the above costs in detail with you. We must stress the importance of resolving this issue as soon as possible since the success of our start up period is dependant upon our ability to utilize the maximum number of tanks to attract the lowest cost oil supplies.

Yours very truly,

Joseph Chalhoub,
President

JC/mp

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
710 FIFTH AVENUE
PITTSBURGH, PA. 15219-3088
(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

December 7, 1982

BERKMAN, RUSLANDER, POHL,
LIEBER & ENGEL
20th Floor - Frick Bldg.
Pittsburgh, PA 15219

Att: Bernard Eisen, Esq.

In re: EQUIBANK - WISEMAN OIL

Dear Bernie:

Enclosed are copies of the four Deeds as they were recorded.

I am transmitting a copy of your letter to the Bank so that I may obtain the express authorization to satisfy the Judgments. I will also attempt to provide you with the original Notes and Guarantees.

I spoke with William Densmore regarding the $5,000.00 payment and that will be forthcoming shortly. The reference to the prompt payment on this item and your clients' concern with loss of interest showed an incredible amount of chutzpah.

Very truly yours,

LAMPL, SABLE & MAKOROFF

Robert G. Sable

Robert G. Sable

RGS/gp
Enclosures

cc: William M. Densmore, Vice President

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
710 FIFTH AVENUE
PITTSBURGH, PA. 15219-3088
(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

RECEIVED
DEC 9 1982
EQUIBANK

December 7, 1982

BERKMAN, RUSLANDER, POHL,
LIEBER & ENGEL
20th Floor - Frick Bldg.
Pittsburgh, PA 15219

Att: Bernard Eisen, Esq.

In re: EQUIBANK - WISEMAN OIL

Dear Bernie:

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Very truly yours,

LAMPL, SABLE & MAKOROFF

Robert G. Sable

Robert G. Sable

RGS/gp
Enclosures

cc: William M. Densmore, Vice
President

ORIGINAL
(Red)

CLOSING MEMORANDUM

RE: Sale of Wiseman Oil plant to Breslube-Penn, Inc. and loan to Breslube-Penn, Inc. by Equibank.

DATE: December 1, 1982

* *

This Closing Memorandum is for the purpose of clarifying matters which were not resolved at the closing of the captioned transaction and for the purpose of listing the remaining items necessary to complete the transaction.

1. Equibank acknowledges that it is obligated under the terms of the documents executed by the parties to provide for removal of certain material in the tanks at the Wiseman Oil property. The parties agree that they will continue the investigation in order to determine the most economical and efficient way of removing said material. Breslube-Penn, Inc. agrees to provide Equibank with information regarding said disposal, including such information as it has regarding the type, amount and method of removal of said material. The parties will agree on a method of removal of the material as soon as possible.

2. There are certain motor vehicles owned by Wiseman Oil and encumbered to Equibank and copies of the titles to those vehicles are attached to this Closing Memorandum. Equibank will take steps necessary to transfer title to Breslube-Penn, Inc. and will cooperate with Breslube-Penn, Inc. regarding the transfer of title and ownership, including cooperation regarding the issuance of license plates and similar registration documents. Breslube-Penn, Inc. shall pay the cost and taxes on said vehicles being transferred.

3. Breslube-Penn, Inc. will provide Equibank with insurance policies required by the loan documents as soon as possible. Said policies to be in accordance with the loan documents.

4. Breslube-Penn, Inc. is required to deliver certain documents to Equibank, including but not limited to:

(a) Certificate of Incumbancy.

(b) Copies of Articles of Incorporation.

(c) Certificate of Incorporation.

(d) Breslube-Penn, Inc. By-Laws.

(e) Documents pledging and hypothecating the stock of Breslube-Penn, Inc. to Equibank.

(f) Opinion Letter of counsel regarding the validity of the action of the corporation, all in accordance with the terms of the Loan Agreement.

Said documents will be delivered to Equibank by December 9, 1982.

BPDR 0005190

ORIGI
filed

5. Notwithstanding that the parties have outstanding obligations under this Closing Memorandum, effective upon the execution of this document and the various other documents, including delivery of the Deed and Bill of Sale, Breslube-Penn, Inc. shall become the owner of the assets transferred under said documents and shall assume the risk of loss and operation of the facility. Such documents shall be binding according to their terms. Breslube-Penn, Inc. shall have no liability for any claims arising prior to the execution of these documents and shall turn over to Equibank any monies paid on account of services rendered or goods supplied by Wiseman Oil. This collection of accounts receivables shall continue for a period of 90 days.

WITNESS the due execution hereof with the intent to be legally bound this 1st day of December, 1982.

WITNESS:

EQUIBANK

BY: _____
William M. Densmore,
Vice President

BRESLUBE-PENN, INC.

BY: _____
Joseph Chalhoub,
President

BPDR 0005191

ORIGINAL
(Red)

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
710 FIFTH AVENUE
PITTSBURGH, PA. 15219-3088
(412) 471-4850

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

RECEIVED
SEP 17 1982
EQUIBANK
Comm. Loan Adj.

September 16, 1982

TAIT ENGINEERING
908 Perry Highway
Pittsburgh, PA 15229

Att: Mr. Roy Tait

In re: WISEMAN OIL COMPANY, INC.

Dear Mr. Tait:

In accordance with your discussions with Jim Flood, enclosed are four legal descriptions of contiguous property in Moon Township.

Please prepare a drawing showing all of the parcels from the legal descriptions. We will probably require a survey of at least a portion of the property if the transaction being negotiated reaches the agreement stage. After you have prepared the property drawing, I would appreciate an estimate of the cost of a perimeter survey with a division of the property into two parcels and the location of two or three structures on the property.

Please send me the drawing as soon as possible with your invoice.

Very truly yours,

LAMPL, SABLE & MAKOROFF

Robert G. Sable

Robert G. Sable

RGS/gp
Enclosure

cc: William M. Densmore

WISEMAN OIL COMPANY, INC.
84 Montour Road
Coraopolis, PA 15108

Patrick Autry, Esq.
Atty. for Wiseman Oil
Co., Inc.
20th Fl. - Frick Bldg.
Pittsburgh, PA 15219

Douglas A. Campbell, Esq.
Atty. for Committee of
Unsecured Creditors
220 Grant St.
Pittsburgh, PA 15219

North Star Coal Co.
P.O. Box 134
Monaca, PA 15061

David J. Humphreys, Esq.
Atty. for North Star
Coal Co.
1000 Lawyers Bldg.
Pittsburgh, PA 15219

William M. Densmore,
Vice Pres.
Equibank
Two Oliver Plaza
Pittsburgh, PA 15222

ORIGINAL
(Red)

In re: NORTH STAR COAL COMPANY
vs.
WISEMAN OIL CO. & EQUIBANK

Gentlemen:

Enclosed is a copy of Designation of Contents for Inclusion in the Record on Appeal and Statement of Issues on Appeal filed with the Court on June 16, 1982 in the captioned proceeding.

Very truly yours,

LAMPL, SABLE & MAKOROFF

F. Scott Gray

F. Scott Gray

FSG/gp
Enclosure

BPDR 0005193

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
710 FIFTH AVENUE
PITTSBURGH, PA. 15219-3088
(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE McKEEN
F. SCOTT GRAY

RECEIVED
JAN 12 1983
EQUIBANK

January 11, 1983

Kenneth Simon, Esq.
REED, SMITH, SHAW & McCLAY
Union Trust Building
P.O. Box 2009
Pittsburgh, PA 15230

In re: BRESLUBE-PENN, INC. - EQUIBANK LOAN

Dear Mr. Simon:

We have reviewed the documents accompanying your letter of January 4, 1983 regarding the captioned matter. Our review found that the Breslube-Penn, Inc.'s Minutes of First Meeting of Board of Directors were unexecuted by the Secretary of the corporation; pledge and hypothecation of Breslube-Penn, Inc. Stock Certificate No. 1 by 118958 Canada Limited was not enclosed; and Certificates of Insurance and/or insurance policies covering plant, equipment and vehicles were not provided.

Would you please provide an executed copy of Breslube-Penn, Inc.'s Minutes of First Meeting of Board of Directors. We have enclosed an Equibank form of pledge and hypothecation herewith which should be executed by 118958 Canada Limited and returned to us with the stock certificate. The insurance certificate and/or insurance policies should be forwarded directly to Equibank by whatever agent Breslube-Penn, Inc. uses and said insurance certificates and/or policies should state that Equibank is the mortgagee loss payee.

If you need any additional information, please contact me.

Thank you for your cooperation.

Very truly yours,

LAMPL, SABLE & MAKOROFF

Robert G. Sable

RGS/gp

cc: William M. Densmore,
Vice President

REED SMITH SHAW & MCCLAY
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

UNION TRUST BUILDING

P. O. BOX 2009

PITTSBURGH, PA. 15230

412-288-3131

TWX 710-664-2083
FAX 288-3064

CABLE ADDRESS
REEDSMITH PGH

WRITER'S DIRECT DIAL NUMBER
288-3222

WASHINGTON, DC 20036
202-457-6100

PHILADELPHIA, PA 19107
215-875-4300

HARRISBURG, PA 17108
717-234-8988

VERO BEACH, FL 32960
305-231-5500

REED SMITH & CHAPIN
DELRAY BEACH, FL 33444
305-272-1225

RECEIVED
JAN 4 1983
EQUIBANK
Comm. Loan Adj.

ORIGINAL
(Red)

January 4, 1983

Robert G. Sable, Esquire
Lampl, Sable & Makoroff
710 Fifth Avenue
Pittsburgh, Pennsylvania

Re: Breslube-Penn, Inc. - Equibank Loan

Dear Bob:

In accordance with the Loan Agreement between our clients, I furnish you with photocopies of the following:

1. The Charter of Breslube-Penn, Inc;
2. Its Articles of Incorporation;
3. Its Minute Book entries as follows:

   (a) Articles of Incorporation;
   (b) Preincorporation Subscription Agreement;
   (c) Waiver of Notice of Incorporators;
   (d) Minutes of Meeting of Incorporators;
   (e) Minutes of First Meeting of Directors; and
   (f) By-Laws.

I also enclosed the following:

1. Breslube-Penn, Inc. stock certificate No. 1 representing 50 shares, no par value, together with a blank stock power signed by the owner of the shares, 118958 Canada Limited; and

2. Our opinion letter concerning the efficacy of the transaction.

You will observe from examination of the corporate papers that Breslube-Penn, Inc., was incorporated on December 1, 1982 at approximately 4:00 P.M. Accordingly, we request that a Certificate of Incumbency be waived.

Very truly yours,

Kenneth P. Simon

Kenneth P. Simon

KPS:cao
Enclosures

BRESLUBE-PENN INC.

84 MONTOUR ROAD, CORAOPOLIS, PENNSYLVANIA 15108 TEL. (412) 264-4280

ORIGINAL (Red)

January 6, 1983.

P.O. Box 130,
Breslau, Ontario,
N0B 1M0

Mr. William M. Densmore,
Vice President,
Equibank N.A.,
Oliver Plaza,
Pittsburgh, Pennsylvania,
15222

Dear Bill:

Re: Permit to Operate BresLube-Penn Plant

Please find attached correspondence we have received from our Solicitor, Mr. Simon, regarding our efforts in obtaining the Application to Operate these facilities. You will notice that there seems to be some problem in obtaining the co-operation from the Debtor in Bankruptcy. We wanted to make you aware of the situation as this has created delays and additional costs to us.

We will continue to keep you informed of the progress of this important matter.

Yours very truly,

Joseph Chalhoub
President

JC/mp
Encl.

ORIGINAL
(Red)

CORRECTED STATEMENT BY CHANGE ORDER AR 22528

CODE 925 LINE NO. 2-2165

1982 MOON SCHOOL AND PER CAPITA TAX 1982

MARTIN T. GROGAN, Tax Collector - Twp. Municipal Bldg.
OFFICE: 1000 BEAVER GRADE RD. - CORAOPOLIS, PA. 15108
PHONE: 264-6340

SCHOOL REAL ESTATE MILLAGE
69 MILLS OR 6.90 PER $100 VALUATION
$10.00 SCHOOL PER CAPITA TAX

SCHOOL TAXES ARE PAYABLE AT DISCOUNT UNTIL
SEPT. 30, 1982 AT FACE UNTIL NOV. 30, 1982
THEREAFTER AT 5% PENALTY, PLUS ½% INTEREST PER MONTH
Payable to: MARTIN T. GROGAN, Tax Collector

A SCHOOL PER CAPITA TAX OF $10.00 MUST BE PAID BY EVERY ADULT RESIDING IN MOON TOWNSHIP AS OF JANUARY 1, OR ANY PART THEREOF

OFFICE HOURS: MONDAY THROUGH FRIDAY 9:00 A.M. TO 4:30 P.M.
AT ALL TIMES BY MAIL

ASSESSED REAL ESTATE VALUATION	OCT. & NOV. PAY TOTAL TAX BELOW	WHEN PAID DURING AUG. & SEPT.	
		2% DISCOUNT	PAY THIS AMOUNT
5,500	379.50		
SCHOOL PER CAPITA	----	NO DISCOUNT ON PER CAPITA TAX	
TOTAL TAX	379.50		
IF PAID AFTER NOV. 30, 1982 ADD 5% PENALTY	18.98		
ALSO ADD ½% PER MONTH INTEREST NOV. 30, 1982	3.80	PAYMENT REC'D BY	
TOTAL TAX PAID		For MARTIN T. GROGAN Tax Collector	

272-N-85

WISEMAN, JOSEPH & RUTH
540 N. NEVILLE ST.
PGH., PA 15213

RETURN ALL COPIES WITH PAYMENT

NO RECEIPTS RETURNED UNLESS STAMPED, ADDRESSED ENVELOPE IS ENCLOSED WITH PAYMENT.
INCLUDE THIS NOTICE WITH PAYMENT. NOTIFY TAX OFFICE IF ADDRESS IS NOT CORRECT.

(Int. for Tax payment)

ORIGINAL
(Red)

CORRECTED STATEMENT BY CHANGE ORDER AR 22528

CODE 925 LINE NO. 2-2165

1982 MOON SCHOOL AND PER CAPITA TAX 1982

MARTIN T. GROGAN, Tax Collector, Twp Municipal Bldg
OFFICE: 1000 BEAVER GRADE RD., CORAOPOLIS, PA. 15108
[illegible]

SCHOOL REAL ESTATE MILLAGE
169 MILLS ON 6.90 PER $100 VALUATION
$10.00 SCHOOL PER CAPITA TAX

	ASSESSED REAL ESTATE VALUATION	OCT. & NOV. PAY TOTAL TAX BELOW	WHEN PAID DURING AUG. & SEPT. 2% DISCOUNT	PAY THIS AMOUNT
SCHOOL TAXES ARE PAYABLE [illegible] SEPT. 30, 1982, AT FACE UNTIL [illegible] THEREAFTER AT 5% PENALTY, PLUS [illegible] MONTH. Payable to: MARTIN T. GROGAN, Tax Collector	[illegible]	379.50		
A SCHOOL PER CAPITA TAX [illegible] EVERY ADULT RESIDING IN MOON [illegible] ANY PART THEREOF	[illegible]		NO DISCOUNT ON PER CAPITA TAX	
OFFICE HOURS: MONDAY THROUGH FRIDAY [illegible] A.M. TO 4:30 P.M. AT ALL TIMES [illegible]	[illegible]	379.50		
[illegible]	[illegible]	[illegible]		
WISEMAN, JOSEPH & [illegible] 540 [illegible] NEVILLE [illegible] PGH., PA. [illegible]	[illegible]	[illegible]		
	TOTAL PAID		MARTIN T. GROGAN Tax Collector	

NO [illegible] RETURNED [illegible] STAMP [illegible] NO [illegible] CORRECT

[illegible] payment

BPDR 0005199

ORIGINAL
(Red)

CORRECTED STATEMENT BY CHANGE ORDER AR 22528

1982 MOON SCHOOL AND PER CAPITA TAX 1982

MARTIN T. GROGAN, Tax Collector - Twp. Municipal Bldg.
OFFICE: 1000 BEAVER GRADE RD. - COTAOPOLIS, PA. 15108

CODE 92
LINE NO. 2-2165

SCHOOL REAL ESTATE MILLAGE
69 MILLS OR 6.90 PER $100 VALUATION
$10.00 SCHOOL PER CAPITA TAX

SCHOOL TAXES ARE PAYABLE AT DISCOUNT UNTIL SEPT. 30, 1982 AT FACE UNTIL NOV. 30, 1982 AND THEREAFTER AT 5% PENALTY, PLUS 1/2% PER MONTH
Payable to: MARTIN T. GROGAN, Tax Collector

A SCHOOL PER CAPITA TAX OF $10.00 MUST BE PAID BY EVERY ADULT RESIDING IN MOON TOWNSHIP AS OF JANUARY 1, OR ANY PART THEREOF.

OFFICE HOURS: MONDAY THROUGH FRIDAY 9:00 A.M. TO 4:30 P.M.
AT ALL TIMES BY MAIL

[illegible]

WISEMAN, JOSEPH & RUTH
540 N. NEVILLE ST.
PGH., PA 15213

ASSESSED REAL ESTATE VALUATION	OCT. & NOV. PAY TOTAL TAX BELOW	WHEN PAID DURING AUG. & SEPT. 2% DISCOUNT	PAY THIS AMOUNT
5,500	379.50		
SCHOOL PER CAPITA		NO DISCOUNT ON PER CAPITA TAX	
TOTAL TAX	379.50		
[illegible] NOV. 30, 1982 ADD 5% PENALTY	18.98		
[illegible] ADD 1/2% PER MONTH INTEREST NOV. 30, 1982	[illegible]	PAYMENT [illegible]	
TOTAL TAX PAID			BY MARTIN T. GROGAN Tax Collector

NO RECEIPTS RETURNED UNLESS STAMPED [illegible] IS NOT CORRECT

RETURN [illegible] PAYMENT

[illegible] Tax payment

BPDR 0005200

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
710 FIFTH AVENUE
PITTSBURGH, PA. 15219-3088
(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

ORIGINAL (Red)

RECEIVED FEB 28 1983 EQUIBANK Comm. Loan Adj.

February 26, 1983

Equibank
Two Oliver Plaza
Commercial Loan Adj. Dept.
13th Floor
Pittsburgh, PA 15222

Att: William M. Densmore, Vice President

In re: WISEMAN OIL COMPANY, INC.

Dear Bill:

Enclosed is a love letter and tax bill I received from Joseph Wiseman. I would suggest you send this to BresLube as I believe it may already be paid.

Very truly yours,

LAMPL, SABLE & MAKOROFF

Robert G. Sable

RGS/gp
Enclosure

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
710 FIFTH AVENUE
PITTSBURGH, PA. 15219-3066
(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

RECEIVED
APR 18 1983
EQUIBANK

ORIGINAL (Red)

April 15, 1983

BresLube-Penn, Inc.
84 Montour Road
Coraopolis, PA 15108

Att: Marianne

Dear Marianne:

Enclosed are a list of accounts receivable of Wiseman Oil which was provided to me by my client, William M. Densmore, Vice President of Equibank. Equibank is the owner of these accounts receivable and is interested in proceeding with efforts to collect the open balances. It is my understanding that a number of these accounts were collected.

I would appreciate it if you would review the enclosed list and provide me with the names, addresses and extensions of any open invoices. Also send me a copy of the unpaid invoices so that we can make demand for payment.

Very truly yours,

LAMPL, SABLE & MAKOROFF

Robert G. Sable

RGS/gp
Enclosure

cc: William M. Densmore,
Vice President

ORIGINAL
(Red)

BRESLUBE-PENN INC.

84 MONTOUR ROAD, CORAOPOLIS, PENNSYLVANIA 15108 TEL. (412) 264-4280

May 4, 1983.

Mr. William M. Densmore,
Vice President,
Equibank N.A.,
Oliver Plaza,
Pittsburgh, Pennsylvania,
15222.

Dear Bill:

Please find attached a memorandum of the upgrading of the Coraopolis facilities into a lube oil re-refining plant.

We believe that this is a necessary step to convert used oil into lube stocks and provide a product which will enable us to operate with significant higher margins.

The existing fuel oil economics are such as that it will be difficult for us to operate the plant and meet our obligations under our present agreement. We hope to receive a position of Equibank at the earliest time in order that we can plan our future involvement at this site.

Yours very truly,

Joseph Chalhoub
President

JC/mp
Encl.

BRESLUBE-PENN INC.
84 MONTOUR ROAD, CORAOPOLIS, PENNSYLVANIA 15108 TEL. (412) 264-4280

ORIGINAL (Red)

RECEIVED
MAR 6 1984
EQUIBANK
Comm. L...

March 2, 1984.

Mr. William M. Densmore,
Vice President
Equibank, N.A.,
Oliver Plaza,
Pittsburgh, Pennsylvania,
15222

Dear Bill:

In accordance with your request during our telephone conversation today, I enclose a copy of the organization chart of the BresLube Group of Companies together with a copy of the BresLube Enterprises organization chart.

I trust that these will meet your requirements.

Yours very truly,

Joseph Chalhoub
President

JC/mp
Encls.

BRESLUBE-PENN INC.
84 MONTOUR ROAD, CORAOPOLIS, PENNSYLVANIA 15108
TEL. (412) 264-42[illegible]

RECEIVED
NOV 17 1983
EQUIBANK
Comm. Loan Adj.

November 11, 1983

Mr. William M. Densmore,
Vice President
Equibank, N.A.,
Oliver Plaza,
Pittsburgh, Pennsylvania,
15222

Dear Mr. Densmore:

Re: BresLube-Penn Inc. Payroll Account # 375-679-142

We enclose signature cards and a Resolutions of Board of Directors duly signed and executed for the above noted account.

We are at the present arranging the the printing of these cheques to be processed by computer and will start using this account in the next month.

Yours very truly,

Maureen Potvin

(Mrs) Maureen Potvin
Office Manager

MP/s
Encl.

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
710 FIFTH AVENUE
PITTSBURGH, PA. 15219-3088
(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

RECEIVED
MAY 25 1984
EQUI

May 24, 1984

Breslube Enterprises
Rural Route 17
Breslow, Ontario, Canada N0B1M0

Attn: Joseph Chalhoub, President
Re: Equibank Loan

Dear Mr. Chalhaub:

In accordance with the closing held on May 21, 1984, we are waiting to receive certified resolutions from:

1) Breslube-Penn, Inc.
2) Speedy Oil Services, Inc.
3) Breslube Industries, Inc.

stating, inter alia, the above mentioned corporations have authority to enter into the loan documents and agreement.

In addition, we are waiting for opinion letters from the attorneys of:

1) Breslube-Penn, Inc.
2) Speedy Oil Services, Inc.
3) Breslube Industries, Inc.
4) Breslube Enterprises

stating, inter alia, that the above mentioned entities are properly formed and in good standing and have the capacity to enter into the loan documents and transaction.

The aforementioned items are necessary prior to funding. Please advise when we may have these documents.

Very truly yours,

LAMPL, SABLE & MAKOROFF

F. Scott Gray

F. Scott Gray

FSG/ket

cc: Joseph Chalhoub, Pres.
Breslube-Penn, Inc.

cc: William Densmore, Vice President
Equibank

BRESLUBE
P.O. BOX 130, BRESLAU, ONTARIO, CANADA N0B 1M0
TEL. (519) 648-2291
TELEX 069-55246

RECEIVED
MAY 4 1984
EQUIBANK
Comm. Loan Adj.

April 26, 1984

Breslube Enterprises

Mr. William M. Densmore,
Vice President
Equibank, N.A.,
13th Floor, Oliver Plaza,
Pittsburgh, Pennsylvania,
15222

Dear Bill:

I am very pleased to announce the appointment of Mr. Ernie Trompke, B.A.,C.A., to the newly developed position of Vice-President of Finance and Administration for the BresLube Group, effective May 1st, 1984.

Mr. Tompke was previously employed with our accountants, Thorne Riddell which he joined after his graduation from Sir Wilfrid Laurier University in 1975 with a degree in Business Administration. Mr. Trompke previously held different positions in both the Toronto and Kitchener offices of Thorne Riddell and most recently was the Manager, Small Businesses in the Cambridge office.

The appointment of Mr. Trompke to his new position is in line with BresLube's continued progressiveness and growth.

Yours very truly,

Joseph Chalhoub
President

JC/mp

ORIGINAL (Red)

BRESLUBE
P.O. BOX 130, BRESLAU, ONTARIO, CANADA N0B 1M0

TEL. (519) 648-2291
TELEX 069-55246

May 29, 1984

Breslube Enterprises

DELIVERED BY HAND

Mr. F. Scott Gray,
Messrs. Lampl, Sable & Makoroff,
Suite 3000,
710 Fifth Avenue,
Pittsburgh, PA.,
15219-3088

Dear Mr. Gray:

Re: Equibank Loan

In accordance with your request of May 24, 1984, we enclose certified resolutions from:

1. BresLube Industries Limited
2. Speedy Oil Services Inc.

Mr. Kenneth Simon of Reed, Smith, Shaw & McClay will be forwarding the resolutions for BresLube-Penn Inc. direct from his office in Pittsburgh.

The opinion letter from the attorney of BresLube Industries Limited and BresLube Enterprises' was forwarded to you on May 24th. Mr. Simon will be providing the opinion letter for BresLube-Penn Inc. direct to your office and Mr. Harry Meyer of Hodgson, Russ, Andrews et al will provide you with an opinion letter for Speedy Oil Services Inc.

Please contact me if any further documentation is required.

Yours very truly,

Maureen Potvin
Office Manager

MP/s
Encl.
cc: William Densmore

BRESLUBE-PENN INC.
84 MONTOUR ROAD, CORAOPOLIS, PENNSYLVANIA 15108
TEL. (412) 264-4280
TELEX 0090297

September 5, 1984

Mr. Terry Fabian,
Regional Director,
Commonwealth of Pennsylvania,
Department of Environmental Resources,
Highland Building,
121 South Highland Avenue,
Pittsburgh, Pennsylvania,
15206-3988

Dear Mr. Fabian:

Re: BresLube-Penn Environmental Issues

During the meeting of August 1, 1984 at the Allegheny County Health Department, you indicated to us that BresLube-Penn was not diligent in dealing with the outstanding Environmental matters. We would like to bring to your attention some facts and the sequence of events:

1. Air Pollution Matters

1.1 **SEQUENCE OF EVENTS**

1.1.1 **May 1983:**
Submitted Permit Application Steam Boilers and Dehydration Process.

1.1.2 **September 20, 1983:**
Submitted Permit Application for the lube oil process dated Sep[illegible]

1.1.3 **Fe[illegible] 1984:**
Re[illegible] lube oil process permit.

1.1.4 **February 15, 1984:**
SHUTDOWN of the lube oil process plant.

1.1.5 **March 12, 1984:**
Agreement reached with the Allegheny County Health Department to restart the lube oil plant for a fifteen day evaluation period following the implementation of a number of modifications.

... 2

BPDR 0005209

1.1.6 **April 13, 1984:**
[illegible] the lube oil plant evaluation test run.

1.1.7 **April 19, 1984:**
Re-submission of the lube oil plant Permit Application.

1.1.8 **May 18, 1984:**
Submission of additional information for the lube oil plant permit.

1.1.9 **June 11, 1984:**
Delivery of a Draft Notice of conditional Installation Permits Approval from the Allegheny County Health Department, for the lube plant.

1.1.10 **June 11, 1984**
Major Fire at BresLube Enterprises with the total shutdown of the plant until the third week of July, 1984.

1.1.11 **August 1, 1984**
Meeting with the Allegheny County Health Department to revi[illegible] the lube plant permit and alleged odors with dehydration proce[illegible]

1.2 **WORK DONE BY BRESLUBE-PENN RELATED TO AIR POLLUTION**

1.2.1 Incineration of non-condensible vapour streams and installation of temperature monitering of the incineration chambers for the lube plant.

1.2.2 Conversion of the once through cooling water for the lube oil vacuum tower pump to closed loop lube system with a heat exchanger.

1.2.3 Installation of spare three hot oil pumps in the lube plant.

1.2.4 Enclosure of three sides of the clay filtration room and installation of a demister separator to receive entrained lube oil mist during filtration.

1.2.5 [illegible] high level alarm in the overhead receivers of the [illegible]

1.2.6 Preparing a written program requiring routine maintenance and repair of the hot oil pumps to anticipate and prevent excessive leakage.

1.2.7 Installation of spent clay chute which empties into dumpsters to collect waste materials from the filter presses.

...3

1.2.8 Conducted environmental training programs for all plant staff.

1.2.9 Established detailed operating log to monitor the dehydration and the lube oil process.

1.2.10 Established a sampling program for the raw materials and finished product.

1.2.11 Set up procedures for steaming of process equipment, piping, tanks and vessels.

1.2.12 Prepared an environmental checklist of operating and maintenance procedures to minimize odors.

2. SHAM RECYCLING

During the meeting of August 1, 1984, at the Bureau of Air Pollution offices, it was pointed out by Mr. Ken Bowman that BresLube-Penn, Inc. was illegally burning reprocessed No. 2 fuel in their furnace due to the high level of PCB (14.5 ppm) and total Halides (3200 ppm). The following are our comments:

2.1 Although we met numerous times with representatives of PaDER, specifications were never given to us as to the acceptable level of the above material.

2.2 On our insistence during the August 1, 1984 meeting we received a copy of the Guidelines for Hazardous Waste Used as a Fuel, dated January 25, 1984.

2.3 BresLube-Penn has immediately stopped the burning of reprocessed fuel and converted to virgin fuel. All future reprocessed fuel will first be tested for PCB and TOX **before** being used to ensure compliance with the Guidelines.

2.4 Bres[illegible] has tested the material from the same reprocessed fuel [illegible] tested by DER and has found that the level of PCB as reported by Chester Laboratories (copy attached), an independent lab, is less than 1 ppm and not 14.5 ppm as reported by DER. In analysing this material at BresLube Enterprises in Canada, it seems that the discrepancy is due to interference with solvents boiling at about the same temperature as Aroclor 242.

... 4

3. **HAZARDOUS WASTE MANAGEMENT**

3.1 On February 16, 1984, BresLube-Penn submitted a Module I application to Mr. Vince Luci, for the disposal of our waste filter cake, by-products of the filtration process. We have not as yet received an answer from the Department.

3.2 We have sampled waste piles inherited from the Wiseman operation together with representatives of the PaDER. Our samples were analysed and results were submitted to DER during the meeting of March 20, 1984. We are still awaiting approval from the DER in order to dispose of the material.

3.3 Three waste lagoons, inherited from the Wiseman operation, were consolidated into one smaller lagoon. This was done in the spring of 1984.

3.4 A full chemical and bacteriological analysis of the drinking water from the three wells at the refinery was done. Results were submitted to Mr. Daniel F. Peterson in a letter dated April [illegible] 1984. Results indicate no ground water contamination.

3.5 Better housekeeping has been implemented in the plant. Drain points have been piped to collect the oil in the catch basins or trenches to prevent oil spillage.

3.6 PaDER has not given BresLube-Penn the criteria to establish whether the recycling of used oil is a Hazardous Waste Management Operation.

4. **WATER QUALITY PERMIT**

Delays in developing the water quality Permit was caused by the following:

4.1 [illegible] problems that necessitated a large internal effort during the period of mid-February to mid-May, 1984. Our operations, engineering and management staff were working diligently to resolve the air pollution matter. Please refer to the report by Mr. Frank Wagner dated May 7, 1984.

4.2 On June 11, 1984 BresLube Enterprises experienced a major fire at the Breslau refinery. The damage in the amount of $750,000 included, the control room, main electrical distribution, filter press room and steam boilers. The plant was restarted in late July, 1984.

Please note that BresLube-Penn, Inc. waste water load is very small in comparison with the previous Wiseman operation, as the plant capacity during the last twelve months has been less than 40% of what was processed in the last operating year of Wiseman Oil Company.

... 5

ORIGINAL
(Red)

We hope the above clarifies the extent of the work done by BresLube-Penn and the reason for the delays. We would like to assure you that we are committed to operate the Coraopolis site in the most effective Environmental way and have long term plans to develop the used oil recycling in your Region and in the State of Pennsylvania in a sound manner.

Yours very truly,

Joseph Chalhoub
President

JC/mp

Encls.

c.c. Allen Miller
Ron Chleboski
Harley Trice
Ahsen Yelkin

DAVID A. CROSBIE

412-521-0449
5830 MORROWFIELD AVE. PITTSBURGH, PENNSYLVANIA 15217

February 13, 1982

Mr. Robert Wiseman
Wiseman Oil Co.,Inc.
84 Montour Road
Coraopolis, PA 15108

Dear Mr. Wiseman:

The personal consulting services of David A. Crosbie are offered by this proposal on a month to month retainer basis as we agreed on February 12, 1982. This work will include consultation, discussion with regulatory authorities, research, document preparation, and engineering design as required.

The retainer, due at the beginning of each calendar month, will be considered payment for up to five days of consulting service. Work exceeding five nominal working days will be billed at a proportional rate.

The retainer fee for this service shall be $1200.00 per month. Miscellaneous items including telephone, xerographic service, prints, delivered publications, and travel and living expenses will be billed at cost. Private auto mileage will be billed at $.30/mile. Stenographic services, if required, will be billed at Payroll Cost plus 75%.

Payment in full is due upon receipt of the invoice. Since it is not the intent of this proposal to extend credit, weekly invoices will be instituted if the balance due exceeds $1000.00 at any time.

Work will be performed in accordance with sound engineering practice and professional standards but no other warranty is made, expressed or implied. In no event shall the engineer be liable for any incidental or consequential damages.

Payments under this arrangement will not be applied to previously due accounts resulting from an employer-employee agreement.

Please issue a purchase order refering to this proposal to indicate your acceptance of these terms.

Sincerely,

David A. Crosbie

David A. Crosbie

BPDR 0005214

DAVID A. CROSBIE

412-521-0449
5830 MORROWFIELD AVE., PITTSBURGH, PENNSYLVANIA 15217

ORIGINAL
(Red)

February 13, 1982

INVOICE

Wiseman Oil Co. Inc.
84 Montour Road
Coraopolis, PA 15108

Attention: Ms. Susan Barnes

Invoice No.: 401
P.O. Number: Verbal RW
Terms: Cash

Description	Amount
February Retainer	$1200.00
Consulting Services (net)	
David A. Crosbie	--
Travel & Living	--
Mileage @ 30¢/mile	--
Copying expense	--
Publications (Region 3 EPA Notifications)	11.00
Total this Invoice	$1211.00

DAVID A. CROSBIE

412-521-0449

5830 MORROWFIELD AVE. PITTSBURGH, PENNSYLVANIA 15217

ORIGINAL (Red)

March 26, 1982

Mr. Robert P. Robosson, President
Wiseman Oil Company, Inc.
84 Montour Road
Coraopolis, PA 15108

Dear Mr. Robosson:

On March 25, 1982 you indicated that any agreement I had with Wiseman Oil would terminate effective April 1. You also indicated that the Bank would not allow any sort of retainer arrangement.

A workable and effective consulting service can be rendered in the current atmosphere on a retainer basis which permits continuation of my advisory responsibility to Wiseman in the areas of process, environment, management, and marketing. As such work is conducted on an irregular and unstructured basis no provision for clock watching was considered.

For this reason only dates of events appear in my records. These do not include specific hours since it became clear that no effort beyond that compensated by the retainer was in the budget. I simply resigned myself to the idea that any effort exceeding this was a personal investment in the Wiseman Oil success which might result in a future return.

In response to your request for an accounting of the amount due at this time I would include the following: (1) Two weeks vacation pay due at the time of filing and which you indicated would be paid in full through a priority claim you would file on behalf of all employees, (2) Excess FICA withholding which is discussed in a separate correspondence with Ms. S. Barnes, (3) Balance on February invoice amounting to $971.00, and (4) March retainer.

I am disappointed that you and the Bank have determined that my services will not be required after April 1, 1982.

Please forward payment of the above moneys as agreed.

Sincerely,

David A. Crosbie

David A. Crosbie

cc: Robert L. Wiseman
Jerome Lieber, Esq.

Harold Pernisek, Department Head June 24, 1982

William Densmore

Wiseman Oil

Wiseman Oil currently owes us $2,202,500.94 on the pre-bankruptcy debt and $50,000.00 as debtor in possession with super priority claim. Interest by June 30 will be approximately $160,190.00 including $2,388.00 DIP. Interest has not been paid since November 13, 1981. The Company declared bankruptcy under Chapter 11 on December 7, 1981.

First meeting of creditors, February 23, 1982, Equibank requested Relief from Stay based on security interest in plant and equipment. Our position delayed pending motion on appointment of the trustee.

On March 3, R. P. Roboson was appointed Cheif Executive Officer. Trustee not appointed.

April 28, 1982 hearing on Equibank request for Relief from Stay. Mysteriously, 11:00 p.m. the proceeding day, the Wisemans received a letter of intent from Breslube for a lease purchase of Wiseman facilities. Basically, they proposed paying Equibank $5,000 for the first year, $10,000 for the second year, and $15,000 the third year, plus 20 percent of the Company's net profits 90 days after the fiscal year ends. Their purchase option was $2.2 million.

Joseph Wiseman to receive $1,500 per month the first year, $2,000 a month the second year, and $2,500 the third year with an option to buy the land at $200,000. Unsecured creditors to receive 20 percent of profits 90 days after fiscal year ends.

We stated this offer was completely unacceptable. Judge Cosetti then declared open season of the sale of the Wiseman plant. If no better offer comes forward within 60 days, he indicated he would turn the assets over to the bank. On advice from counsel, we have made contact with several purchasers on the basis that we will have the plant in 60 days and will sell it to the higher bidder.

On May 14, met with R. F. Tomlinson of Metalwork Lubricant, Birmingham, Michigan. They expressed a strong interest and asked for a copy of our recent appraisal.

On June 11, Jim Keening and I met with Don Smith of Reserve Petroleum. Their interest rests mainly in dealing with Equibank, but might make a bid prior to the 60-day time period.

ORIGINAL (Red)

On Friday, June 18, I met with Ed Kren of Peidmont Chemical and Ray Woodman of Deerborn Refining, who expressed a strong interest. Deerborn is about half the size of Wiseman and Woodman was impressed with the facility. He, likewise, expressed a strong interest, but would prefer to deal with the bank.

In the meantime, Jack Swain, Consultant, has forwarded appraisals to the following individuals:

John O'Connell, Motor Refining
Kramer Morris, Indiana Oil
Don Estep, Estep Associates, Boston
William Ward, North Oil, New Jersey
Robert Embry, Eastern PA

Also, met with Richard Barber, who is an individual entrepreneur. Frankly, I have no confidence in this prospect. Also, R. P. Roboson is considering putting together an investment group.

As to the Wiseman's operations, they are pocket to pocket. Currently, they are generally $20,000-$30,000 per month on the service business, (cleaning water), and, with that, they are able to get payroll and other operating expenses, however, not enough for interest.

I plan to get in touch with the Department of Environmental Resources as well as the EPA to determine the status of the Company's permit. Further, we continue to talk with any above interested parties in order to obtain the best available offer. As you know, Mr. Swain's appraisal values the plant at $2,300,000.00, contingent upon sufficient profits to cover operating costs, interest and principal. Another option considered a sale to competitors or a related industry (chemicals), and indicates a value to $1,500,000. The third option is scrap at $400,000. Based upon this, we might consider loan on non-accrual. Further recommendation under separate memo, the charge of Mr. Wiseman's personal loan.

WMD/cmd

WISEMAN OIL COMPANY

Janaury 9, 1977

Mr. Edward E. Smock
Assistant Vice President
Equibank, N.A.
Oliver Plaza
Pittsburgh, Pa. 15222

Dear Ed,

This is to inform you that Wiseman Oil Company, Inc. has moved its administrative offices to the fifth floor, Fort Pitt Federal Building, 524 Penn Avenue, Pittsburgh, Pennsylvania, 15222. Please address all future correspondance to the above address.

Very truly yours,

Robert L. Wiseman
President
Wiseman Oil Company, Inc.

RLW/jw

Joseph + Ruth Wiseman
1701 South Ocean Dr.
Hollywood, Florida 33019
305-922-1322

84 Montour Road, Coraopolis, Pa. 15108 • (412) 331-7888 • (412) 331-1771

FILE [redacted]

ORIGINAL (Red)

GRYNBERG PETROLEUM COMPANY

5000 SOUTH QUEBEC • SUITE 500 • DENVER, COLORADO 80237 USA • PHONE 303 - 850-7490

TELEX: 45-4497 ENERGY DVR
TELECOPIER: 303 - 753-9997

June 2, 1986

JUN -6 1986
Corporate Assets Group

Karen Budniak
Equibank
Oliver Plaza
Pittsburgh, Pennsylvania 15222

Dear Karen:

Enclosed is the material sent relative to the Wiseman Oil Company Recycling plant in Coraopolis, Pennsylvania.

Unfortunately, our engineering department has advised me that it will not fit into our current program, so we must decline the offer to bid for it.

Thank you for the opportunity to review this project. Please keep us in mind if you become aware of any other projects or producing properties that might be available for acquisition.

Sincerely,

GRYNBERG PETROLEUM COMPANY

Pete Goedicke

Peter Goedicke
Acquisitions Coordinator

PG/blm
Enclosure

SPEEDY OIL SERVICES INC.
141 MILTON STREET, BUFFALO, NEW YORK 14210
TEL. (716) 891-8101

(Red)

MAY 12 1986

May 8, 1986

EQUIBANK
Two Oliver Plaza
Pittsburgh, PA 15555

ATTENTION: Karen Budniak

Dear Ms. Budniak:

Enclosed are the invoices that I have sent out for the month of May, 1986. I will wait until I have several of them to send to you again.

If there is a problem with this arrangement, please notify me. Thank you.

Cordially,

Celeste

Celeste Misho
Office Manager

Enclosure

BPDR 0005221

ORIGINAL (Red)

BRESLUBE-PENN INC.

84 MONTOUR ROAD, CORAOPOLIS, PENNSYLVANIA 15108

PHONE (412) 264-4280

CUSTOMER NUMBER	INVOICE DATE	INVOICE NUMBER
60059	5-1-86	5581

SOLD TO

Frank Martuccio Enterprises
1059 Mercer Road
Hermitage, PA 16158

SHIP TO

SAME
UNLESS INDICATED

CUSTOMER ORDER NUMBER	OUR ORDER NUMBER	DATE SHIPPED	
FME 2510	2931	5-1-86	
SALESMAN		SHIPPED VIA	TERMS
		Martuccio	net 10 days

QUANTITY SHIPPED	UNIT	DESCRIPTION	PRICE	UNIT	AMOUNT
6300	gals	#4 Fuel Oil	.25	per gal	$1575.00
			TOTAL ▶		$1575.00

RE-REFINING YOUR USED OIL

SHIPPING DEPT.

GROSS VOLUME ____ IG

LOADING TEMPERATURE ____ °F

VOLUME CORRECTION FACTOR ____ IG

SP. GR. @ 60°F ____

CORRECTED VOLUME ____ IG

SHIPPER ____ DATE ____ TIME ____ AM PM

RE-REFINING YOUR USED OIL

BRESLUBE-PENN INC.

84 MONTOUR ROAD, CORAOPOLIS, PENNSYLVANIA 15108

PHONE (412) 264-4280

CUSTOMER NUMBER	INVOICE DATE	INVOICE NUMBER
60059	5-1-86	5580

SOLD TO

Frank Martuccio Enterprises
1059 Mercer Road
Hermitage, PA 16148

SHIP TO

SAME
UNLESS INDICATED

CUSTOMER ORDER NUMBER	OUR ORDER NUMBER	DATE SHIPPED	F.O.B.
EME 2511	2930	5-1-86	
SALESMAN		SHIPPED VIA	TERMS
		Martuccio	net 10 days

QUANTITY SHIPPED	UNIT	DESCRIPTION	PRICE	UNIT	AMOUNT
8300	gals	#4 Fuel Oil	.25	per gal	$1575.00
				TOTAL ▶	$1575.00

RE-REFINING YOUR USED OIL

SHIPPING DEP

GROSS VOLUME [illegible] IG

LOADING TEMPERATURE [illegible] °F

VOLUME CORRECTION FACTOR [illegible] IG

Sp. Gr. at 60°F [illegible]

CORRECTED VOLUME [illegible] IG

SHIPPER [illegible] DATE [illegible] TIME [illegible] AM PM

RE-REFINING YOUR USED OIL

BPDR 0005223

ORIGINAL (Red)

BRESLUBE-PENN INC.

84 MONTOUR ROAD, CORAOPOLIS, PENNSYLVANIA 15108

PHONE (412) 264-4280

CUSTOMER NUMBER	INVOICE DATE	INVOICE NUMBER
60059	5-5-86	5592

SOLD TO

Martuccio Enterprises
1059 Mercer Road
Hermitage, PA 16148

SHIP TO

SAME
UNLESS INDICATED

CUSTOMER ORDER NUMBER	OUR ORDER NUMBER	DATE SHIPPED	
FME 2512	2932	5-5-86	
SALESMAN		SHIPPED VIA	TERMS
		Martuccio	net 10 days

QUANTITY SHIPPED	UNIT	DESCRIPTION	PRICE	UNIT	AMOUNT
6000	gals	#4 Fuel Oil	.25	per gal	$1500.00
			TOTAL ▶		$1500.00

RE-REFINING YOUR USED OIL

SHIPPING DEPT.

GROSS VOLUME ____ IG

LOADING TEMPERATURE ____ °F

VOLUME CORRECTION FACTOR ____ IG

Sp. Gr. at 60°F ____

CORRECTED VOLUME ____ IG

SHIPPER ____ DATE ____ TIME ____ AM PM

RE-REFINING YOUR USED OIL

BPDR 0005224

BRESLUBE-PENN INC.

84 MONTOUR ROAD, CORAOPOLIS, PENNSYLVANIA 15108

PHONE (412) 264-4280

MAY 1 2 ... Corporate Ass...

CUSTOMER NUMBER	INVOICE DATE	INVOICE NUMBER
60059	5-8-86	5586

SOLD TO
Martuccio Enterprises
1059 Mercer Avenue
Hermitage, PA 16148

SHIP TO
SAME
UNLESS INDICATED

CUSTOMER ORDER NUMBER	OUR ORDER NUMBER	DATE SHIPPED	F.O.B.
FME 2513	2933	5-8-86	
SALESMAN		SHIPPED VIA	TERMS
		BresLube Penn	net 10 days

QUANTITY SHIPPED	UNIT	DESCRIPTION	PRICE	UNIT	AMOUNT
6300	gals	#4 Fuel Oil	.25	per gal	$1575.00
				TOTAL ▶	$1575.00

RE-REFINING YOUR USED OIL

BPDR 0005225

MAY 13 1986
EQUIBANK
Corporate Assets Group

BRESLUBE-PENN INC.

84 MONTOUR ROAD, CORAOPOLIS, PENNSYLVANIA 15108

PHONE (412) 264-4280

CUSTOMER NUMBER	INVOICE DATE	INVOICE NUMBER
60059	5-12-86	5587

SOLD TO
Martuccio Enterprises
1059 Mercer Road
Hermitage, PA 16148

SHIP TO
SAME
UNLESS INDICATED

CUSTOMER ORDER NUMBER	OUR ORDER NUMBER	DATE SHIPPED	F.O.B.
FME 2512	2934	5-12-86	
SALESMAN		SHIPPED VIA	TERMS
		Martuccio	net 10 days

QUANTITY SHIPPED	UNIT	DESCRIPTION	PRICE	UNIT	AMOUNT
6300	gals	#4 Fuel Oil	.25	per gal	$1575.00
			TOTAL ▶		$1575.00

RE-REFINING YOUR USED OIL

BPDR 0005226

MAY 15 1986
EQUIBANK
Corporate Assets Group

BRESLUBE-PENN INC.

84 MONTOUR ROAD, CORAOPOLIS, PENNSYLVANIA 15108

PHONE (412) 264-4280

CUSTOMER NUMBER	INVOICE DATE	INVOICE NUMBER
60059	5-12-86	5588

SOLD TO
Frank Martuccio Enterprises
1059 Mercer Road
Hermitage, PA 16148

SHIP TO

CUSTOMER ORDER NUMBER	OUR ORDER NUMBER	DATE SHIPPED	F.O.B.
FME 737	2934	5-12-86	
SALESMAN		SHIPPED VIA	TERMS
		Martuccio	net 10 days

QUANTITY SHIPPED	UNIT	DESCRIPTION	PRICE	UNIT	AMOUNT
6300	gals	#4 Fuel Oil	.25	per gal	$1575.00
				TOTAL ▶	$1575.00

RE-REFINING YOUR USED OIL

BPDR 0005227

BRESLUBE-PENN INC.

84 MONTOUR ROAD, CORAOPOLIS, PENNSYLVANIA 15108

PHONE (412) 264-4200

CUSTOMER NUMBER	INVOICE DATE	INVOICE NUMBER
60054	5-21-86	5589

SOLD TO
Reed Oil
PO BOX 2328
New Castle, PA 16102
Accounts Payable

SHIP TO

RECEIVED
MAY 27 1986
EQUIBANK
Corporate Assets Group

CUSTOMER ORDER NUMBER	OUR ORDER NUMBER	DATE SHIPPED	F.O.B.
	2936	5-21-86	
SALESMAN		**SHIPPED VIA**	**TERMS**
		BresLube Penn	net 10 days

QUANTITY SHIPPED	UNIT	DESCRIPTION	PRICE	UNIT	AMOUNT
4704	gals	#4 Fuel Oil	.41	per gal	$1928.64
				TOTAL ▶	$1928.64

RE-REFINING YOUR USED OIL

BPDR 0005228

BRESLUBE-PENN INC.
84 MONTOUR ROAD, CORAOPOLIS, PENNSYLVANIA 15108
TEL. (412) 264-4280
TELEX 00902977

File copies.

ORIGINAL
(Red)

June 17, 1986

RECEIVED
JUN 20 1986
EQUIBANK
Corporate Assets Group

Ms. K. Budniak
Vice President
Equibank, N.A.
13th Floor, Oliver Plaza
PITTSBURGH, Pennsylvania
15222

Dear Ms. Budniak:

Enclosed please find the financial statements of BresLube-Penn Inc. for the ten month period ended March 31, 1986.

The results reflect the collapse of world oil crude prices and their effect on fuel oil markets as well as a decline in the reprocess fuel market in the Pittsburgh area.

Yours very truly,

Ernie Trompke

Ernie Trompke
Vice President
Finance & Administration

ET/bo

Types of Environmental Liability Assessments

ELAs are usually multimedia in scope but may focus on only one issue. Separate audits are often conducted for strictly environmental issues (i.e., water, wastewater, air, and solid/hazardous wastes) and for health and safety concerns (OSHA and Right-to-Know).

Type of Audit	Approximate Duration (days)
Management and Policy Review (corporate-level focus)	10-30
Comprehensive ELA (covers both corporate and plant levels)	30-120
Preliminary Assessment (plant-level)	1-3

BCM Services

BCM's scope of auditing services covers the following disciplines:

Air/Noise Pollution
Asbestos Management
Hydrogeology
Water Quality
Industrial Hygiene
Socioeconomics
Hazardous Waste Management
Chemistry
Biology and Ecology
Planning
Engineering
- Environmental
- Chemical
- Civil/Sanitary
- Mechanical
- Structural

BCM also maintains a fully certified environmental laboratory and specialized sampling equipment for conducting cost-effective and responsive audits.

Representative Clients

Abex Corporation
Amsted Industries
General Electric Corporation
Johnson & Johnson
Lummus Corporation
Midland Glass, Div. of Anchor Hocking
RCA Corporation
Sperry Corporation
Thomas and Betts
Wilsey Foods Corporation
Several environmental attorneys

ORIGINAL (Red)

BCM OFFICE LOCATIONS

Mobile, AL	(205) 443-3981
Montgomery, AL	(205) 271-3344
Dover, DE	(302) 734-2292
Panama City, FL	(904) 769-0292
Albany, GA	(912) 432-7191
Sparrows Point, MD	(301) 388-7543
Biloxi, MS	(601) 374-6882
Jackson, MS	(601) 355-3062
Linwood, NJ	(609) 927-1100
Marlton, NJ	(609) 596-6600
Trenton, NJ	(609) 587-9777
Plymouth Meeting, PA	(215) 825-3800
Pittsburgh, PA	(412) 361-6000
State College, PA	(814) 238-5013
Stroudsburg, PA	(717) 421-3779
Norristown, PA	(215) 275-0281
Dallas, TX	(214) 651-8516
Vienna, VA	(703) 281-2400
Cross Lanes, WV	(304) 776-5870

BPDR 0005230

BCM

ORIGINAL (Red)

- What are the potential liabilities transferrable to the buyer or lender?
- Can site remediation/cleanup be made a part of the business agreement?
- Can the cost of additional investigation/remediation be subtracted from the business agreement?

To summarize, using a phased preliminary assessment approach is a valuable method of identifying potential liability without incurring the costs of an extensive technical investigation. Buyers and lending institutions can use the results to avoid significant cleanup costs, litigation delays, and public relations problems. If contamination problems are identified, it may be possible for the seller to use the Preliminary Assessment as a negotiating instrument to reduce the purchase price.

BCM

ORIGINA
(Red)

Phase C - Facility Operations Review

- What types of facilities operate at the site?
- What was previously done at the site by present occupants?
- What have others (previous owners and tenants) done?
- Where and how did they do it?

For extended audits, this review involves documentation of previous site owners and occupants as well as possible site use by nonoccupants with the purpose of uncovering past practices that may translate into future liabilities. Records or procedures that can be reviewed may include:

- Questioning neighbors
- Questioning long-time or retired employees
- Regulatory agency records, permits, compliance actions
- Previous analytical records
- Process water balances
- Process material balances
- Disposal records

For Preliminary Assessments, this phase may involve only review and discussion with the resident site manager, maintenance staff, and/or representatives of individual facility occupants/operators. These reviews and discussions should expand upon the general information noted in Phase A and should direct the investigation toward the detailed facilities review in Phase D.

Phase D - Facilities Audit

- What are the current activities at the facility - material use, waste generation?
- What does the facility look like - housekeeping, storage, disposal?
- What potential environmental problems can be observed?

Once Phases A through C have been conducted, one should have developed a good understanding of the facilities and their potential environmental problems. Often, it will not be necessary to conduct additional site work - enough data will be in hand to make a go/no go recommendation to the buyer or lender.

If additional information is deemed necessary, a well structured facilities audit program can be developed. The actual facilities audit can include:

- Observing facility operating, maintenance, and material management practices during active operating periods

BCM

ORIGINAL
(Red)

While the comprehensive EA has its place, the purpose of this article is to describe the Preliminary Assessment, a quick, less expensive step in gaining an initial overview of a site's potential environmental liability. The Preliminary Assessment has two primary functions:

1. To make certain that most, if not all, of the materials, conditions, and practices at a site and at individual tenant facilities that could be of concern are known. Any potential problem area should be considered.

2. To ensure that the buyer or lending institution does not incur the cost of an extensive technical investigation if it is not actually needed and before the parameters of potential concern can be targeted.

The preliminary assessment is a site-specific, facility-oriented review of actual conditions and practices at a particular location. It is not a study or critique of mandated management programs. The assessment is detailed and intense, yet relatively inexpensive. When properly structured, it can be completed in as little as 1 to 3 days depending on the size and complexity of the particular site.

The phases of a Preliminary Assessment include the following:

A. "Fishing Expedition"
B. Site Audit
C. Facility Operations Review
D. Facility Audit
E. Recommendations

Phase A - "Fishing Expedition"

- What type of site is it? Heavy industry, light industry, commercial, etc.
- What kind of operations are ongoing?
- What type of site was it? General prior history.

The "fishing expedition" is the initial interview with site management that outlines generally what happens at the site and how it is done. This is accomplished by using a site map or sketch and discussing the types of process operations being conducted at each facility entity at the site. Large open areas can be considered as a facility entity for the purpose of developing preliminary information on past operations at that location or discovering indications that ongoing operations impact onto the open area. The information to be developed should include both current and past operating practices. It is important to emphasize that the information must be indicative of actual practices and conditions, not management's perspective of proposed or regulatory-directed guidelines.

ORIGINAL
(Red)

BPDR 0005240

BRESLUBE-PENN INC.

84 MONTOUR ROAD, CORAOPOLIS, PENNSYLVANIA 15108

TEL. (412) 264-4280
TELEX 00902977

January 2, 1987

JAN - 8 1987
Corporate

Mr. David L. Roach
Blair & Roach
Suite 403,
170 Franklin Street
Buffalo, New York
14202

Dear Mr. Roach:

Subject: BresLube-Penn potential liability
City of New York versus Exxon et al

It has recently been brought to my attention that a third party summons was served to Wiseman Oil Corporation by mail on July 8, 1986. This was received at our BresLube-Penn site and there was no acknowledgement of receipt of the summons.

Wiseman Oil Corporation was operating the site at Coraopolis before going to Bankruptcy. BresLube-Penn acquired the assets at that site from Equibank in late 1982. There has been no direct dealings between Wiseman Oil and BresLube-Penn.

Wiseman Oil Corporation has been named Third Party Defendants in a law suit between the City of New York and fifteen defendants including Exxon.

The City of New York complains that the 15 defendants generated hazardous substances that were deposited at five landfills which the city owned or operated. The City is seeking relief under the provisions of Superfund. Exxon in turn complains that 187 defendants including Wiseman Oil are also liable.

Could you please review the attached 37 pages of the text from the law suit and call me to discuss the extent of our liability.

Yours truly,

Joseph Chalnoub
President

JC/bo

c: Karen Budniak, Equibank

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ORIGINAL (Red)

THE CITY OF NEW YORK, Plaintiff, -against- EXXON CORPORATION; EXXON RESEARCH AND ENGINEERING COMPANY, INC.; INGERSOLL-RAND COMPANY; ALCAN ALUMINUM CORPORATION; FORD MOTOR COMPANY; KOPPERS COMPANY, INC.; BASF WYANDOTTE CORPORATION; BORG-WARNER CORPORATION; CHRYSLER CORPORATION; UNITED TECHNOLOGIES CORPORATION; CARRIER CORPORATION; NATIONAL CAN CORPORATION; PUBLIC SERVICE ELECTRIC & GAS CORPORATION; DANA CORPORATION; and REFINEMET INTERNATIONAL, INC., formerly known as AG-MET, INC., Defendants.	85 Civ. 1939 (EW) THIRD-PARTY COMPLAINT OF EXXON CORPORATION AND EXXON RESEARCH AND ENGINEERING COMPANY, INC.
EXXON CORPORATION; and EXXON RESEARCH AND ENGINEERING COMPANY, INC., Third-Party Plaintiffs, -against- A & A TANK CLEANING; A & M ENVIRONMENTAL SERVICE; A.L. EASTMOND & SONS, INC.; AAA ACE WASTE OIL; ABC RUBBISH REMOVAL CORP.; ACTIVE OIL SERVICE; ACTIVE STEEL DRUM CO.; ADVANCED CARTING CO. INC.; ALCO POWER INC.;	

ALLEGRO CARTING INC.;
ALUMINUM COMPANY OF AMERICA; :
ALL-COUNTY ENVIRONMENTAL SERVICE;
ALLIED CORPORATION; :
ALLIED WASTE OIL, INC.;
ANCHOR OIL CORP.; :
ANDAX ENVIRONMENTAL CORP.;
ASHLAND OIL, INC.; :
ATLANTIC CARTING AND RUBBISH CO.;
ATLANTIC RICHFIELD COMPANY; :
AUTUMN MANAGEMENT CO., INC.;
AVCO CORPORATION (AVCO :
LYCOMING STRATFORD DIV.);
AVERY ROAD OIL CO.; :
B & W CARTING;
BAISLEY PARK CARTING CO., INC.; :
BARRY WRIGHT CORP.;
BAY RIDGE CARTING CORP.; :
BECKER PARIBAS INCORPORATED;
G. BELLINO; :
BORDEN, INC.;
BROOKHAVEN NATIONAL LABORATORY; :
BUCKEYE PIPE LINE CO.;
CAFCO CONSTRUCTION CORP.; :
CALLEIA INC.;
CERTIFIED PIT & TANK; :
CHEMICAL LEAMAN TANK LINES, INC.;
CHEMICAL MANAGEMENT CONTROL; :
CITY OIL SERVICE OF BROOKLYN;
CITY WIDE CARTING CORP.; :
CLAIROL INC.;
CLEAR WATER CO.; :
COASTAL OIL CO.;
COASTAL SERVICES, INC.; :
COLEMAN COMPANY, INC.
(CROSMAN AIRGUNS CO.); :
COLONIAL CARTING CO.;
COLUMBIA-PRESBYTERIAN :
MEDICAL CENTER;
CONSOLIDATED EDISON CO.; :
CONTINENTAL CAN CO., INC.;
D & J CORP.; :
D V CARTING CO., INC.;
DAHILL CONTAINER SERVICE; :
DIAMOND HEAD OIL REFINING
CO., INC.; :
DUFFY WASTE & RECYCLING CORP.;
DYNAMIC CARTING CO.; :
EASTERN OIL SERVICE;
EDGEWATER TERMINALS, INC.; :
EPC CARTING CO. INC.;

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F & G CARTING; :
FARNHAM ENVIRONMENTAL
CONTROL, INC.; :
FARRELL'S WASTE OIL;
FIVE COUNTIES CARTING CORP.; :
FOREST HILLS CONTAINER
SERVICE, INC.; :
GAETA SERVICE & MAINTENANCE INC.;
GENERAL DYNAMICS CORP. :
(ELECTRIC BOAT DIV.);
GENERAL ELECTRIC COMPANY; :
GENERAL MOTORS CORP.;
GOULDS PUMPS INC.; :
R.A. GRECO;
GRUMMAN AEROSPACE CORP.; :
HARBOR PETROLEUM;
HEROUX, LTD.; :
HITCHOCK GAS ENGINE CO.
(a/k/a HITCHCOCK INDUSTRIAL :
WASTE REMOVAL);
HOWMET TURBINE COMPONENTS CORP. :
(NEW ENGLAND AIRCRAFT PRODUCTS
CO.); :
HUDSON OIL REFINERY CO., INC.;
INCOM INTERNATIONAL INC.; :
INDUSTRIAL ENVIRONMENTAL;
INDUSTRIAL TANK SERVICE; :
INWOOD SANITATION CO. INC.;
J & B WASTE OIL CO.; :
JET LINE SERVICES, INC.;
JOHNSON WASTE OIL; :
GEORGE KNOTT;
LARRY'S WASTE OIL; :
LEEDS & NORTHRUP CO.;
LEHIGH CARTING CO. INC.; :
LIBERTY ASHES & RUBBISH INC.;
LONG ISLAND CARTING; :
M. PALADINO INC.;
RUSSELL W. MAHLER; :
MAJESTY CONTRACTING CORP.;
MARCAL PAPER MILLS, INC.; :
MARLIN FIREARMS CO.;
MAROTTA & CO.; :
MATTIACE INDUSTRIES, INC.
(MATTIACE PETROCHEMICALS :
CO. DIV.);
METROPOLITAN SUBURBAN :
BUS AUTHORITY;
MID-ATLANTIC REFINERY :
SERVICES, INC.;
MID-BRONX HAULAGE CORP.; :

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MIDLAND ASPHALT CO.;
MILLER BREWING CO.; :
MILLER CO.;
MONGELLIO CARTING CO.; :
ROBERT MORE
(a/k/a MORE'S WASTE OIL); :
NASSAU FUEL OIL TANK CLEANERS;
NATIONAL WASTE OIL; :
NEAPCO, INC.;
NED'S WASTE OIL SERVICE :
(a/k/a EDWARD'S OIL);
NEW ENGLAND TANK LINING OF :
CONNECTICUT INC.;
NEW JERSEY DEPT. OF :
TRANSPORTATION;
NEW WAY CONSTRUCTION CORP.; :
NEW YORK CITY HEALTH
& HOSPITALS CORPORATION; :
NEW YORK CITY TRANSIT AUTHORITY;
NEWTOWN REFINING CORPORATION; :
NIAGARA MOHAWK POWER CORP.;
NORTHEAST OIL SERVICE :
OF SYRACUSE, INC.;
NORTHERN METALS COMPANY; :
OIL CITY PETROLEUM CO., INC.;
OIL TRANSFER, INC.; :
OLYMPIC ENVIRONMENTAL
SERVICES INC. (formerly :
INTERSTATE TANK SERVICE);
OMEGA CARTING LTD.; :
101 EAST 21ST STREET CORP.
(T/A SAMSON TANK :
CLEANING COMPANY);
P.S.C. RESOURCES, INC.; :
PARAGON PAINT & VARNISH CORP.;
PEERLESS-MIDWAY INC.; :
PENINSULA CARTING;
PENN CENTRAL CORP.; :
PETROLEUM TANK SERVICE, INC.;
PFIZER INC.; :
PHOENIX STEEL CORP.;
PLASTIC SPECIALTIES & :
TECHNOLOGIES, INC.
(SYNTHETIC PRODUCTS CO.); :
POLAR INDUSTRIES;
PORTLAND HOLDING CORPORATION; :
EUGENE PRASHKER;
PULLMAN PEABODY CO.; :
PUR-ALL PAINT PRODUCTS CO.;
RAGONESE BROTHERS CARTING CORP.; :
RAILROAD MAINTENANCE CORP.;

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RED BALL INTERIOR DEMOLITION CORP.;:
RED BALL SANITATION SERVICE;
REPUBLIC CARTING CO. INC.; :
REVERE COPPER & BRASS,
INCORPORATED; :
REYNOLDS METALS COMPANY;
RIVER TERMINAL DEVELOPMENT :
COMPANY (SCRAP YARD DIVISION);
ROCKWELL INTERNATIONAL CORP.; :
ROME STRIP STEEL CO.;
ROSEDALE CARTING CORP.; :
ROYAL TANK CLEANING;
JERRY RUBENSTEIN; :
S & S CARTING CO. INC.;
S & E WASTE OIL INC.; :
SAMSON TANK CLEANING CORP.;
SCHICK, INCORPORATED; :
SEA LION CORPORATION;
SEABOARD PRINTING INKS, INC.; :
SEALAND ENVIRONMENTAL SERVICES
INC. (formerly SEALAND :
ENVIRONMENTAL ENGINEERING);
SHELL OIL COMPANY; :
SHERIDEN OIL;
SID WASTE OIL; :
SKI'S CITY OIL SERVICE, INC.;
STAGE CARTING CO. INC.; :
THE STANLEY WORKS
(STANLEY TOOLS DIV.); :
SUFLEX;
SUN CHEMICAL CORP.; :
SUN COMPANY, INC.;
SUPREME OIL CO.; :
SWIFT SANITATION SERVICE INC.;
TRW INC. (TRW BEARINGS DIVISION); :
TAMMY'S OIL SERVICE, INC.;
TANKS ALOT, INC.; :
TELEDYNE, INC. (TELEDYNE ANSONIA);
TEXACO INC.; :
TEXTRON INC. (BRIDGEPORT
MACHINES DIVISION); :
TOTAL RECOVERY, INC.;
TREBOR MARINE CORP.; :
ULTRA MAR AMERICA LIMITED
(METROPOLITAN PETROLEUM CO.); :
UNION CARBIDE CORPORATION;
UNITED STATES AIR FORCE; :
UNITED STATES COAST GUARD;
UNITED STATES DEPARTMENT :
OF AGRICULTURE;

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UNITED STATES DEPARTMENT OF DEFENSE; :
UNITED STATES NAVY; :
VIGLIOTTI & SONS INC.;
VILLAGE CARTING CO., INC.; :
WASTE MANAGEMENT, INC. (F.P.R. BOHAGER & SONS, INC.); :
WASTE RECOVERY, INC.;
WESTINGHOUSE ELECTRIC CORP. (POWER GENERATION DIV.); :
WISEMAN OIL CORP.; :
WYMAN-GORDON CO.; and
ZOLLO DRUM, :

Third-Party Defendants. :

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Third-party plaintiffs Exxon Corporation and Exxon Research and Engineering Company, Inc. (hereinafter referred to collectively as "Exxon"), by their attorneys, allege as follows:

I. INTRODUCTION

1. On or about March 12, 1985, the City of New York ("the City") commenced an action in this Court against fifteen defendants, including Exxon, to recover alleged response costs and damages for injury to natural resources under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq., and under the laws of the State and City of New York. The City filed an amended complaint on April 29, 1986. A copy of the City's amended complaint (hereinafter referred to as the "complaint") is attached hereto as Exhibit A.

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2. The City's complaint avers that the defendants generated waste that included hazardous substances as defined in CERCLA, and arranged for one or more of twelve transporters to dispose of said waste. The City's complaint further avers that the transporters dumped defendants' wastes at five landfills which the City owned or operated: Pelham Bay landfill in the Borough of the Bronx; Edgemere landfill in the Borough of Queens; Brookfield Avenue landfill in the Borough of Staten Island; Fountain Avenue landfill in the Borough of Brooklyn; and Pennsylvania Avenue landfill in the Borough of Brooklyn (the "City Landfills").

3. The City seeks to hold each of the defendants jointly and severally liable under CERCLA for certain response costs of cleaning up the City Landfills and for damages for alleged injury to natural resources. The City also seeks to hold the defendants jointly and severally liable under principles of continuing public nuisance, statutory public nuisance and negligence, and to hold them jointly liable under principles of ultra-hazardous and abnormally dangerous activity, and restitution.

4. Exxon denies that it has caused any damages, denies that it is liable to the City under any of the City's asserted causes of action, and denies that it is jointly and severally liable with any other defendant in this action. Exxon's answers, counterclaims against the City, and cross-claims are attached hereto as Exhibit B.

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5. If Exxon were found liable under any of the City's alleged causes of action, then each other generator of hazardous substances that were placed at a City Landfill would be jointly and severally liable to the City for all response costs and damages under CERCLA and for damages under the laws of the State and City of New York, or, alternatively, for such generator's equitable share of such response costs and damages. Each generator also would be jointly and severally liable to Exxon for all such response costs and damages, or, alternatively, for such generator's equitable share of such response costs and damages. These generators of hazardous substances placed at a City Landfill include numerous entities not named by the City as defendants in this action.

6. Numerous transporters of hazardous substances to one or more of the City Landfills also have not been named by the City as defendants in this action. If Exxon were found liable to the City, each of said transporters would be jointly and severally liable to the City for all response costs and damages under CERCLA and for damages under the laws of the State and City of New York, or, alternatively, for such transporter's equitable share of such response costs and damages. Each transporter also would be jointly and severally liable to Exxon for all such response costs and damages, or, alternatively, for such transporter's equitable share of such response costs and damages.

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II. JURISDICTION AND VENUE

7. The Court has subject matter jurisdiction over the CERCLA claims pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 9613(b), and has pendent jurisdiction over the claims arising under the laws of the State and City of New York.

8. Venue lies in this Court pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. § 9613(b).

III. THE PARTIES

9. Exxon Corporation is a New Jersey corporation, and has its principal place of business in the State of New York.

10. Exxon Research and Engineering Company, Inc. is a Delaware corporation, and has its principal place of business in the State of New Jersey.

11. On information and belief, at various times during the relevant time period, as defined in paragraph 21 hereof, the following third-party defendants were owned or controlled by third-party defendant Russell Mahler: Anchor Oil Corp., Autumn Management Co., Inc., Diamond Head Oil Refining Co., Inc., Edgewater Terminals, Inc., Hudson Oil Refinery Co., Inc., Newtown Refining Corporation, Northeast Oil Service of Syracuse, Inc., P.S.C. Resources, Inc., Polar Industries, Portland Holding Corporation, Sea Lion Corporation, Ski's City Oil Service, Inc., and Tammy's Oil Service, Inc. Said third-party defendants, together with Russell Mahler, are hereinafter collectively referred to as the "Mahler Companies".

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12. On information and belief, the following third-party defendants transported hazardous substances to one or more of the City Landfills: A & A Tank Cleaning, ABC Rubbish Removal Corp., Active Steel Drum Co., Advanced Carting Co. Inc., Allegro Carting Inc., Allied Waste Oil, Inc., Anchor Oil Corp., Atlantic Carting and Rubbish Co., Autumn Management Co., Inc., B & W Carting, Baisley Park Carting Co., Inc., Bay Ridge Carting Corp., Becker Paribas Incorporated, G. Bellino, Carco Construction Corp., Calleia Inc., Certified Pit & Tank, City Oil Service of Brooklyn, City Wide Carting Corp., Clear Water Co., Colonial Carting Co., D & J Corp., D V Carting Co., Inc., Dahill Container Service, Diamond Head Oil Refining Co., Inc., Duffy Waste & Recycling Corp., Dynamic Carting Co., Edgewater Terminals, Inc., EPC Carting Co. Inc., F & G Carting, Five Counties Carting Corp., Forest Hills Container Service, Inc., Gaeta Service & Maintenance Inc., R.A. Greco, Hudson Oil Refinery Co., Inc., Inwood Sanitation Co. Inc., J & B Waste Oil Co., Lehigh Carting Co. Inc., Liberty Ashes & Rubbish Inc., Long Island Carting, M. Paladino Inc., Russell W. Mahler, Majesty Contracting Corp., Marotta & Co., Mid-Bronx Haulage Corp., Mongellio Carting Co., New Way Construction Corp., Newtown Refining Corporation, Northeast Oil Service of Syracuse, Inc., Omega Carting Ltd., 101 East 21st Street Corp. (T/A Samson Tank Cleaning Company), P.S.C. Resources, Inc., Peninsula Carting, Polar Industries, Eugene Prashker, Portland Holding Corporation, Ragonese Brothers Carting Corp., Railroad Maintenance Corp., Red Ball Interior Demolition

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Corp., Red Ball Sanitation Service, Republic Carting Co. Inc., Rosedale Carting Corp., Royal Tank Cleaning, Jerry Rubenstein, S & S Carting Co. Inc., Samson Tank Cleaning Corp., Sea Lion Corporation, Ski's City Oil Service, Inc., Stage Carting Co. Inc., Suflex, Supreme Oil Co., Swift Sanitation Service Inc., Tammy's Oil Service, Inc., Tanks Alot, Inc., Vigliotti & Sons Inc., and Village Carting Co. Inc. Said third-party defendants are hereinafter collectively referred to as the "Transporters".

13. On information and belief, the following third-party defendants generated and arranged for the disposal of hazardous substances that were placed at one or more of the City Landfills: A & M Environmental Service, A.L. Eastmond & Sons, Inc., AAA Ace Waste Oil, Active Oil Service, Alco Power Inc., Aluminum Company of America, All-County Environmental Service, Allied Corporation, Anchor Oil Corp., Andax Environmental Corp., Ashland Oil, Inc., Atlantic Richfield Company, Autumn Management Co., Inc., Avco Corporation (Avco Lycoming Stratford Div.), Avery Road Oil Co., Barry Wright Corp., Borden, Inc., Brookhaven National Laboratory, Buckeye Pipe Line Co., Calleia Inc., Chemical Leaman Tank Lines, Inc., Chemical Management Control, Clairol Inc., Coastal Oil Co., Coastal Services, Inc., Coleman Company, Inc. (Crosman Airguns Co.), Columbia-Presbyterian Medical Center, Consolidated Edison Co., Continental Can Co., Inc., Diamond Head Oil Refining Co., Inc., Eastern Oil Service, Edgewater Terminals, Inc., Farnham Environmental Control, Inc., Farrell's Waste Oil, General Dynamics Corp. (Electric Boat Div.),

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General Electric Company, General Motors Corp., Goulds Pumps Inc., Grumman Aerospace Corp., Harbor Petroleum, Heroux, Ltd., Hitchock Gas Engine Co. (a/k/a Hitchcock Industrial Waste Removal), Howmet Turbine Components Corp. (New England Aircraft Products Co.), Hudson Oil Refinery Co., Inc., Incom International Inc., Industrial Environmental, Industrial Tank Service, Jet Line Services, Inc., Johnson Waste Oil, George Knott, Larry's Waste Oil, Leeds & Northrup Co., Russell W. Mahler, Marcal Paper Mills, Inc., Marlin Firearms Co., Mattiace Industries, Inc. (Mattiace Petrochemicals Co. Div.), Metropolitan Suburban Bus Authority, Mid-Atlantic Refinery Services, Inc., Midland Asphalt Co., Miller Brewing Co., Miller Co., Robert More (a/k/a More's Waste Oil), Nassau Fuel Oil Tank Cleaners, National Waste Oil, NEAPCO, Inc., Ned's Waste Oil Service (a/k/a Edward's Oil), New England Tank Lining of Connecticut Inc., New Jersey Dept. of Transportation, New York City Health & Hospitals Corporation, New York City Transit Authority, Newtown Refining Corporation, Niagara Mohawk Power Corp., Northeast Oil Service of Syracuse, Inc., Northern Metals Company, Oil City Petroleum Co., Inc., Oil Transfer, Inc., Olympic Environmental Services Inc. (formerly Interstate Tank Service), 101 East 21st Street Corp. (T/A Samson Tank Cleaning Company), P.S.C. Resources, Inc., Paragon Paint & Varnish Corp., Peerless-Midway Inc., Penn Central Corp., Petroleum Tank Service, Inc., Pfizer Inc., Phoenix Steel Corp., Plastic Specialties & Technologies, Inc. (Synthetic Products Co.), Polar Industries, Portland Holding Corporation, Pullman Peabody Co., Pur-All Paint

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Products Co., Revere Copper & Brass, Incorporated, Reynolds Metals Company, River Terminal Development Company (Scrap Yard Division), Rockwell International Corp., Rome Strip Steel Co., S & E Waste Oil Inc., Samson Tank Cleaning Corp., Schick, Incorporated, Sea Lion Corporation, Seaboard Printing Inks, Inc., Sealand Environmental Services Inc. (formerly Sealand Environmental Engineering), Shell Oil Company, Sheriden Oil, Sid Waste Oil, Ski's City Oil Service, Inc., The Stanley Works (Stanley Tools Div.), Sun Chemical Corp., Sun Company, Inc., TRW Inc. (TRW Bearings Division), Tammy's Oil Service, Inc., Tanks Alot, Inc., Teledyne, Inc. (Teledyne Ansonia), Texaco Inc., Textron Inc. (Bridgeport Machines Division), Total Recovery, Inc., Trebor Marine Corp., Ultra Mar America Limited (Metropolitan Petroleum Co.), Union Carbide Corporation, United States Air Force, United States Coast Guard, United States Department of Agriculture, United States Department of Defense, United States Navy, Waste Management, Inc. (F.P.R. Bohager & Sons, Inc.), Waste Recovery, Inc., Westinghouse Electric Corp. (Power Generation Div.), Wiseman Oil Corp., Wyman-Gordon Co., and Zollo Drum. Said third-party defendants, together with the Transporters, who also arranged for the disposal of hazardous substances that were placed at one or more of the City Landfills, are hereinafter collectively referred to as the "Generators".

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IV. FIRST CLAIM FOR RELIEF

(Liability of Generators Under CERCLA)

14. Exxon repeats and realleges the allegations set forth in paragraphs 1 through 13 hereof as if fully set forth herein.

15. Each of the City Landfills is a site or area where hazardous substances were deposited, stored, disposed of or placed, or came to be located, and is a "facility" within the meaning of 42 U.S.C. § 9601(9).

16. There has been a release or a threatened release of a hazardous substance at each of the City Landfills within the meaning of 42 U.S.C. §§ 9601(22) and 9607(a).

17. The City has alleged in the First Cause of Action of its complaint that it has incurred and will continue to incur response costs within the meaning of 42 U.S.C. §§ 9601(25) and 9607(a)(4)(B), and that Exxon is jointly and severally liable for such response costs.

18. The City has alleged in the Third Cause of Action of its complaint that there are damages for injury to, destruction of, or loss of natural resources, within the meaning of 42 U.S.C. §§ 9607(a)(4)(C), and that Exxon is jointly and severally liable for such damages.

19. Exxon has incurred and will continue to incur necessary costs of response and damages, including litigation costs, within the meaning of 42 U.S.C. § 9601(25) and 9607(a)(4)(B).

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20. Exxon's response costs have been incurred and will continue to be incurred in a manner consistent with the national contingency plan, within the meaning 42 U.S.C. §§ 9601(31) and 9607(a)(4)(B).

21. On information and belief, during an extended period of time, in some cases commencing prior to 1970 and continuing to the present (the "relevant period"), each of the Generators by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances each of the Generators owned or possessed, at one or more of the City Landfills, within the meaning of 42 U.S.C. § 9607(a)(3).

22. If Exxon is held liable to the City, each of the Generators will be jointly and severally liable to Exxon, pursuant to CERCLA, for any response costs under 42 U.S.C. § 9607(a)(4)(A) or (B) and damages under 42 U.S.C. § 9607(a)(4)(C) adjudged against Exxon.

V. SECOND CLAIM FOR RELIEF

(Liability of Transporters Under CERCLA)

23. Exxon repeats and realleges the allegations set forth in paragraphs 1 through 22 hereof as if fully set forth herein.

24. On information and belief, during the relevant period each of the Transporters accepted one or more hazardous substances for transport to disposal or treatment facilities or

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sites selected by such Transporter, and selected one or more of the City Landfills as the disposal or treatment location, within the meaning of 42 U.S.C. § 9607(a)(4).

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25. If Exxon is held liable to the City, each of the Transporters will be jointly and severally liable to Exxon, pursuant to CERCLA, for any response costs under 42 U.S.C. § 9607(a)(4)(A) or (B) and damages under 42 U.S.C. § 9607(a)(4)(C) adjudged against Exxon.

VI. THIRD CLAIM FOR RELIEF

(Liability of Generators
Under CERCLA and Federal Common Law
For Contribution to
CERCLA Response Costs and Damages)

26. Exxon repeats and realleges the allegations set forth in paragraphs 1 through 25 hereof as if fully set forth herein.

27. Each of the Generators owed a duty to the City not to have waste containing hazardous substances disposed of at City Landfills. The Generators' respective breaches of this duty caused or contributed to the injuries the City alleges.

28. If Exxon is held liable to the City, each of the Generators will be liable to Exxon pursuant to CERCLA and federal common law for contribution of such Generator's equitable share of any response costs under 42 U.S.C. § 9607(a)(4)(A) or (B) and of any damages under 42 U.S.C. § 9607(a)(4)(C) adjudged against Exxon, in an amount to be proved at trial.

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VII. FOURTH CLAIM FOR RELIEF

(Liability of Transporters
Under CERCLA and Federal Common Law
For Contribution to
CERCLA Response Costs and Damages)

29. Exxon repeats and realleges the allegations set forth in paragraphs 1 through 28 hereof as if fully set forth herein.

30. Each of the Transporters owed a duty to the City not to dispose of hazardous substances and not to have hazardous substances disposed of at City Landfills. The Transporters' respective breaches of this duty caused or contributed to the injuries the City alleges.

31. If Exxon is held liable to the City, each of the Transporters will be liable to Exxon pursuant to CERCLA and federal common law for contribution of such Transporter's equitable share of any response costs under 42 U.S.C. § 9607(a)(4)(A) or (B) and of any damages under 42 U.S.C. § 9607(a)(4)(C) adjudged against Exxon, in an amount to be proved at trial.

VIII. FIFTH CLAIM FOR RELIEF

(Liability of Generators
Under New York State Law
for Contribution to CERCLA
Response Costs and Damages)

32. Exxon repeats and realleges the allegations set forth in paragraphs 1 through 31 hereof as if fully set forth herein.

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33. Each of the Generators owed a duty to the City not to have its hazardous substances disposed of at the City Landfills. The Generators' respective breaches of this duty caused or contributed to the injuries the City alleges.

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34. If Exxon is held liable to the City, each of the Generators will be liable pursuant to the law of the State of New York, including but not limited to N.Y. Civ. Prac. Law §§ 1401 et seq., for contribution to Exxon of its equitable share of any response costs under 42 U.S.C. § 9607(a)(4)(A) or (B), of any damages under 42 U.S.C. § 9607(a)(4)(C), and of any other damages adjudged against Exxon, in an amount to be proved at trial.

IX. SIXTH CLAIM FOR RELIEF

(Liability of Transporters
Under New York State Law
for Contribution to CERCLA
Response Costs and Damages)

35. Exxon repeats and realleges the allegations set forth in paragraphs 1 through 34 hereof as if fully set forth herein.

36. Each of the Transporters owed a duty to the City not to dispose of its hazardous substances and not to have its hazardous substances disposed of at the City Landfills. The Transporters' respective breaches of this duty caused or contributed to the injuries the City alleges.

37. If Exxon is held liable to the City, each of the Transporters will be liable pursuant to the law of the State of New York, including but not limited to N.Y. Civ. Prac. Law

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§§ 1401 et seq., for contribution to Exxon of its equitable share of any response costs under 42 U.S.C. § 9607(a)(4)(A) or (B), of any damages under 42 U.S.C. § 9607(a)(4)(C), and of any other damages adjudged against Exxon, in an amount to be proved at trial.

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X. SEVENTH CLAIM FOR RELIEF

(Liability of Generators for Indemnification Under CERCLA)

38. Exxon repeats and realleges the allegations set forth in paragraphs 1 through 37 hereof as if fully set forth herein.

39. Each of the Generators actively engaged in a polluting enterprise. Each Generator is required to indemnify all parties who did not actively engage in the enterprise, but who are liable under CERCLA. Consequently, pursuant to 42 U.S.C. § 9607(a)(4)(A) or (B), each Generator is required to indemnify Exxon for the full amount of any response costs under 42 U.S.C. § 9607(a), for any damages under 42 U.S.C. § 9607(a)(4)(C), and for any other damages for which Exxon is held liable.

XI. EIGHTH CLAIM FOR RELIEF

(Liability of the Mahler Companies for Indemnification Under CERCLA)

40. Exxon repeats and realleges the allegations set forth in paragraphs 1 through 39 hereof as if fully set forth herein.

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41. At some or all pertinent times, each of the Mahler Companies was operated or controlled, in whole or in part, by Russell Mahler.

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42. Mahler entered a guilty plea in the United States District Court for the Southern District of New York to an information charging that from 1972 through 1980 he conspired to bribe John Cassiliano, a New York City Department of Sanitation employee, in order to gain access to the City Landfills for the purpose of unlawfully disposing of certain substances. The general manager of the Mahler Companies, Kenneth Mansfield, entered a guilty plea in the same court to an information charging that from 1974 through 1981 he conspired to bribe a New York City Department of Sanitation employee for the same purpose.

43. John Cassiliano was convicted after trial in New York State Supreme Court, Richmond County, of official misconduct in allowing one or more of the Mahler Companies to unlawfully dispose of certain substances in the City Landfills.

44. The Mahler Companies actively engaged in a polluting enterprise. Each of the Mahler Companies is required to indemnify all parties who did not actively engage in the enterprise, but who are liable under CERCLA. Consequently, pursuant to 42 U.S.C. § 9607(a)(4)(A) or (B), each of the Mahler Companies is required to indemnify Exxon for the full amount of any response costs under 42 U.S.C. § 9607(a), for any damages under 42 U.S.C. § 9607(a)(4)(C), and for any other damages for which Exxon is held liable.

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XII. NINTH CLAIM FOR RELIEF

(Liability of Generators for Creation and Maintenance of a a Continuing Public Nuisance)

45. Exxon repeats and realleges the allegations set forth in paragraphs 1 through 44 hereof as if fully set forth herein.

46. The City alleges in the Fourth Cause of Action in its complaint that the presence, migration and threat of migration of disposed wastes at the City Landfills poses a continuing and substantial threat to public health and the environment, causes damage to the public in the exercise of rights common to all, and injures the property, comfort, health and safety of the people of the City of New York.

47. During the relevant period, each of the Generators caused or permitted the disposal of certain substances at the City Landfills.

48. Each of the Generators knew or should have known that certain substances had been disposed of at the City Landfills and were causing or contributing to the creation of the alleged continuing public nuisance.

49. Each Generator's malfeasance or negligence proximately caused or contributed to the creation of the alleged continuing public nuisance the City alleges in paragraphs 32 through 39 of its complaint.

50. After each of the Generators knew or should have known that certain substances had been disposed of at the City

Exhibit A Exhibit B

BPDR 0005263

Landfills and were causing or contributing to the alleged continuing public nuisance, each of the Generators failed to abate or to cause such public nuisance to be abated.

ORIGINAL (Red)

51. By failing to abate or to cause the alleged public nuisance to be abated, each of the Generators proximately caused or contributed to and continues to cause or contribute to the maintenance of the alleged public nuisance.

52. Each of the Generators owed and continues to owe a duty to Exxon not to impose on Exxon litigation costs, response costs and damages on account of each Generator's wrongful and injurious conduct.

53. The Generators are jointly and severally liable for the creation and maintenance of such continuing public nuisance posed by the presence, migration and threat of migration of the Generators' disposed wastes at the City Landfills. As a proximate result of such nuisance, Exxon has incurred and may incur pursuant to this lawsuit special damages in the form of litigation costs, response costs and damages.

54. The conduct of the Generators, and not that of Exxon, caused the injuries the City alleges. If Exxon is held liable to the City for creation and maintenance of a continuing public nuisance under the Fourth Cause of Action alleged in the City's compliant, each of the Generators will be jointly and severally liable to Exxon for any damages adjudged against Exxon, or, alternatively, for contribution of the Generator's equitable share of such damages, in an amount to be proved at trial.

BPDR 0005264

ORIGINAL (Red)

XIII. TENTH CLAIM FOR RELIEF

(Liability of Generators for Statutory Public Nuisance)

55. Exxon repeats and realleges the allegations set forth in paragraphs 1 through 54 hereof as if fully set forth herein.

56. The City alleges in the Fifth Cause of Action in its complaint that the presence, migration and threat of migration of disposed wastes at the City Landfills constitutes a statutory public nuisance pursuant to section 564.15.0 of the New York Administrative Code, which provides:

> The word "Nuisance" shall be held to embrace public nuisance, as known at common law or in equity jurisprudence; [and] whatever is dangerous to human life or detrimental to health. . . . All such nuisances are hereby declared illegal.

57. The Generators are jointly and severally liable for the alleged continuing statutory public nuisance posed by the presence, migration and threat of migration of their disposed wastes at the City Landfills. As a proximate result of such nuisance, Exxon has incurred and may incur pursuant to this lawsuit special damages in the form of litigation costs, response costs and damages.

58. The conduct of the Generators, and not that of Exxon, caused the injuries the City alleges. If Exxon is held liable to the City for a statutory public nuisance under the Fifth Cause of Action alleged in the City's complaint, each of the Generators will be jointly and severally liable to Exxon for

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any damages adjudged against Exxon, or alternatively, for contribution of the Generator's equitable share of such damages, in an amount to be proved at trial.

ORIGINAL (Red)

XIV. ELEVENTH CLAIM FOR RELIEF

(Liability of Generators for Ultra-Hazardous and Abnormally Dangerous Activity)

59. Exxon repeats and realleges the allegations set forth in paragraphs 1 through 58 hereof as if fully set forth herein.

60. At all pertinent times, the Generators' generation and disposal of certain substances constituted an ultra-hazardous and abnormally dangerous activity.

61. By generating and causing or permitting the disposal of certain substances at the City Landfills, the Generators proximately caused and contributed to the injury alleged in paragraphs 32 through 39 of the City's complaint, for which the Generators are strictly liable.

62. The conduct of the Generators, and not that of Exxon, caused the injuries the City alleges. If Exxon is held liable to the City for damages resulting from ultra-hazardous and abnormally danagerous activities under the Sixth Cause of Action alleged in the City's complaint, each of the Generators will be jointly and severally liable to Exxon for any such damages adjudged against Exxon, or, alternatively, for contribution of

BPDR 0005266

the Generator's equitable share of such damages, in an amount to be proved at trial.

ORIGINAL (Red)

XV. TWELFTH CLAIM FOR RELIEF

(Liability of Generators for Negligence)

63. Exxon repeats and realleges the allegations set forth in paragraphs 1 through 62 hereof as if fully set forth herein.

64. Each of the Generators knew or should have known that the disposal of certain substances at the City Landfills could pose a significant threat to, and cause substantial harm to, public health and the environment.

65. Each of the Generators owed a duty to the City and to Exxon to exercise reasonable care that their substances were transported and disposed of in such a manner as to avoid posing a significant threat to, and causing substantial damage to, public health, the environment and Exxon's rights.

66. Each of the Generators acted negligently or recklessly with respect to the transport of certain substances to, and the disposal of certain substances at, the City Landfills. Each of the Generators negligently or recklessly failed to dispose of, or cause the disposal of, its substances in a manner that would prevent the release of such substances into the environment and the resulting harm to natural resources and to public health, safety and welfare. Those Generators that did not themselves transport substances to the City Landfills

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negligently or recklessly failed to select transport and disposal companies that would dispose of their substances in a manner to prevent harm to the environment and public health, safety and welfare; negligently or recklessly failed to require the transport and disposal companies that they did select to dispose of their substances in a manner to prevent harm to the environment and public health, safety and welfare; negligently or recklessly failed to adequately direct or supervise the transport and disposal companies to prevent unsafe and improper transport and disposal of their substances; and negligently or recklessly failed to adequately warn and advise the transport and disposal companies of the hazardous nature of their substances.

ORIGINAL (Red)

67. Each Generator's negligence or recklessness with respect to the transport and disposal of its substances violated a duty owed to the City, to the public at large and to Exxon to prevent unsafe and improper disposal of such Generator's substances.

68. As a direct and foreseeable result of each Generator's negligence or recklessness with respect to the transport and disposal of its substances, certain substances were released into the environment at the City Landfills, response costs and damages have been sought from Exxon, and as a result Exxon has incurred and continues to incur litigation costs.

69. Each Generator's negligent or reckless acts and omissions proximately caused or contributed to Exxon's injuries as well as to those that the City alleges.

Exhibit A Exhibit B BPDR 0005268

70. The conduct of the Generators, and not that of Exxon, caused the injuries the City alleges. If Exxon is held liable to the City for negligence under the Seventh Cause of Action alleged in the City's complaint, each of the Generators will be jointly and severally liable to Exxon for any such damages adjudged against Exxon, or, alternatively, for contribution of the Generator's equitable share of such damages, in an amount to be proved at trial.

ORIGINAL (Red)

XVI. THIRTEENTH CLAIM FOR RELIEF

(Liability of the Mahler Companies in Contract)

71. Exxon repeats and realleges the allegations set forth in paragraphs 1 through 70 hereof as if fully set forth herein.

72. Under the terms of a contract or contracts entered into between Newtown Refining Company ("Newtown") and Exxon, Newtown agreed to comply and to secure compliance by its subcontractors with all applicable legal requirements in connection with the work performed pursuant to the contract or contracts and further agreed to indemnify and hold Exxon harmless from any liability imposed on Exxon by reason of any alleged violation of law by Newtown or its subcontractors.

73. Under the terms of a contract or contracts entered into between Newtown and Exxon, Newtown agreed to indemnify and save Exxon harmless for all claims for damage to property arising

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ORIGINAL (Red)

out of, in conjunction with, or by reason of work done by Newtown, its employees or agents.

74. Under the terms of the aforementioned contract or contracts entered into between Newtown and Exxon, Newtown is obligated to pay any costs or expenses incurred by Exxon in the defense of or otherwise pursuant to this action, including attorneys' fees.

75. Pursuant to their agreements with Newtown, and by operation of law, the Mahler Companies assumed the duties and liabilities of Newtown to indemnify Exxon under its contracts with Exxon.

76. By reason of the foregoing, if Exxon is held liable to the City, the Mahler Companies will be liable to Exxon for the full amount of any damages adjudged against Exxon, and for all costs and expenses incurred by Exxon in this action, including attorneys' fees.

XVII. FOURTEENTH CLAIM FOR RELIEF

(Declaratory Relief)

77. Exxon repeats and realleges the allegations set forth in paragraphs 1 through 76 hereof as if fully set forth herein.

78. This Court has subject matter jurisdiction over the declaratory judgment claims herein pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 2201 and 42 U.S.C. § 9613(b).

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79. Venue lies in this Court pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. § 9613(b).

80. The City has requested declaratory relief in its action against Exxon.

81. An actual controversy exists between Exxon and the third-party defendants in that Exxon contends as follows:

a. that each of the Generators arranged by contract, agreement, or otherwise for the disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such Generator, at one or more of the City Landfills, within the meaning of 42 U.S.C. § 9607(a)(3);

b. that each of the Transporters accepted hazardous substances for transport to disposal or treatment facilities or sites selected by such Transporter, and selected one or more of the City Landfills as the disposal or treatment location, within the meaning of 42 U.S.C. § 9607(a)(4);

c. that if Exxon is held liable to the City, each of the third-party defendants will be jointly and severally liable with Exxon directly to the City;

d. that if Exxon is held liable to the City, each of the third-party defendants will be jointly and severally liable to Exxon, pursuant to CERCLA, for any response costs under 42 U.S.C. § 9607(a)(4)(A) or (B)

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and damages under 42 U.S.C. § 9607(a)(4)(C) adjudged against Exxon;

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e. that if Exxon is held liable to the City, each of the third-party defendants will be liable to Exxon pursuant to CERCLA and federal common law for contribution of the third-party defendant's equitable share of any response costs under 42 U.S.C. § 9607(a)(4)(A) or (B) and of any damages under 42 U.S.C. § 9607(a)(4)(C) adjudged against Exxon, in an amount to be proved at trial;

f. that if Exxon is held liable to the City, each of the third-party defendants will be liable to Exxon pursuant to the law of the State of New York, including but not limited to N.Y. Civ. Prac. Law §§ 1401 et seq., for Exxon's equitable share of any response costs under 42 U.S.C. § 9607(a)(4)(A) or (B), of any damages under 42 U.S.C. § 9607(a)(4)(C), and of any other damages adjudged against Exxon, in an amount to be proved at trial;

g. that if Exxon is held liable to the City, each of the third-party defendants will be required to indemnify Exxon for the full amount of any response costs under 42 U.S.C. § 9607(a)(4)(A) or (B), for any damages under 42 U.S.C. § 9607(a)(4)(C), and for any other damages for which Exxon is held liable; and

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h. that if Exxon is held liable to the City, the Mahler Companies will be the parties primarily liable to the City pursuant to CERCLA, federal common law, and the law of the State of New York for any response costs under 42 U.S.C. § 9607(a)(4)(A) or (B), for any damages under 42 U.S.C. § 9607(a)(4)(C), and for any other damages for which Exxon is held liable.

82. On information and belief, with regard to each of the contentions enumerated in paragraph 81 hereof, each of the Generators, Transporters and/or Mahler Companies contends in all respects to the contrary.

83. A declaration of Exxon's rights and obligations under CERCLA, federal common law, and state law is appropriate and in the interests of justice in that an early determination of this controversy will avoid a multiplicity of litigation and is necessary to the proper adjudication of the City's claims against Exxon in this litigation.

XVIII. FIFTEENTH CLAIM FOR RELIEF

(Liability of the Mahler Companies for Punitive Damages)

84. Exxon repeats and realleges the allegations set forth in paragraphs 1 through 83 hereof as if fully set forth herein.

85. This claim asserts a cause of action against the Mahler Companies for punitive damages as a result of their gross negligence and willful and wanton misconduct.

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ORIGINAL
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86. The Mahler Companies knew or should have known that the disposal of certain substances at the City Landfills could pose a significant threat to, and cause substantial harm to, public health and the environment.

87. The Mahler Companies owed a duty to the City, to the public at large and to Exxon to exercise reasonable care that their substances were transported and disposed of in such a manner as to avoid posing a significant threat to, and causing substantial harm to, public health, the environment and Exxon's rights.

88. The Mahler Companies acted wantonly, willfully and with gross negligence in transporting and disposing of their substances at a location or locations from which such substances could be released into the environment and could cause harm to natural resources and to public health, safety and welfare. In addition, the Mahler Companies acted wantonly, willfully and with gross negligence in transporting and disposing of their substances in a manner that failed to prevent the release of such substances into the environment and that failed to prevent harm to natural resources and to public health, safety and welfare.

89. Any release of any hazardous substance into the environment at the City Landfills is a direct and foreseeable result of the willful and wanton actions, and gross negligence, of the Mahler Companies with respect to the generation, transportation and disposal of substances at the City Landfills.

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ORIGINAL (Red)

90. The Mahler Companies' willful and wanton actions and gross negligence violated a duty owed to the City, to the public at large and to Exxon to prevent unsafe and improper disposal of the Mahler Companies' substances.

91. As a direct and foreseeable result of willful and wanton actions and gross negligence by each of the Mahler Companies with respect to the transport and disposal of its substances, certain substances were released into the environment at the City Landfills, response costs and damages have been sought from Exxon, and as a result Exxon has incurred and continues to incur litigation costs.

92. The willful and wanton actions and gross negligence of each of the Mahler Companies proximately caused or contributed to Exxon's injuries as well as to those that the City alleges.

93. If Exxon is held liable to the City, the Mahler Companies will be liable to Exxon for punitive damages.

XIX. PRAYER FOR RELIEF

WHEREFORE, defendant Exxon demands:

A. Judgment dismissing the complaint with prejudice and in its entirety as to Exxon, and awarding it the costs and disbursements of this action, including reasonable attorneys' fees; or, in the alternative, should liability be adjudged against Exxon in favor of the City,

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ORIGINAL (Red)

B. Judgment over and against each of the third-party defendants as follows:

1. On the First Claim for Relief, against each of the Generators in an amount equal to any judgment entered against Exxon under the First or Third Causes of Action of the City's complaint. Alternatively, in an amount equal to each Generator's equitable share of any judgment entered against Exxon under the First or Third Causes of Action of the City's complaint.

2. On the Second Claim for Relief, against each of the Transporters in an amount equal to any judgment entered against Exxon under the First or Third Causes of Action of the City's complaint. Alternatively, in an amount equal to each Transporter's equitable share of any judgment entered against Exxon under the First or Third Causes of Action of the City's complaint.

3. On the Third Claim for Relief, against each of the Generators in an amount equal to any judgment entered against Exxon under the First or Third Causes of Action of the City's complaint. Alternatively, in an amount equal to each Generator's equitable share of any judgment entered against Exxon under the First or Third Causes of Action of the City's complaint.

4. On the Fourth Claim for Relief, against each of the Transporters in an amount equal to any judgment entered against Exxon under the First or Third Causes

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of Action of the City's complaint. Alternatively, in an amount equal to each Transporter's equitable share of any judgment entered against Exxon under the First or Third Causes of Action of the City's complaint.

5. On the Fifth Claint for Relief, against each of the Generators in an amount equal to any judgment entered against Exxon under the First or Third Causes of Action of the City's complaint. Alternatively, in an amount equal to each Generator's equitable share of any judgment entered against Exxon under the First or Third Causes of Action of the City's complaint.

6. On the Sixth Claim for Relief, against each of the Transporters in an amount equal to any judgment entered against Exxon under the First or Third Causes of Action of the City's complaint. Alternatively, in an amount equal to each Transporter's equitable share of any judgment entered against Exxon under the First or Third Causes of Action of the City's complaint.

7. On the Seventh Claim for Relief, against each of the Generators in an amount equal to any judgment entered against Exxon under the First or Third Causes of Action of the City's complaint.

8. On the Eighth Claim for Relief, against each of the Mahler Companies in an amount equal to any judgment entered against Exxon under the First or Third Causes of Action of the City's complaint.

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9. On the Ninth Claim for Relief, against each of the Generators in an amount equal to any judgment entered against Exxon under the Fourth Cause of Action of the City's complaint. Alternatively, in an amount equal to that share of any judgment entered against Exxon under the Fourth Cause of Action of the City's complaint which represents each Generator's comparative fault.

10. On the Tenth Claim for Relief, against each of the Generators in an amount equal to any judgment entered against Exxon under the Fifth Cause of Action of the City's complaint. Alternatively, in an amount equal to that share of any judgment entered against Exxon under the Fifth Cause of Action of the City's complaint which represents each Generator's comparative fault.

11. On the Eleventh Claim for Relief, against each of the Generators in an amount equal to any judgment entered against Exxon under the Sixth Cause of Action of the City's complaint. Alternatively, in an amount equal to that share of any judgment entered against Exxon under the Sixth Cause of Action of the City's complaint which represents each Generator's comparative fault.

12. On the Twelfth Claim for Relief, against each of the Generators in an amount equal to any judgment

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ORIGINAL (Red)

entered against Exxon under the Seventh Cause of Action of the City's complaint. Alternatively, in an amount equal to that share of any judgment entered against Exxon under the Seventh Cause of Action of the City's complaint which represents each Generator's comparative fault.

13. On the Thirteenth Claim for relief, against each of the Mahler Companies in an amount equal to any judgment entered against Exxon under the First or Third through Eighth Causes of Action of the City's complaint, as well as costs, expenses and attorneys' fees associated with this action.

14. On the Fourteenth Claim for Relief, for a declaratory judgment that if Exxon is held liable to the City: pursuant to CERCLA, federal common law, and the law of the State of New York (a) each of the third-party defendants will be jointly and severally liable with Exxon directly to the City; (b) each of the third-party defendants will be jointly and severally liable to Exxon; and (c) the Mahler Companies are the parties primarily liable to the City, for any response costs under 42 U.S.C. § 9607(a)(4)(A) or (B), any damages under 42 U.S.C. § 9607(a)(4)(C), and any other damages adjudged against Exxon, or alternatively, for such party's equitable share of such response costs and damages, in an amount to be proved at trial.

BPDR 0005279

Exhibit A Exhibit B

15. On the Fifteenth Claim for Relief, against each of the Mahler Companies for punitive damages in an amount to be determined at trial.

16. Awarding Exxon the costs and disbursements of this action, including reasonable attorneys' fees.

C. Such other and further relief as the Court may deem just and proper.

Dated: New York, New York
July 17, 1986

CADWALADER, WICKERSHAM & TAFT

By _____
A Member of the Firm

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New York, New York 10038
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Linden, New Jersey 07036
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Attorneys for Defendants
Exxon Corporation and
Exxon Research and
Engineering Company, Inc.

BPDR 0005280

WISEMAN OIL CORPORATION
Fort Pitt Federal Building
524 Penn Avenue
PITTSBURGH, PENNSYLVANIA 15222

(412) 261-9500

INVOICE

No 1039 ORIGINAL (Red)

INVOICE DATE	SALESMAN
Jan. 9, 1981	

SHIP TO

J&L Steel Corp.
Accounts Payable Dept.
1600 West Carson St.
Pittsburgh, PA 15263
ATT: Al Moulton

80-907-676		Our truck		net 7 days		
	Slip#	Date		per gal.	.66	
5500	5194	1-9-81			4290	00
6500	5193	1-8-81			4290	00
6500	5192	1-8-81			4290	00
6750	5191	1-8-81			4290	00
6500	5189	1-8-81			4290	00
6500	5188	1-8-81			4290	00
6500	5186	1-7-81			4290	00
6500	5185	1-7-81			4290	00
6500	5183	1-6-81			4290	00
6500	5182	1-6-81			4290	00
otal gal						
5,000		Amount due			42,900	00

UADRUPLICATE

Thank You

BPDR 0005281

Fort Pitt Federal Building
524 Penn Avenue
PITTSBURGH, PENNSYLVANIA 15222

(412) 261-9500

No. 1038

INVOICE DATE: Jan. 6, 1981

SALESMAN:

SHIP TO:

ORIGINAL (Red)

J&L Steel Corp.
1600 West Carson Street
Pittsburgh, PA 15263
Accounts Payable Dept.
Att: Al Moulton

OUR ORDER NO.	DATE SHIPPED	SHIPPED VIA	F.O.B. POINT	TERMS
580-907-576		Our truck		net 7 days

QUANTITY	DESCRIPTION		UNIT PRICE	TOTAL
	Date	Slip# per gal.	.66	
6500	12-31-80	5149		4290 00
6500	12-31-80	5150		4290 00
6500	12-31-80	5151		4290 00
6500	12-31-80	5152		4290 00
6500	1-2-81	5153		4290 00
6500	1-2-81	5154		4290 00
6500	1-2-81	5155		4290 00
6500	1-2-81	5156		4290 00
6500	1-2-81	5157		4290 00
6500	1-2-81	5158		4290 00
6500	1-3-81	5159		4290 00
6500	1-3-81	5160		4290 00
6500	1-3-81	5161		4290 00
6500	1-3-81	5162		4290 00
6500	1-4-81	5167		4290 00
6500	1-4-81	5168		4290 00
6500	1-4-81	5169		4290 00
6500	1-5-81	5175		4290 00
6500	1-5-81	5178		4290 00
Total gals. 123,500		Amount Cr.		81,510 00

QUADRUPLICATE

Thank You

BPDR 0005282

Fort Pitt Federal Building
524 Penn Avenue
Pittsburgh, Pennsylvania 15222

(412) 261-9599

No. 1038

INVOICE DATE	SALESMAN
June 6, 1981	

SHIP TO

ORIGINAL (Red)

O. J&L Steel Corp.
1600 West Carson Street
Pittsburgh, PA 15263
Accounts Payable Dept.
Att: Al Moulton

UR ORDER NO.	DATE SHIPPED	SHIPPED VIA	F.O.B. POINT	TERMS
100-907-576		Our truck		net 7 days

QUANTITY	DESCRIPTION		UNIT PRICE		TOTAL	
	Date	Ellipt per gal.		.66		
6500	12-31-80	5149			4290	00
6500	12-31-80	5150			4290	00
6500	12-31-80	5151			4290	00
6500	12-31-80	5152			4290	00
6500	1-2-81	5153			4290	00
6500	1-2-81	5154			4290	00
6500	1-2-81	5155			4290	00
6500	1-2-81	5156			4290	00
6500	1-2-81	5157			4290	00
6500	1-2-81	5158			4290	00
6500	1-3-81	5159			4290	00
6500	1-3-81	5160			4290	00
6500	1-3-81	5161			4290	00
6500	1-3-81	5162			4290	00
6500	1-4-81	5167			4290	00
6500	1-4-81	5168			4290	00
6500	1-4-81	5169			4290	00
6500	1-5-81	5175			4290	00
6500	1-5-81	5178			4290	00
Total gate						
123,500		Amount Cr.			81,510	00

UADRUPLICATE

Thank You

BPDR 0005283

Fort Pitt Federal Building
524 Penn Avenue
Pittsburgh, Pennsylvania 15222

(412) 261-9500

No. 1038

INVOICE DATE: June 6, 1981

SALESMAN:

SHIP TO:

ORIGINAL (Red)

O. J&L Steel Corp.
1600 West Carson Street
Pittsburgh, PA 15263
Accounts Payable Dept.
Att: Al Moulton

UR ORDER NO.	DATE SHIPPED	SHIPPED VIA	F.O.B. POINT	TERMS
80-907-576		Our truck		net 7 days

QUANTITY	DESCRIPTION		UNIT PRICE	TOTAL
	Date	Slipt per gal.	.66	
6500	12-31-80	5149		4290 00
6500	12-31-80	5150		4290 00
6500	12-31-80	5151		4290 00
6500	12-31-80	5152		4290 00
6500	1-2-81	5153		4290 00
6500	1-2-81	5154		4290 00
6500	1-2-81	5155		4290 00
6500	1-2-81	5156		4290 00
6500	1-2-81	5157		4290 00
6500	1-2-81	5158		4290 00
6500	1-3-81	5159		4290 00
6500	1-3-81	5160		4290 00
6500	1-3-81	5161		4290 00
6500	1-3-81	5162		4290 00
6500	1-4-81	5167		4290 00
6500	1-4-81	5168		4290 00
6500	1-4-81	5169		4290 00
6500	1-5-81	5175		4290 00
6500	1-5-81	5178		4290 00
Total gals. 123,500		Amount Due		81,510 00

UADRUPLICATE

Thank You

BPDR 0005284

WISEMAN OIL CORPORATION
Fort Pitt Federal Building
524 Penn Avenue
PITTSBURGH, PENNSYLVANIA 15222

(412) 261-9500

INVOICE

No. 1039

INVOICE DATE: Jan. 9, 1981
SALESMAN:
SHIP TO:

ORIGINAL (Red)

J&L Steel Corp.
Accounts Payable Dept.
1600 West Carson St.
Pittsburgh, PA 15263
ATT: Al Moulton

980-907-676	Our truck		net 7 days	

QUANTITY	DESCRIPTION		UNIT PRICE		TOTAL	
	Slip#	Date	per gal.	.66		
6500	5194	1-9-81			4290	00
6500	5193	1-8-81			4290	00
6500	5192	1-8-81			4290	00
6750	5191	1-8-81			4290	00
6500	5189	1-8-81			4290	00
6500	5188	1-8-81			4290	00
6500	5186	1-7-81			4290	00
6500	5185	1-7-81			4290	00
6500	5183	1-6-81			4290	00
6500	5182	1-6-81			4290	00
Total gal. 65,000		Amount due			42,900	00

QUADRUPLICATE

Thank You

0005285

WISEMAN OIL CORPORATION
Fort Pitt Federal Building
524 Penn Avenue
PITTSBURGH, PENNSYLVANIA 15222

(412) 261-8500

INVOICE

No. 1039

INVOICE DATE	SALESMAN
Jan. 9, 1981	

SHIP TO

ORIGINAL (Red)

J&L Steel Corp.
Accounts Payable Dept.
1600 West Carson St.
Pittsburgh, PA 15263
ATT: Al Moulton

180-907-676		Our truck			net 7 days		
QUANTITY	Slip#	Date			UNIT PRICE		TOTAL
					per gal.	.66	
6500	5194	1-9-81					4290 00
6500	5193	1-8-81					4290 00
6500	5192	1-8-81					4290 00
6750	5191	1-8-81					4290 00
6500	5189	1-8-81					4290 00
6500	5188	1-8-81					4290 00
6500	5186	1-7-81					4290 00
6500	5185	1-7-81					4290 00
6500	5183	1-6-81					4290 00
6500	5182	1-6-81					4290 00
otal gal							
5,000			Amount due				42,900 00

UADRUPLICATE

Thank You

BPDR 0005280

(412) 261-9500

JAL Steel Corp.
Accounts Payable Dept.
1600 West Carson Street
Pittsburgh, PA 15263
Att: Al Moulton

INVOICE DATE: Jan. 31, 1980
SALESMAN:
SHIP TO:

#1036

ORIGINAL (Red)

JR ORDER NO	DATE SHIPPED	SHIPPED VIA	F.O.B. POINT	TERMS
30-907-676		Our trucks		net 7 days

QUANTITY	DESCRIPTION		UNIT PRICE	TOTAL
	Date	Slip#		
6500	12-24-80	5092		4290
6500	12-24-80	5093		4290
6500	12-24-80	5095		4290
6500	12-24-80	5096		4290
6500	12-24-80	5097		4290
6500	12-24-80	5099		4290
6500	12-24-80	5100		4290
6500	12-24-80	5101		4290
6500	12-24-80	5103		4290
6500	12-26-80	5104		4290
6500	12-26-80	5105		4290
6500	12-26-80	5106		4290
6500	12-26-80	5108		4290
6500	12-26-80	5109		4290
6500	12-26-80	5111		4290
6500	12-26-80	5112		4290
6500	12-26-80	5113		4290
6500	12-27-80	5114		4290
6500	12-27-80	5115		4290
6500	12-27-80	5116		4290
6500	12-27-80	5117		4290
6500	12-27-80	5118		4290
6500	12-27-80	5119		4290
6500	12-27-80	5120		4290
6500	12-27-80	5121		4290
6500	12-27-80	5122		4290
6500	12-28-80	5123		4290
6500	12-28-80	5124		4290
6500	12-28-80	5126		4290
6500	12-28-80	5127		4290
6500	12-28-80	5128		4290
6500	12-29-80	5130		4290
6500	12-29-80	5131		4290
6500	12-29-80	5132		4290
6500	12-29-80	5133		4290
6500	12-29-80	5135		4290
6500	12-29-80	5136		4290
6500	12-30-80	5138		4290

QUADRUPLICATE

Thank You

(412) 261-5500

INVOICE DATE: Dec. 31, 1980

SALESMAN:

SHIP TO:

1036

ORIGINAL (Red)

JAL Steel Corp.
Accounts Payable Dept.
1600 West Carson Street
Pittsburgh, PA 15263
Attn: Al Moulton

JR ORDER NO.	DATE SHIPPED	SHIPPED VIA	F.O.B. POINT	TERMS
30-207-576		Our trucks		Net 7 days

QUANTITY	DESCRIPTION		UNIT PRICE	TOTAL
	Date	Slip#		
6500	12-24-80	5092		4290
6500	12-24-80	5093		4290
6500	12-24-80	5095		4290
6500	12-24-80	5096		4290
6500	12-24-80	5097		4290
6500	12-24-80	5098		4290
6500	12-24-80	5100		4290
6500	12-24-80	5101		4290
6500	12-24-80	5103		4290
6500	12-26-80	5104		4290
6500	12-26-80	5105		4290
6500	12-26-80	5106		4290
6500	12-26-80	5108		4290
6500	12-26-80	5109		4290
6500	12-26-80	5111		4290
6500	12-26-80	5112		4290
6500	12-26-80	5113		4290
6500	12-27-80	5114		4290
6500	12-27-80	5115		4290
6500	12-27-80	5116		4290
6500	12-27-80	5117		4290
6500	12-27-80	5118		4290
6500	12-27-80	5119		4290
6500	12-27-80	5120		4290
6500	12-27-80	5121		4290
6500	12-27-80	5122		4290
6500	12-28-80	5123		4290
6500	12-28-80	5124		4290
6500	12-28-80	5126		4290
6500	12-28-80	5127		4290
6500	12-28-80	5128		4290
6500	12-29-80	5130		4290
6500	12-29-80	5131		4290
6500	12-29-80	5132		4290
6500	12-29-80	5133		4290
6500	12-29-80	5134		4290
6500	12-29-80	5136		4290
6500	12-30-80	5138		4290

QUADRUPLICATE

Thank You

ORIGINAL
(Red)

INVOICE

N 1337

WISEMAN OIL CORPORATION
[illegible] Federal Building
[illegible]
PITTSBURGH, PENNSYLVANIA [illegible]

[illegible]

TO Jal Steel Corp.
Accounts Payable Dept.
[illegible] West Carson St.
Pittsburgh, PA [illegible]
Att: Al Moulton

INVOICE DATE: Dec. 31, 1980

TAX EXAMPLE

TAKE TO

VOUCHER NO.	DATE SHIPPED	SHIPPED VIA	F.O.B. POINT	TERMS
[illegible]-907-570		Our trucks		[illegible] 7 days

QUANTITY	DESCRIPTION		UNIT PRICE	TOTAL
	Date	Slip		
6500	12-30-80	5139		4290 0
6500	12-30-80	5141		4290 0
5500	12-31-80	5147		4290 0
6500	12-31-80	5148		4290 0
273,000				$180,180 00

RPDR 0005289

INVOICE

N 1037

WISEMAN OIL CORPORATION
[illegible]
[illegible]
[illegible]

[illegible]

TO
Jal Steel Corp.
Accounts Payable Dept.
1000 West Carson St.
Pittsburgh, PA 15203
Att: Al Moulton

INVOICE DATE: Dec. 31, 1980

TAX EXAMPLE

TAKE TO

VOUR ORDER NO.	DATE SHIPPED	SHIPPED VIA	F.O.B. POINT	TERMS
[illegible]-907-570		Our trucks		Net 7 days

QUANTITY	DESCRIPTION		UNIT PRICE	TOTAL
	Date	Slips		
6500	12-30-80	5139		4290 0
6500	12-30-80	5141		4290 0
5500	12-31-80	5147		4290 0
6500	12-31-80	5148		4290 0
273,000				$180,180 00

INVOICE

N 1037

WISEMAN OIL CORPORATION
[illegible] Federal Building
[illegible]
PITTSBURGH, PENNSYLVANIA 15222

[illegible]

INVOICE DATE: Dec. 31, 1980

TO
J&L Steel Corp.
Accounts Payable Dept.
1000 West Carson St.
Pittsburgh, PA 15263
Att: Al Moulton

VOUCHER NO.	DATE SHIPPED	SHIPPED VIA	F.O.B. POINT	TERMS
4390-907-570		Our trucks		Net 7 Days

QUANTITY	DESCRIPTION		UNIT PRICE	TOTAL	
	Date	Slips			
6500	12-30-80	5139		4290	0
6500	12-30-80	5141		4290	0
5500	12-31-80	5147		4290	0
6500	12-31-80	5148		4290	0
273,000				$180,180	00

DAILY REPORT #15

JAN 2 1981

15852

Accounts Receivable Reported as of (date) 1-2-81

	COLUMN I PREVIOUS BALANCE	COLUMN II ADDITIONS SALES	COLUMN III SUBTRACTIONS COLLECTIONS	COLUMN IV PRESENT BALANCE
1.	$ 158,730.00	$ 180,180.00	$ —	$ 338,910.00

STATEMENT OF ACCOUNT

2. Total ..... $ 338,910.00
3. Special Margin ..... $ —
4. Collateral Value ..... $ 338,910.00
5. Percentage of Advance ..... % 90%
6. Loan Available ..... $ 305,019.00
7. Yesterday's Loan Balance ..... $ 90,772.60
8. Today's Collections ..... $ —
9. Today's Loan Requests ..... $ 150,000.00
10. Today's Loan Balance ..... $ 240,772.60
11. Available for Loan ..... $ 64,246.40

ASSIGNMENT

Undersigned Customer hereby (a) as security for the repayment of Customer's present (Line 10 above), and future indebtedness to Equimark Commercial Finance Co., herein called "Lender," including the loan made by Lender to Customer concurrently herewith (Line 9 above), assigns, transfers and pledges to Lender, its successors and assigns, and gives and agrees that Lender has a security interest in, under and pursuant to the Accounts Receivable Agreement between Customer and Lender, the provisions of which are incorporated herein, the Accounts, aggregating the amount stated in Line 1 Column II, specifically described in the invoice copies or schedules of accounts receivable attached hereto and identified as stated below, and all outstanding Accounts resulting from Customer's sales of goods or services on or before the above date, aggregating the amount stated in Line 1 Column IV and being more particularly described on the accounts receivable ledger of Customer and on invoices covering all such sales, and all Accounts hereafter acquired or created by Customer, and any security, guarantees and secured interest pertaining thereto and all moneys due and to become due on the same with the right to the possession of any goods covered thereby in case same are returned to Customer, and any new Account created or goods coming into the possession or ownership of Customer on the resale or exchange of such goods, including any moneys owing thereon; (b) warrants and certifies to Lender that all Accounts created on the above date are aggregated in Line 1 Column II above and are evidenced by the invoice copies or schedules of accounts receivable attached hereto, and that the amount aggregated in Line 1 Column IV above constitutes the total of all Accounts on the books and records of Customer at said date and there is now owing on Accounts that amount; (c) agrees to remit daily to Lender all collections received and to report all credits allowed on Accounts and the return or rejection of goods covered by Accounts with payment of any amount thereof, and (d) warrants that all collections received or credits allowed on Accounts previously assigned to Lender have been duly and regularly entered to the credit of the respective debtors on the books and accounts of Customer; all such collections have been remitted and all such credits have been reported to Lender promptly; none of the Accounts previously or hereby assigned have been sold, assigned or pledged to any other party; and prompt report has been made to Lender of returned or rejected goods covered by any Account previously assigned, with payment to Lender of the amount thereof.

The invoice copies or schedules attached hereto are numbered

1036 to 1037

Wiseman Oil Co. Inc
Customer

By Richard L. Barnes
Authorized Signature
V.P. Finance

This assignment is accepted by Equimark Commercial Finance Co., at Pittsburgh, Pennsylvania, in reliance on the warranties, certifications and agreements of Customer above, and those contained in said Accounts Receivable Agreement.

EQUIMARK COMMERCIAL FINANCE CO.

By _____

ECF-202

CHECKS AND OTHER CREDITS

JAN. 2 19 81
(Date)

To: EQUIMARK COMMERCIAL FINANCE CO.
TWO OLIVER PLAZA
(Address)
PGH, PA. 15222

From: WISEMAN OIL CO, INC.
(Customer Name)
524 PENN AVE.
(Address)
PGH, PA. 15222

Enclosed are ALL ORIGINAL CHECKS, DRAFTS, ACCEPTANCES AND NOTES received today from debtors in payment of or on account of accounts receivable assigned to you. We list below such debtor remittances and all other credits.

Name of Debtor	Gross Amount of Invoices	Checks	Other Credits to Accounts Receivable
J&L STEEL CORP.	180,180.00		

EGF-203

PITTSBURGH, PENNSYLVANIA 15222

(412) 251-9500

INVOICE DATE: Dec. 31, 1980

SALESMAN:

SHIP TO

1036

J&L Steel Corp.
Accounts Payable Dept.
1600 West Carson Street
Pittsburgh, PA 15263
Att: Al Moulton

JR ORDER NO.	DATE SHIPPED	SHIPPED VIA	F.O.B. POINT	TERMS
39-907-675		Our truck		net 7 days

QUANTITY	DESCRIPTION		UNIT PRICE	TOTAL	
	Date	Slip#			
6500	12-24-80	5092		4290	00
6500	12-24-80	5093		4290	00
6500	12-24-80	5095		4290	00
6500	12-24-80	5096		4290	00
6500	12-24-80	5097		4290	00
6500	12-24-80	5099		4290	00
6500	12-24-80	5100		4290	00
6500	12-24-80	5101		4290	00
6500	12-24-80	5103		4290	00
6500	12-26-80	5104		4290	00
6500	12-26-80	5105		4290	00
6500	12-26-80	5106		4290	00
6500	12-26-80	5108		4290	00
6500	12-26-80	5109		4290	00
6500	12-26-80	5111		4290	00
6500	12-26-80	5112		4290	00
6500	12-26-80	5113		4290	00
6500	12-27-80	5114		4290	00
6500	12-27-80	5115		4290	00
6500	12-27-80	5116		4290	00
6500	12-27-80	5117		4290	00
6500	12-27-80	5118		4290	00
6500	12-27-80	5119		4290	00
6500	12-27-80	5120		4290	00
6500	12-27-80	5121		4290	00
6500	12-27-80	5122		4290	00
6500	12-28-80	5123		4290	00
6500	12-28-80	5124		4290	00
6500	12-28-80	5126		4290	00
6500	12-28-80	5127		4290	00
6500	12-28-80	5128		4290	00
6500	12-29-80	5130		4290	00
6500	12-29-80	5131		4290	00
6500	12-29-80	5132		4290	00
6500	12-29-80	5133		4290	00
6500	12-29-80	5134		4290	00
6500	12-29-80	5136		4290	00
6500	12-30-80	5138		4290	00

QUADRUPLICATE

Thank You

LAMPL, SABLE & MAKOROFF
Suite 300
710 Fifth Avenue
Pittsburgh, Pa. 15219-3088
(412) 471-4988

Sanford M. Lampl
Robert G. Sable
Stanley G. Makoroff
Stephen J. Laidhold
Mark L. Glossner
Mary Anne McKeen
F. Scott Gray

August 4, 1982

Wiseman Oil Co., Inc.
84 Montour Road
Coraopolis, PA 15108

Att: Bob Robosson

In re: REMOVAL OF EQUIPMENT

Dear Mr. Robosson:

Enclosed is an updated insurance certificate for Barletto Equipment which is removing the Perry Equipment equipment. Please advise me if there are any problems with the repairs after the removal of the centrifuge.

Very truly yours,

LAMPL, SABLE & MAKOROFF

Robert G. Sable

Robert G. Sable

RGS/gp
Enclosure

cc: William Densmore, Vice Pres.

RECEIVED
AUG - 6 1982
EQUIBANK
Comm. Loan Adj.

Certificate of Insurance

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES LISTED BELOW.

NAME AND ADDRESS OF AGENCY

WMS-CLEAVELAND CO
202 FIRST FEDERAL PL
NEW CASTLE PA 16103

NAME AND ADDRESS OF INSURED

BARLETTO EQUIPMENT
1015 MORAVIA ST
NEW CASTLE PA 16101

COMPANIES AFFORDING COVERAGES

COMPANY LETTER **A**	MARYLAND CASUALTY CO
COMPANY LETTER **B**	MARYLAND CASUALTY CO
COMPANY LETTER **C**	
COMPANY LETTER **D**	
COMPANY LETTER **E**	

ORIGINAL (Red)

This is to certify that policies of insurance listed below have been issued to the insured named above and are in force at this time.

COMPANY LETTER	TYPE OF INSURANCE	POLICY NUMBER	POLICY EXPIRATION DATE	Limits of Liability in Thousands (000)	EACH OCCURRENCE	AGGREGATE
A	**GENERAL LIABILITY** [X] COMPREHENSIVE FORM [X] PREMISES—OPERATIONS [ ] EXPLOSION AND COLLAPSE HAZARD [ ] UNDERGROUND HAZARD [ ] PRODUCTS COMPLETED OPERATIONS HAZARD [X] CONTRACTUAL INSURANCE [ ] BROAD FORM PROPERTY DAMAGE [ ] INDEPENDENT CONTRACTORS [ ] PERSONAL INJURY	GL54332739%	2/12/83	BODILY INJURY	$ 500	$
				PROPERTY DAMAGE	$ 100	$
				BODILY INJURY AND PROPERTY DAMAGE COMBINED	$	$
				PERSONAL INJURY		$
B	**AUTOMOBILE LIABILITY** [ ] COMPREHENSIVE FORM [X] OWNED [X] HIRED [X] NON-OWNED	NAM64508580%	12/30/82	BODILY INJURY (EACH PERSON)	$	
				BODILY INJURY (EACH OCCURRENCE)	$	
				PROPERTY DAMAGE	$	
				BODILY INJURY AND PROPERTY DAMAGE COMBINED	$ 300	
	EXCESS LIABILITY [ ] UMBRELLA FORM [ ] OTHER THAN UMBRELLA FORM			BODILY INJURY AND PROPERTY DAMAGE COMBINED	$	$
	WORKERS' COMPENSATION and EMPLOYERS' LIABILITY			STATUTORY		
					$	(EACH ACCIDENT)
	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES

Cancellation: Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 days written notice to the below named certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company.

NAME AND ADDRESS OF CERTIFICATE HOLDER

LAMPL, SABLE, & MAKOROFF
710 FIFTH AVENUE - SUITE 3000
PITTSBURGH PA 15219

DATE ISSUED August 1, 1982 J

Judy Ann Baskerfield
AUTHORIZED REPRESENTATIVE

BPDR 0005296

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
710 FIFTH AVENUE
PITTSBURGH, PA 15219
(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE McKEEN
F. SCOTT GRAY

September 10, 1982

Equibank
Two Oliver Plaza
Commercial Loan Adj. Dept.
13th Floor
Pittsburgh, PA 15222

RECEIVED
SEP 13 1982
EQUIBANK

Att: William M. Densmore,
Vice President

In re: WISEMAN OIL CO., INC.

Dear Bill:

Enclosed is an aerial view of the Wiseman property along with a key showing the various locations of the various parcels. This may or may not be helpful to you but it is a different prospective on the Wiseman properties.

This was provided to me by Jerome Lieber, attorney for the Wisemans.

Very truly yours,

LAMPL, SABLE & MAKOROFF

Robert G. Sable

Robert G. Sable

RGS/gp
Enclosure

1. MORTGAGED PROPERTY W/ MOST OF THE OIL REFINERY

ORIGINAL (Red)

2. TALLOW PROPERTY INCLUDING 10,000 ft² BLDG.

3. GREENHOUSE (WALZ)

4. Office + Parking

5. 2nd Bldg + parking

6- 8-10 Acres not on map - Bautzinger property

ORIGINAL
(Red)

ORIGINA
(Red)

BERKMAN RUSLANDER POHL LIEBER & ENGEL
ATTORNEYS AT LAW
20TH FLOOR, FRICK BUILDING
PITTSBURGH, PENNSYLVANIA 15219
TELEPHONE (412) 392-2000
TELECOPIER (412) 392-2128

MARCUS AARON II
ALAN L. ACKERMAN
MARK I. BASEMAN
ALLEN H. BERKMAN
CHARLES R. BRODBECK
GEORGE C. BURGWIN III
JOHN F. DUGAN
JOHN P. EDGAR
BERNARD EISEN
ROBERT ENGEL
LIBO B. FINEBERG
PETER F. FLAHERTY
MICHAEL D. FOX
ALAN A. GARFINKEL
CHARLES B. GIBBONS
GARY L. GOLDBERG
FOSTER S. GOLDMAN, JR.
WILLIAM M. HOFFMAN
BELA A. KARLOWITZ
LEO A. KEEVICAN, JR.
JEROME B. LIEBER
MARVIN S. LIEBER
MICHAEL M. LYONS
MICHAEL J. MANZO
JULIAN RUSLANDER
EDWARD K. STRAUSS
LYNN E. WAGNER
JACQUES M. WOOD
PATRICK W. AUTRY
JOHN A. BARBOUR
JAMES V. BAUERLE
TIMOTHY P. BURKE
LEONARD KRISCHER
ROBERT T. HARPER
CHARITY J. IMBRIE
VASILIS C. KATSAFANAS
HARRY F. KLODOWSKI, JR.
STANLEY J. LEHMAN
LAWRENCE R. LUTZ
JEFFREY B. MARKEL
ALISON G. POCCIA
RONALD J. RICCI
DEAN R. RICHARDSON
PHILIP M. SPRINKLE II
STEPHEN C. VELTRI
GARY WALK
SIDNEY ZONN
FRANK J. POHL
SENIOR COUNSEL
DAVID GUCK
(1925-1974)
CHUCK RUSLANDER
(1926-1974)
KANKEL ALPERT
(1924-1980)
FLORIDA OFFICE
5975 WEST SUNRISE BLVD.
FORT LAUDERDALE, FLORIDA 33313
TELEPHONE (305) 584-2600

WRITER'S DIRECT
DIAL NUMBER
392- 2111

October 27, 1982

Robert G. Sable, Esquire
Lampl, Sable & Makaroff
710 Fifth Avenue
Pittsburgh, PA 15219

Dear Bob:

Pursuant to your recent letter to Jerry Lieber, I have revised the proposed Settlement Agreement with Joe Wiseman to include the language you suggested for Paragraph 2. In addition, however, I have included the clause "and encumbrances reflected in the said four (4) Deeds" for the reason that there are certain easements, rights of way, etc. which affect the properties. I would appreciate a copy of the title report when the same is received by you so that I can incorporate any other rights of way or easements which may affect the properties.

I have amended Paragraph 5 as you suggested and have added the words "or assignee."

As I indicated by telephone to your secretary, Union Title apparently did a title search on one of the other parcels at file no. J351879. This information may assist you in expeditiously completing your title search.

Please contact me as soon as the title search is completed so that we can finalize this transaction.

Very truly yours,

Bernard Eisen
for BERKMAN RUSLANDER POHL LIEBER & ENGEL

BE/fm
Enclosure
cc: Mr. Joseph Wiseman
Jerome B. Lieber, Esquire

ORIGINAL
(Red)

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
710 FIFTH AVENUE
PITTSBURGH, PA. 15219-3088
(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

October 26, 1982

BresLube Enterprises
P.O. Box 130
Breslau, Ontario, Canada NOB 1MO

Att: Joseph Chalhoub, President

In re: WISEMAN OIL COMPANY, INC.

Dear Mr. Chalhoub:

Enclosed are a draft of an Agreement of Sale for the Wiseman Oil facility and a Loan Agreement between Equibank and BresLube Enterprises. I have designated the purchaser and borrower as BresLube Enterprises but I understand that you intend to form a separate entity for both the purchasing and borrowing. There are a number of standard provisions in these documents which might not apply to your particular situation but I exercised my discretion and inserted provisions I felt were applicable.

I would suggest that you review this with your accountant and lawyer and we then discuss any changes or corrections. We had previously agreed on the basic terms of the transaction and these have been incorporated in the documents; however, we are willing to discuss variations in the method of implementation, if this will accommodate your needs.

(Red)

I have used a closing date of November 30, 1982 with the hope that we can close this transaction earlier than that date but certainly no later.

We look forward to hearing from you.

Very truly yours,

LAMPL, SABLE & MAKOROFF

Robert G. Sable

RGS/gp
Enclosure

cc: William M. Densmore, Vice Pres.
(w/encs.)

BPDR 0005302

REED SMITH SHAW & McCLAY
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

UNION TRUST BUILDING

P. O. BOX 2009

PITTSBURGH, PA. 15230

TWX 710-664-2083
FAX 288-3064
CABLE ADDRESS
REEDSMITH PGH

WRITER'S DIRECT DIAL NUMBER 412-288-3131

WASHINGTON, DC 20036
202-457-6100

PHILADELPHIA, PA 19107
215-875-4300

HARRISBURG, PA 17108
717-234-5988

VERO BEACH, FL 32960
305-231-5500

REED SMITH & CHAPIN
DELRAY BEACH, FL 33444
305-272-1225

288-3222

January 26, 1983

Robert G. Sable, Esquire
Lampl, Sable & Makoroff
710 Fifth Avenue, Suite 3000
Pittsburgh, Pennsylvania 15219

Re: Breslube-Penn, Inc.

Dear Bob:

Enclosed are duplicate originals of an Amendment to the Sales Agreement extending the licensing period for 60 days signed by me as Assistant Secretary.

The DER advises we are a "low priority item" so they have not had time to draft a consent order. Although we do not anticipate any problems, the language in the consent order shall determine whether Breslube can operate for the next year.

Very truly yours,

Kenneth P. Simon

KPS:cao
Enclosures
cc: Joseph Chalhoub

BPDR 0005304

ORIGINAL (Red)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF:	)	
		Bankruptcy No. 81-3367
WISEMAN OIL COMPANY, INC.,	)	Chapter 11
		Judge Cosetti
Debtor	)	

COMES NOW, R. P. ROBOSSON, who has acted in the capacity of a trustee in these proceedings and makes application for an allowance of compensation for his professional services and for his expenses incurred in such capacity in these proceedings and in support of such application, represents and shows:

1. That R. P. Robosson was employed as President of Wiseman Oil Company, Inc. pursuant to the terms of an Employment Agreement dated November 25, 1981, providing for a term of employment of three (3) years commencing on December 1, 1981, at a salary of Seventy Thousand ($70,000.00) Dollars per year, payable in equal monthly installments of Five Thousand Eight Hundred Thirty-three Dollars and Thirty-three Cents ($5,833.33) each, together with the payment of various expenses set forth therein.

2. That a voluntary petition for relief under Chapter 11 of the Bankruptcy Court was filed by the Debtor and an Order for relief under that Chapter was subsequently entered.

3. That the Debtor thereafter continued to do business under the Court-ordered supervision of R. P. Robosson as President and Chief Executive Office of the Debtor.

4. That by Order of Court dated March 11, 1982, the salary payment to R. P. Robosson was reduced to Three Thousand ($3,000.00) Dollars per month in order to help alleviate the Debtor's reduced cash flow.

5. That the reduction of salary payment to R. P. Robosson was based upon the understanding that the difference between the reduced payment and the $5,833.33 payable under the aforesaid Employment Agreement would be subsequently paid to R. P. Robosson as part of Debtor's administrative expenses.

6. That on October 7, 1982, the physical assets of Debtor were taken over by Equibank, one of Debtor's creditors, and R. P. Robosson was forced to leave Debtor's premises.

7. That two checks in the amount of Seven Hundred Fifty ($750.00) Dollars each which had been issued by Debtor to R. P. Robosson were subsequently refused for payment by Equibank.

8. That Equibank has, by its aforedescribed actions, placed R. P. Robosson in a position where he is now unable to carry forward the duties and responsibilities imposed upon him by this Court with regard to the management of the affairs of the Debtor.

9. That R. P. Robosson has not received the Two Thousand Two Hundred Fifty ($2,250.00) Dollars compensation due him for the month of October, 1982, and the Three Thousand ($3,000.00) Dollars compensation due him for the month of November, 1982.

10. That R. P. Robosson has not received the Two Thousand Eight Hundred Thirty-three Dollars and Thirty-three Cents (2,833.33) difference between the contracted amount of Five Thousand Eight Hundred Thirty-three and

BPDR 0005306

Dollars and Thirty-three Cents ($5,833.33) and the Three Thousand ($3,000.00) Dollars paid or to be paid for the months of March, 1982 through November, 1982, providing an arrearage of Twenty-five Thousand Four Hundred Ninety-nine Dollars and Ninety-seven Cents ($25, 499.97).

WHEREFORE, Petitioner prays for the entry of an Order:

a) that Equibank honor the Seven Hundred Fifty ($750.00) Dollar check of October 1, 1982 and the Seven Hundred Fifty ($750.00) Dollar check of October 7, 1982, made payable by the Debtor to R. P. Robosson; and

b) that arrangements be made with Equibank or the Debtor, as the case may be, to pay the Two Thousand Two Hundred Fifty ($2,250.00) Dollars and Three Thousand ($3,000.00) Dollars compensation due to R. P. Robosson for the months of October and November, 1982; and

c) that R. P. Robosson be paid the Twenty-five Thousand Four Hundred Ninety-nine Dollars and Ninety-seven Cents ($25,499.97) owed to him for services rendered to the Debtor; and

d) that appropriate arrangements be made for R. P. Robosson to carry forward the duties and responsibilities of managing the affairs of the Debtor and for payment to him of the salary due for such services; and

e) providing for such other relief as the Court may deem appropriate.

Respectfully submitted,

McCALL, STETS & BERRYMAN

By C. Robert McCall

C. Robert McCall, Esquire

Fort Jackson Building
Waynesburg, PA 15370

(412) 852-1304

ORIGINAL (Red)

A F F I D A V I T

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF GREENE)

Before me, the undersigned authority, a Notary Public in and for said Commonwealth and County, personally appeared R. P. ROBOSSON, who, being duly sworn according to law, deposes and says that the facts contained in the foregoing Application are true and correct to the best of his knowledge, information and belief.

_____
R. P. Robosson

SWORN to and subscribed before me this

_____ day of _____, 1982.

_____
Notary Public

My Commission Expires:

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF:	)	
		Bankruptcy No. 81-3367
WISEMAN OIL COMPANY, INC.,	)	Chapter 11
		Judge Cosetti
Debtor	)	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition was served upon Robert Sable, Esquire, and upon the law firm of Berkman, Ruslander, Pohl, Lieber and Engel, by mailing the same by first class mail, postage prepared, on December 6, 1982, to the following addresses:

Robert Sable, Esquire
Attorney for Equibank
710 Fifth Avenue, Suite 3000
Pittsburgh, PA 15219

B. A. Karlowitz, Esquire
Attorney for Wiseman Oil Company
Berkman, Ruslander, Pohl,
Lieber & Engel
Frick Building
Pittsburgh, PA 15219

McCALL, STETS & BERRYMAN

By C. Robert McCall
C. Robert McCall, Esquire

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
710 FIFTH AVENUE
PITTSBURGH, PA. 15219-3088
(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

RECEIVED
MAR 28 1983
EQUIB
Comm.

March 24, 1983

BERKMAN, RUSLANDER, POHL,
LIEBER & ENGEL
20th Floor - Frick Bldg.
Pittsburgh, PA 15219

Att: Patrick Autrey, Esq.

In re: WISEMAN OIL COMPANY, INC.

Dear Mr. Autrey:

Enclosed are copies of the Objections we have filed to certain claims as well as our Proof of Claim.

Very truly yours,

LAMPL, SABLE & MAKOROFF

Robert G. Sable

RGS/gp
Enclosures

cc: William M. Densmore, Vice President (w/encs.)

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
710 FIFTH AVENUE
PITTSBURGH, PA. 15219-3088
(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

March 25, 1983

Alan H. Perer, Esq.
SWENSEN & PERER
2208 Lawyers Building
Pittsburgh, PA 15219

In re: WISEMAN OIL COMPANY/
CLAIM OF SWENSEN & PERER

Dear Mr. Perer:

Enclosed is a copy of the Objection to the claim of Swensen & Perer we have filed on behalf of Equibank.

Very truly yours,

LAMPL, SABLE & MAKOROFF

Robert G. Sable

Robert G. Sable

RGS/gp
Enclosure

cc: William M. Densmore, Vice Pres. (w/enc.)

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
710 FIFTH AVENUE
PITTSBURGH, PA. 15219-3055
(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE McKEEN
F. SCOTT GRAY

RECEIVED
MAR 28 1983
EQUIBANK
Loan Adj.

March 25, 1983

Michael J. Yurcheshen
309 Smithfield Street
Pittsburgh, PA 15222

In re: WISEMAN OIL COMPANY/
CLAIM OF LAMCO, INC.

Dear Mr. Yurcheshen:

Enclosed is a copy of the Objection to the claim of Lamco, Inc. we have filed on behalf of Equibank.

Very truly yours,

LAMPL, SABLE & MAKOROFF

Robert G. Sable

Robert G. Sable

RGS/gp
Enclosure

cc: William M. Densmore, Vice Pres. (w/enc.)

(Red)

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
710 FIFTH AVENUE
PITTSBURGH, PA. 15219-3088
(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

RECEIVED
MAR 28 1983

March 24, 1983

McCALL, STETS & BERRYMAN
Fort Jackson Building
Waynesburg, PA 15370

Att: C. Robert McCall, Esq.

In re: WISEMAN OIL CO., INC.

Dear Mr McCall:

Enclosed is a copy of the Objections we have filed to the claim of R.P. Robosson.

Very truly yours,

LAMPL, SABLE & MAKOROFF

Robert G. Sable

RGS/gp
Enclosure

cc: Bill Densmore

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF:	)	
	)	
WISEMAN OIL COMPANY, INC.,	)	Bankruptcy No. 81-3367
	)	Chapter 11
Debtor.	)	

OBJECTION OF EQUIBANK TO
CLAIM OF SWENSEN & PERER

AND NOW COMES Equibank, by its attorneys, Lampl, Sable & Makoroff, and objects to the claim of Swensen & Perer for the following reasons:

1. Said claim is junior to the super priority administrative claim of Equibank in the sum Fifty Thousand ($50,000.00) Dollars loaned to the Debtor's estate.

Respectfully submitted,

LAMPL, SABLE & MAKOROFF

BY: Robert G. Sable

Robert G. Sable
710 Fifth Avenue
Suite 3000
Pittsburgh, PA 15219
(412) 471-4996

COUNSEL FOR EQUIBANK

BPDR 0005314

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF:	)	
	)	
WISEMAN OIL COMPANY, INC.,	)	Bankruptcy No. [illegible]-3367
	)	Chapter 11
Debtor.	)	

OBJECTION OF EQUIBANK TO
CLAIM OF LAMCO, INC.

AND NOW COMES Equibank, by its attorneys, Lampl, Sable & Makoroff, and objects to the claim of Lamco, Inc. for the following reasons:

1. Said claim is junior to the super priority administrative claim of Equibank in the sum Fifty Thousand ($50,000.00) Dollars loaned to the Debtor's estate.

Respectfully submitted,

LAMPL, SABLE & MAKOROFF

BY: Robert G. Sable

Robert G. Sable
710 Fifth Avenue
Suite 3000
Pittsburgh, PA 15219
(412) 471-4996

COUNSEL FOR EQUIBANK

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF:	)	
	)	
WISEMAN OIL COMPANY, INC.,	)	Bankruptcy No. 81-3367
	)	Chapter 11
Debtor.	)	

OBJECTION OF EQUIBANK TO
ADMINISTRATIVE CLAIM OF R.P. ROBOSSON

AND NOW COMES Equibank, by its attorneys, Lampl, Sable & Makoroff, and objects to the administrative claim of R.P. Robosson for the following reasons:

1. R.P. Robosson was paid in full for all services rendered to the Debtor's estate.

2. Any contract for services with the Debtor was terminable at will and was limited to compensation for services actually rendered to the Debtor's estate.

3. Equibank had no contract or other liability to R.P. Robosson and is not liable to him for any sum.

4. Any claim of R.P. Robosson is a junior priority to the super priority administrative loan in the sum of Fifty Thousand ($50,000.00) Dollars owing to Equibank.

BPDR 0005316

5. Before any determination is made on administrative claims in this proceeding, the Trustee should be directed to investigate all sums paid to R.P. Robosson for services rendered and expenses and a determination should made if a counterclaim should be filed for the estate against R.P. Robosson.

WHEREFORE, Equibank prays this Honorable Court to dismiss the administrative claim of R.P. Robosson or in the alternative to subordinate it to the claim of Equibank.

Respectfully submitted,

LAMPL, SABLE & MAKOROFF

BY: Robert G. Sable

Robert G. Sable
710 Fifth Avenue
Suite 3000
Pittsburgh, PA 15219
(412) 471-4996

COUNSEL FOR EQUIBANK

BPDR 0005317

(Red)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RECEIVED
MAR 24 1983
EQUIB NK
Crim. L Adj.

In Re:

WISEMAN OIL COMPANY, INC.

Debtor

Case Number 81-3367

NOTICE OF HEARING ON REQUESTED CONVERSION

To All Parties In Interest:

On FEBRUARY 4, 1983 a party in interest filed a request, pursuant to Section 1112(b) of the Bankruptcy Code, to have the above captioned case converted to Chapter 7. A hearing on this request has been scheduled for Courtroom 1603, Federal Building, 1000 Liberty Avenue, Pittsburgh, PA at 2:00 p.m. on MARCH 28, 1983.

Dated: March 23, 1983

THEODORE S. HOPKINS
Clerk, U.S. Bankruptcy Court

By: Marie A. Hayes
Deputy Clerk

IN THE UNITED STATES BANKRUPTCY COURT
F THE WESTERN DISTRICT OF PENNSY ANIA

IN RE:

WISEMAN OIL COMPANY, INC.

Debtor-In-Possession

Bankruptcy No. 81-3367

ORDER AND NOTICE OF HEARING ON FEE APPLICATIONS, CONVERSION OF THE CASE AND OTHER MATTERS

WHEREAS, the Committee of Unsecured Creditors has filed an application to convert the case to one under Chapter 7, the liquidation provisions of the Bankruptcy Code; and

WHEREAS, a hearing has been scheduled for March 28, 1983, at 2:00 p.m. on the application to convert the case; and

WHEREAS, the following parties have filed applications for the fees and administrative expenses indicated:

Applicants	Fees	Expenses
R. P. Robosson President of the debtor	$25,499.97 (plus added arrearages)	$
Swensen & Perer Attorneys for the debtor	$ 282.00	$
Lamco, Inc. Lessor	$20,700.00	$
	$	$
	$	$

Bill, are we going to be represented at this hearing or do we need to be?

IT IS HEREBY ORDERED and notice is hereby given that the hearing on the fee application of R. P. Robosson first scheduled for March 11, 1983 at 10:00 a.m. is cancelled, and all fee applicants named above are directed to appear in Room 1603 of the Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222-4196 on March 28, 1983 at 2:00 p.m., for a hearing on their applications.

Any other applicants for interim or final administrative expenses, such as attorney fees, should file their applications prior to the above date. NOTICE IS ALSO GIVEN that administrative expense applications filed prior to the above date may be heard at the aforesaid place and time. Any party in interest who objects to the fee applications will have an opportunity to be heard at the aforesaid place and time.

DATED: March 2, 1983

BY THE COURT

Joseph L. Cosetti
U.S. Bankruptcy Judge

1602 Federal Building
1000 Liberty Avenue
Pittsburgh, Pa. 15222-4196
(412) 644-2700

IN THE UNITED STATES BANKRUPTCY COURT
THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	)	
	)	
	)	
WISEMAN OIL COMPANY, INC.	)	Bankruptcy No. 81-3367
	)	
Debtor-In-Possession	)	

ORDER AND NOTICE OF HEARING
ON FEE APPLICATIONS, CONVERSION OF THE CASE AND OTHER MATTERS

WHEREAS, the Committee of Unsecured Creditors has filed an application to convert the case to one under Chapter 7, the liquidation provisions of the Bankruptcy Code; and

WHEREAS, a hearing has been scheduled for March 28, 1983, at 2:00 p.m. on the application to convert the case; and

WHEREAS, the following parties have filed applications for the fees and administrative expenses indicated:

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Swensen & Perer Attorneys for the debtor	$ 282.00	$
Lamco, Inc. Lessor	$20,700.00	$
	$	$
	$	$

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Any other applicants for interim or final administrative expenses, such as attorney fees, should file their applications prior to the above date. NOTICE IS ALSO GIVEN that administrative expense applications filed prior to the above date may be heard at the aforesaid place and time. Any party in interest who objects to the fee applications will have an opportunity to be heard at the aforesaid place and time.

DATED: March 2, 1983

BY THE COURT

Joseph L. Cosetti
U.S. Bankruptcy Judge

1602 Federal Building
1000 Liberty Avenue
Pittsburgh, Pa. 15222-4196
(412) 644-2700

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

w p

ORIGIN
(Red)

IN RE:

WISEMAN OIL COMPANY, INC.

Debtor (s)

Case No. 81-3367

Chapter 11

ORDER FIXING DATE OF HEARING ON FEE APPLICATION(S)
COMBINED WITH NOTICE THEREOF

To All Parties In Interest:

IT IS HEREBY ORDERED AND DIRECTED that a hearing on the fee application(s) listed below shall be heard in Courtroom 1603-05, Federal Building., 1000 Liberty Avenue., Pittsburgh, PA 15222-4196, on MARCH 11, 19 83, at 10:00 a.m.

Applicants	Fees	Expenses
R.P. Robosson	$ 25,499,97	$
	$	$
	$	$

DATED: February 15, 1983

BY THE COURT

Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR WESTERN DISTRICT OF PENNSYLVA

RECEIVED
FEB 11 1983
EQUIBANK
Comm. Loan Adm.

IN RE:

WISEMAN OIL COMPANY, INC.

Debtor(s)

Case No. 81-3367

Chapter 11

ORDER FIXING DEADLINE FOR FILING OF OBJECTIONS
TO FEE APPLICATION(S) COMBINED WITH NOTICE THEREOF

To All Parties in Interest:

The following application(s) for compensation has been filed and may be reviewed at the Clerk's Office, U.S. Bankruptcy Court, 1601 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222-4196.

Applicant	Fees	Expenses
R. P. Robosson	$ 25,499.97	$
	$	$
	$	$

IT IS HEREBY ORDERED AND DIRECTED that MARCH 2, 1983, is fixed as the last day for the filing of objections to the above referenced application(s) for fees and expenses.

Should you file an objection, the objection should specifically state the nature of the complaint. If you file an objection, you are expected to be present at the scheduled hearing.

If no objection is timely filed and no hearing is scheduled, the court may issue orders approving the applications for compensation. However, in an appropriate case the court may schedule a hearing on its own motion to review compensation applications.

Dated: February 9, 1983

BY THE COURT

Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	)	
	)	
WISEMAN OIL COMPANY, INC.	)	Bankruptcy No. 81-3367
	)	
Debtor	)	

NOTICE OF APPLICATION TO
DIRECT TRUSTEE TO ABANDON PROPERTY

Notice is hereby given that:

1. Mack Trucks, Inc., Applicant, has requested that Court to direct the Trustee to abandon certain property, to-wit:

One (1) 1970 Mack tractor truck, vehicle ID No. E MB 410P1347;

One (1) 1969 Mack tractor truck, vehicle ID No. B MB 410P1328;

2. It has been alleged that this property has a present market value not exceeding $550.00, being encumbered to Mack Trucks, Inc., for $12,384.00, plus interest.

3. It has also been alleged that this property has no value for the estate. Said abandonment will take place 15 days from the date of this notice, unless a written request for a heraing is filed with the Court.

Notice is further given that the entry of an Order for Abandonment will operate as a Relief From Stay with regard to this property.

Dated May 23, 1983

Theodore S. Hopkins
Clerk, U.S. Bankruptcy Court

By: Donna Williams
Deputy Clerk

James M. Burton

Attorney For Applicant
Rosenzweig & Burton
1603 Law & Finance Building
Pittsburgh, PA 15219
(412) 281-6504

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WD ORIGINAL (Red)

IN RE:	)	
	)	
WISEMAN OIL COMPANY, INC.	)	Bankruptcy No. 81-3367
	)	
Debtor	)	

NOTICE OF APPLICATION TO
DIRECT TRUSTEE TO ABANDON PROPERTY

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Notice is further given that the entry of an Order for Abandonment will operate as a Relief From Stay with regard to this property.

Dated May 23, 1983

By: Donna [illegible]
Deputy Clerk

Theodore S. Hopkins
Clerk, U.S. Bankruptcy Court

James M. Burton

Attorney For Applicant
Rosenzweig & Burton
1603 Law & Finance Building
Pittsburgh, PA 15219
(412) 281-6504

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RECEIVED
MAY 25 1983
EQUIBANK
Comm. Loan Adj.

IN RE:	)	
	)	
WISEMAN OIL COMPANY, INC.	)	Bankruptcy No. 81-03367
	)	
Debtor	)	

NOTICE OF APPLICATION TO
DIRECT TRUSTEE TO ABANDON PROPERTY

Notice is hereby given that:

1. Mack Trucks, Inc., Applicant, has requested that Court to direct the Trustee to abandon certain property, to-wit:

One (1) 1970 Mack tractor truck, vehicle ID No. E MB 410P1347;

One (1) 1969 Mack tractor truck, vehicle ID No. B MB 410P1328;

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3. It has also been alleged that this property has no value for the estate. Said abandonment will take place 15 days from the date of this notice, unless a written request for a heraing is filed with the Court.

Notice is further given that the entry of an Order for Abandonment will operate as a Relief From Stay with regard to this property.

Dated May 23, 1983

Theodore S. Hopkins
Clerk, U.S. Bankruptcy Court

By: Donna Williams
Deputy Clerk

James M. Burton

Attorney For Applicant
Rosenzweig & Burton
1603 Law & Finance Building
Pittsburgh, PA 15219
(412) 281-6504

INCUMBENCY CERTIFICATE

I, MAUREEN POTVIN, Secretary, duly appointed of SPEEDY OIL SERVICES, INC., do hereby certify that attached hereto as Schedule A is a true and correct copy of a certain resolution adopted by the sole director, JOSEPH CHALHOUB, at a meeting on May 25, 1984, and that such resolution has not or is in anyway been restricted, annulled, or revoked, but is still in full force and effect.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of the Corporation.

Maureen Potvin

Maureen Potvin

Equibank
RESOLUTIONS OF BOARD OF DIRECTORS

I, the undersigned, do hereby certify that at a duly and legally called meeting of the Board of Directors of

_____

a corporation duly organized and existing under the laws of the State of _____.

held on _____, 19__ a quorum being present, the following resolutions were adopted and are now in full force and effect:

RESOLVED, That the Equibank, be and hereby is designated a depository for the funds of this corporation and that the Officers, Agents, and Employees of this corporation hereby are authorized to deposit (by written, oral or telephonic authorizations) any of the funds of this corporation in the Equibank.

RESOLVED FURTHER, That the Equibank, is hereby authorized and directed to honor and pay, and to charge to the account(s) of this corporation, all checks, drafts, bills of exchange, acceptance notes, or other written or telephonic or other oral orders for the payment of money, when drawn on or addressed to Equibank and, if in writing, signed and or countersigned, on behalf of this corporation, by any _____ (_____) of the following Officers or Designated Agents of this corporation, (indicate title only):

_____

_____

_____

whether same be payable to the order of, or in favor of the officer or person signing, countersigning or otherwise ordering them, or to any said officers or persons in his individual capacity, or otherwise, and whether same, if in writing, bear or proport to bear, on behalf of this corporation, the facsimile signature(s), regardless of by whom or by what means, whether by stamp, mechanical or other mechanical device, the actual or proported facsimile signature(s) thereon may have been affixed thereto, if such signature(s) resembles the facsimile specimens, and whether same be deposited to the individual credit of the officer or person signing, countersigning or otherwise ordering or to the individual credit of any of the other officers or persons, or otherwise.

RESOLVED FURTHER, That any _____ (_____) of the following Officers or Designated Agents of this corporation, (indicate title only):

_____

_____

_____

be and hereby are authorized and directed, for and on behalf and in the name of this corporation, from time to time to borrow money from the Equibank and to make, execute and deliver the promissory notes or other obligations of this corporation [illegible]

Equibank Federal Tax ID # 25-1426358

RESOLUTIONS OF BOARD OF DIRECTORS

Re: Payroll a/c 375-679-142

I, the undersigned, do hereby certify that at a duly and legally called meeting of the Board of Directors of

BRESLUBE-PENN INC.

a corporation duly organized and existing under the laws of the State of Pennsylvania,

held on _____, 19 _____, a quorum being present, the following resolutions were adopted and are now in full force and effect:

RESOLVED, That Equibank, be and hereby is designated a depository for the funds of this corporation and that the Officers, Agents, and Employees of this corporation hereby are authorized to deposit (by written, oral or telephonic authorizations) any of the funds of this corporation in Equibank.

RESOLVED FURTHER, That Equibank, is hereby authorized and directed to honor and pay, and to charge to the account(s) of this corporation, all checks, drafts, bills of exchange, acceptance notes, or other written or telephonic or other oral orders for the payment of money, when drawn on or addressed to Equibank and, if in writing, signed and/or countersigned, on behalf of this corporation, by any one (1) of the following Officers or Designated Agents of this corporation, (indicate title only):

President

Vice-President) or Vice President and Secretary-Treasurer together
)
Secretary-Treasurer)

whether same be payable to the order of, or in favor of the officer or person signing, countersigning or otherwise ordering them, or to any said officers or persons in his individual capacity, or otherwise, and whether same, if in writing, bear or proport to bear, on behalf of this corporation, the facsimile signature(s), regardless of by whom or by what means, whether by stamp, mechanical or other mechanical device, the actual or proported facsimile signature(s) thereon may have been affixed thereto, without further inquiry as to the manner of presentment and/or quality of signature, if such signature(s) resembles the facsimile specimens, and whether same be deposited to the individual credit of the officer or person signing, countersigning or otherwise ordering or to the individual credit of any of the other officers or persons, or otherwise.

RESOLVED FURTHER, That any One (1) of the following Officers or Designated Agents of this corporation, (indicate title only):

PRESIDENT

be and hereby are authorized and directed, for and on behalf and in the name of this corporation, from time to time to borrow money from Equibank and to make, execute and deliver the promissory notes or other obligations of this corporation as evidence thereof; and/or to sell or discount its bills

ORIGINAL
(Red)

BresLube Penn Inc.
84 Montour Rd.
Coraopolis, PA 15108
(payroll) 375-679-142

CORPORATION

DATE _____

OPENED BY _____

To Equibank

You are authorized to recognize any (*) of the signatures subscribed below in the payment of funds or the transaction of any business for this account. It is agreed that all transactions between you and the undersigned shall be governed by the contract printed on the reverse side of this card.

(* Indicate Number of Signatures Required) BY _____ A.B.A. Approved Contract

PRESIDENT

VICE-PRESIDENT

SECRETARY

TREASURER

30-038 (4-80)

BresLube Penn Inc.
84 Montour Rd.
Coraopolis, PA 15108
(payroll) 375-679-142

CORPORATION

DATE _____

OPENED BY _____

To Equibank

You are authorized to recognize any (*) of the signatures subscribed below in the payment of funds or the transaction of any business for this account. It is agreed that all transactions between you and the undersigned shall be governed by the contract printed on the reverse side of this card.

(* Indicate Number of Signatures Required) BY _____ A.B.A. Approved Contract

PRESIDENT

VICE-PRESIDENT

SECRETARY

TREASURER

30-038 (4-80)

I, the undersigned, do hereby certify that I am [illegible]

BRESLUBE-PENN, INC.

a corporation duly organized and existing under the laws of the State of Pennsylvania

held on _____, 19 _____, a quorum being present, the following resolutions were adopted and are now in full force and effect:

RESOLVED, That Equibank, be and hereby is designated a depository for the funds of this corporation and that the Officers, Agents, and Employees of this corporation hereby are authorized to deposit (by written, oral or telephonic authorizations) any of the funds of this corporation in Equibank.

RESOLVED FURTHER, That Equibank, is hereby authorized and directed to honor and pay, and to charge to the account(s) of this corporation, all checks, drafts, bills of exchange, acceptance notes, or other written or telephonic or other oral orders for the payment of money, when drawn on or addressed to Equibank and, if in writing, signed and/or countersigned, on behalf of this corporation, by any One (1) of the following Officers or Designated Agents of this corporation, (indicate title only):

President alone

or any two of : Vice President Supply and Marketing
Vice President Operations
General Manager Supply
Secretary-Treasurer

whether same be payable to the order of, or in favor of the officer or person signing, countersigning or otherwise ordering them, or to any said officers or persons in his individual capacity, or otherwise, and whether same, if in writing, bear or proport to bear, on behalf of this corporation, the facsimile signature(s), regardless of by whom or by what means, whether by stamp, mechanical or other mechanical device, the actual or proported facsimile signature(s) thereon may have been affixed thereto, without further inquiry as to the manner of presentment and/or quality of signature, if such signature(s) resembles the facsimile specimens, and whether same be deposited to the individual credit of the officer or person signing, countersigning or otherwise ordering or to the individual credit of any of the other officers or persons, or otherwise.

RESOLVED FURTHER, That any One (1) of the following Officers or Designated Agents of this corporation, (indicate title only):

President

be and hereby are authorized and directed, for and on behalf and in the name of this corporation, from time to time to borrow money from Equibank and to make, execute and deliver the promissory notes or other obligations of this corporation as evidence thereof; and/or to sell or discount its bills receivable; and/or to pledge its receivables, stocks, bonds or other securities or property to Equibank as collateral security for the payment of any of its indebtedness thereto; PROVIDED, however, that any one of the said Officers or Designated

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
710 FIFTH AVENUE
PITTSBURGH, PA. 15219-3088
(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

RECEIVED
MAY 1 7 1984
EQUIBANK
Comm. Loan Adj.

ORIGINAL
(Red)

May 16, 1984

BRESLUBE ENTERPRISES
Rural Route 17
Breslau, Ontario, Canada NOB 1 MO

VIA PUROLATOR

Att: Joseph Chalhoub, President

In Re: LOAN WITH EQUIBANK

Dear Mr. Chalhoub:

Enclosed are redrafts of the Loan Agreement, Judgment Note and Agreement of Guaranty and Suretyship.

I believe I have clarified all the points we discussed with the exception of the collateral pledged to other institutions. I will attempt to clarify this with Harry Myers and once that is done, I will make a direct reference to it in the Loan Agreement.

These documents have not been reviewed by Bill Densmore but I believe they will be satisfactory to all parties.

I look forward to a closing on this matter on May 21, 1984.

Very truly yours,

LAMPL, SABLE & MAKOROFF

Robert G. Sable

RGS/gp
Enclosures

cc: William M. Densmore, Vice Pres./Equibank (w/encs.)

October 15, 1984

"Bill of Sale"

Storage tanks located on leased land described in lease dated August 24, 1984 between Virgil Williams, Jr. of Medina, Ohio and Speedy Oil Service, Inc., P.O. Box 130, Breslau, Ontario, Canada.

Said Tanks Sold As Is

2 - 18,000 Gallon Vertical Tanks
1 - 15,000 Gallon Horizontal Tank
1 - 12,000 Gallon Horizontal Tank
1 - 20,000 Gallon Horizontal Tank

Total Due $ 8,300.00

Date 10-16-84 Total Received 8,900.00

Check Number 0028 Check INCLUDES OCTOBER 1984 RENT OF $600.00

Signed By [signature]

STATE OF OHIO, MEDINA COUNTY SS:

BEFORE ME, a notary public in and for said county and state, personally appeared the above named VIRGIL WILLIAMS who acknowledged that he did sign the foregoing Bill of Sale and that the same is his free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and offical seal at Medina, Ohio this 16th day of October, 1984.

Jean E. Bixby

JEAN E. BIXBY, Notary Public
Medina County, Ohio
My Commission Expires 11-15-84

George Rollis

THIS INDENTURE OF LEASE

Made at Medina, Ohio this 24th day of August, 1984, by and between VIRGIL WILLIAMS, JR., of the City of Medina, County of Medina and State of Ohio, LESSOR, and SPEEDY OIL SERVICES, INC. of 141 Milton Street, Buffalo, New York 14210, and P. O. Box 130, Breslau, Ontario, Canada, NOB 1MO, LESSEE,

WITNESSETH, that the Lessor hath let and leased and hereby doth let and lease unto the Lessee the messuage or tenement situated in the City of Medina, State of Ohio, known and described as follows:

> The Northeast part of a .632 acre parcel known as 755 Lafayette Road; said leased premises consists of a 150 x 50 foot parcel, vacant other than for storage tanks; said tanks being purchased by Lessee for the sum of $8,300.00 and title conveyed by Bill-of-Sale; said lease shall also include the right of ingress and egress over Lessor's land onto Lafayette Road, City of Medina.

TO HAVE AND TO HOLD the same for the term of two (2) years commencing on the 1st day of September, 1984, and ending on the 31st day of August, 1986, upon the terms and conditions herein mentioned.

Said second party doth hereby agree to pay the sum of Seven Thousand Two Hundred Dollars ($7,200.00) rent per year during the continuance of this lease, which rent is to be paid by the second party in consecutive monthly installments of $600.00 each, payable on the 1st day of each month, in advance, from the commencement of the term of this lease.

Lessee shall have the right and option to extend said rental for an additional three (3) years. Said Lessee shall, within thirty (30) days of the termination of said lease, notify the Lessor in writing of the exercise of said option to extend said lease.

At such time as the lease terminates, Lessee shall have a reasonable time, said time not to exceed twelve (12) additional months, in which to dismantle the plant and remove

BPDR 0005333

the tanks. Lessee does agree to pay the $600.00 per month rental during any such dismantling period.

The Lessee has represented to Lessor that the purpose of said lease is for storage and transfer of used oils only, and that no toxic wastes will be collected or stored on said site. A copy of letter of Lessee, dated August 9, 1984, is attached hereto and made a part hereof, marked Exhibit A.

Lessee will and does agree to indemnify Lessor from any suit, loss or judgment arising from Lessee's operation on the premises and does agree to keep and maintain during the operation of said lease public liability insurance on said premises in an amount of not less than $500,000.00 insuring the Lessor and Lessee from any suit or judgment arising from Lessee's operation of the premises.

In case of any question of law arising, the law of the State of Ohio shall apply.

AND IT IS MUTUALLY COVENANTED AND AGREED, by and between the parties hereto, that the aforesaid demised premises shall be used and occupied in a careful, safe and proper manner by the said Lessee; that all fires therein to be kept shall be safely secured, kept and conducted; that the premises aforesaid, or any part thereof, shall not be underlet, nor shall this lease be assigned by the Lessee without the consent, in writing, of the Lessor, under pain of forfeiting the residue of the term hereby granted, at the election of the Lessor.

That the Lessee will deliver up and surrender to the Lessor, or to the heirs, executors, administrators or assigns of said Lessor, the possession of the premises hereby leased, at the expiration of the term aforesaid, in as good condition and repair as the same shall be in at the commencement of said term, the natural wear and decay, and the destruction or damage by the elements or electricity, or by any act of God, or by means of invasion, insurrection, riot or civil commotion, or of any military or usurped power, only excepted.

That if the rent aforesaid shall at any time be in arrear and unpaid, the Lessor may avoid this lease and enter into possession of the demised premises; and sue for and recover all the rent due, at the rate aforesaid, up to the time of such entry; every demand for rent, made after it falls due, shall have the same effect in law as if made on the day and at the time it falls due, any law of the land to the contrary notwithstanding.

That if any waste be committed upon or unnecessary damage be done to the demised premises, the Lessor may, for that cause, enter upon the same and avoid this lease, and bring his action for such waste or damage; or he may bring his action and recover for such damage, without avoiding this lease, at his election.

BPDR 0005334

That the Lessor will, and the heirs, executors, administrators or assigns of said Lessor, shall warrant and defend the Lessee in the enjoyment and peaceable possession of the above demised premises, during the term aforesaid, if the Lessee shall perform all and singular the covenants herein agreed to be performed on the part of the Lessee.

IN WITNESS WHEREOF, the parties to this lease set their hands to duplicates hereof, the day and year first above written.

SIGNED AND ACKNOWLEDGED
IN THE PRESENCE OF:

Nancy J. Barry
Kathleen Humphrey
George L. Pires

LESSOR

Virgil Williams, Jr.
Virgil Williams, Jr.

LESSEE

SPEEDY OIL SERVICES, INC.
By

STATE OF OHIO, MEDINA COUNTY SS:

BEFORE ME, a Notary Public in and for said county, personally appeared the above named VIRGIL WILLIAMS, JR., the Lessor herein, who acknowledged 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 Medina, Ohio, this 16th day of August, 1984.

Jean E. Bixby
Notary Public

Province of Ontario Regional Municipality of Waterloo
~~STATE OF NEW YORK, COUNTY OF~~ SS:

BEFORE ME, a Notary Public in and for said ~~County~~ Province of, personally appeared the above named SPEEDY OIL SERVICES, INC. by Joseph Chalhoub, its president, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of said corporation ~~and~~ the free act and deed of him personally and as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and offical seal, at Kitchener, this 10th day of ~~August~~ October, 1984.

Notary Public

JEAN E. BIXBY, Notary Public
Medina County, Ohio
My Commission Expires 11-15-84

BPDR 0005335

BPDR 0005336

THIRD AMENDMENT TO
AGREEMENT OF SALE
DATED DECEMBER 1, 1982

Amendment made this _____ day of _____, 1983, by and between EQUIBANK, a Pennsylvania corporation, with its principal place of business at Two Oliver Plaza, City of Pittsburgh, County of Allegheny and Commonwealth of Pennsylvania, hereinafter referred to as "Equibank",

A
N
D

BRESLUBE-PENN, INC., a Pennsylvania corporation with its principal place of business in Coraopolis, Pennsylvania, or its nominee or assignee, hereinafter referred to as "BresLube".

WHEREAS, the parties executed a Sales Agreement on December 1, 1982 under which Equibank sold and delivered to BresLube certain assets formerly owned by Wiseman Oil Company; and

WHEREAS, said Agreement of Sale was amended on January 26, 1983 and March 30, 1983; and

WHEREAS, pursuant to Paragraph Second (d) and Fourth of said Agreement of Sale, the parties had certain obligations regarding the sale and condition of certain assets including but not limited to, materials in the storage tanks at the property being sold; and

WHEREAS, the parties have been cooperating in regard to their respective committments under said Paragraph Second (d) and have now agreed that their duties thereunder have been fulfilled as hereinafter set forth.

NOW THEREFORE, the parties hereto, with the intent to be legally bound hereby, do by these presents, agree as follows:

1. The foregoing preamble is incorporated herein by reference.

2. The parties acknowledge that they have evaluated the condition of the contents in the tanks at the premises and have agreed that upon execution hereof:

(A) Equibank will pay to BresLube the sum of Nineteen Thousand Three Hundred and Sixteen Dollars and Seventy One Cents ($19,316.71), the receipt of which is hereby acknowledged.

(B) The obligation of BresLube to pay Ten Thousand Dollars ($10,000.00) under Paragraph Fifth (a)(ii) is hereby forgiven.

3. BresLube acknowledges that in consideration of the payment hereunder and forgiveness of debt hereunder, Equibank is hereby discharged and released from any further liability under Paragraphs Second and Fourth of the Agreement of Sale regarding purchase or conditions of assets and that neither BresLube nor its assignees will have any further claim against Equibank under those paragraphs or for any reson regarding the condition of the assets being sold.

BPDR 0005338

4. Except as specifically modified hereunder and by prior amendments, the Agreement of Sale dated December 1, 1982 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this instrument to be signed as of the day and date above written

ATTEST:

EQUIBANK

_____

BY:_____
William M. Densmore,
Vice President

BRESLUBE-PENN, INC.

_____

BY:_____
Joseph Chalhoub

BPDR 0005339

CERTIFICATE

The undersigned hereby certifies on behalf of BRESLUBE ENTERPRISES, a limited partnership, pursuant to the laws of the Province of Ontario, (the "Partnership") that there are no provisions in the Partnership Agreement or amendments thereto or in the Limited Partnership Act which restrict, limit, or regulate in any way the powers of the Partnership to borrow money upon the credit of the Partnership or to issue, reissue, sell or pledge debt obligations of the Partnership, or to mortgagee, hypothecate, pledge or otherwise create a security interest in all or any property of the Partnership, present or future, to secure any obligations of the Partnership and save pursuant to the Partnership Agreement and the general partner, Breslube Industries Limited, is fully authorized to execute all documents and do all things necessary on behalf of the Partnership.

I hereby undertake to notify you of any changes in our Partnership Agreement, of which you hold a copy, and of any change respecting the authority of our directors, officers or employees to sign on our behalf.

The certificate shall remain in force and be binding upon the Partnership and may be acted upon by Equibank with which any dealings are had by the Partnership until notice to the contrary or if any change therein has been given in writing to the President, Joseph Chalhoub.

DATED this _____ day of _____, 1984.

BY:_____
President

BPDR 0005341

CERTIFICATE

The undersigned hereby certify on behalf of SPEEDY OIL SERVICES, INC. ("the Corporation") that there are no provisions in the Articles of Incorporation or the By-Laws of the Corporation or in any unanimous Shareholder Agreement which restrict, limit, or regulate in any way the powers of the Corporation to borrow money upon the credit of the Corporation or to issue, reissue, sell or pledge debt obligations of the Corporation, or to mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the Corporation, present or future, to secure any obligations of the Corporation.

We hereby undertake to notify you of any changes in our Articles of Incorporation, By-Laws or Resolutions of which you hold copies and of any changes respecting the authority of our directors, officers or employess to sign on our behalf.

This Certificate shall remain in force and be binding upon the Corporation and may be acted upon by Equibank with which any dealings are had by the Corporation until notice to the contrary or if any change therein has been given in writing to the President, Joseph Chalhoub, the Vice-President, James Cavill, and the Secretary, Maureen Potvin.

DATED this _____ day of _____, 1984.

BY: _____
President

BY: _____
Secretary

BPDR 0005343

Subject: Plant Inventory --- Oct. 31, 1982

	Gross Gallons	BS&W	Net Gallons
Tank 49	Empty	—	—
50	Empty	—	—
51	983	30%	688
52	1602	35%	1041
53	Empty	—	—
54	Empty	—	—
55	10,225	95%	511
Tank 18	19,872	100%	0
19	4,320	40%	2592
20	2,592	40%	1555
Tank 101	94,602	96%	3784
102	98,450	98%	1969
103	100,000	95%	5000
104	85,000	97%	2550
Tank 100	376,640	82%	67,795
Tank 105	52,500	80%	10,500
106	12,500	60%	5,000
107	43,350	78%	9,537
108	10,000	63%	3700

Boiler Fuel 3996 Net Gals.

BPDR 0005344

Inventory (Cont.)

Total Gross Gallons	912,636
Total Net Gallons Oil	116,222

Chemical Inventory

Nalco 7795	882 Gals
Arco 1310	210 Gals
Jergitol	235 Gals
MAP	15 Bags
Oxalic Acid	5 Bags

Boiler Chemicals

Nalco 8243	220 lbs
780	None
7105	55 Gals
7340	150 lbs
7350	40 Gals
Soda Ash	500 lbs

Lube Process Chemicals

Precoat	1750 lbs
Cellulose	300 lbs
Refinex	440 bags
Filtrol	22,634 lbs
Sulfuric Acid	2300 Gals

Schneider
Consulting Engineers

98 Vanadium Road
Bridgeville
Pennsylvania 15017

Telephone
(412) 563-6100

JAN 17 1983
EQUIBANK
Comm. Loan Adj.

January 17, 1983

Mr. Bill Densmore
Equibank
Two Oliver Plaza
Pittsburgh, Pennsylvania 15222

Dear Bill:

Inventory and Review of Wastes at the
Former Wiseman Waste Oil Reprocessing Facility

As a follow-up to our meeting of January 14, 1983, please find attached two copies of a report summarizing our work/conclusions relative to the above-captioned investigation. If you have any questions/comments please call.

Very truly yours,

SCHNEIDER CONSULTING ENGINEERS

Jeffrey L. Pierce, P.E.
Manager of Projects
Environmental/Process Engineering

JLP/lml

BPDR 0005346

APPENDIX C

MAJOR TANKS

NUMBER	DIAMETER (feet)	HEIGHT/LENGTH (feet)	CAPACITY (Gallons)	SERVICE	CONTAINMENT
16	12	15	12,700	oil	SPCC
18	12	28	23,600	oil	SPCC
19	12	28	23,600	oil	SPCC
20	12	28	23,600	oil	SPCC
24	15	15	19,750	bottom fuel	SPCC
T207(31)	10	30	17,600	light ends	Buried
49	10	24	14,000	oil/water	SPCC
50	10	24	14,000	oil/water	SPCC
51	10	24	14,000	oil/water	SPCC
52	10	30	17,600	oil/water	SPCC
53	10	24	14,000	oil/water	SPCC
54	10	30	17,600	oil/water	SPCC
55	10	30	17,600	oil/water	SPCC
T202(59)	11	24	17,000	oil	SPCC
100	54	25	428,000	oil/water	Dike
101	30	20	100,000	water	Dike
102	30	20	100,000	water	Dike
103	30	20	100,000	water	Dike
104	30	20	100,000	water	Dike
105	30	22	110,000	oil/water	Dike
106	30	22	110,000	oil/water	Dike
107	30	22	110,000	oil/water	Dike
108	30	22	110,000	oil/water	Dike
109	35	30	220,000	oil/water	Dike

*Currently the yard and separators serve as a spill containment basin. However, this requires manual closure of the discharge valve.

BPDR 0005347

TRUCK No.	MODEL & YEAR	SERIAL NUMBER	EQUIBANK LIEN	ROAD CONDITION	SHOULD BE COVERED BY INSURANCE
02	76 MACK w/4000 GAL. VAC BODY	MB68564767	YES	GOOD	✓
07	76 MACK w/4000 GAL. VAC BODY	R686ST11621	NO	GOOD	✓
08	77 MACK w/3000 GAL. TANK	MB487P3402	YES	NEEDS WORK ≈ $2000	★
09	77 MACK w/3000 GAL. TANK	MB487P3403	YES	GOOD NEEDS WATER PUMP	✓
013	74 FORD w/3500 GAL VAC BODY	J88JVT08088	YES	PLANT VEHICLE	✓
012	69 INTERNATIONAL WITH 1500 gal TANK	416070H943356	YES	FAIR	★
011	72 WHITE WITH 4000 gal TANK	BB037HA756279	YES	POOR	★
TR2	76 MACK TRACTOR	RS686LST40753	YES	GOOD	✓
TR6	77 MACK TRACTOR	R686ST12445	YES	GOOD	✓
015	74 MACK w/3000 gal TANK	ME487P2138	NO	FAIR	✓
TR1	74 MACK TRACTOR	R685ST40753	NO	POOR	
OT3	68 FRUEHAUF TANK TRAILER	UNK329003	YES	GOOD	✓
OT6	65 TRAILMOBILE TANK TRAILER	F11T4DBH850220	YES	FAIR	★
OT7	66 TRAILMOBILE TANK TRAILER	F11T4DB450320	YES	FAIR	★
OT8	69 HEIL TANKER	970700	YES	GOOD	★

BPOR 000348

FLOC

TRUCK NO.	MODEL & YEAR	SERIAL NUMBER	EQUIBANK LIEN	ROAD CONDITION	SHOULD BE COVERED BY INSURANCE	
OT9	69 HEIL TANK TRAILER	920701	YES	GOOD	✓	
OT10	69 HEIL TANK TRAILER	920702	YES	GOOD		★
	1977 GMC PICK-UP TRUCK	TKL2471515675	YES	JUNK		★
	1980 CHEVROLET PICK-UP TRUCK	CKL24A157524		AVERAGE	✓	

NOTE : ★ DENOTES THAT THESE VEHICLES MUST BE COVERED BY INSURANCE BECAUSE OF EQUIBANK LIENS.

ORIGINAL (Red)

SUBJECT : PLANT INVENTORY OCT. 6, 1982

			Gross Gallons	BS&W	Net Gallons
Tank	49	Empty			
	50				
	51	14" Full	983	30%	688
	52	24" Full	2602	35%	1691
	53	Empty			
	54				
	55	12" From Top	10,225	95%	511
Tank	18	23' Full	19,872	100%	0
	19	5' Full	4,320	40%	2592
	20	3' Full	2,592	40%	1555
Tank	101	16' Full	84,524	95%	4227
	102	12' Full	63,408	98%	1268
	103	19' Full	100,396	100%	0
	104	3' Full	89,828	98%	1796
	105	10'6" Full	52,500	80%	10,500
	106	2'6" Full	12,500	60%	5,000
	107	8'8" Full	43,350	78%	9,537
	108	2' Full	10,000	63%	3,700
Tank	100	22' Full	376,640	82%	67,795

Boiler Fuel

Tank 24 3' Full 3996 Net Gals.

Total Gross Gals. 873740

Total Oil Gals. 110860

(Red)

CHEMICAL INVENTORY

NALCO	7795	882 GALS.
ARCO	1310	210 GALS.
TERGITOL		235 GALS
MAP		15 BAGS
OXALIC ACID		5 BAGS

WATER TREATMENT CHEMICALS

AQUAFLOC	401	38 DRUMS
AQUAFLOC	411	330 GALS.
DEARBORN	1880	40 GALS.
KA 120		30 GALS.

BOILER CHEMICALS

NALCO	8243	220 LBS.
NALCO	780	NONE
NALCO	71D5	55 GALS.
NALCO	7340	150 LBS.
NALCO	7350	40 GALS.
SODA ASH		500 LBS.

LUBE PROCESS CHEMICALS

PRECCAT	1750 LBS.	
CELLULOSE	300 LBS.	
REFINEX	440 BAGS	50 LBS. BAG
FILTROL	22,634 LBS.	
SULFURIC ACID	2300 GALS	

Consulting Engineers
98 Vanadium Road
Bridgeville
Pennsylvania 15017
Telephone
(412) [illegible]

RECEIVED
DEC 1 4 1982
EQUIBANK
Comm. Loan Adj.

December 13, 1982

Mr. Bill Densmore
Equibank
Two Oliver Plaza
Pittsburgh, Pennsylvania 15222

Dear Mr. Densmore:

Inventory and Review of Wastes at the
Former Wiseman Waste Oil Reprocessing Facility

During our phone conversation last week, you requested that we provide a written scope of work and a budget for the above captioned project. The purpose of this letter is to respond to your request.

Based on your description of your requirements we see the project as being undertaken in four steps:

Step 1: Plant Inspection - SCE's staff will conduct a walk-through inspection of the facility, interview on-site personnel and review any pertinent file information that may be available. The purpose of this inspection will be to verify the types and quantities of wastes present. You have indicated that you are concerned with three wastes -- white water, an emulsified oil/water mixture, and various tank bottoms/sludges. The total volume of these wastes is reportedly in the range of 900,000 gallons. We will concern ourselves primarily with these wastes, but will call out other items of interest/concern that we may discover.

Step 2: Waste Sampling/Analysis - We will determine the type and number of samples required to characterize the wastes at the plant based on the information we collect under Step 1. We will subject the wastes to appropriate laboratory analyses.

Step 3: Assess Treatment and Disposal Costs/Options - We will identify recovery, treatment and/or disposal options for each of the wastes. We will identify specific disposal

outlets and currently prevailing disposal fees for any wastes that must be hauled off-site. We will identify a cost/gallon for the treatment of wastes that could be treated and discharged on-site. We will identify any credits that we feel should be applied against disposal costs for the waste oil that might be recovered through waste treatment.

Step 4: Prepare Final Report - We will prepare a concise final report summarizing our findings/recommendations.

We will bill you for our services on the basis of actual hours worked by employee classification times the following rates:

Classification	Hourly Rate
Chief Engineer	$ 62.00
Senior Engineer	$ 41.00
Project Engineer	$ 35.00
Environmental Technician	$ 22.00
Secretary	$ 16.00

In addition, we would bill you for out-of-pocket expenses at actual cost plus 10%. We estimate that the cost of this project will not exceed $3,200, exclusive of laboratory fees. We will bill you for any laboratory fees we incur at actual cost without mark-up. At this point in time, we anticipate that laboratory fees will not exceed $1,300. If it appears that the cost will exceed $1,300, we will provide you with a revised estimated cost prior incurring any laboratory fees in excess of $1,300.

We trust that this letter is sufficient to satisfy your request for a written scope of work and budget. We have begun work on this project as of today and plan to visit the plant tomorrow. We will submit our final report before the end of the month, providing there are no significant laboratory delays. Thank you for the opportunity to be of service to Equibank in this matter.

Very truly yours,

SCHNEIDER CONSULTING ENGINEERS

Jeffrey L. Pierce, P.E.
Manager of Projects
Environmental and Process Engineering

JLP/mac

BPDR 0005353

(617) 235-4969
95 Beechwood Rd.
Wellesley, MA 02181

ORIGINAL
(Red)

Alexandria, Virgi.

JALAR ASSOCIATES
Consultants

Reply to
95 Beechwood Rd
Wellesley Ma 02181

March 26, 1982

William M. Dinsmore
Equibank
Commercial Loan Adjustment
13th Floor, 2 Oliver Plaza
Pittsburgh, PA 15222

Dear Bill:

We are pleased to submit the enclosed evaluation of the Wiseman Oil Company plant, Coraopolis, Pennsylvania.

We believe the evaluation speaks for itself, but we are prepared to furnish other information you may feel will be useful or to expand on that submitted.

We have noted that Option A, minimal production will provide the highest value sale or allow a reorganization to preserve or pay off the bank's loss. I spoke with several reprocessors and rerefiners in other parts of the country to check current values for equipment. In some cases there was interest in acquisition of the plant. This could be a group of two or three firms active in the oil recycling business. Therefore, an operating plant, with experienced personnel, may be attractive. I also spoke with Walter Protch about the oil at North Star. He estimates that it could be processed, which I believe is necessary, for approximately $0.15 per gallon. Three persons contacted showed an interest in the oil, one as a barge load. Although the used oil market price is softening, the reprocessed North Star oil could be sold for $0.45 to $0.55 FOB Pittsburgh. Payment would not be a problem. The small amount of special service work now being done can be expanded according to Protch, and I agree.

I made a cursory study of the projections and pro forma income statements and find the before tax profit on sales low. It should be at least 25%. As far as could be determined, the causes are overly high prices paid for feed stock, some of which was of poor quality and high administration and sales and engineering costs as well as premature investment in new equipment. I believe the plant, because of its production facilities and location, can be operated profitably with good management.

I appreciate the cooperation you, Bob Robosson, Robert Wiseman, Walter Protch, among others, gave me. I will be happy to supplement the evaluation in any way you may require and to assist in any other way I can.

Sincerely,

Jack

John W. Swain, Jr.

JWS:sb
Encl.

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SUMMARY

Foreword

An evaluation of the Wiseman Oil Company oil recycling plant was made March 10-13, 1982.

This report based on the evaluation study covers:

- Background

  General sections covering the industry, processes used, and products and markets

- Location
- Property
- Buildings
- Operating plant and laboratory
- Vehicles
- Sections covering Wiseman operations

1.0 Background - Used Oil Recycling Industry

1.1 General

The used oil industry is composed of three major sectors -- reclaiming, reprocessing and rerefining. Raw material feed stock is generated by users of automotive lubricating oils, industrial lubricating oils and spills, accidental mixtures of lubricating or fuel oils. The U.S. Bureau of Census (extrapolation 1977 estimates) and the U.S. Environmental Protection Agency, 1980 estimate that a total sales of automotive and industrial lubricating oils was 2.85 billion gallons, and that the quantity of recoverable used oil was 1.1 billion gallons of used lubricating oils and a possible 1.0 billion gallons of spills and mixtures. Reclaimers, reprocessors and rerefiners depend on these sources for feed stock.

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Reclaimers remove water and solids from used oils with process methods to produce clean fuels and, some, non-critical lubricants. There are approximately 70 reprocessors in the U.S. Wiseman, at peak production, was one of the larger firms.

Rerefiners produce, or can produce, lubricating oil base stocks which are equivalent to virgin oils. The number of rerefiners has dwindled from a reported 150 firms in 1064 to five currently operating firms. These, however, are larger than all but a few of the earlier rerefiners. The Wiseman lube oil process is not, by definition, rerefining, although the product may compare with some rerefined oils.

The reduction in the number of rerefiners resulted from governmental tax and environmental actions and the rapid increase in fuel oil prices following the OPEC embargo in 1974. In the last year, however, there has been an improvement in the condition of the oil recycling industry.

2.0 Wiseman Oil Company Evaluation

2.1 Methodology

The evaluation of the Wiseman Oil Company and the conclusions reached are based on discussions with management and operating personnel, informal physical inspection, analysis of a plant equipment inventory (12/17/81) listing spare parts and equipment, and, study of those drawings and financial projections and pro forma income statements which were made available. The lengthy and detailed discussions with plant operating personnel and inspections of the plant with them provided a great part of the information used in this evaluation. Contacts were made with several persons active in the oil recycling business for information about current market prices for used tanks, pumps, pipe and other equipment.

2.2 Location

The Wiseman Oil Company plant and offices are located on an approximately 14 acre parcel of land in the town of Coraopolis, Pennsylvania. It is

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entered from PA Rte 51 and is served by a dirt and partially paved road on Montour Railroad right-of-way. Employees report that the road has been adequate for the vehicular traffic. The plant does not have a railroad siding.

2.3 Land

The land, which is pie-shaped and pointed in an easterly direction, adjoins the railroad property on its southern border. The railroad runs parallel to the Montauk Run, which stream furnishes water for the plant and receives plant effluent. There is no city water or sewer service. The property is divided into three parcels. The original rendering plant land is in the center section, the oil plant in the western and the so-called "greenhouse" land east of the pie-shaped piece. Two dwellings and a greenhouse are situated on this property. One dwelling has been completely renovated as a business office building. The other is partially renovated (90%) for executive and engineering use. See attachment 1.

2.4 Buildings, Plant

(Dimensions are approximate, as reported by plant personnel)

Building A:

40' x 60' with a 40' x 30' "Annex." This formerly was the fat rendering plant operated by Joseph Wiseman. Much of the original processing equipment is installed, but not used. It is used for truck and operating equipment repair and parts storage. A 10' x 40' mobile home used by outside contractors is located to the north of the "Annex."

Building B:

40' x 60' x 21" high -- condition excellent. Used for lube oil processing.

Building C:

40' x 60' -- condition good. Contains the boilers and a control room, laboratory and office. A second floor over the laboratory and office is not finished and is used only for storage of parts and equipment.

Building D:

20' x 20' -- unfinished. Contains centrifuge equipment and a control room.

2.5 Operation - Products, Markets

The company is in the oil recycling business and produces fuel and lubricating oils. The major raw material feed stock consists of used automotive and industrial oils and some oily wastes which have a high water and solids content.

The market for reprocessed fuel is predominantly composed of larger users, such as steel mills, utilities and manufacturing concerns, which normally use residual fuel (No. 4, No. 5, No. 6); and have installed emission control equipment to reduce air pollution.

Pittsburgh and the surrounding area (150 miles radius) provide a large demand market. Population density and industrial activity generate large quantities of used oils for feed stock. The market for the lubricating oil produced by the plant, however, is more restricted.

The company has been generating monthly income of approximately $18,000 by processing oily wastes -- waste water contaminated with small percentage of oils and other materials. This can be expanded three to fourfold and other wastes could be handled.

2.6 Plant and Processes

The plant is a good one of its type and is in good condition. The plant has 1,400,000 gallons of installed storage tanks and 24,000 not installed. The fuel processing system includes a centrifuge (Bird Centrifugal), vibratory screen filters, and dehydration system. The lube oil system includes acid treating tanks, a bulk bleaching clay system, heating and clay mixing system, filters and centrifuge. The systems have good control systems. The necessary pumps are adequate for production capacity, are in good shape. Spares and spare parts are in stock as are electrical supplies and parts.

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(Red)

Lack of city water and sewer services requires the use of the Montour Run stream for water supply and for discharge of plant process water. The current system is barely adequate. An improved and enlarged waste water treatment system for handling oily wastes on a service contract basis and plant process water is nearly completed. The sales of fuel oils in the past indicate that the reprocessing process for fuels produced an acceptable product. The lubricating (lube) oil process can produce acceptable products, assuming selected feed stocks and a market for lower quality oil.

The plant should not have high maintenance costs except for boilers (hard water) and some pumps. However, such costs are not, or should not be, excessive.

The laboratory is well equipped and in excellent condition. The two boilers are adequate for plant process requirements and are in good condition.

2.7 Vehicles

The company has eight vacuum and pumper trucks, 1500-4000 gallon capacity (5 to 13 years old). Condition ranges from fair to good. Four require repairs estimated at $150 to $1000. The four tractors are six to eight years old. One needs major repairs; three are in fair condition. Seven tank trailers are 13 to 16 years old. One is in good condition. Three pickup trucks are two to five years old. One is in poor condition, one fair, and the other fair/good. A 1969 backhoe is in poor condition.

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3.1 Plant Value - Options

The values listed below do not include the value of land, office buildings, roads, nor pavement in the plant area. Value of spare parts, which are stored in a disorganized fashion, are estimated, although an inventory, December 1981 was used as a guide. A factor was used for installed valves, piping, pumps, screens and other similar equipment. Value of these installed pumps and tanks were checked with operating oil recyclers. The book value is claimed to be approximately $3,500,000. This is not an unreasonable value on an optimum value scale.

3.1.1 Option A

Conditions: Plant is operated on a reduced basis with enough gross profits to meet all operating costs, including loan interest.

Value: $2,313,660

3.1.2 Option B

Plant is not operated, but maintained in good condition for sale to firms, such as chemical manufacturers or processors, which could use the tanks and all or part of the other equipment and laboratory.

Value: $1,500,000

3.1.3 Option C

Plant is maintained for sale to machinery and equipment dealers and on a piecemeal basis.

Value: $ 400,000

Obviously Option A is the most desirable, and we believe has good possibilities. Option B implementation would require a more extensive purchaser search. Option C would be undesirable at any time, but the current economy, including the condition of the scrap metal business, reduced oil sales to automotive and industrial users, and uncertainty in the oil market, increase the bleakness of this option.

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4.0 Used Oil Recycling

The Wiseman Oil Company is engaged in the business of recycling used automotive and industrial petroleum oils. The word "used" also includes certain oils which may not have been "used" but are unsuitable for intended uses because of contamination. Also included are such oils usually referred to as "slop" oils, tank bottoms, and oil from spills. Wiseman, and some other recyclers, also process "oily" wastes. These are defined as waste water contaminated by various oil products, solids and other materials.

4.1 Feed Stock Sources

The major sources of feed stock oil, available for recycling, are used automotive and industrial oils. Annual sales of these lubricating oils are approximately 2.85 billion gallons (1980) -- approximately 45% automotive and 55% industrial. The U.S. Bureau of Census estimated annual sales of automotive, aviation, industrial oils, others and greases, to total 3 billion gallons (1977). The U.S. Environmental Protection Agency estimates that approximately 1.2 billion gallons of used lubricating oil, plus 1.1 billion gallons of oil from spills, refinery production and transport of petroleum products, total of 2.3 billion gallons of recoverable oil are generated annually.

The EPA report also shows that approximately 11 million gallons of used oil was collected in the city of Pittsburgh alone in 1973. More current area figures are not available but the state of the economy and the increasing sales of smaller automobiles, which use less oil, as well as a large increase of sales to Do-It-Yourselfers, would suggest a reasonable 1982 quantity of 70% or approximately 7.7 million gals/yr. However, if an economically feasible collection area of 150 miles radius is considered, the quantity of used oil would be much greater, possibly a total of 50 million gallons. Specific sources for these used oils are service stations, garages, transportation vehicle maintenance centers, marine vessels, railroad engines, aircraft and industry.

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4.2 Used Oil Recycling Processes

Oil recycling processes are divided into three major categories.

- Reclaiming
- Reprocessing
- Rerefining

4.2.1 The term reclaiming is used for simple processing of used oil to remove water and solids with little or no removal of oil soluble contaminants. The product is used as fuel, although there still may be pollutants, such as lead compounds in the oil. Therefore, environmentally acceptable use would be only as fuel for large boilers and other heating equipment which usually have emission devices to prevent air pollution.

4.2.2 Reprocessing methods not only remove water and solids but, also, employ chemical treatment to remove other contaminants, and higher temperatures to remove solvents, gasoline or light (distillate) fuels, which can affect the combustion properties. More efficient filtration and/or centrifugation may also be used. Products are clean, or cleaner, fuel and some non-critical lubricants.

4.2.3 Rerefining methods remove water and solids, chemically pretreat the cleaner dehydrated oil to remove unwanted oil soluble constituents, and heat the oil, usually mixed with bleaching clays, to approximately 650°F. to remove light ends (solvent type materials), other contaminants and unwanted constituents which reduce the quality and color of the finished oil. Products are, or can be, high quality lubricating oil base stocks which, with suitable additives, can be used as engine (motor) oils, hydraulic oils and many others which are made from virgin lubricating oil base stocks.

One or more of the above process methods, or variations thereof, are used in treating "oily" wastes to produce pollution-free water and, if possible, usable oils.

5.0 The Recycling Industry

5.1 The rerefining industry, which reputedly produced 300 million gallons in the early 1960's, has declined from 300 firms to only five in 1982.

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However, these are larger, better financed and have better plants and management. An EPA study, 1976, identified 27 active rerefiners producing a total of 51 million gallons. Five of the firms accounted for over 50% of the output and one was responsible for 20%. The remaining currently operating rerefiners claim to produce approximately 50 million gallons per year. There have been some mergers and acquisitions and there are indications that these more substantial operations will continue to grow both through better financial and marketing management, and use of new, more efficient technology with reduced process waste disposal problems.

The almost total demise of a large portion of the industry had five major causes. First, the Excise Tax Reduction Act, 1965 removed the favorable tax treatment of rerefined oils by eliminating the $0.03 and $0.06 per gallon excise tax imposed on virgin oil products. As a point of reference, prices for virgin oil base stocks at that time were $0.18 to $0.28 per gallon. Second, the increased additive content, which new engines and other equipment require, make the process more difficult and expensive with a lower product yield. These same requirements were responsible for a complete ban -- recently removed -- on use of rerefined oils for military vehicle use. Automobile engine manufacturers also have been less than enthusiastic about rerefined oils. These agree that rerefined oils can have required quality but that they are unsure of the refiner and quality consistency. Third, increasingly stringent environmental laws and regulations not only increased direct processing costs, but increased the cost of process waste disposal or caused disposal site operators to refuse to handle the wastes. Fourth, after the oil embargo of 1974, the traditional price differential between lubricating and fuel oils was reduced as prices increased. The higher rate of price increase for fuel oils caused an increase in the rerefiners' feed stock cost which was not compensated for by a proportional increase in lubricating oil prices. Hence the profit margin, if any, was inadequate. Many of the rerefiners restricted operations to reprocessing for production of fuel. However, in the last year, lubricating oil base stock prices have risen enough to permit acceptable profits, and there is a potential growth of this industry.

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5.2 The reprocessing segment of the recycling industry has an estimated 50-80 firms of some size in the country. Many one or two truck collectors sell oil as reprocessed fuel after minimal, and not too effective, settling to separate water and solids. The number of these is unknown. Virtually all of the reprocessed oil is sold for fuel use. Most of these reprocessors are doing very well financially since capital equipment, processing costs are low and volume is high. These operations also can process used oils which cannot be rerefined and, as a result, the feed stock cost is lower.

5.3 Information about the reclaiming segment of the industry is not readily available but, roughly speaking, parallels the reprocessors' operations except that they have sold a significant part of the collected oil for road oiling. These are small -- more or less one-man operations -- but profitable. Although small, the number is such that a significant quantity does not reach the more sophisticated rerefining and reprocessing parts of the industry.

5.4 Special Services

Some rerefiners and reprocessors perform special services on a spot or contract basis. Oily wastes, oil from spills, emulsions, accidental mixtures and others, some of which may be hazardous, are processed on a batch basis relieving the generator of environmental regulatory responsibility. This service is usually quite profitable.

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The company uses two basic process methods:

- Reprocessing - fuels
- Modified rerefining/reprocessing - lube oil

These produce fuels and lubricating oils products. A third, and currently operating, process is designated as "special service." This is a system, operated under state permits which allow Wiseman to process high water, low-oil content oily wastes on a fee basis. Note: Current projections show monthly of $18,000 with a reported 50% gross profit margin. Plant management personnel estimate that this business can be tripled or quadrupled. This does not appear to be unreasonable.

6.4.1 Reprocessing - Fuel Production

The company is in a transitional period based on installation of newly acquired equipment and modification of existing equipment.

In the past used oils were processed for fuel products with gravity settling, to separate water and solids from the oil; dehydration to remove water and vibratory screening to reduce the solids content to acceptable levels. A Bird Centrifugal (water/solids separation) has been installed recently. This can increase the production rate and improve products. Chemicals (Nalco surfactants) are employed in the process to effect faster and more complete separation of water and solids from the oil. This process produces fuel oils used in large boilers and other heating equipment used by such companies as Jones & Laughlin Steel Company and electric utilities.

6.4.2 Reprocessing - Lubricating (lube) Oil

The Wiseman lube oil process, technically, is not rerefining. Rather it is a more intensified reprocessing method. Production of acceptable (vs. high) quality lubricating oil base stocks is dependent on careful selection of feed stocks.

The process, as reported, uses approximately 2.0% sulfuric acid at 110°F. with a bleaching clay mixture. The oil/clay mixture is then filtered and produces a finished lubricating oil and spent clay waste material. The first step acid treatment also produces an acid sludge waste which may cause

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disposal difficulties. However, despite limited process means, for larger scale lubricating oil production, the equipment is first rate and can be used, as is, to recycle large quantities of used oils.

Products can include very clean fuels, non-critical lubricating oils, finished lubricating oils and special service processing.

6.4.3 Special services consist primarily of separation of water and solids from high water/low oil content liquid wastes. This is profitable business and can be expanded. The company officials report that they have the only permits in the county for handling such wastes. A 225,000 gallon tank has been insulated and three 105,000 gallon open top tanks have been re-piped to handle used waste materials.

The process consists of heating and use of chemicals to separate the oil and solids from the water by gravity settling and use of sand filters. The small amount of separated oil is added to the general feed stock storage. The company has planned to install equipment, estimated at $500,000 to $800,000, to treat the waste water to state and federal standards for receiving streams -- in this case Montour Run. We believe this can be done less expensively. Some other hazardous wastes could also be handled.

The plant also has processed special oils, chemicals and mixtures on a spot basis in the past and has good equipment to increase this lucrative business.

6.4.4 Company officials stated that the plant has produced as much as 1,500,000 gallons of fuel per month and can process 400,000 gallons of lube oil. More conservative plant personnel report a capacity of 1,000,000 and 250,000 gallons per month respectively with present equipment. However, use of the recently installed Bird Centrifugal could increase production considerably.

6.5 Plant - Production Equipment

The plant production equipment, despite being almost completely shut down since mid-December 1981, is in good condition and can be put into operation quickly. A small amount of special service work is being done by those employees remaining. The oil currently in storage in the plant --

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approximately 40,000 gallons and 600,000 gallons (approximately 50% water) at the North Star terminal, can be processed quickly and at relatively low cost.

The plant has 1,500,000 gallons of storage. The necessary piping, pumps and controls, with a few minor exceptions, are installed and operable. Replacement or installation of these few pumps can be quickly done using parts in stock. A new pipeline system is 70% completed. This can be useful but plant personnel report that it is not necessary for production at this time. Electrical controls and systems are quite adequate. The newer equipment has more sophisticated control systems.

The used oil receiving system can handle the feed stock requirements. The recently installed Bird Centrifugal System includes two 25,000 gallon heated receiving tanks, pumps and lines to move the heated oil to the Centrifugal and a centrifuged oil receiving tank. The Centrifugal is installed in a separate unfinished building and has an excellent control system. It is reported that the bearings need to be replaced.

The two Johnston Firetube Scotch marine 500 H.P. boilers, operating at 150 psi, are in good condition and have necessary controls, water treatment equipment, and fuel storage capacity. Boiler feed water from Montour Run is very hard and requires extensive chemical treatment for boiler maintenance.

The dehydration unit is also in good condition and has the necessary controls. It requires some minor repairs but is operable.

The vibratory screen separators used for final removal of solids from finished fuel oils, are in good condition, and are ready to operate.

The lube processing system consists of two acid treating tanks, bulk clay handling system, clay slurry tank, heated (325°F.) processing vessels, a large Niagara plate and frame filter, a 24" Shriver plate and frame polish filter and excellent controls. A DeLaval centrifuge is also installed with this equipment in "B" Building.

The waste water system is important since plant waste water and ground

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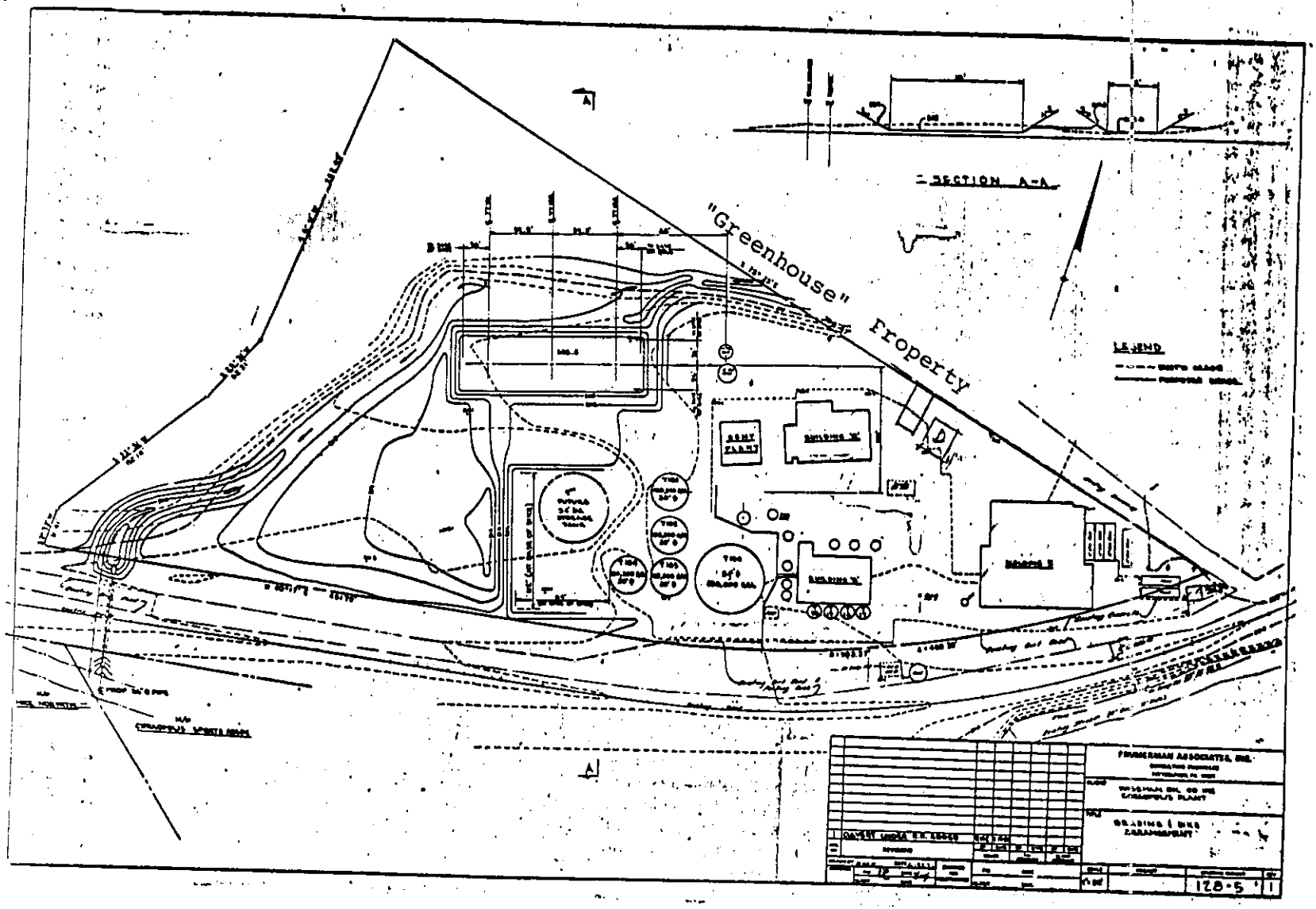
Attachment 1



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Dinsmore and Robert Robosson. The discussion was general and financial projections and pro forma income statements were furnished. Wiseman and Crosbie conducted a preliminary inspection tour and were available later for information. There was also a dinner meeting with Wiseman the second day.

- Robert Wiseman, former President. Wiseman cooperated well, considering the circumstances. Opinions expressed by others in the industry, plant personnel, and the condition of the business are not too favorable. However, the plant and processes are good, if not innovative; personnel quality is high; and large quantities of used oil have been processed and sold, which reflects favorably.

- David Crosbie, Manager Engineering. Crosbie, not currently on the payroll, has good engineering background, but is highly opinionated and tends to over-engineer for a plant of this type. The latter may be responsible for high engineering costs.

- Walter Protch, Production Manager. Protch has degrees in chemistry, biology and solar engineering. He worked with Joseph Wiseman's rendering plant and has been with Wiseman Oil since its inception. He is capable, hardworking, thrifty, and responsible and has an intimate knowledge of the plant and processes. He is optimistic about the business and is capable of greater responsibilities. He is as good as any in the business and better than most.

- Maryanne Cilla, Chemist. Cilla has degrees in chemistry and biology. She also is extremely capable, hardworking, and optimistic about the business and interested in continuing in this field. She, too, can handle greater responsibilities.

- Steve Laudenberg, Day Shift Foreman. Laudenberg, formerly the dispatcher, gives a very good impression and is well regarded by other personne. He supplied all of the information about vehicles. He is said to be hardworking, responsible and has a good knowledge of plant operations. He, too, is optimistic about the business and interested in a future in the field.

6.3 Buildings

There are four plant operation buildings. The office buildings situated on the "greenhouse" property are not included in this evaluation. The dimensions are approximate, as furnished by plant personnel.

ORIGINAL (Red)

Building A:

60'x 40' with 40'x 30' "Annex"
The original rendering plant building used for truck and equipment, maintenance and parts storage. There are several levels and some of the rendering process equipment is still installed.
Condition - fair.

Building B:

25'x 40'x 21' high; constructed 1981, used for tube processing.
Condition - excellent.

Building C:

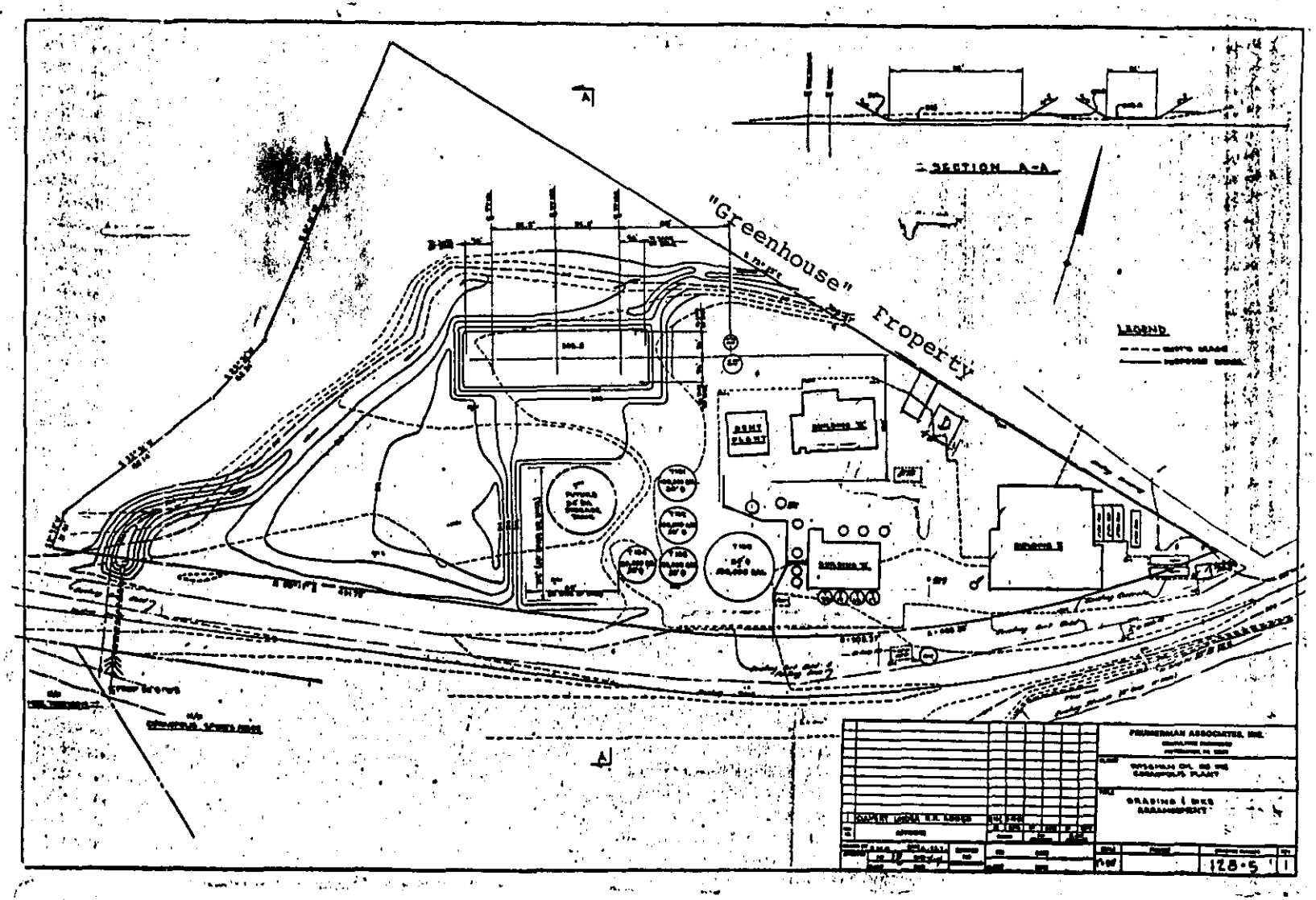
32'x 20'; 2 stories except for highbay boiler area. First floor contains dispatch/plant office, laboratory and boilers. Second floor (90% completed) was designed for offices; now contains spare parts, equipment and building supplies.
Condition - excellent.

Building D:

10'x 12'; special purpose; Bird Centrifugal and controls.
Condition - excellent as completed.
Note: Not included in buildings value-total.

6.4 Process and Products

Attachment 1



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(Red)

May 16, 1983

Richard E. Barber
11 Seeley's Run
Somerset, New Jersey 08873

Dear Mr. Barber:

I am returning herewith your personal financial statement of May 21, 1982 and your 1980 income tax return.

As you may be aware, we have been successful in the sale of the Wiseman Oil facility to a Canadian firm. In addition to your interest, we had approximately five other proposals and after careful evaluation made our decision based on the fact that the purchaser has a similar facility and product line.

Thank you for your interest.

Very truly yours,
EQUIBANK

W. M. Densmore
Vice President

WMD:rt

Enclosure

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ORIGINAL
(Red)

PETROMARK
100 River Road
McKees Rocks, PA 15136
412-771-3700

RECEIVED
JUL - 6 1982
EQUIBANK
Comm. Loan Adj.

July 6, 1982

Harold P. Pernisek, Senior Vice President
W. M. Densmore, Vice President
Equibank
Oliver Plaza
Pittsburgh, PA 15222

Re: Purchase of Wiseman Oil Facility

Dear Messrs. Pernisek and Densmore:

Luther Jones and I enjoyed our meeting with you on Wednesday and our discussion pertaining to our potential acquisition of the Wiseman Oil Facility. Subject to the execution and delivery of mutually acceptable agreements by and among a subsidiary to be formed by Petromark, Inc., Equibank and Joseph Wiseman and approval of such agreement by the U.S. Bankruptcy Court of the Western District of PA at No. 81-3367, we are prepared to acquire the Wiseman Oil Company, Inc. stock and the plant facilities at Coraopolis, PA, including all improvements, equipment, land, attachments and appurtenances pertaining to the operation of the waste oil facility.

In the event we are able to agree upon all terms, and we obtain appropriate municipal, state and federal agency approvals, our subsidiary is prepared to immediately pay into the Bankruptcy Court the sum of $75,000 for Court administrative expenses and distribution to general creditors and shall, in addition, over a period of 38 months, pay into the Court the sum of $5,000 per month for administrative expenses and distribution to the general creditors.

Our subsidiary shall acquire all of the stock of Wiseman Oil Company, Inc., free and clear of all debts, obligations and liabilities, and shall also acquire free and clear of all liens and encumbrances except to you, the land, buildings, equipment, plant, personality and all other items listed in the bankruptcy schedule of Wiseman Oil Company necessary to the operation of the Wiseman Oil facility for the sum of $1.8 Million with interest at 10% per annum, payable over a term of 15 years with the first payment to commence on the seventh month after the consummation

PETROMARK
100 River Road
McKees Rocks, PA 15136
412-771-3700

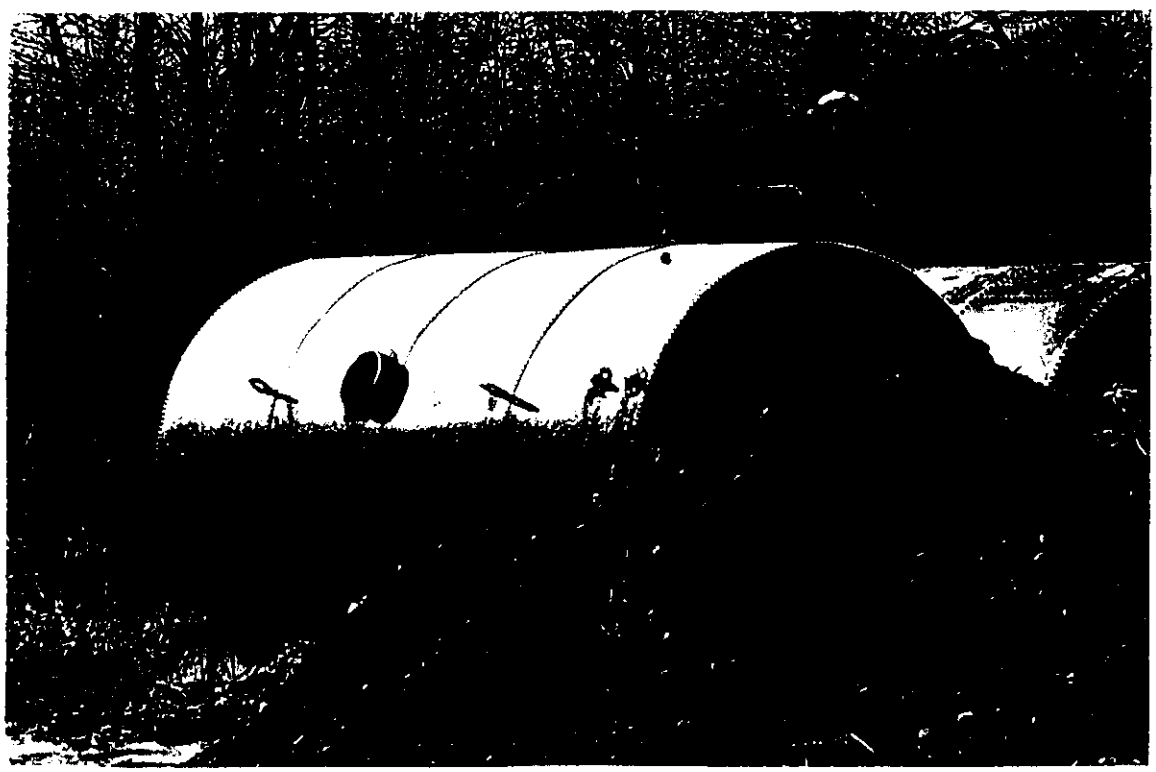
of the transaction. You will, of course, retain a mortgage on the property and a security position on all personalty in the amount of the purchase price. It shall be your obligation to obtain title to all real property from Mr. Wiseman. We shall, at our expense, place the waste oil facility in operating condition and provide working capital and other start up expenses. In the event financing is required for substantial improvements or additional facilities such as a water treatment plant, you would either provide financing or subordinate your position to another financial institution which makes funds available for said improvements.

If the foregoing general outline of the terms of a proposed acquisition of the stock and assets of Wiseman Oil is satisfactory to you, please promptly contact me so that appropriate arrangements can be made to present an offer to the Court and we can commence the preparation of agreements.

Very truly yours,

PETROMARK, INC.

By _____
President



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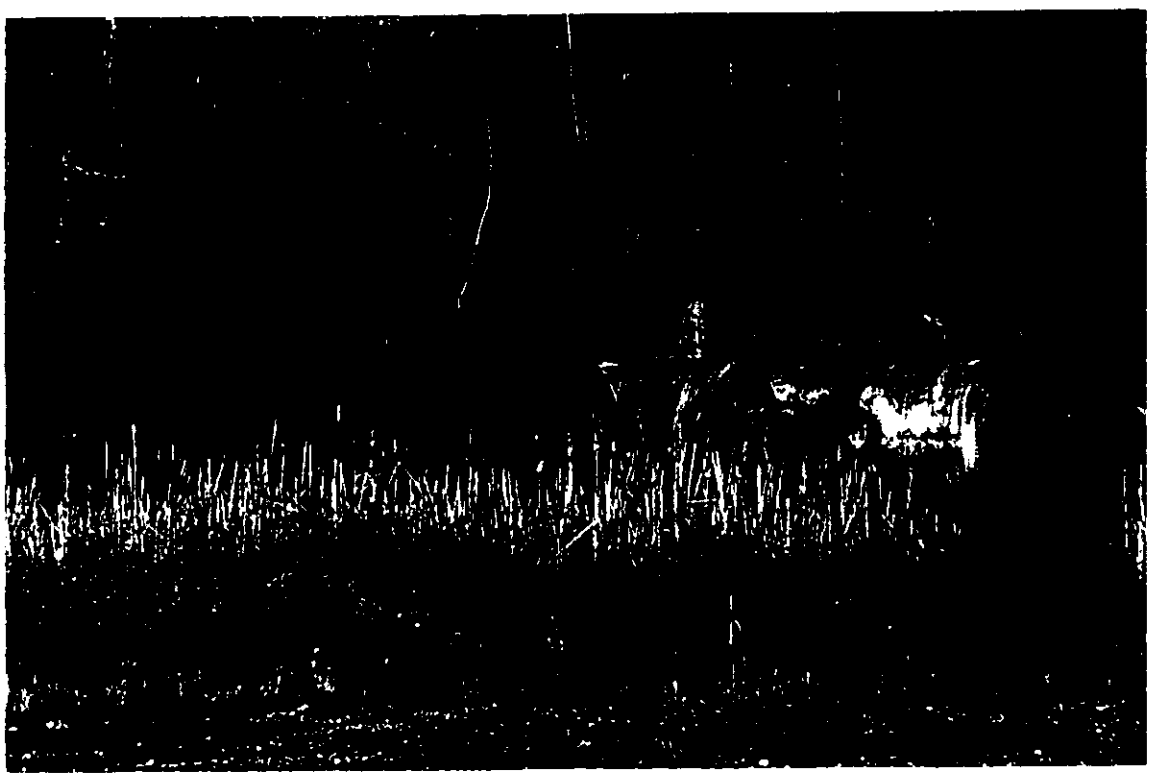
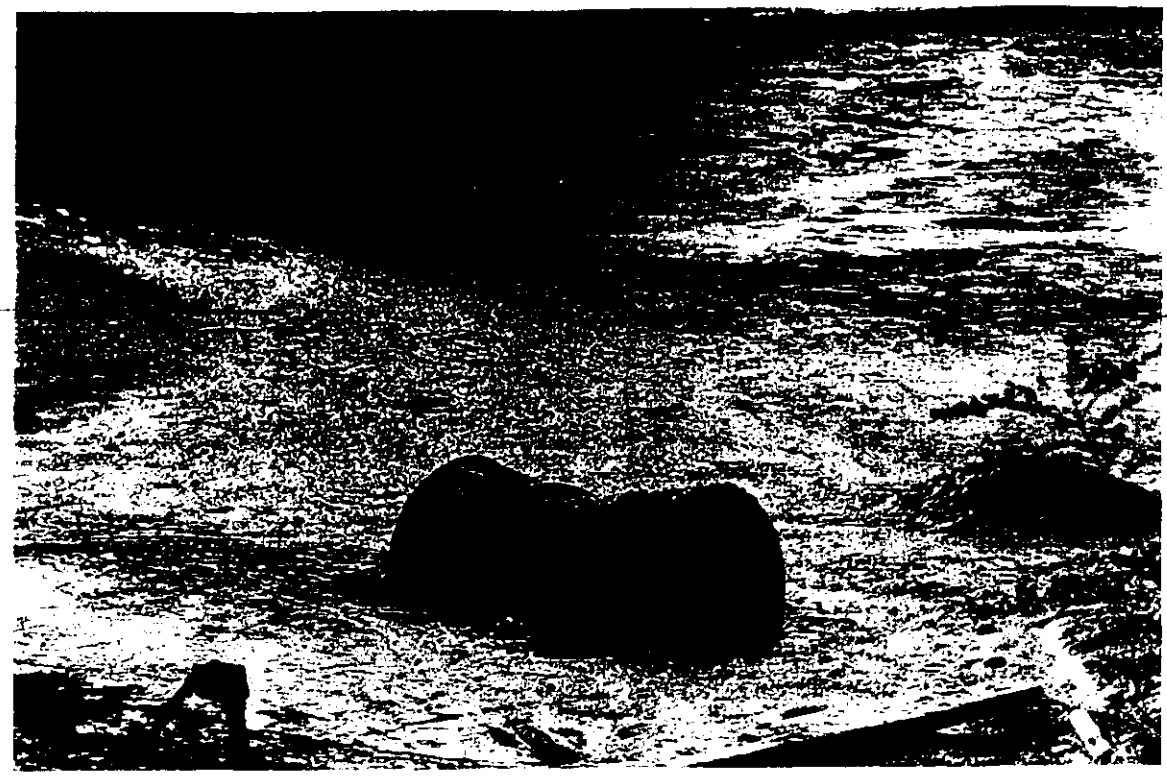
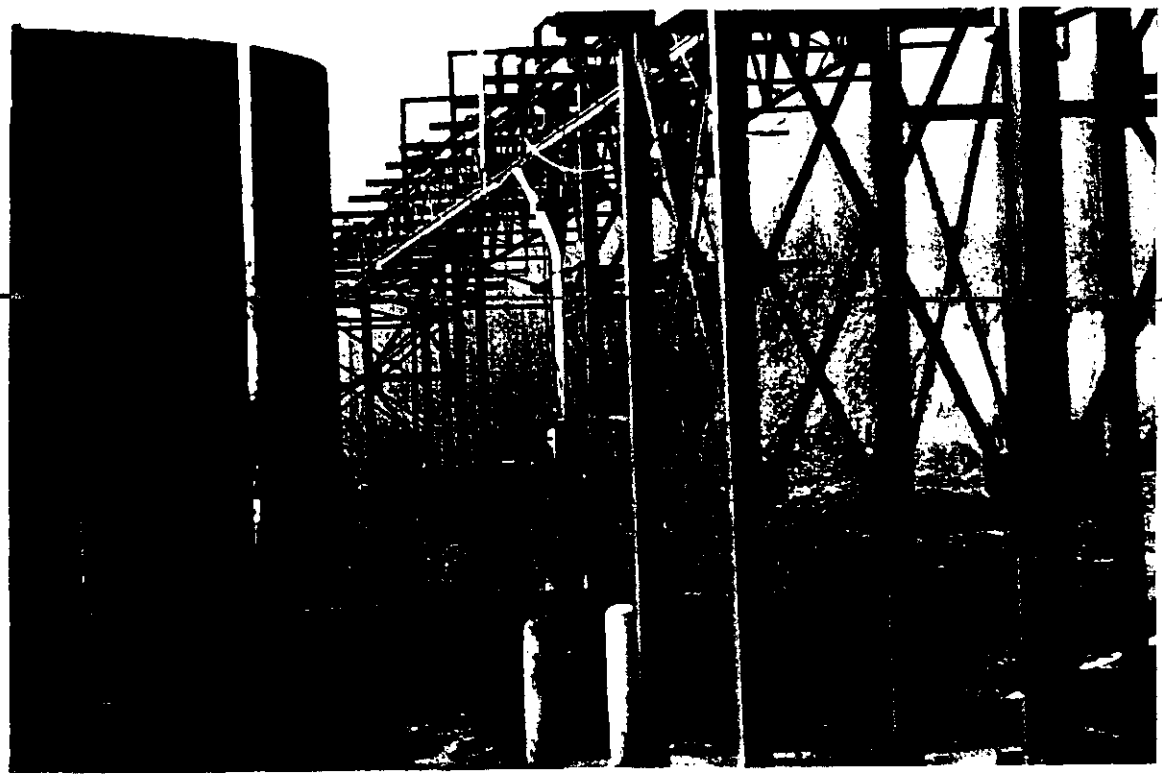
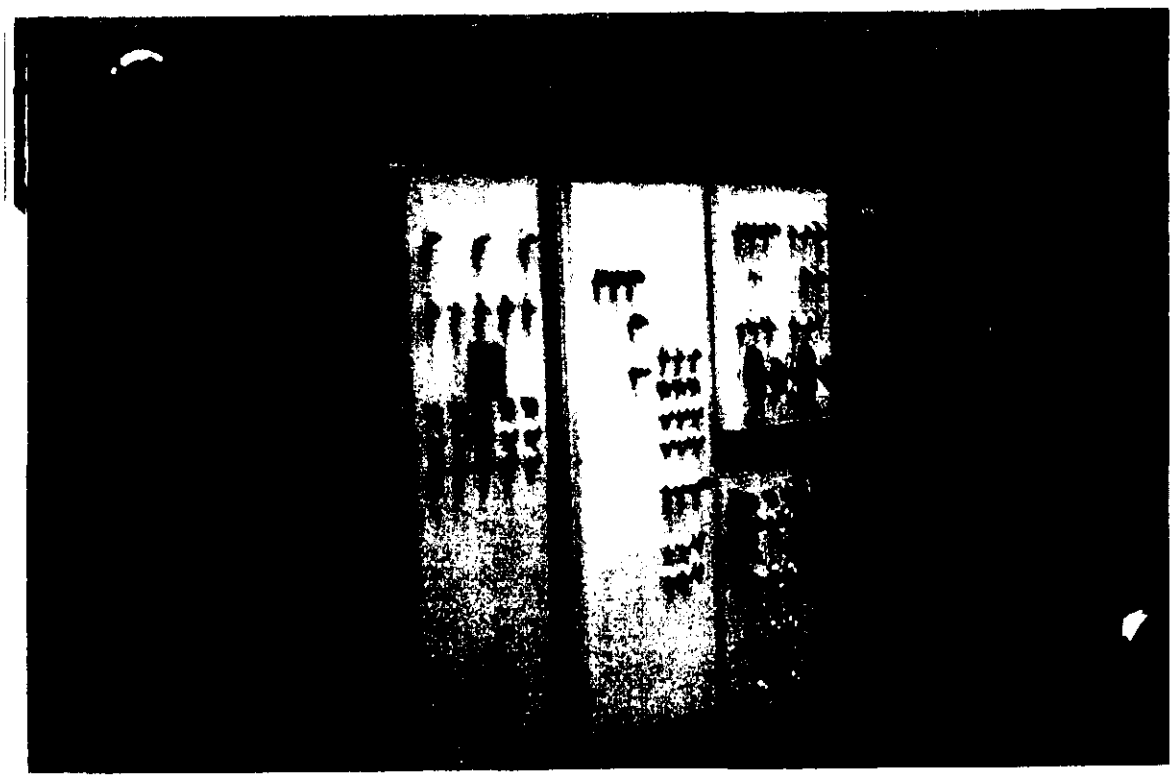
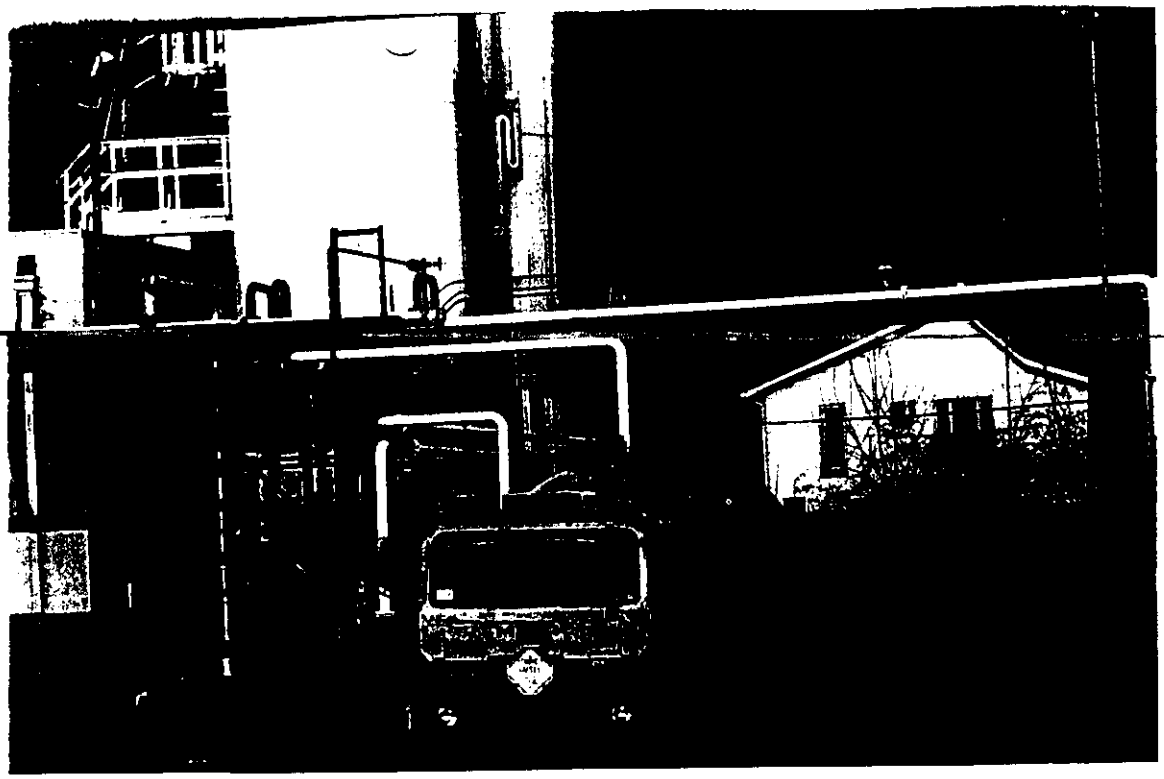
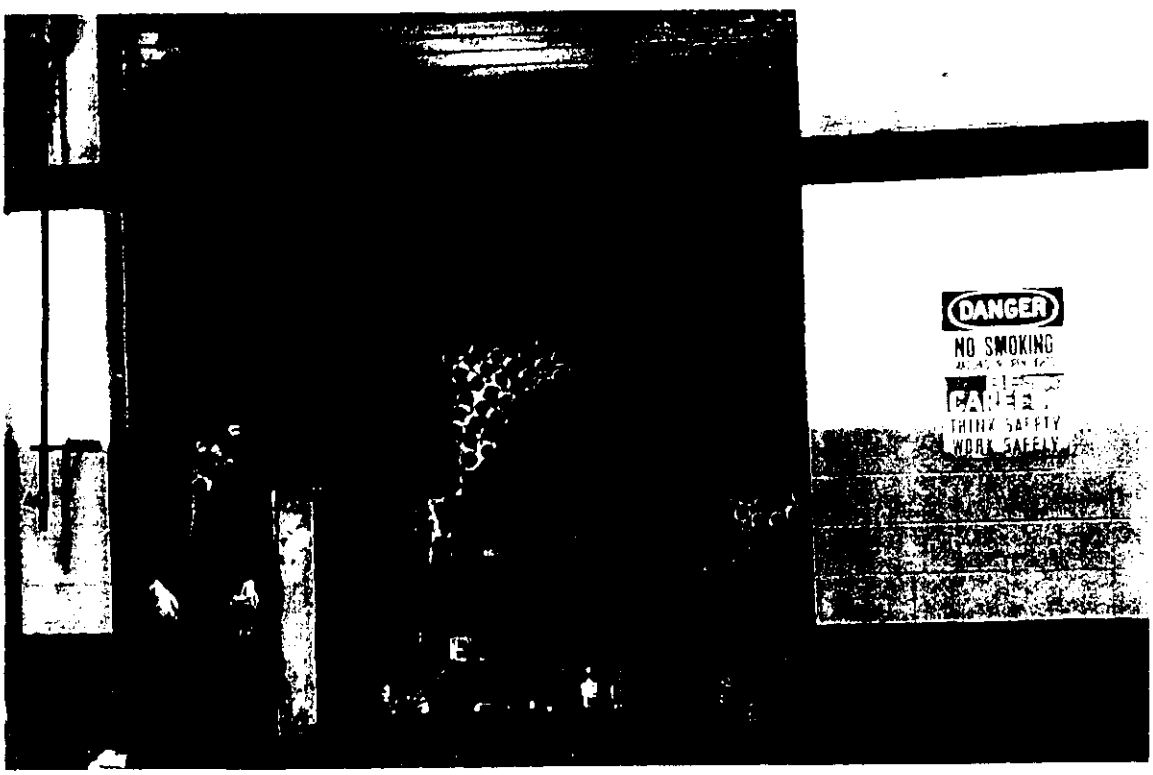


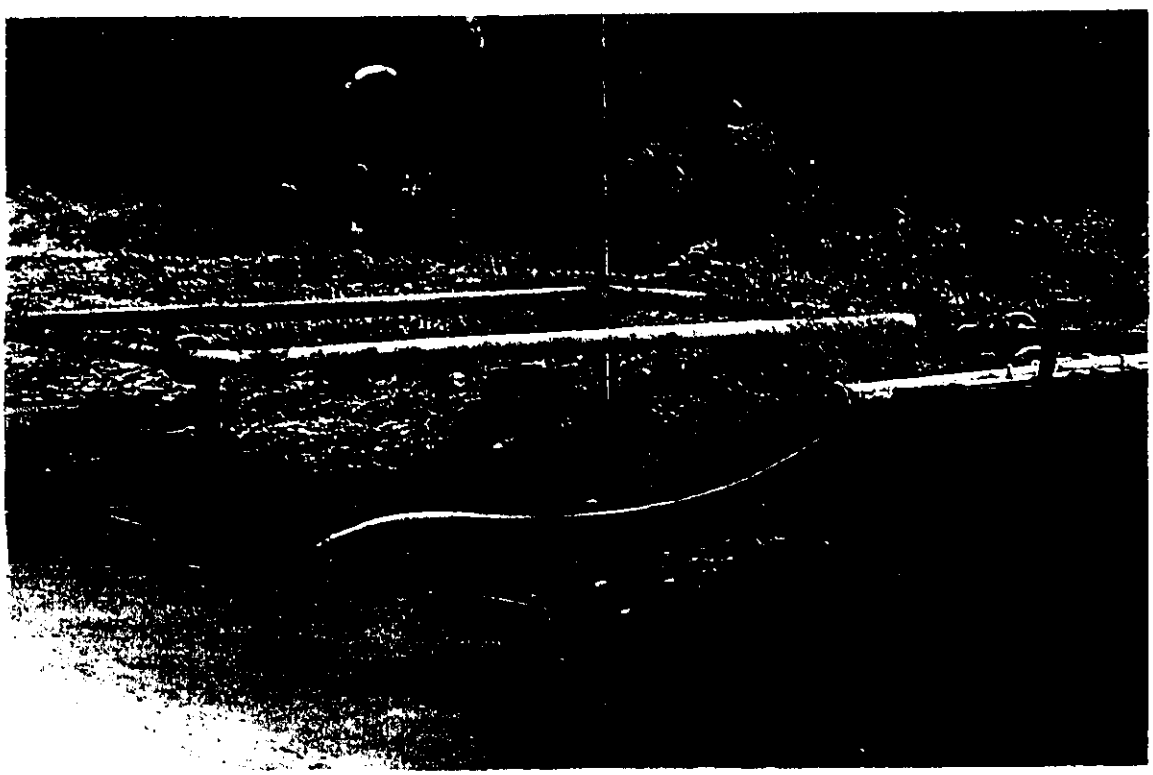









DANGER
NO SMOKING
THINK SAFETY
WORK SAFELY



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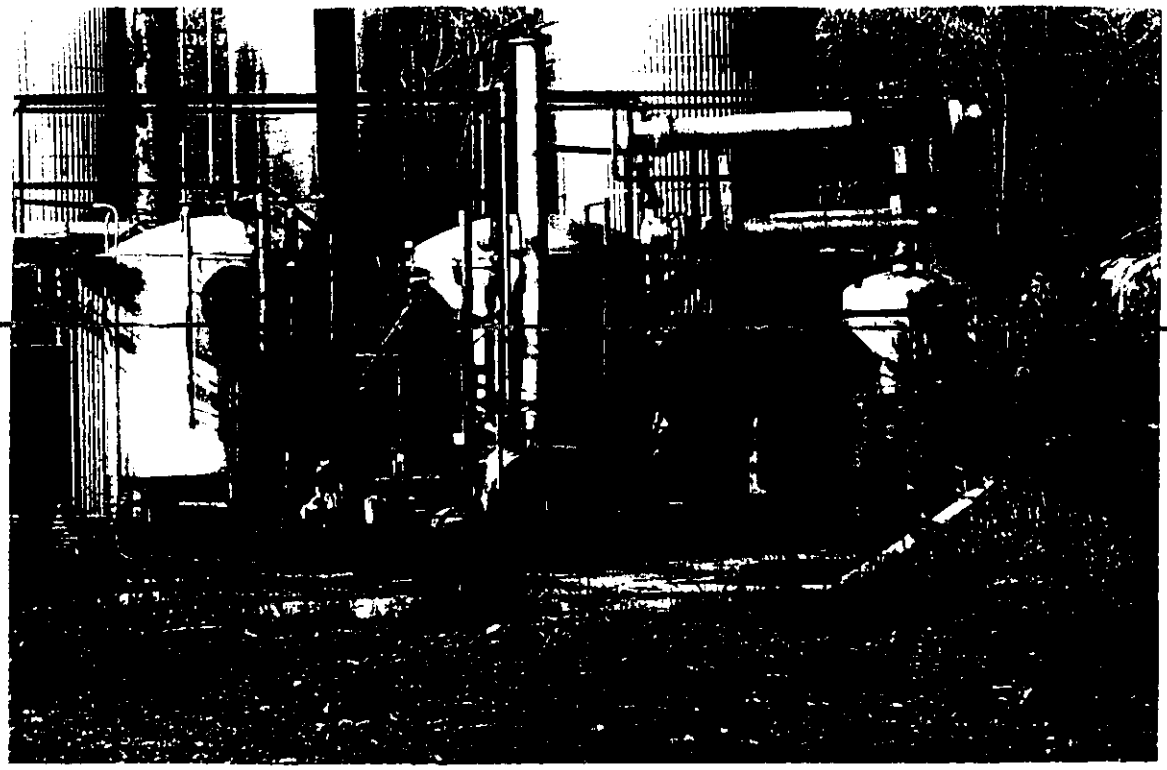
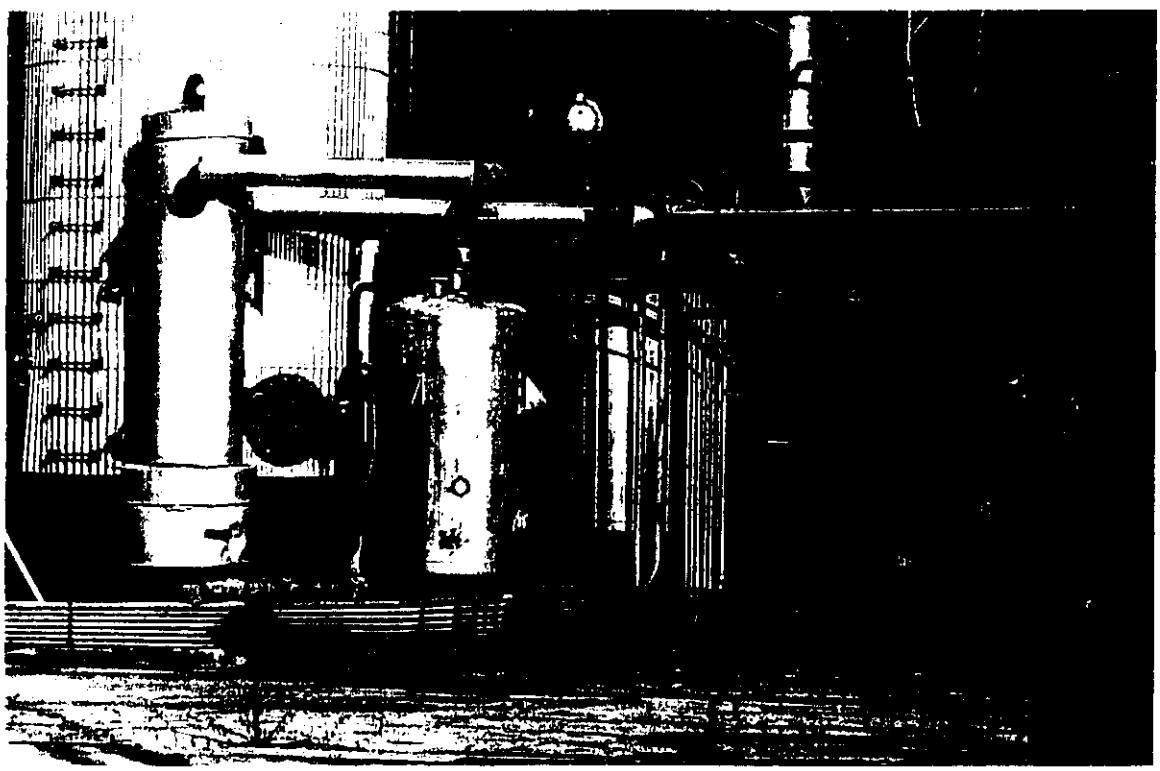
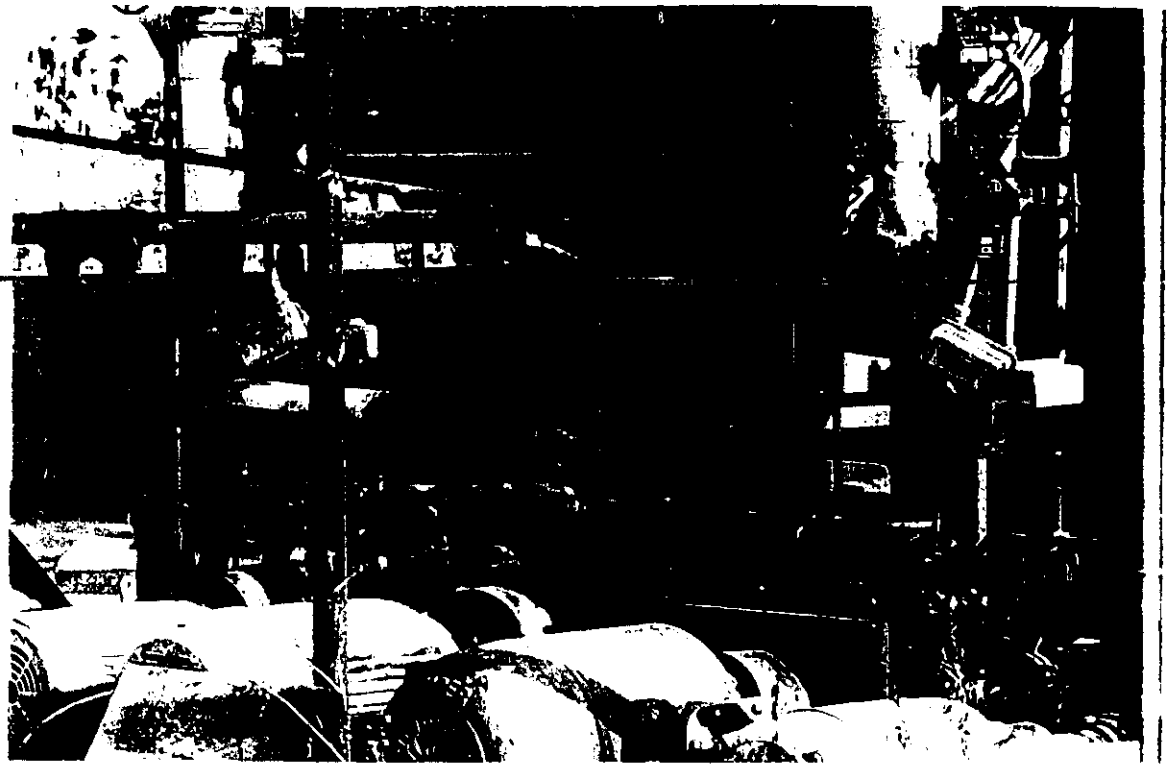
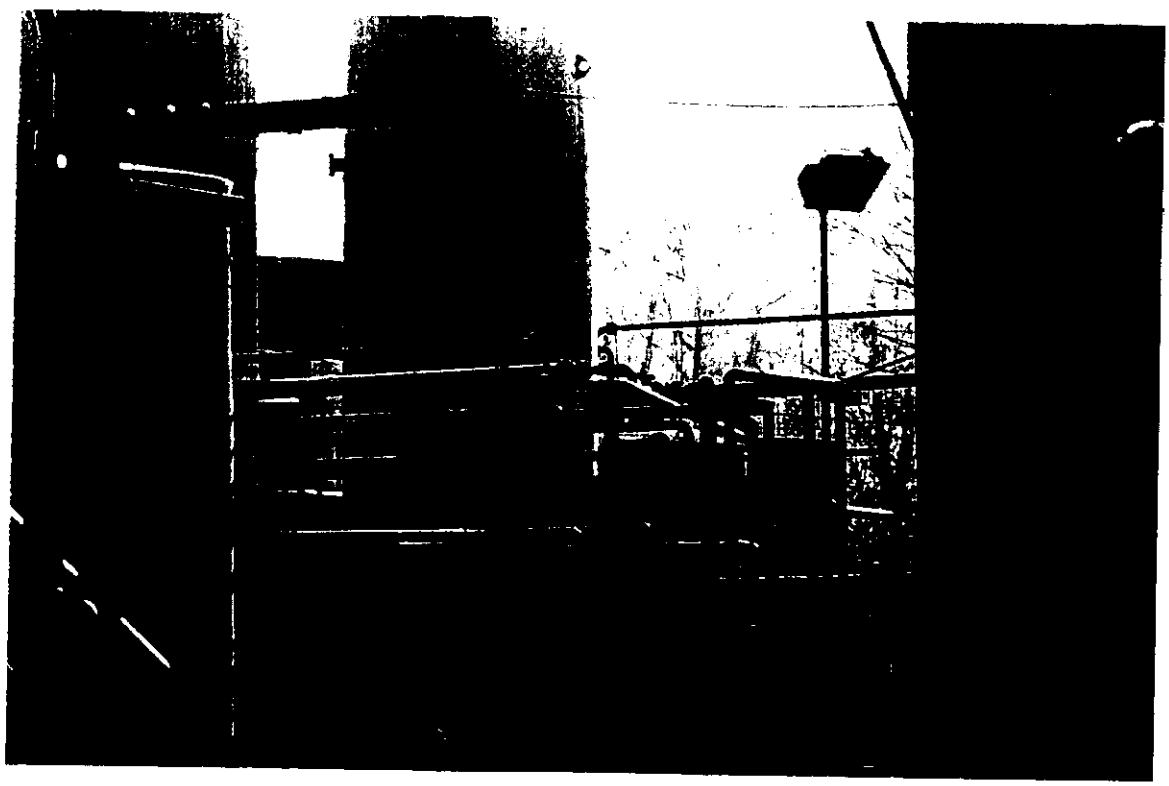
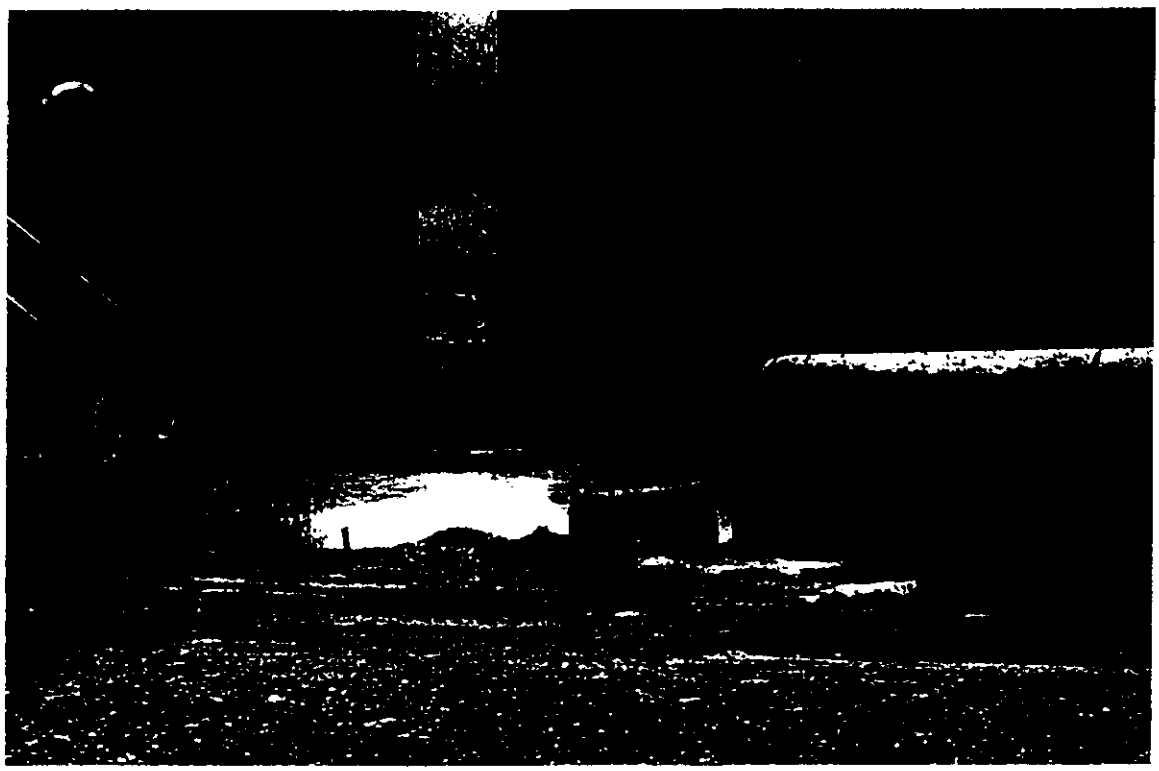
BPDR[illegible]A



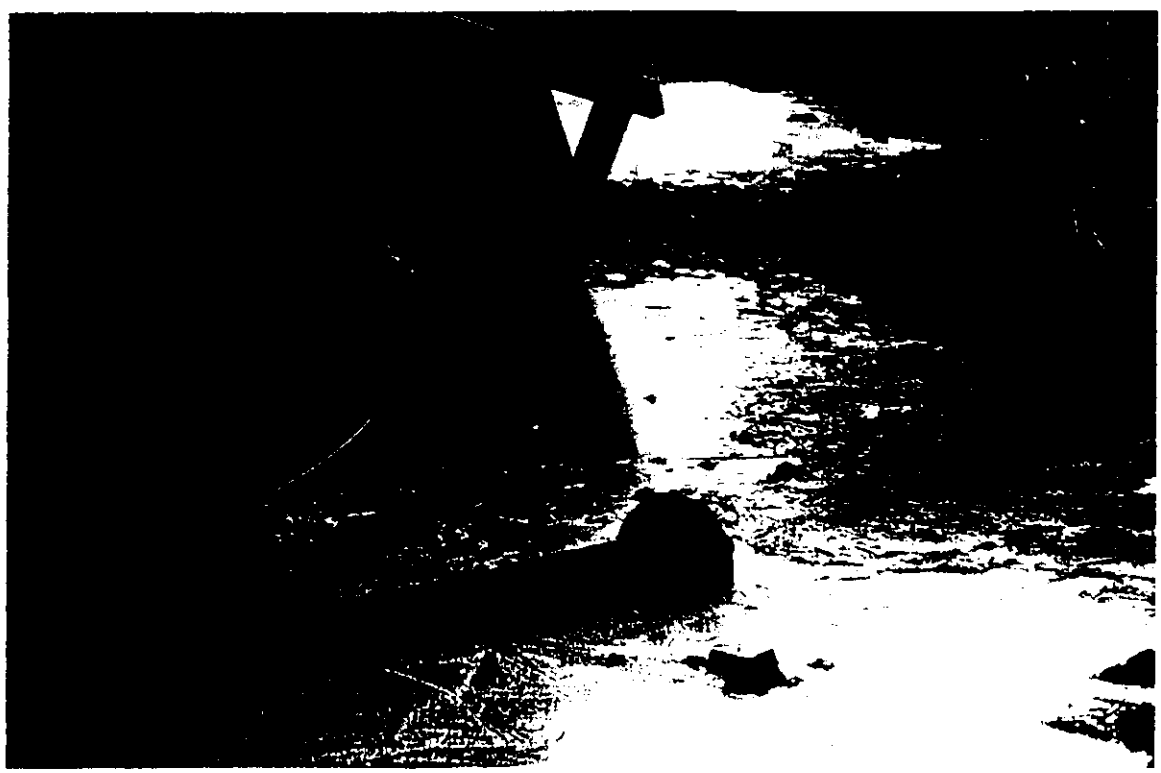








BPDR 0005389



cc: Bill Densmore

ORIGINAL (Red)

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUIBANK,

Plaintiff,

vs.

JOSEPH WISEMAN AND
RUTH WISEMAN, HIS WIFE,

Defenants.

CIVIL DIVISION

No. G.D. 82-04455

Code:

MOTION TO TERMINATE STAY

Filed on behalf of:
Equibank, Plaintiff

Counsel of record for
this party:

Robert G. Sable, Esq.
PA I.D. No. 00984

LAMPL, SABLE & MAKOROFF
Firm No. 363
710 Fifth Avenue
Suite 3000
Pittsburgh, PA 15219
(412) 471-4996

COUNSEL FOR PLAINTIFF

ORIGINAL
(Red)

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

EQUIBANK,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. G.D. 82-04455
	)	
JOSEPH WISEMAN and	)	
RUTH WISEMAN, his wife,	)	
	)	
Defendants.	)	

N O T I C E

TO: B. A. Karlowitz, Attorney
for Defendants
BERKMAN, RUSLANDER, POHL,
LIEBER & ENGEL
20th Floor - Frick Bldg.
Pittsburgh, PA 15219

YOU ARE HEREBY NOTIFIED THAT THE WITHIN MOTION WILL BE PRESENTED TO THE PRESIDING JUDGE OF THE COURT OF COMMON PLEAS ON FRIDAY, AUGUST 13, 1982 at 9:30 a.m.

Respectfully submitted,

LAMPL, SABLE & MAKOROFF

BY: Robert G. Sable

Robert G. Sable
710 Fifth Avenue
Suite 3000
Pittsburgh, PA 15219
(412) 471-4996

ATTORNEYS FOR PLAINTIFF

ORIGINAL
(Red)

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

EQUIBANK,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. G.D. 82-04455
	)	
JOSEPH WISEMAN and	)	
RUTH WISEMAN, his wife,	)	
	)	
Defendants.	)	

MOTION TO TERMINATE STAY

The motion of Equibank, by its attorneys, LAMPL, SABLE & MAKOROFF, respectfully represents as follows:

1. On March 2, 1982, Plaintiff, Equibank, issued an Execution against the Defendants, Joseph Wiseman and Ruth Wiseman, on certain real property situate in Moon Township, Allegheny County, Pennsylvania.

2. Said Execution directed the Sheriff to levy upon property which the Defendants had pledged as collateral security for an obligation of Wiseman Oil Company, Inc. in the face amount of $1,700,000.00.

3. On April 26, 1982, the Defendants presented a Motion to Strike or Open the Judgment and for Stay of Execution which petition was denied by this Court.

4. On May 4, 1982, the Defendants presented a Motion for Reconsideration and argument was held before this Honorable Court.

ORIGINAL
(Red)

5. Upon consent of the Plaintiff, the Court stayed the Execution pending a determination by the United States Bankruptcy Court for the Western District of Pennsylvania in proceedings for relief from stay in the case of Wiseman Oil Company, Inc.

6. On July 23, 1982, the Bankruptcy Court, by the Honorable Joseph L. Cosetti, granted Equibank relief from stay and authorized it to proceed against the assets of Wiseman Oil Company, Inc. A copy of said Order is attached hereto, made a part hereof and marked Exhibit "A".

7. The real estate upon which the Wiseman Oil plant is situate is the subject of the within Execution and it is necessary that Equibank be able to proceed against that asset as well as the plant and equipment of Wiseman Oil Company, Inc.

WHEREFORE, Plaintiff, Equibank, prays this Honorable Court to enter an Order terminating the stay entered on May 4, 1982 and permitting it to proceed with the Execution at the above number and term.

Respectfully submitted,

LAMPL, SABLE & MAKOROFF

BY: Robert G. Sable

Robert G. Sable
710 Fifth Avenue
Suite 3000
Pittsburgh, PA 15219
(412) 471-4996

ATTORNEYS FOR PLAINTIFF

BPDR 0005394

ORIGINAL
(Red)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF:	) Bankruptcy No. 81-3367
WISEMAN OIL COMPANY, INC.,	) Chapter 11
Debtor.	)

* * * * * * * * * * * * * * * * *

EQUIBANK,	)
Plaintiff,	)
vs.	) Adversary No. 82-118
WISEMAN OIL COMPANY, INC.,	)
Debtor.	)

#12

ORDER OF COURT

AND NOW at Pittsburgh, this 23 day of July, 1982, upon Complaint of Equibank, after notice and hearing in open Court, the Court finds that Equibank has not been offered adequate protection and that it has proved that it is entitled to relief from the automatic stay, it is ORDERED that Equibank is granted relief from stay against the assets of Wiseman Oil Company, Inc. and is granted the right to immediate possession of all of the Debtor's personal property, including but not limited to, furniture, fixtures, equipment, automobiles, inventory,

EXHIBIT "A"

accounts receivables and each and every other item of property in which Equibank has a security interest or lien.

It is further ORDERED that the Debtor, its officers and employees are directed to cooperate in the turnover of said assets to Equibank. Equibank shall have the right to dispose of said assets in accordance with the terms of the loan documents and applicable law. However, Equibank is required to give notice to the Debtor in Possession, the Creditors Committee, Weisman family before a sale to a 3rd Party can be reasonable.

BY THE COURT:

J. Coretti J.

BPDR 0005396

ORIGINAL
(Red)

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

EQUIBANK,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. G.D. 82-04455
	)	
JOSEPH WISEMAN and	)	
RUTH WISEMAN, his wife,	)	
	)	
Defendants.	)	

ORDER OF COURT

AND NOW to-wit, this _____ day of August, 1982, it is ORDERED that the stay of execution entered herein on May 4, 1982, is hereby terminated and vacated and Equibank is granted leave to proceed with execution on the above judgment at the above number and term.

BY THE COURT:

_____
J.

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
710 FIFTH AVENUE
PITTSBURGH, PA. 15219-3088
(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

RECEIVED
AUG 20 1982
EQUIBANK
COMM. L. ADJ.

August 18, 1982

Equibank
Two Oliver Plaza
Commercial Loan Adj. Dept.
13th Floor
Pittsburgh, PA 15222

Att: William M. Densmore, Vice President

In re: WISEMAN OIL CO., INC.

Dear Bill:

On Monday, August 16, 1982, I presented a petition to Common Pleas Court requesting that that Court terminate the Stay Order previously entered on the plant property owned by Joseph and Ruth Wiseman. Judge Marion Finkelhor, upon being advised that there was a possible appeal in Bankruptcy Court, continued the matter for 30 days. This Order was entered after she had originally indicated she intended to continue it for 60 days and even the 30 days extension was over my strenuous objection. It is my intention to obtain a further Order from the Bankruptcy Court and request that the stay be terminated at such time as another Judge in Common Pleas Court is hearing miscellaneous motions.

I also met with Jerome Lieber, of Berkman, Ruslander, et al., who represents Joseph and Ruth Wiseman. He indicated that although Joseph Wiseman's expectations might be unrealistic, that Joe expected to be released from his guaranty, retain at least part of the real estate adjoining the plant and be paid the sum of $250,000.00. I indicated that this was totally unrealistic and that the Bank had no objection to the Wisemans retaining some of the real estate in that area, providing that a purchaser did not require it. We are not prepared to pay any money to the Wisemans. I indicated that we felt the logicial buyer was

ORIGINAL
(Red)

Breslube and that I would contact Joseph Chaloub to determine if he required the use of all of the real estate that the Wisemans have acquired in that area. I called Chaloub and was advised that he will not return from vacation until August 20, 1982. As soon as I have some indication from Chaloub as to what the minimum requirement on the real estate is, I intend to discuss this further with Lieber. I have not indicated that the Bank would do anything other than give Joseph and Ruth Wiseman credit on their guarantees for any real estate owned by them which might be conveyed to a purchaser.

I will keep you advised of my progress.

Very truly yours,

LAMPL, SABLE & MAKOROFF

Robert G. Sable

Robert G. Sable

RGS/gp

BERKMAN RUSLANDER POHL LIEBER & ENGEL
ATTORNEYS AT LAW
20TH FLOOR, FRICK BUILDING
PITTSBURGH, PENNSYLVANIA 15219
TELEPHONE (412) 392-2000
TELECOPIER (412) 392-2128

MARCUS AARON II
ALAN L. ACKERMAN
MARK I. BASEMAN
ALLEN H. BERKMAN
CHARLES R. BROOBECK
GEORGE C. BURGWIN III
JOHN F. DUGAN
JOHN R. EDGAR
BERNARD EISEN
ROBERT ENGEL
LISO B. FINEBERG
PETER F. FLAHERTY
MICHAEL D. FOX
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DEAN F. RICHARDSON
PHILIP M. SPRINKLE II
STEPHEN C. VELTRI
GARY WALK
SIDNEY ZONN

FRANK J. POHL
SENIOR COUNSEL

DAVID GLICK
1895-1964
S. LEO RUSLANDER
1879-1976
ANNE X. ALPERN
1904-1981

FLORIDA OFFICE
5975 WEST SUNRISE BLVD.
FORT LAUDERDALE, FLORIDA 33313
TELEPHONE (305) 564-2800

WRITER'S DIRECT
DIAL NUMBER
392- 2136

August 25, 1982

The Honorable Joseph L. Cosetti,
United States Bankruptcy Judge
1605 Federal Building
Pittsburgh, Pennsylvania 15222

Robert G. Sable, Esquire
710 Fifth Avenue / Suite 3000
Pittsburgh, Pennsylvania 15219

Douglas A. Campbell, Esquire
220 Grant Street
Pittsburgh, Pennsylvania 15219

Re: Wiseman Oil Company, Debtor
Bankruptcy No. 81-3367
Equibank v. Wiseman Oil Company
Adversary No. 82-118

Gentlemen:

Enclosed please find a true and correct copy of Notice of Appeal which we have filed this day with the Court.

Very truly yours,

Patrick H. Autry
for BERKMAN RUSLANDER POHL LIEBER & ENGEL

PHA:jsv

cc: J. B. Lieber, Esquire

Enclosure

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
710 FIFTH AVENUE
PITTSBURGH, PA. 15219-3088
(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

RECEIVED AUG 23 1982 Equibank Comm. Adj.

August 21, 1982

Equibank
Two Oliver Plaza
Commercial Loan Adj. Dept.
13th Floor
Pittsburgh, PA 15222

Att: William M. Densmore, Vice President

In re: WISEMAN OIL CO.

Dear Bill:

Enclosed is a copy of a letter we received from David Humphreys, attorney for North Star. North Star feels that using a polymer to separate the water from the oil in the tanks would enhance the amount of dollars we might receive from liquidating the inventory.

Please contact me so we may discuss.

Very truly yours,

LAMPL, SABLE & MAKOROFF

F. Scott Gray

F. Scott Gray

FSG/gp
Enclosure

ORIGINAL

LAW OFFICES
DAVID J. HUMPHREYS, P. A.
1000 LAWYERS BUILDING
PITTSBURGH, PENNSYLVANIA 15219

DAVID J. HUMPHREYS
JOHN I. NUBANI

391-6533
AREA CODE 412

August 20, 1982

F. Scott Gray, Esquire
Lampl, Sable & Makoroff
Suite 3000
710 Fifth Avenue
Pittsburgh, PA 15219

Re: North Star Coal Co. vs. Wiseman Oil Co., Inc., et al.
Civil Action Number 82-1309

Dear Mr. Gray:

As I indicated to you by telephone, North Star has sold two loads of waste oil and has received a check from WMMC, Inc. for $815.27 representing the net proceeds. The price received for these two loads was $0.20 per gallon because the water in the waste oil was 26 percent, in spite of efforts to skim the oil from the surface.

Under the marketing standards for this type of oil, the greater the percentage of water, the lower the price. The price is based upon the net oil, not upon the entire load. For instance, where the water is 26 percent of the load, payment at the rate of $0.20 per gallon is only on 74 percent of the load.

Consequently, if the water can be largely eliminated, a significantly higher price for the oil can be obtained. The only way that the water can be substantially eliminated is by adding a polymer to chemically remove the water. It is Mr. Speyer's understanding that by use of this polymer, the amount of the water will be reduced from 26 percent or more to 5 percent or less. The price on the net oil will then increase from $0.20 per gallon to $0.38 per net gallon.

However, the cost of the polymer is $1,700.00, which will be an additional cost of sale. The purpose of this letter is

to advise you of their opinion that this is the best method to proceed to obtain the highest price for the oil, and request your consent. By copy of this letter, I am notifying Douglass Campbell, attorney for the Creditors' Committee, and Patrick Autrey, attorney for Wiseman Oil Company. I would appreciate each of you consenting to this procedure in the place provided in the copy enclosed and return the copy to me, or if you have any specific comments or objection, let me know them promptly.

Very truly yours,

DAVID J. HUMPHREYS, P. A.

BY: _____
David J. Humphreys, Esquire

DJH/all

Enclosure

cc Douglass Campbell, Esquire
Patrick Autrey, Esquire
Alexander Speyer, III

CONSENTED TO:

_____

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	)	Bankruptcy No.
	)	
WISEMAN OIL COMPANY, INC.,	)	81-3367
	)	
Debtor	)	
	)	
EQUIBANK,	)	
	)	
Plaintiff	)	Adversary No.
	)	
vs.	)	82-118
	)	
WISEMAN OIL COMPANY, INC.,	)	
	)	
Defendant	)	

NOTICE OF APPEAL

Wiseman Oil Company, Inc., Defendant, appeals to the District Court from Orders of this Court in the above-captioned adversary proceeding number and term dated July 23, 1982 and August 20, 1982, wherein Equibank was granted relief from the §362 Bankruptcy Code, and wherein Wiseman Oil Company, Inc. was denied an extension of time to appeal that Order.

BERKMAN RUSLANDER
POHL LIEBER & ENGEL
20TH FLOOR, FRICK BUILDING
PITTSBURGH, PENNSYLVANIA
15219

ORIGINAL (Red)

The parties to these Orders appealed from and the names and addresses of their respective attorneys are as follows:

Robert G. Sable, Esquire
Lampl, Sable & Makoroff
710 Fifth Avenue / Suite 3000
Pittsburgh, Pennsylvania 15219

Attorney for Equibank

Douglas A. Campbell, Esquire
220 Grant Street
Pittsburgh, Pennsylvania 15219

Attorney for Committee of Unsecured Creditors

BERKMAN RUSLANDER POHL LIEBER & ENGEL

By _____
Patrick H. Autry, Esquire

Attorneys for WISEMAN OIL COMPANY, INC.

BPDR 0005405

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Notice of Appeal was served upon the following by first class mail, postage pre-paid this 25th day of August 1982:

The Honorable Joseph L. Cosetti,
United States Bankruptcy Judge
1605 Federal Building
Pittsburgh, Pennsylvania 15222

Robert G. Sable, Esquire
710 Fifth Avenue / Suite 3000
Pittsburgh, Pebnsylvania 15219

Attorney for Equibank

Douglas A. Campbell, Esquire
220 Grant Street
Pittsburgh, Pennsylvania 15219

Attorney for Committee of Unsecured Creditors

BERKMAN RUSLANDER POHL LIEBER & ENGEL

By _____
Patrick H. Autry, Esquire

Attorneys for WISEMAN OIL COMPANY, INC.

BERKMAN RUSLANDER
POHL LIEBER & ENGEL
20TH FLOOR, FRICK BUILDING
PITTSBURGH, PENNSYLVANIA
15219

BERKMAN RUSLANDER POHL LIEBER & ENGEL
ATTORNEYS AT LAW
20TH FLOOR, FRICK BUILDING
PITTSBURGH, PENNSYLVANIA 15219
TELEPHONE (412) 392-2000
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FLORIDA OFFICE
5975 WEST SUNRISE BLVD.
FORT LAUDERDALE, FLORIDA 33313
TELEPHONE (305) 584-2800

WRITER'S DIRECT DIAL NUMBER
392- 2136

August 26, 1982

The Honorable Joseph L. Cosetti,
United States Bankruptcy Judge
1605 Federal Building
Pittsburgh, Pennsylvania 15222

Robert G. Sable, Esquire
Lampl, Sable & Makoroff
710 Fifth Avenue / Suite 3000
Pittsburgh, Pennsylvania 15219

Douglas A. Campbell, Esquire
Campbell & Levine
220 Grant Street
Pittsburgh, Pennsylvania 15219

Re: Wiseman Oil Company, Debtor
Bankruptcy No. 81-3367
Equibank v. Wiseman Oil Company
Adversary No. 82-118

Gentlemen:

Enclosed please find a true and correct copy of Petition for Stay of Orders of Court dated July 23, 1982 and August 20, 1982 pending Appeal pursuant to Rule 805 filed today with the Court.

Very truly yours,

Patrick H. Autry
for BERKMAN RUSLANDER POHL LIEBER & ENGEL

PHA:jsv

Enclosures

UNITED STATES BANKRUPTCY COURT
OFFICE OF THE CLERK
WESTERN DISTRICT OF PENNSYLVANIA
1602 FEDERAL BUILDING
PITTSBURGH, PENNSYLVANIA 15222

IN REPLYING, GIVE NUMBER OF CASE AND NAMES OF PARTIES

THEODORE S. HOPKINS
(412) 644-2700

August 26, 1982

Robert G. Sable, Esq.
Attorney for Equibank
710 Fifth Avenue / Suite 3000
Pittsburgh, PA 15219

RE: Wiseman Oil Co., Inc.
Debtor.
Equibank,
Plaintiff,
vs.
Wiseman Oil Co., Inc.
Defendant.
Bankruptcy No.: 81-3367
Adversary No.: 82-118

Dear Mr. Sable,

Pursuant to Rule 804 of the Bankruptcy Rules notice of the filing of a notice of appeal, filed on August 25, 1982, is hereby given regarding the above case. Said appeal was filed by PATRICK H. AUTRY, ESQ. on behalf of WISEMAN OIL CO., INC., Defendant.

You will find a copy of the appeal enclosed.

Sincerely,

Theodore S. Hopkins

THEODORE S. HOPKINS
Clerk, U. S. Bankruptcy Court

TSH/ams

Enclosure

ORIGINAL
filed

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	)	
	)	
WISEMAN OIL COMPANY, INC.,	)	Bankruptcy Case No. 81-3367
	)	
Debtor	)	

JULY ACTIVITY - 1982

Beginning Cash Balance 07-01-82	$2,219.51	
(Equibank	$2,134.31)	
(PNB	$ 85.20)	
(A) Cash Receipts		$39,993.82
(B) Cash Disbursements		$41,045.27
Ending Cash Balance 07-31-82	$1,168.06	
(Equibank	$1,087.45)	
(PNB	$ 80.61)	

BERKMAN RUSLANDER
POHL LIEBER & ENGEL
70TH FLOOR, FRICK BUILDING
PITTSBURGH, PENNSYLVANIA
15219

ORIGINAL (Red)

Schedule (A) CASH RECEIPTS

Hussey Metals - Service	$ 1,038.50
Hussey Metals - Service	$ 620.00
Lubriquip - Service	$ 450.00
Petromark - Sales	$ 4,500.00
Liquix Oil (cash) - Service	$ 225.00
Liquix Oil (cash) - Service	$ 225.00
Union Electric Steel - Service	$ 1,740.00
Union Electric Steel - Service	$ 1,740.00
Elliott Company - Service	$ 820.00
Liquix Oil (cash) - Service	$ 225.00
Petromark - Sales	$ 1,325.02
Petromark - Service	$ 765.00
Petromark - Service	$ 720.36
Westinghouse Electric - Service	$ 990.00
Westinghouse Electric - Service	$ 720.00
Westinghouse Electric - Service	$ 720.00
Westinghouse Electric - Service	$ 990.00
Elliott Company - Service	$ 820.00
Hussey Metals - Service	$ 930.00
Mesta Machine - Service	$ 544.00
Liquix Oil - Service	$ 255.00
U.S. Steel - Service	$ 268.88
U.S. Steel - Service	$ 388.38
Wheeling Pittsburgh - Service	$ 2,200.00
Petromark - Service	$ 900.45

Petromark - Service	$ 1,916.04
Petromark - Service	$ 2,026.00
Hussey Metals - Service	$ 1,038.50
Hussey Metals - Service	$ 620.00
Westinghouse Electric - Service	$ 990.00
Westinghouse Electric - Service	$ 990.00
Westinghouse Electric - Service	$ 990.00
Elliott Company - Service	$ 820.00
Universal Cyclops - Service	$ 127.13
Westinghouse Electric - Service	$ 720.00
Parkvale Savings (cash) - Sales	$ 75.00
Petromark - Service	$ 918.45
Petromark - Service	$ 918.45
Petromark - Sales	$ 3,003.66
Westinghouse Electric - Service	$ 720.00
TOTAL	$39,993.82

Schedule (B) CASH DISBURSEMENTS

Payroll	$18,058.80
Payroll Taxes	$ 6,186.40
City of Pittsburgh Wage Tax & Penalty	$ 197.63
Teamsters Credit Union	$ 805.00
Pennsylvania Unemployment Compensation (2nd Quarter)	$ 737.25
Security	$ 1,026.00

ORIGINAL (Red)

Utilities		$ 6,797.68
Gas	$ 26.42	
Telephone	$3,562.98	
Electric	$3,208.28	
Insurance		$ 4,492.80
Equipment, Fire, Liability	$3,250.00	
Hospitalization	$1,242.80	
Installment Payments		$ 392.79
R.P. Robosson - Expense		$ 958.09
O.D. Shoup - Expense		$ 379.13
Walter Protch - Expense		$ 300.00
Miscellaneous - Payables		$ 713.70
Plant Petty Cash	$ 250.00	
Budget Uniform	$ 284.60	
Safety Kleen	$ 103.88	
Coffee Cupboard	$ 26.00	
Polar Water	$ 44.63	
Bank Service Charge	$ 4.59	
	TOTAL	$41,045.27

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	)	
	)	
WISEMAN OIL COMPANY, INC.,	)	Bankruptcy Case No. 81-3367
	)	
Debtor	)	

JUNE ACTIVITY - 1982

Beginning Cash Balance 06-01-82	$8,663.65	
(Equibank	$8,578.45)	
(PNB	$ 85.20)	
(A) Cash Receipts		$24,622.95
(B) Cash Disbursements		$31,107.09
Ending Cash Balance 06-30-82	$2,179.51	
(Equibank	$2,094.31)	
(PNB	$ 85.20)	

BERKMAN RUSLANDER
POHL LIEBER & ENGEL
[illegible]TH FLOOR, FRICK BUILDING
PITTSBURGH, PENNSYLVANIA
15219

ORIGINAL
(Red)

Shedule (A) CASH RECEIPTS

Elliott Company - Service	$ 820.00
WTAE T104 - Sale	$ 245.96
Petroleum Equipment Sales - Service	$ 500.00
Westinghouse Electric - Service	$ 1,710.00
Joy Manufacturing - Service	$ 400.00
Limbach Company - Service	$ 378.00
Westinghouse Electric - Service	$ 990.00
Westinghouse Electric - Service	$ 720.00
Westinghouse Electric - Service	$ 720.00
Lubriquip - Service	$ 225.00
U.S. Steel - Service	$ 328.50
Elliott Company - Service	$ 820.00
U.S. Steel - Service	$ 1,109.44
Westinghouse Electric - Service	$ 990.00
Westinghouse Electric - Service	$ 720.00
Big Mountain Coal - Service	$ 6,120.00
U.S. Steel - Service	$ 328.50
Superior Valve - Service	$ 341.25
Westinghouse Electric - Service	$ 990.00
Elliott Company - Service	$ 1,640.00
Petromark - Service	$ 594.80
Petromark - Service	$ 160.00

BPDR 0005414

Bloom. Eng. - Service		$ 121.50
Westinghouse Electric - Service		$ 990.00
Westinghouse Electric - Service		$ 990.00
Westinghouse Electric - Service		$ 720.00
Westinghouse Electric - Service		$ 990.00
	TOTAL	$24,622.95

Schedule (B) CASH DISBURSEMENTS

Bank Charges		$ 11.95
Payroll		$10,411.89
Payroll Taxes		$ 5,214.37
City of Pittsburgh		$ 898.69
1st Quarter Wage	$ 748.02	
Penalty 4th Quarter 1981	$ 150.67	
Security		$ 1,254.00
Utilities (including Western Union & Rea)		$ 5,510.56
Gas	$1,879.52	
Telephone	$1,974.28	
Electric	$1,656.76	
Insurance		$4,120.00
Equipment, Fire, Truck Liability	$1,625.00	
Hospitalization (2 months)	$2,495.00	
Installment Payments		$ 392.79
License Plates		$ 1,422.00

BPDR 0005415

R.P. Robosson - Expense		$ 467.59
O.D. Shoup - Expense		$ 165.95
Uniforms, Plant Rugs & Safety Kleen		$ 409.68
Miscellaneous		$ 827.62
Petty Cash	$ 550.00	
Transfer to PNB	$ 100.00	
Miscellaneous Small Payables	$ 177.62	
	TOTAL	$31,107.09

BPDR 0005416

BERKMAN RUSLANDER POHL LIEBER & ENGEL
ATTORNEYS AT LAW
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PITTSBURGH, PENNSYLVANIA 15219
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ALAN BACKERMAN
MARK L. BASEMAN
ALLEN H. BERKMAN
CHARLES R. BROBBECK
GEORGE C. BURGWIN III
JOHN F. DUGAN
JOHN P. EDGAR
BERNARD EISEN
ROBERT ENGEL
LIBO B. FINEBERG
PETER F. FLAHERTY
MICHAEL D. FOX
ALAN A. GARFINKEL
CHARLES B. GIBBONS
GARY L. GOLDBERG
FOSTER S. GOLDMAN, JR.
WILLIAM M. HOFFMAN
BELA A. KARLOWITZ
LEO A. KEEVICAN, JR.
JEROME B. LIEBER
MARVIN S. LIEBER
MICHAEL M. LYONS
MICHAEL J. MANZO
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DEAN F. RICHARDSON
PHILIP M. SPRINKLE II
STEPHEN C. VELTRI
GARY WALK
SIDNEY ZONN
FRANK J. POHL
SENIOR COUNSEL
DAVID GLICK
1896-1964
S. LEO RUSLANDER
1879-1976
ANNE X. ALPERN
1904-1981

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5975 WEST SUNRISE BLVD.
FORT LAUDERDALE, FLORIDA 33313
TELEPHONE (305) 584-2800

WRITER'S DIRECT
DIAL NUMBER
392- 2136

September 1, 1982

Robert G. Sable, Esquire
Lampl, Sable & Makoroff
710 Fifth Avenue / Suite 3000
Pittsburgh, Pennsylvania 15219

Douglas A. Campbell, Esquire
Campbell & Levine
220 Grant Street
Pittsburgh, Pennsylvania 15219

Re: Wiseman Oil Company, Inc.
Bankruptcy No. 81-3367
June and July Activity

Gentlemen:

Enclosed please find a copy of Wiseman Oil's Activity for June and July 1982 which we have filed with the Court this day.

Very truly yours,

Patrick H. Autry
for BERKMAN RUSLANDER POHL LIEBER & ENGEL

PHA:jsv

cc: Jerome B. Lieber, Esquire

Enclosures

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	)	Bankruptcy No.
	)	
WISEMAN OIL COMPANY, INC.,	)	81-3367
	)	
Debtor	)	
	)	
EQUIBANK, N.A.,	)	Adversary No.
	)	
Plaintiff	)	82-118
	)	
vs.	)	
	)	
WISEMAN OIL COMPANY, INC.,	)	
	)	
Defendant	)	

PETITION FOR STAY OF ORDERS OF COURT
DATED JULY 23, 1982 AND AUGUST 20, 1982 PENDING
APPEAL PURSUANT TO RULE 805

TO THE HONORABLE: Joseph L. Cosetti,
United States Bankruptcy Judge

Your Petitioner, Wiseman Oil Company, Inc. ("Wiseman Oil"), respectfully represents that:

1. A hearing was held on July 23, 1982, before The Honorable Joseph L. Cosetti in the within adversary proceeding concerning the Petition of Equibank, N.A., for relief from the stay of §362 of the Bankruptcy Code and for adequate protection.

BERKMAN RUSLANDER
POHL LIEBER & ENGEL
25TH FLOOR, FRICK BUILDING
PITTSBURGH, PENNSYLVANIA
15219

2. Counsel for Equibank, N.A., and for Wiseman Oil presented arguments. More specifically, counsel argued the merits of a proposed Plan of Reorganization which Wiseman Oil had filed on July 22, 1982.

3. The Court declined to enter an Order at the time of the hearing, and indicated to counsel that the Court would withhold entry of an order for an unspecified time.

4. Unbeknownst to Wiseman Oil, the Court entered an Order on July 23, 1982, granting Equibank relief from the automatic stay and granting Equibank the right to foreclose upon its collateral (hereinafter "Order").

5. Wiseman Oil has not been notified of the entry of the Order as required by Bankruptcy Rule 922.

6. Wiseman Oil first leanred of the entry of the Order in a telephone conversation with counsel for Equibank on August 9, 1982.

7. Through no fault of Wiseman Oil, the ten day period for appeal provided for by Bankruptcy Rule 902(a) has expired, with no appeal having been filed.

BPDR 0005419

8. Wiseman Oil petitioned the Bankruptcy Court on August 12, 1982, for an extension of time to file notice of appeal pursuant to Bankruptcy Rule 802(c).

9. This Petition was denied by Order of Court dated August 20, 1982, which reads:

> The Court regrets the lack of notice. However, there is no authority to extend time for appeal. Petition denied.

10. Notice of Appeal, dated August 25, 1982, has been filed with the Bankruptcy Court and conveyed to all parties in interest. Wiseman Oil appeals from the Order of Court dated July 23, 1982, in the within adversary proceedings. Wiseman Oil also appeals from the Order of Court dated August 20, 1982, whereby this Court denied the Petition of Wiseman Oil for an extension of time to file appeal from the July 23rd Order.

11. Wiseman Oil avers that a stay pending consideration of the aforementioned Orders is necessary for the following reasons:

(a) Under the Court's Orders, Equibank has been granted nearly complete control of the Estate of Wiseman Oil.

BPDR 0005420

(Red)

(b) Equibank is under virtually no obligation to consider the interests of Wiseman Oil, or its creditors, in disposing of the assets of Wiseman Oil.

(c) The granting of the relief from stay, and subsequent denial of the request for an extension of time to file an appeal constitute a de facto adjudication of bankruptcy.

(d) Pursuant to the Orders of Court of July 23 and August 20, 1982, Equibank is empowered to take action which is irreversible, and irreparable with respect to the entity known as Wiseman Oil. More specifically, if Equibank proceeds to sell the assets of Wiseman Oil at its discretion, the dismemberment of the corporation is assured, and Wiseman Oil would have to consider action against the subsequent buyer or buyers.

BPDR 0005421

12. Wiseman Oil further avers that a stay pending appeal is appropriate because there is a likelihood that Wiseman Oil will succeed on appeal for the following reasons:

(a) The Order of Court dated August 20, 1982, holds that the Court does not have the authority to extend the time for appeal. Wiseman Oil avers that this is wrong as a matter of law. Such authority is expressly granted by Bankruptcy Rule 802(c).

(b) To the extent that the Court is correct in its interpretation of the Bankruptcy Rules, relating to appeals, those rules are unconstitutional and constitute a denial of due process of law.

BPDR 0005422

WHEREFORE, Wiseman Oil respectfully requests that this Honorable Court issue a Stay of the execution of the Orders of Court dated July 23 and August 20, 1982, pending disposition of the appeals in this adversary action.

BERKMAN RUSLANDER POHL LIEBER & ENGEL

By _____
Patrick H. Autry, Esquire

Attorneys for WISEMAN OIL COMPANY, Debtor

Dated: August 26, 1982

BPDR 0005423

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition For Stay Of Orders Of Court Dated July 23, 1982 and August 20, 1982 Pending Appeal Pursuant To Rule 805 was served upon the following individuals by first class mail, postage prepaid, at the following addresses:

The Honorable Joseph L. Cosetti,
United States Bankruptcy Judge
1605 Federal Building
Pittsburgh, Pennsylvania 15222

Robert G. Sable, Esquire
Lampl, Sable & Makoroff
710 Fifth Avenue / Suite 3000
Pittsburgh, Pennsylvania 15219

Douglas A. Campbell, Esquire
Campbell & Levine
220 Grant Street
Pittsburgh, Pennsylvania 15219

By _____
Patrick H. Autry

BERKMAN RUSLANDER POHL LIEBER & ENGEL
20th Floor, Frick Building
Pittsburgh, Pennsylvania 15219

Attorneys for WISEMAN OIL COMPANY, INC., Debtor

BERKMAN RUSLANDER
POHL LIEBER & ENGEL
20TH FLOOR, FRICK BUILDING
PITTSBURGH, PENNSYLVANIA
15219

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	)	No. 81-3367
WISEMAN OIL COMPANY, INC.,	)	
Debtor	)	
EQUIBANK, N.A.,	)	
Plaintiff	)	
vs.	)	No. 82-118
WISEMAN OIL COMPANY, INC.,	)	
Debtor	)	

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#15

PETITION FOR EXTENSION OF TIME FOR
APPEAL PURSUANT TO BANKRUPTCY RULE 802(c)

TO THE HONORABLE: Joseph L. Cosetti, United States Bankruptcy Judge

Your Petitioner, Wiseman Oil Company, Inc. ("Wiseman Oil"), respectfully represents that:

1. A hearing was held on July 23, 1982, before The Honorable Joseph L. Cosetti in the within adversary proceeding concerning the petition of Equibank, N.A., for relief from the stay of §362 of the Bankruptcy Code and for adequate protection.

ORIGINAL
(Red)

2. Counsel for Equibank, N.A., and for Wiseman Oil presented arguments. More specifically, counsel argued the merits of a proposed Plan of Reorganization which Wiseman Oil had filed on July 22, 1982.

3. The Court declined to enter an Order at the time of the hearing, and indicated to counsel that the Court would withhold entry of an order for an unspecified time.

4. Unbeknownst to Wiseman Oil, the Court entered an order on July 23, 1982, granting Equibank relief from the automatic stay and granting Equibank the right to foreclose upon its collateral (hereinafter "Order").

5. Wiseman Oil has not been notified of the entry of the Order as required by Bankruptcy Rule 922.

6. Wiseman Oil first learned of the entry of the Order in a telephone conversation with counsel for Equibank on August 9, 1982.

7. Through no fault of Wiseman Oil, the ten day period for appeal provided for by Bankruptcy Rule 902(a) has expired, with no appeal having been filed.

BPDR 0005426

WHEREFORE, Wiseman Oil respectfully requests, pursuant to Rule 802(c), that this Court extend the period for filing the notice of appeal in the within adversary proceedings until August 23, 1982.

BERKMAN RUSLANDER POHL LIEBER & ENGEL

By_____
Bela A. Karlowitz, Esquire

By_____
William M. Hoffman, Esquire

By_____
Patrick H. Autry, Esquire

Attorneys for Debtor, WISEMAN OIL COMPANY, INC.

The court regrets the lack of notice. However there is no authority to extend time for appeal. Petition denied

Joseph L Cosetti

20 August 82

ORIGINAL
Red

BERKMAN RUSLANDER POHL LIEBER & ENGEL

ATTORNEYS AT LAW

20TH FLOOR, FRICK BUILDING

PITTSBURGH, PENNSYLVANIA 15219

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DEAN F. RICHARDSON
PHILIP M. SPRINKLE II
MARK D. YOCHUM
SIDNEY ZONN

FRANK J. POHL
SENIOR COUNSEL

DAVID GLICK
1895-1964

S. LEO RUSLANDER
1879-1978

ANNE X. ALPERN
1904-1981

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TELEPHONE (305) 584-2800

WRITER'S DIRECT
DIAL NUMBER
392- 2136

August 11, 1982

The Honorable Joseph L. Cosetti,
United States Bankruptcy Judge
1607 Federal Building
Pittsburgh, Pennsylvania 15222

Re: Wiseman Oil Company, Inc.
Bankruptcy No. 81-3367
Equibank, N.A., v. Wiseman Oil Company, Inc.
Adversary No. 82-118

Dear Judge Cosetti:

Enclosed please find a copy of a Petition For Extension of Time For Appeal, in the above-captioned matter, the original of which we desire to present to the Court on Monday, August 16, or as soon thereafter as suits the Court.

Very truly yours,

Patrick H. Autry
for BERKMAN RUSLANDER POHL LIEBER & ENGEL

PHA:jsv

Enclosure

cc: Robert G. Sable, Esquire

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	)	Bankruptcy No.
	)	
WISEMAN OIL COMPANY, INC.,	)	81-3367
	)	
Debtor	)	
	)	
EQUIBANK,	)	
	)	
Plaintiff	)	Adversary No.
	)	
vs.	)	82-118
	)	
WISEMAN OIL COMPANY, INC.,	)	
	)	
Defendant	)	

NOTICE OF APPEAL

Wiseman Oil Company, Inc., Defendant, appeals to the District Court from Orders of this Court in the above-captioned adversary proceeding number and term dated July 23, 1982 and August 20, 1982, wherein Equibank was granted relief from the §362 Bankruptcy Code, and wherein Wiseman Oil Company, Inc. was denied an extension of time to appeal that Order.

DERKMAN RUSLANDER
POHL LIEBER & ENGEL
TH FLOOR, FRICK BUILDING
TTSBURGH, PENNSYLVANIA
15219

The parties to these Orders appealed from and the names and addresses of their respective attorneys are as follows:

Robert G. Sable, Esquire
Lampl, Sable & Makoroff
710 Fifth Avenue / Suite 3000
Pittsburgh, Pennsylvania 15219

Attorney for Equibank

Douglas A. Campbell, Esquire
220 Grant Street
Pittsburgh, Pennsylvania 15219

Attorney for Committee of Unsecured Creditors

BERKMAN RUSLANDER POHL LIEBER & ENGEL

By _____
Patrick H. Autry, Esquire

Attorneys for WISEMAN OIL COMPANY, INC.

BPDR 0005430

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Notice of Appeal was served upon the following by first class mail, postage pre-paid this 25th day of August 1982:

The Honorable Joseph L. Cosetti,
United States Bankruptcy Judge
1605 Federal Building
Pittsburgh, Pennsylvania 15222

Robert G. Sable, Esquire
710 Fifth Avenue / Suite 3000
Pittsburgh, Pebnsylvania 15219

Attorney for Equibank

Douglas A. Campbell, Esquire
220 Grant Street
Pittsburgh, Pennsylvania 15219

Attorney for Committee of Unsecured Creditors

BERKMAN RUSLANDER POHL LIEBER & ENGEL

By _____
Patrick H. Autry, Esquire

Attorneys for WISEMAN OIL COMPANY, INC.

BERKMAN RUSLANDER
POHL LIEBER & ENGEL
5TH FLOOR, FRICK BUILDING
PITTSBURGH, PENNSYLVANIA
15219

ORIGINAL
filed

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	)	No. 81-3367
WISEMAN OIL COMPANY, INC.,	)	
Debtor	)	
EQUIBANK, N.A.,	)	
Plaintiff	)	
vs.	)	No. 82-118
WISEMAN OIL COMPANY, INC.,	)	
Debtor	)	

PETITION FOR EXTENSION OF TIME FOR
APPEAL PURSUANT TO BANKRUPTCY RULE 802(c)

TO THE HONORABLE: Joseph L. Cosetti, United States Bankruptcy Judge

Your Petitioner, Wiseman Oil Company, Inc. ("Wiseman Oil"), respectfully represents that:

1. A hearing was held on July 23, 1982, before The Honorable Joseph L. Cosetti in the within adversary proceeding concerning the petition of Equibank, N.A., for relief from the stay of §362 of the Bankruptcy Code and for adequate protection.

2. Counsel for Equibank, N.A., and for Wiseman Oil presented arguments. More specifically, counsel argued the merits of a proposed Plan of Reorganization which Wiseman Oil had filed on July 22, 1982.

3. The Court declined to enter an Order at the time of the hearing, and indicated to counsel that the Court would withhold entry of an order for an unspecified time.

4. Unbeknownst to Wiseman Oil, the Court entered an order on July 23, 1982, granting Equibank relief from the automatic stay and granting Equibank the right to foreclose upon its collateral (hereinafter "Order").

5. Wiseman Oil has not been notified of the entry of the Order as required by Bankruptcy Rule 922.

6. Wiseman Oil first learned of the entry of the Order in a telephone conversation with counsel for Equibank on August 9, 1982.

7. Through no fault of Wiseman Oil, the ten day period for appeal provided for by Bankruptcy Rule 902(a) has expired, with no appeal having been filed.

BPDR 0005433

WHEREFORE, Wiseman Oil respectfully requests, pursuant to Rule 802(c), that this Court extend the period for filing the notice of appeal in the within adversary proceedings until August 23, 1982.

BERKMAN RUSLANDER POHL LIEBER & ENGEL

By_____
Bela A. Karlowitz, Esquire

By_____
William M. Hoffman, Esquire

By_____
Patrick H. Autry, Esquire

Attorneys for Debtor, WISEMAN OIL COMPANY, INC.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF:	) Bankruptcy No. 81-3367
	)
WISEMAN OIL CO., INC.,	) Chapter 11
	)
Debtor.	) Judge Cosetti

* * * * * * * * * * * * * * * * *

EQUIBANK,	)
	)
Plaintiff,	)
	)
vs.	) Adversary No. 82-118
	)
WISEMAN OIL CO., INC.,	)
	)
Defendant.	)

ANSWER TO PETITION FOR STAY OF ORDERS
DATED JULY 23, 1982 AND AUGUST 20, 1982

AND NOW comes Equibank, by its attorneys, LAMPL, SABLE & MAKOROFF, and answers the Petition for Stay filed herein as follows:

1. Paragraph 11 of the Petition for Stay contains the only averments regarding reasons for a stay.

2. The petition states no reason why a stay should be granted but only recites that relief has been granted on virtually all of the assets and that the Debtor can no longer reorganize under Chapter 11 of the Bankruptcy Code. Said Paragraph 11 contains no allegations either legal or equitable upon which a stay could be based but merely states that the Debtor will be harmed.

3. The Debtor was unable to take any postive steps toward a reorganization during this proceeding and there is no basis in law or equity for a granting of a stay.

WHEREFORE, Equibank prays this Honorable Court to deny the Petition for Stay of Orders dated July 23, 1982 and August 20, 1982 filed herein.

Respectfully submitted,

LAMPL, SABLE & MAKOROFF

BY: _____

Robert G. Sable
710 Fifth Avenue
Suite 3000
Pittsburgh, PA 15219
(412) 471-4996

COUNSEL FOR EQUIBANK

BPDR 0005436

(Red)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	)	No. 81-3367
WISEMAN OIL COMPANY, INC.,	)	Chapter 11
Debtor	)	
EQUIBANK,	)	
Plaintiff, Appellee	)	
vs.	)	Adversary No. 82-118
WISEMAN OIL COMPANY, INC.,	)	
Defendant, Appellant	)	

DESIGNATION OF RECORD ON APPEAL
AND STATEMENT OF ISSUES

Wiseman Oil Company, Inc. ("Wiseman Oil"), Appellant, files this Designation of Record on Appeal and Statement of Issues:

I. RECORD ON APPEAL

(a) Complaint for Relief from Stay and Adequate Protection filed on behalf of Equibank at Adversary No. 82-118, on January 19, 1982.

BERKMAN RUSLANDER
POHL LIEBER & ENGEL
20TH FLOOR, FRICK BUILDING
PITTSBURGH, PENNSYLVANIA
15219

ORIGINAL

(b) Answer of Wiseman Oil Company, Inc. to Equibank Complaint, filed January 23, 1982.

(c) Transcript of Hearing on April 29, 1982, before Judge Cosetti, concerning Adversary No. 82-118 [Appellant ordered transcript on September 1, 1982]

(d) Transcript of Hearing on July 23, 1982, before Judge Cosetti, concerning Adversary No. 82-118 [Appellant ordered transcript on September 1, 1982]

(e) Wiseman Oil's Responsive Brief in Opposition to Equibank's Complaint for Relief from Stay.

(f) Order of Court dated July 23, 1982, granting Relief from Stay in favor of Equibank.

(g) Petition of Wiseman Oil for Extension of Time for Appeal filed August 12, 1982.

ORIGINAL
(Red)

(h) Order of Court dated August 20, 1982, denying Petition of Wiseman Oil for Extension of Time for Appeal.

(i) Notice of Appeal on behalf of Wiseman Oil filed August 25, 1982.

II. STATEMENT OF ISSUES ON APPEAL

(a) Does the Bankruptcy Court have the authority to extend the time within which an aggrieved party may file an appeal from a final order of a Bankruptcy Judge?

(b) Does the "ten-day appeal period" provided by Bankruptcy Rule 802(a) apply in a case where the Bankruptcy Court has not issued an order in open court, has not had the order docketed, has not mailed a copy of the order to the parties in interest as required by Bankruptcy Rule 922, and where the Debtor-in-Possession has no notice of the entry of the order?

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(c) Is Bankruptcy Rule 902(a) constitutional under the due process clause if the answer to the above issue "b" is in the affirmative?

(d) Do the facts as set forth in Wiseman Oil's Petition for Extension of Time in Which to File Appeal evidence "excusable neglect" under Bankruptcy Rule 802(c)?

(e) Did the Honorable Joseph L. Cosetti abuse his discretion in denying the relief requested by Wiseman Oil's Petition for Extension of Time in Which to File Appeal, by entry of his Order on August 20, 1982?

(f) May a Bankruptcy Court grant relief from stay in favor of a secured

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creditor where the Debtor-in-Possession has filed a Plan of Reorganization which fulfills the requirements of 11 U.S.C. §1129 (§1129 of the Bankruptcy Code)?

Respectfully submitted,

BERKMAN RUSLANDER POHL LIEBER & ENGEL

By _____
Patrick H. Autry, Esquire

Attorneys for Debtor, WISEMAN OIL COMPANY, INC., Appellant

BPDR 0005441

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Designation of Record on Appeal and Statement of Issues was served upon all parties to this action by serving counsel of record by first class mail, postage prepaid this 2nd day of September 1982, at the following addresses:

The Honorable Joseph L. Cosetti,
United States Bankruptcy Judge
1605 Federal Building
Pittsburgh, Pennsylvania

Robert G. Sable, Esquire
Lampl, Sable & Makoroff
710 Fifth Avenue / Suite 3000
Pittsburgh, Pennsylvania 15219

Douglas A. Campbell, Esquire
Campbell & Levine
220 Grant Street
Pittsburgh, Pennsylvania 15219

BERKMAN RUSLANDER POHL LIEBER & ENGEL

By Patrick H. Autry

Patrick H. Autry, Esquire
Attorneys for Debtor, WISEMAN OIL COMPANY, INC., Appellant

BERKMAN RUSLANDER
POHL LIEBER & ENGEL
20TH FLOOR, FRICK BUILDING
PITTSBURGH, PENNSYLVANIA
15219

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUIBANK,

Plaintiff

vs.

JOSEPH WISEMAN and RUTH WISEMAN, his wife,

Defendants

CIVIL DIVISION

No. G.D. 78-13804

Issue Number

PETITION TO STRIKE OR TO OPEN JUDGMENT AND TO STAY EXECUTION

Code

Filed on Behalf of JOSEPH WISEMAN AND RUTH WISEMAN, Defendants

Counsel of record for this party:

Bela A. Karlowitz, Esquire
Pa. I.D. #01260

Patrick H. Autry, Esquire
Pa. I.D. #34604

BERKMAN RUSLANDER POHL LIEBER & ENGEL
Firm #021
20th Floor, Frick Building
Pittsburgh, Pennsylvania
15219

412/392-2000

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUIBANK, Plaintiff	)	
vs.	)	No. G.D. 78-13804
JOSEPH WISEMAN and RUTH WISEMAN, his wife, Defendants	)	

PETITION TO STRIKE OR TO OPEN JUDGMENT AND TO STAY EXECUTION

AND NOW COME Defendants, Joseph Wiseman and Ruth Wiseman ("Wisemans"), by their undersigned attorneys, and file this Petition to Strike or to Open Judgment and to Stay Execution for the following reasons:

1. Plaintiff, Equibank, is a Pennsylvania corporation with its principal place of business at Two Oliver Plaza, Pittsburgh, Pennsylvania, 15222.

2. Defendants, the Wisemans, are individuals residing at 538 North Neville Street, Pittsburgh, Pennsylvania, 15213.

3. Equibank filed a Complaint in Confession of Judgment in the Court of Common Pleas of Allegheny County on or

about June 13, 1978, at No. G.D. 78-13804. This judgment was revived on or about February 23, 1982, in the amount of $500,000.00.

4. Equibank has commenced execution proceedings on this judgment and a sheriff's sale of five parcels of land owned personally by Joseph and Ruth Wiseman is scheduled for September 13, 1982.

5. Judgment was entered under a warrant of authority contained in an Agreement of Guaranty and Suretyship by Joseph and Ruth Wiseman ("Guaranty") executed on or about September 9, 1977.

6. This Guaranty was given as security on the obligations of Wiseman Oil Company, Inc. ("Wiseman Oil"), to Equibank, which at the time amounted to approximately $1.1 million.

7. The Guaranty was incorporated by reference in the 1979 restructuring of the obligations of Wiseman Oil to Equibank, known as "Loan Agreement by and among Equibank, N.A., Wiseman Oil Company, Inc., and Joseph and Ruth Wiseman" ("Loan Agreement").

8. Wiseman Oil, the principal obligor, is currently in arrears in regard to its obligation to Equibank.

9. Wiseman Oil filed Chapter 11 proceedings in the United States Bankruptcy Court for the Western District of Pennsylvania on December 7, 1981, at No. G.D. 81-3367.

10. Equibank has commenced execution proceedings pursuant to the Guaranty against the Wisemans in order to satisfy the obligation of Wiseman Oil to Equibank and is attempting to sell certain real estate owned by the Wisemans.

11. Equibank has also commenced proceedings in the Bankruptcy Court seeking permission to foreclose upon the plant, equipment, inventory and other property of Wiseman Oil. By Order of Court dated July 23, 1982, Equibank was granted the relief requested. This Order is currently on appeal to the District Court.

12. Equibank has scheduled the sale of five parcels of land owned by the Wisemans under execution proceedings at the above number. Four of these parcels are tracts which either underlie or are appurtenant to the plant and equipment of Wiseman Oil.

13. The plant and equipment of Wiseman Oil are affixed to these parcels or are so intertwined with these parcels as to render each valueless unless sold together with the other.

14. During the course of the bankruptcy proceedings, Wiseman Oil secured and presented to Equibank two buyers of the plant and equipment of Wiseman Oil. These buyers were Breslube, a Canadian corporation headquartered in Breslau, Ontario, and Petromark, Inc., a Pennsylvania corporation headquartered in McKees Rocks, Pennsylvania.

15. Breslube originally offered to lease the plant with an option to purchase the plant and the underlying land at $2.2 million. During the course of the lease, Equibank was to receive regular rental payments, plus a substantial share of the profits from the operation of the plant. These monies could have reduced the principal obligation of Wiseman Oil to Equibank by a substantial sum and upon sale would have nearly satisfied that debt in full.

16. Although Equibank did hold several meetings with Breslube, Equibank declined to offer any counterproposals or to otherwise assist the principal obligor, Wiseman Oil, in structuring an arrangement satisfactory to Equibank.

17. Petromark, Inc., in early July 1982, submitted a written offer to purchase the plant and equipment and the underlying land of Wiseman Oil for a sum of $1.8 million. Petromark later modified this offer to $2.0 million for the plant, equipment and underlying land.

18. Although Equibank did hold several meetings with Petromark, Inc., Equibank appears to have dismissed the Petromark proposal "out of hand", never submitted a counterproposal, or otherwise pursued the offer of this bona fide purchaser.

19. Since the July 23, 1982, Order of the Bankruptcy Court, Equibank has informed counsel for the Wisemans that it

has pursued an offer to purchase the plant and equipment of Wiseman Oil, plus the land underlying the facility. These negotiations have been conducted between Equibank and Breslube, the purchaser produced by the principal obligor, Wiseman Oil.

20. These negotiations had been conducted without the knowledge or participation of Wiseman Oil, or the Wisemans.

21. Equibank has conducted such negotiations in bad faith in that Equibank had the opportunity to negotiate with Breslube when that purchaser was presented by Wiseman Oil to Equibank, but declined to do so.

22. At the same time that Equibank has entered into negotiations with Breslube for the purchase of Wiseman Oil, it has also advertised and scheduled the sale of real estate owned by the Wisemans, alleged guarantors of the indebtedness of Wiseman Oil to Equibank.

23. The judgment in the within action should be stricken or, in the alternative, opened and all proceedings stayed for the following reasons:

(a) The Guaranty Agreement signed by the Wisemans is a nullity and any obligations have been extinguished due to the actions of Equibank in not negotiating in good faith with

is effectively in possession and control of all assets of the principal obligor, Wiseman Oil. These assets (consisting of plant, equipment, vehicles, accounts receivable and inventory) have a book value of approximately $3.5 million. These assets are more than sufficient to extinguish the indebtedness of the principal obligor to Equibank and, therefore, to extinguish any liabilities of the Wisemans.

(e) There is a reasonable prospect that an arrangement can be reached within a reasonable period by and among Equibank, Wiseman Oil, the Wisemans and Breslube which will retire any and all obligations of the Wisemans under the Guaranty Agreement.

WHEREFORE, Joseph and Ruth Wiseman respectfully request this Honorable Court to issue a rule upon Equibank to show cause

why the within judgment should not be stricken or opened, and all proceedings to be stayed meanwhile. In the alternative, Joseph and Ruth Wiseman pray that the Court issue an Order staying the execution proceedings at No. G.D. 78-13804.

BERKMAN RUSLANDER POHL LIEBER & ENGEL

By_____

Bela A. Karlowitz, Esquire
Patrick H. Autry, Esquire

Attorneys for Defendants, JOSEPH WISEMAND AND RUTH WISEMAN, his wife

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FRANK J. POHL
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DAVID GLICK
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S. LEO RUSLANDER
1879-1978
ANNE X. ALPERN
1904-1981

FLORIDA OFFICE
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TELEPHONE (305) 584-2800

WRITER'S DIRECT
DIAL NUMBER
392-2136

September 2, 1982

Robert G. Sable, Esquire
Lampl, Sable & Makoroff
710 Fifth Avenue
Pittsburgh, PA 15219

RE: Equibank v. Joseph Wiseman
and Ruth Wiseman, his wife
No. 78-13804

Dear Mr. Sable:

Please be advised that the Petition to Strike or to Open Judgment and to Stay Execution, enclosed herewith, shall be presented to the Motions Judge on Wednesday, September 8, 1982 at 9:30 a.m., or as soon thereafter as suits the Court.

Very truly yours,

Patrick H. Autry

Patrick H. Autry
for BERKMAN RUSLANDER POHL LIEBER & ENGEL

PHA:mfp
Enclosure
cc: Jerome B. Lieber
Joseph Wiseman

BERKMAN RUSLANDER POHL LIEBER & ENGEL
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MARVIN S. LIEBER
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PATRICK H. AUTRY
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RONALD J. RICCI
DEAN F. RICHARDSON
PHILIP M. SPRINKLE II
STEPHEN C. VELTRI
GARY WALK
SIDNEY ZONN

FRANK J. POHL
SENIOR COUNSEL

DAVID GLICK
1895-1964

[illegible] RUSLANDER
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WRITER'S DIRECT
DIAL NUMBER
[illegible] 2136

September 2, 1982

The Honorable Joseph L. Cosetti,
United States Bankruptcy Judge
1605 Federal Building
1000 Liberty Avenue
Pittsburgh, Pennsylvania 15222

Robert G. Sable, Esquire
Lampl, Sable & Makoroff
710 Fifth Avenue / Suite 3000
Pittsburgh, Pennsylvania 15219

Douglas A. Campbell, Esquire
Campbell & Levine
220 Grant Street
Pittsburgh, Pennsylvania 15219

Re: Wiseman Oil Company, Inc.
Bankruptcy No. 82-3367
Adversary No. 82-118

Gentlemen:

Enclosed please find a copy of Designation of Record on Appeal and Statement of Issues filed in the Bankruptcy Court this 2nd day of September 1982.

Very truly yours,

Patrick H. Autry

Patrick H. Autry
for BERKMAN RUSLANDER POHL LIEBER & ENGEL

PHA:jsv

Enclosure

LAW OFFICES
LAMPL, SABLE & MAKOROFF
SUITE 3000
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(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

September 10, 1982

Equibank
Two Oliver Plaza
Commercial Loan Adj. Dept.
13th Floor
Pittsburgh, PA 15222

RECEIVED
SEP 13 1982
EQUIBANK
Comm. Loan Adj.

Att: William M. Densmore,
Vice Pres.

In re: EQUIBANK/WISEMAN OIL CO., INC.

Dear Bill:

Enclosed is an Order of Court postponing the Sheriff's Sale scheduled in the above matter until the first Monday in October.

Very truly yours,

LAMPL, SABLE & MAKOROFF

Robert G. Sable

RGS/gp
Enclosure

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

EQUIBANK,

Plaintiff,

vs.

JOSEPH WISEMAN AND RUTH WISEMAN, HIS WIFE,

Defendants.

CIVIL DIVISION

No. G.D. 78-13804

Code:

ORDER OF COURT

Filed on behalf of Plaintiff, Equibank

Counsel of record for this party:

Robert G. Sable, Esq.
PA I.D. No. 00984

LAMPL, SABLE & MAKOROFF
Firm No. 363
710 Fifth Avenue
Suite 3000
Pittsburgh, PA 15219
(412) 471-4996

COUNSEL FOR EQUIBANK

ORIGINAL
(Red)

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

EQUIBANK,	)	
Plaintiff,	)	
vs.	)	No. G.D. 78-13804
JOSEPH WISEMAN AND RUTH WISEMAN, HIS WIFE,	)	
Defendants.	)	

ORDER OF COURT

AND NOW to-wit, this 10TH day of September, 1982, upon motion of the attorney for Plaintiff, it is ORDERED that the Sheriff's Sale scheduled in the above matter for September 13, 1982 is continued until October 4, 1982 at 10:00 a.m., at which time the Sheriff shall sell the real property of the Defendants without further advertising.

BY THE COURT:

S/ Papadakos J.

ORIGINAL
(Red)

LAW OFFICES

LAMPL, SABLE & MAKOROFF

SUITE 3000

710 FIFTH AVENUE

PITTSBURGH, PA. 15219-3088

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MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

August 31, 1982

William Densmore
Equibank
Two Oliver Plaza
Commercial Loan Adjustment Department
13th Floor
Pittsburgh, PA 15222

Re: Wiseman Oil Co.

Dear Bill:

Enclosed is a copy of the brief filed by North Star Coal Company in the matter of the right to the oil inventory that we appealled from Bankruptcy Court.

Very truly yours,

LAMPL, SABLE & MAKOROFF

F. Scott Gray

F. Scott Gray

FSG/lap
Enclosure

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

NORTH STAR COAL COMPANY, Plaintiff, VS. WISEMAN OIL COMPANY, INC. (and Equibank, Intervenor, Defendant.), Defendant.	)	C.A. No. 82-1309 Bankruptcy No. 81-3367 Adversary No. 82-418

BRIEF OF
NORTH STAR COAL COMPANY

I. COUNTERSTATEMENT OF FACTS

Wiseman Oil Company, Inc., ("Wiseman"/"Debtor"), which is engaged in the waste oil recovery business, has its only plant located on fourteen (14) acres in Coraopolis, Allegheny County, Pennsylvania. On the fourteen (14) acres located in Allegheny County are storage tanks, as well as processing facilities for fuel and lubricating oils. No facilities for storage are owned by the company any where but in Allegheny County, Pennsylvania.

In March of 1979, a security agreement was entered into by Wiseman Oil Company. A copy is attached to the

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Complaint to Intervene filed by Equibank. It is to be noted that this is signed by Robert Wiseman, who at that time was President of Wiseman Oil Company. However, his title is not noted nor is there any attesting signature. Moreover, Equibank has not executed the security agreement.

The financing statement filed in Beaver County was filed in 1977, being numbered 3976-1977, while that filed with the Commonwealth of Pennsylvania was filed December 5, 1977. Warehousing of oil by Wiseman at the North Star terminal in Monaca commenced May 1, 1977.

Paragraph 1 of the security agreement provides that "The Borrower warrants that it is engaged in the business of refining oil and that its places of business are located at Moon Township, Allegheny County, Pennsylvania". While it is not clear whether the facility is in Coraopolis or Moon Township, it should be noted that these are adjoining communities and that postal address for portions of Moon Township is Coraopolis, Pennsylvania. However, both communities are in Allegheny County.

The security agreement subsequently provides in Paragraph 8 that "The Borrower agrees that so long as any of the borrowers liabilities to the bank is outstanding: (a) all Inventory and Equipment owned by the Borrower will be located at the Borrower's place of business referred to in

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Paragraph 1 hereof in Moon Township, Allegheny County, Pennsylvania, and Fort Pitt Federal Building, Pittsburgh, Pennsylvania, and that Debtors will not remove such Inventory or Equipment from said places of business without the prior written consent of the bank <u>except in the ordinary course of business</u>", (emphasis suppplied).

The financing statements attached to Equibank's Complaint show that in addition to the filings with the Prothonotary of Allegheny County and the Secretary of the Commonwealth, they were also filed with the Prothonotary of Beaver County; the state of Ohio; Bradford County, Pennsylvania; Columbiana County, Ohio; and Baltimore, Maryland. The U.C.C. 1 filed with the Prothonotary of Beaver County in 1977 covered, inter alia, all borrower's inventory. Since the storage facilities of North Star were located in Monaca, Beaver County, which was the only storage facility utilized by Wiseman Oil Company in Beaver County, it is obvious that Equibank knew that Wiseman stored oil at the North Star terminal when the security agreement was issued and that they filed the financing statement more than one year previous for the purpose of perfecting their security interest in this inventory.

In addition to the security agreement and financing statements, the Schedules filed in the Bankruptcy

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Court indicate that Equibank had a blanket lien on all assets of Wiseman as well as a mortgage on the only real estate owned by Wiseman, that located in Allegheny County, Pennsylvania. It is to be noted here that while the term real estate is used, actually the land is owned by Joseph Wiseman, a shareholder, while the improvements on the land including the refinery itself and equipment, are owned by Wiseman Oil Company.

In addition, Equibank's security interest blanketed all the assets of Wiseman, other than vehicles which were pledged to GMAC or Mellon Bank. The statement of financial affairs filed in this matter indicates that Equibank received numerous financial statements from Wiseman prior to 1981. While the agreement between North Star and Wiseman Oil, attached to the Complaint of North Star, was dated June 29, 1981, previous agreement had been in effect continuously for prior years prior to Equibank's security interest, commencing with May 1, 1977.

The Court, in its Memorandum Opinion, found as a fact:

1. North Star is a warehouseman (p. 4);

2. The storing of the oil enhanced or preserved its value (p. 4);

3. Oil must be contained to have value at all (p. 4);

BPDR 0005461

4. Equibank was aware that the debtor was storing waste oil in storage tanks belonging to third parties (p. 7); and

5. Equibank consented to the services of North Star (p. 7).

STATEMENT OF ISSUES

ISSUE I: The Bankruptcy Court correctly concluded that Equibank consented to the services of North Star and that consequently the common law lien of North Star has priority over the security interest of Equibank.

ARGUMENT

The finding of the Supreme Court in Associates Financial Services Company vs. O'Dell, 491 Pa. 1, 417 A.2d 604 (1980), is not applicable to the present facts. Associates Financial was a bailment-lessor holding legal title to the truck in question. Consequently, the Court ruled that they were an "Owner" and that the Owner's consent to the services giving rise to the lien was essential. There is no necessity that a truck need be repaired. Trucks can be and are operated for long periods of time without the necessity of repair. However, oil must be stored. The only question is, is it to be stored in tanks owned by the debtor-Wiseman Oil, or in the tanks of some other party. In the latter case, storage gives rise to storage costs. This

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was anticipated in the security agreement in providing that inventory was to be maintained in Moon Township, Allegheny County except in the ordinary course of debtor's business. That inventory was stored in the ordinary course of its business in Beaver County in North Star's tanks in 1977 is clear not only from the history of the relationship between the parties but by the filing by Equibank in Beaver County.

The Associates case does not require consent to be expressed, but it may be implied from the "Circumstances of the case".

As indicated by the financing statements, Equibank required as a condition of its loan periodic financial statements of Wiseman. It is standard practice for a bank to require a potential debtor to list all of their assets, so as to determine the amount of security which the lender will have, and then obtain a security agreement and financial statements covering those assets. The schedules clearly indicate that the only storage facilities owned by Wiseman are located in Allegheny County. Moreover, no machinery or equipment or storage facilities owned by Wiseman were located anywhere other than Allegheny County.

The only way Wiseman Oil Company could store inventory outside of Allegheny County would be in facilities

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owned by other parties. Storage of oil in the North Star facility was in progress at the time the financing statements were filed in 1977 and when the security agreement was dated in March of 1979. This is in fact was the case at the time Equibank made its loan, and the Court correctly concluded Equibank filed its financing statements in Beaver County for the sole purpose of perfecting its security interest in the inventory stored at the North Star terminal. Moreover, the security agreement specifically anticipates that Wiseman will be required to store inventory elsewhere by providing in the security agreement that such inventory may be located elsewhere "In the ordinary course of business". Consequently, the Court correctly concluded Equibank consented to the services of North Star.

Equibank, in its brief, is concerned that the holding of the Court is not supported by any evidence on the record, and that the Bankruptcy Court did not support its order with findings of fact and conclusions of law. However, no appeal was taken on this issue. Under Bankruptcy Rule 806, the appellant is required to file a designation of contents for inclusion in the record on appeal and a statement of the issues he intends to raise on appeal. Appellant filed such a statement of issues but did not include any issue with regard to the state of the record or the basis of the Court's conclusions of law and fact.

BPDR 0005464

Consequently, the facts as stated by the Court below are not a subject for this appeal.

VALUE WAS ADDED TO THE OIL BY ITS STORAGE

The case cited by Equibank, Apartment Owners and Management Committee of State College Area Chamber of Commerce vs. Brown, 382 A.2d 473, 252 Pa. ? 539, reversed 487 Pa. 548 (1977) 410 A.2d 747, (emphasis added), is not relevant to this issue. The Supreme Court concluded that whether or not there was a lien in this instance was not an issue. This action arose from a suit by Henry Gnas to recover a fee paid a towing service which arose when his illegally parked car was towed by agent for the owner. The towing service required payment of $25.30 before releasing the car to Mr. Gnas. Mr. Gnas argued that the towing service did not have a possessory lien. The Supreme Court decided that there was no issue of the existence of a lien but rather the issue was whether the provision of the Vehicle Code which prohibited illegal parking of this nature, could be meaningfully forced. Payment of the towing charged prior to obtaining possession of the lien by the owner of the illegally parked car was necessary to make the provision of the Motor Vehicle Code enforceable. Consequently, Mr. Gnas was not entitled to a refund of his money. While Justice Nix, joined by Justice Roberts,

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disagreed with this reasoning, they were a minority of two.

The Court below found as a fact that the storage of oil added value to it. There can be little argument about this since Wiseman Oil was willing to pay for the service and Equibank recognized the necessity of the service when it filed its financing statement in Beaver County. A warehouseman, including North Star, provides a service of maintaining the goods in an unharmed condition and returning to the bailee. It contributes to the value of the goods by preserving them unharmed through a period of time while in the possession of the warehouseman.

This subject is discussed fully in Using Public Warehouses. For the convenience of the Court, photocopies of the title page and first chapter are attached. Highlighted are passages particularly relevant to the Wiseman - North Star relationship. The author, John A. Frederick, Ph.D., discusses warehousing in terms of storing finished products prior to distribution. However, the argument is equally applicable to storage of raw materials prior to the manufacture of finished goods.

The advantage here is to permit raw materials to be purchased when available at favorable prices and stored until needed for production (refining). This permits productive capacity to be most effectively utilized by assuring a constant supply of raw materials (oil to be

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refined) to be used as needed. Efficient refining operation would require that raw materials be available when needed. However, it may not be available from suppliers in sufficient quantity and at a favorable price at that time. Hence, warehousing fills the gap and thus adds value to the goods.

CONCLUSION

The basis for the findings of the Bankruptcy Court are not an issue. Recognition by the security creditor that storage of the oil in tanks of North Star was taken place constitutes and implies consent to that storage. The security agreement of Equibank, by permitting the storage in the ordinary course of business, impliedly consented to the lien of North Star and its priority over Equibank's security interest.

For the reasons stated above, the order of the Bankruptcy Court must be affirmed.

Dated this 23rd day of August, 1982.

Respectfully submitted,

DAVID J. HUMPHREYS, P. A.

BY: _____

David J. Humphreys, Esquire
Attorney for North Star Coal Co.
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BPDR 0005467

USING PUBLIC WAREHOUSES

John H. Frederick, Ph.D.

Professor of Transportation and Head, Department of Business Organization, College of Business and Public Administration, University of Maryland; Distribution Consultant, "Distribution Age"

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Warehousing Creates Values

Warehousing or storage has always been regarded as a very important function of distribution. It is an activity absolutely essential to modern methods of producing manufactured products and is vital likewise to the distribution of agricultural products. In fact, both manufactured and agricultural products may be stored many times during their journey from producer to consumer in order to make adjustments between irregularities in production and demand. There are also other reasons for storage and warehousing which have arisen with the development of extensive commercial and territorial division of labor as well as mass methods of manufacture. The services of public warehouses are the result of the development of industrial society with all its complexities and interdependence, specialization, and systems of exchange. To keep pace with industrial and commercial demands for something more than simple storage, the public warehousing industry has developed and expanded its services until it has reached the position it occupies today as one of the most important agencies of distribution.

The more important reasons why there is a need for storage and, consequently, the services of public warehousing may be summarized as follows:

1. *To equalize seasonal production and more or less uniform consumption.*
2. *To equalize uniform production and seasonal consumption.*
3. *To compensate for roundabout methods of production and the inability of producers to maintain perfect balance between supply and demand.*

The need and demand for storage arises as soon as more goods of any sort are produced than can be immediately consumed. This has always been so. The principle of simple storage, the holding and the preserving of goods between the time of their production and their use, is as old as man. Warehousing as a commercial enterprise, however, is of comparatively modern origin. As we know it today, warehousing is more than mere preserving. Warehousing does imply storage, but warehousing also connotes the additional element of trade and profit. Warehousing is storing for the purpose of commercial gain to the persons placing the products in storage. Such gain arises out of the fact that added value has been given to goods by virtue of their being held in a warehouse for a period of time, and wealth results from such an operation.

In economic terms, warehousing creates "time values" for the goods stored. The primary function of warehousing is storing, and this, together with the other incidental and minor functions performed by various types of public warehouses, endows goods with enhanced values. Stored goods represent surplus wealth, but unless the surplus, through warehousing operations, will increase in value by reason of the storage, it will not be stored. Modern warehousing creates values in goods which are in excess of consumers' immediate needs, and which are of small value at the moment, by preserving them until they can be used.

This economic service of the public warehousing industry is particularly important in handling agricultural products. Here a fluctuating supply and demand cause a heavy storing of commodities, followed by slower withdrawal until the quantity in storage is nearly or entirely depleted, barring annual surpluses and the activities of price support programs. Warehousing can be used to a large extent to equalize the relations between supply and demand for agricultural products, to preserve them from damage and deterioration, and to reduce waste.

For manufactured products, warehousing performs a like economic service by making it possible to smooth out seasonal or other irregularities in manufacturing. With few exceptions, manufacturers are able to control their production. For them, it is consumption which shows seasonal or other variations. Theoretically, manufacturers' production ought to continue at a fairly even pace during the year, or from year to year, since continuous production is essential for most such producers. For the manufacturer with a large fixed investment in buildings and equipment, uninterrupted operation is the keynote of manufacturing profits.

Makers of goods which are not in demand throughout the year, or manufacturers who have not been able to diversify their production so as to overcome seasonal demand, have had to choose between irregular operation and regular operation combined with warehousing of their output until the seasonal demand arises. Public warehousing steps in here to play a most important part in the production and the distribution of these seasonal products.

Public warehouses permit manufacturers to reduce the amount of storage space required at their plants and thus to reduce investment. As goods are produced, they can be shipped to public merchandise warehouses to be carried as spot stocks close to their ultimate destination. This method of storage is especially valuable in the case of seasonal products where factory storage would be an idle investment during the greater part of the year. Among the largest users of public merchandise warehouses are those manufacturers whose production is seasonal. It is generally admitted, from an investment point of view, that it is not advisable for manufacturers of seasonal products to provide all their own storage space and facilities, either at the factory or elsewhere.

Since warehousing tends to prevent irregularity in manufacturing, it promotes regularity of employment by reducing seasonal lay-offs of labor. Wherever the use of the country's warehousing facilities smooths out production peaks and valleys and induces evenness of output throughout the year, it helps labor.

4. *To meet situations where there is a surplus of production of a perishable agricultural commodity in one locality and con-*

sumption of the surplus takes place in another or many other localities. Public warehouses, particularly cold storage warehouses, promote orderly distribution of perishable agricultural products. Producers of agricultural products are generally dissociated from consumers, since the latter—both household and industrial—have become concentrated to such an extent in certain parts of the country that only a very small part of the agricultural products demanded by them can be produced nearby.

5. *To meet the irregularity of consumer demand.* Demand for products sold to both household consumers and industrial users is not stable from day to day, from month to month, or from season to season in all cases. For the manufacturer, public warehousing is the answer to decentralized distribution, which in so many lines seems no longer obtainable through the traditional wholesale channels. The time when it was possible to make all shipments direct from factories to retailers or wholesalers has gone, probably never to return—this despite the increasing rapidity of railroad freight services, store-door delivery and pick-up by railroads, motor truck lines, air freight services, and express services, both by land and by air. The creation of spot stocks of manufactured products at strategically located points seems to be the most economical way in which speedier deliveries can be made and by which dealers may be provided with reserves of goods to meet consumers' erratic demands.

6. *To effect transportation economies.* Some storage in connection with transportation is always necessary. Goods may have to be stored at shipping points until a sufficient quantity is accumulated for economical shipment or until transportation facilities become available.

Making small shipments by less-carload or less-truckload from the factory is expensive. Usually the answer is the establishment of spot stocks from which these small order deliveries can be made at the least expense and in the quickest time. In some cases, it has been found that the carrying of such stocks in public warehouses costs very little because of the savings in the difference in rates for carloads shipped to the warehouse and

less-carload shipments to customers which otherwise would have to be made. Thus storage frequently reduces the costs of distribution, for wherever less-carload lots can be consolidated into carloads, even for a part of the total journey, a saving results.

7. *To assist in financing between the time of production and the time of consumption.* Finished manufactured goods, agricultural products, and other raw materials in storage, if they are in the custody of a bona fide public warehouse, need no longer be considered as representing nothing but dead value until sold or used.

While the public warehouse will always remain an important depository of goods awaiting consumption or sale, it has become increasingly important in financing. Under the present banking-commercial structure, finished goods and raw materials held at the factory or in a manufacturer's or other producer's private warehouse cannot qualify independently, on their own inherent specific value, as collateral for loans which are to be discounted or rediscounted by Federal Reserve banks. A different situation develops when the goods repose with a licensed bailee (a public warehouseman), whose negotiable and nonnegotiable receipts qualify for discount under specific conditions.

8. *To meet changing distribution conditions.* It is no longer possible to satisfy either the wholesale or the retail trade by making all shipments direct from factories. Retailers, for example, "want what they want when they want it," yet do not wish to carry heavy inventories themselves. Nevertheless, retailers or other distributors must always have goods on hand. For a manufacturer to allow his consumer outlets to be out of stock means lost sales and encourages substitution. Decentralized distribution is particularly important where there is heavy expenditure for national advertising. Goods must be kept constantly available at points of effective consumption or a considerable part of the expenditure for advertising is in danger of being wasted.

9. *To reduce the costs of distribution.* Industry is faced with many problems, but one of the most important is how to develop new and more economical methods of getting goods to

consumers when they want them, at prices they can afford to pay. Developments in distribution have lagged behind those in production, and an uneconomic system has grown and fastened itself upon us whereby goods are moved from points of production to points of effective consumption in such an expensive manner that many of the savings realized through the application of research in production have been nullified.

Various attempts have been made to lessen the costs of distribution, but the methods used so far prove that these costs are not necessarily reduced by eliminating certain steps or middlemen. Costs can be reduced only by performing the functions of distribution more economically and efficiently, or by eliminating certain functions or movements of goods rather than middlemen such as the wholesaler and the independent retailer. In the already existing public warehouses—particularly the general merchandise and refrigerated warehouses strategically located throughout the country—we have the facilities to enable manufacturers and other producers to eliminate many movements of their commodities between points of production and effective consumption.

The proper integration of physical costs and financial costs of all stages of distribution, offered by the use of the facilities of public warehouses, provides a process for obtaining distribution as fundamentally economical as the results of modern production engineering have produced. This will mean more efficient distribution at lower cost and make it possible for more consumers to buy at prices they can afford to pay, because these prices will bear a lower cost load for distribution. The result will be increased production for manufacturers or at least a profitable market absorption of their present production. Most public warehousing is not an additional service performed at an additional cost to the ultimate consumers, be they industrial or household, but rather a series of services economically carried out in place of services that otherwise would be performed for them by other agencies at higher costs.

The public warehouseman, therefore, has a very definite place

in distribution. His services enable manufacturers to meet demands of customers, and, were it not for such warehouses, the small producer would be at a serious disadvantage as compared with the large, and the large producer would find his costs of distribution materially increased.

BPDR 0005472

CERTIFICATE OF SERVICE

I hereby certify that a true and correct of the foregoing Brief of North Star Coal Company was mailed, postage prepaid, this 23rd day of August, 1982, to:

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DAVID J. HUMPHREYS, P. A.

BY: _____
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BPDR 0005473

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F. SCOTT GRAY

August 6, 1982

U.S. District Court
U.S. Courthouse & Post Office
Grant Street
8th Floor
Pittsburgh, PA 15219

Att: Gilbert Conley, Clerk

In re: NORTH STAR COAL CO.
vs.
WISEMAN OIL CO., INC., et al.
C.A. No. 82-1309

Dear Mr. Conley:

Please file this Brief in the above-captioned matter.

Very truly yours,

LAMPL, SABLE & MAKOROFF

F. Scott Gray

F. Scott Gray

FSG/gp
Enclosure

cc: Douglas Campbell, Esq.
Patrick Autrey, Esq.
David Humphreys, Esq.
William M. Densmore

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filed

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

NORTH STAR COAL COMPANY,	)	
Plaintiff,	)	
vs.	)	C.A. No. 82-1309
	)	Bankruptcy No. 81-3367
WISEMAN OIL COMPANY, INC. (and Equibank, Intervenor, Defendant.),	)	Adversary No. 82-418
Defendant.	)	

BRIEF OF EQUIBANK

I. FACTS

This is an appeal from an Order of Court dated May 28, 1982, wherein the Bankruptcy Court for the Western District of Pennsylvania held that a common law lien of North Star Coal Company ("North Star") had priority over a previously perfected security interest of Equibank.

Wiseman Oil Company, Inc. ("Wiseman"/"Debtor") is engaged in the oil re-refinery business having its plant in Coraopolis, Allegheny County, Pennsylvania.

In March of 1979, Equibank was granted a security interest in all inventory and proceeds of inventory owned by Wiseman. This security interest was perfected by the filing of financing statements with the Prothonotary of Allegheny County, the Prothonotary of Beaver County and the Secretary of the Commonwealth. All documents were properly recorded and there is

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no dispute that Equibank had a first lien perfected security interest in the inventory and proceeds. Wiseman had at that time and at the time of the filing of the Chapter 11 Petition, rented storage space from North Star in which it stored used oil for re-refining at its plant. Equibank was and is a perfected secured party in the stored oil. There is no evidence that Equibank had ever consented to a waiver of its security interest in the stored oil.

Wiseman filed a petition under Chapter 11 of the Bankruptcy Code on December 7, 1982, while having oil stored in the tanks of North Star. North Star sought relief from the automatic stay as provided for in the Bankruptcy Code in order to sell the oil for non-payment of North Star's rental charge.

Objections to North Star being granted relief from stay were filed by Wiseman and Equibank alleging that the charges of North Star were for rent or for distress for rent which are avoidable in bankruptcy pursuant to 11 U.S.C. §545. North Star then claimed that it had a statutory lien in the oil as a warehouseman rather than a claim for rent.

The findings of the Bankruptcy Court determined that North Star was a warehouseman but did not have a valid warehouseman's lien and that North Star was entitled to a common law lien with priority over Equibank's prior perfected security interest.

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II. ISSUES

1. Can a common law lien defeat a prior perfected secured party, if the secured party has not consented to the action giving rise to the common law lien?

2. Whether a storage charge for oil gives rise to a common law lien?

III. ARGUMENT

A COMMON LAW LIEN CANNOT HAVE PRIORITY OVER A PRIOR PERFECTED SECURITY INTEREST WITHOUT THE CONSENT OF THE SECURED PARTY. A common law lien may not have priority over a prior perfected secured party who has not consented to the creation of the lien. Associates Financial Services Company vs. O'Dell, 491 Pa. 1, 417 A.2d 604 (1980), held that a garage owner who had incurred expenses for towing and storage did not have a possessory garagemen's lien with priority over the holder of a prior security interest in that vehicle because the garagemen had not attained the consent of the party with the security interest in the vehicle before incurring expenses. In the instant case, Equibank had obtained a security interest on the inventory of the Debtor in order to protect its loans from other creditors. North Star had not obtained Equibank's consent allowing North Star's common law lien to come ahead of Equibank's security interest.

In re: Radwin Transfer of Pennsylvania, Inc., 19 B.R. 6, 9 (E.D. Pa. 1982), followed the ruling in Associates Financial

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Services Company vs. O'Dell, supra., and held, a common law lien is not entitled to priority over a prior perfected security interest unless the common law lien holder obtained the consent of the holder of the security interest before storing the Debtor's goods. (emphasis added)

The Bankruptcy Court in the instant case held that Equibank had given an implied consent to the common law lien of North Star. This holding is not supported by any evidence on the record. The only evidence submitted is a rental agreement between Wiseman and North Star dated June, 1981, which was two years after the financing statements of Equibank had been filed. An implied consent cannot be by these facts, as was noted by the Pennsylvania Supreme Court in Associates Financial Services Company vs. O'Dell, supra., Page 606:

> "There is nothing in this record to suggest that Associates expressly consented to Appellant, Turley's Towing & Storage Services. So too, nothing in the circumstances of this case suggest implied consent on the part of Associates."

As in O'Dell, there has been no express consent given wherein North Star was granted a lien ahead of Equibank. Nor is there an implied consent based on any facts or conclusions of law as determined by the Bankruptcy Court. The Bankruptcy Court must support its Orders with findings of fact and conclusions of law. Bankruptcy Rule 752; Berguido vs. Eastern Airlines, 369 F.2d 874 (C.A. 3rd 1966).

BPDR 0005478

A COMMON LAW LIEN DOES NOT ARISE UNLESS VALUE IS ADDED TO THE CHATTEL.

Even if there had been consent, there was no evidence to support any finding that the lien claimed by North Star was for work which had improved the oil. A common law lien only arises for the value of the improvement to the goods. "A common law lien is the right of one who by labor, skill or material, adds value to chattel of another, whether under an express or implied agreement with the owner to retain possession of chattel until the owner has paid for the value of his services." Apartment Owners and Management Committee of State College Area Chamber of Commerce vs. Brown, 382 A.2d 473, 252 Pa. ? 539, reversed 487 Pa. 548 (1977) 410 A.2d 747. (emphasis added)

North Star did not add value to the oil, it merely stored it. Storage does not enhance the value of the oil and therefore, any lien claimed by North Star is valueless.

IV. CONCLUSION

The testimony in Bankruptcy Court offers no basis for a finding of implied consent, no basis for a finding that there was any value added to the oil, no basis for the finding of a common law lien and no basis for granting North Star any priority over Equibank's valid perfected security interest.

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For the reasons stated above, the Order of the Bankruptcy Court must be reversed and Equibank should be held to have a perfected security interest in the Wiseman inventory and proceeds prior to any lien of North Star.

Respectfully submitted,

LAMPL, SABLE & MAKOROFF

BY: F. Scott Gray

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ATTORNEYS FOR EQUIBANK

BPDR 0005480

AUG 3 1982
EQUIBANK
Comm. Loan Adj.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF:	) Bankruptcy No. 81-3367
WISEMAN OIL COMPANY, INC.,	) Chapter 11
Debtor.	)

* * * * * * * * * * * * * * * *

EQUIBANK,	)
Plaintiff,	)
vs.	) Adversary No. 82-118
WISEMAN OIL COMPANY, INC.,	)
Debtor.	)

#12

ORDER OF COURT

AND NOW at Pittsburgh, this 23 day of July, 1982, upon Complaint of Equibank, after notice and hearing in open Court, the Court finds that Equibank has not been offered adequate protection and that it has proved that it is entitled to relief from the automatic stay, it is ORDERED that Equibank is granted relief from stay against the assets of Wiseman Oil Company, Inc. and is granted the right to immediate possession of all of the Debtor's personal property, including but not limited to, furniture, fixtures, equipment, automobiles, inventory,

accounts receivables and each and every other item of property in which Equibank has a security interest or lien.

It is further ORDERED that the Debtor, its officers and employees are directed to cooperate in the turnover of said assets to Equibank. Equibank shall have the right to dispose of said assets in accordance with the terms of the loan documents and applicable law. However, Equibank is required to give notice to the Debtor in Possession, the Creditors Committee, Weisman family before a sale to a 3rd Party can be reviewable.

BY THE COURT:

J. Coretti J.

BPDR 0005482

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July 23, 1982

Equibank
Two Oliver Plaza
Commercial Loan Adj. Dept.
13th Floor
Pittsburgh, PA 15222

Att: William M. Densmore,
Vice President

In re: WISEMAN OIL COMPANY, INC.

Dear Mr. Densmore:

Enclosed herewith are the following documents in reference to the captioned matter:

1. Original receipt from the Prothonotary of Allegheny County evidencing the recordation of the financing statement.

2. Original receipt from the Recorder of Deeds Office of Allegheny County evidencing the recordation of the financing statement.

3. Original receipt from the Secretary of the Commonwealth evidencing the recordation of the financing statement.

4. Original Security Agreement between Wiseman Oil Company, Inc. and Equibank.

Very truly yours,

LAMPL, SABLE & MAKOROFF

F. Scott Gray

F. Scott Gray

FSG/gp
Enclosures

Original (Red)

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RECEIVED
JUN - 3 1982
EQUIBANK
Comm.

June 1, 1982

Equibank
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Commercial Loan Adj. Dept.
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Pittsburgh, PA 15222

Att: William M. Densmore, Vice Pres.

In re: WISEMAN OIL CO., INC.

Dear Bill:

Enclosed is a Memorandum Opinion from Judge Cosetti in the North Star Coal Company's Complaint for Relief From Stay.

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

Very truly yours,

LAMPL, SABLE & MAKOROFF

F. Scott Gray

F. Scott Gray

FSG/gp
Enclosure

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	)	
WISEMAN OIL COMPANY	)	
Debtor	)	
NORTH STAR COAL COMPANY	)	Bankruptcy No. 81-3367
Plaintiff	)	Adversary No. 82-418
vs.	)	
WISEMAN OIL COMPANY and EQUIBANK, N.A.	)	
Defendants	)	

MEMORANDUM OPINION

This case concerns the relative priorities over the ownership of goods between a warehouseman, a debtor in possession, and a secured party. The Debtor is a refiner of waste oil. Equibank, N.A. ("Equibank") has a recorded security interest on all the Debtor's inventory. The Debtor stored oil in North Star Oil Company's ("North Star") tanks pending shipping it to its refinery. North Star now claims a lien on this stored oil for non-payment under its contract with the Debtor and requests Relief from Stay from this Court so that it can proceed to sell the oil to satisfy its lien.

STATEMENT OF FACTS

The Debtor entered into a Security Agreement with Equibank in March of 1979. Paragraph (6)(a) of said security

agreement gives Equibank a security interest,

> In all Inventory owned by the Borrower [Debtor] during the time or times when any of the Borrower's liabilities to the Bank is outstanding (regardless of whether the Borrower became the owner of such inventory prior to, contemporaneously with or subsequent to the incurring of any such liabilities).

Equibank duly recorded U.C.C. 1 financing statements with the Prothonotary of Allegheny and Beaver Counties and with the Secretary of State.

In June of 1981, the Debtor entered into an Agreement for the storage of oil. By the terms of that Agreement, the Debtor agreed to rent five oil storage tanks from North Star at a monthly charge of $11,000.00. In addition, the Debtor agreed to remove waste sediment from the tanks at the end of the rental period.

DISCUSSION

The Court first notes that there has been no attack made on the validity of Equibank's security interest. Given that Equibank's security interest is valid, North Star claims it is a warehouseman and thus has a lien superior to Equibank's security interest by virtue of Uniform Commercial Code Section 7-209, 13 Pa. C.S.A. §7209, which gives a warehouseman a lien on the goods that he has stored. Alternatively, North Star argues that it has a common law lien by virtue of the fact that by storing the oil it has added to or preserved its value.

The Debtor and Equibank state that North Star is not a warehouseman and that North Star's lien, whether North Star is a

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warehouseman or not, can be avoided by the Debtor pursuant to Section 545 of the Bankruptcy Code.

1. Whether a warehouseman's lien can be avoided pursuant to Section 545 of the Bankruptcy Code?

Under Section 545 of the Bankruptcy Code, the trustee or debtor in possession can avoid certain statutory liens. A statutory lien is defined in Section 101(38) of the Bankruptcy Code.

> (38) "statutory lien" means lien arising solely by force of a statute on specified circumstances or conditions, or lien of distress for rent whether or not statutory, but does not include security interest or judicial lien, whether or not such interest or lien is provided by or is dependent on a statute and whether or not such interest or lien is made fully effective by statute.

A warehouseman's lien falls into this definition of "statutory lien." See House Report No. 95-595, 95th Cong., 1st Sess. (1977) 314; Senate Report No. 95-989, 95th Cong., 2nd Sess. (1978) 27.

The fact that a warehouseman's lien is a statutory lien, however, does not make it voidable under Section 545. Section 545 voids only certain statutory liens. The kinds of liens voidable pursuant to Section 545 are statutory liens that (1) first become effective on the filing of a bankruptcy or other enumerated indication of insolvency, (2) could be avoided by a B.F.P., (3) are for rent, or (4) for distress for rent.

The Debtor and Equibank are trying to place North Star under the rubric of Section 545 by saying that in fact North Star's

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lien, if any, is a lien for rent or distress for rent and not a warehouseman's lien. If in fact North Star is a warehouseman, the Debtor could not avoid its lien pursuant to Section 545.

The Uniform Commercial Code defines a warehouseman as "a person engaged in the business of storing goods for hire." 13 Pa. C.S.A. §7102. The Defendants argue that the agreement between Wiseman and North Star is not for storage of goods but for the lease of oil storage tanks and that North Star, therefore, is a landlord and its lien must be one for rent. This Court is of the opinion, however, that the agreement itself is not controlling in defining a warehouseman. Rather what is important are the functions of the person providing storage. As was said in In re Ragan, 32 U.C.C. Rep. 1652 (B.C.D. Kan. 1981):

> There can be no argument either that storing goods preserves the value of the goods or that "the service of a warehouse in storing goods may be every bit as important as the service of an artisan in repairing them," B. Clark, The Law of Secured Transactions Under the Uniform Commercial Code, ¶37[2] at 3-36, and the cases are in accord.

In re Ragan, supra, at 1654. We agree with this analysis and find that North Star is a warehouseman. Certainly, the storing of the oil enhanced or preserved its value. Oil must be contained to have value at all. Therefore, we conclude that North Star is a warehouseman and its lien cannot be avoided pursuant to Section 545 of the Bankruptcy Code.

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2. Whether North Star has a warehouseman's lien?

The evidence shows that North Star does not have a valid warehouseman's lien. Uniform Commercial Code Section 7-209, 13 Pa. C.S.A. §7209, gives to warehouseman a lien on the goods that are stored by the warehouseman to the extent of its charges for service. Section 7209(a) states:

> (a) charges and expenses covered by lien--
> A warehouseman has a lien against the bailor on the goods covered by a warehouse receipt or on the proceeds thereof for charges for storage ....

The lien arises from the warehouse receipt. The Uniform Commercial Code in Section 1-201(45), 13 Pa. C.S.A. §1201, defines a warehouse receipt as:

> Warehouse receipt means a receipt issued by a person engaged in the business of storing goods for hire.

A receipt is defined as:

> A written acknowledgment that a specified article, sum of money, or delivery of merchandise has been received. New College Edition, The American Heritage Dictionary, 1087 (1976).

The document before us is a contract for storage. It is not an acknowledgment that goods have been received. Without such a warehouse receipt no lien can arise. See Richwagen v. Lillienthal, 386 SO 2nd 247, 29 U.C.C. Rep. 964, (Dist.Ct. of Ap., 4th Dis. Fla. 1980).

We conclude that North Star does not have a warehouseman's lien pursuant to 13 Pa. C.S.A. §7209(a).

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3. Whether North Star has a common law lien for its storage charges on the Debtor's goods?

North Star argues in the alternative in its Complaint that it has a common law lien for services. We agree with this position. A recent Pennsylvania case quotes with approval the following language:

> Whenever a workman or artisan by his labor or skill increases the value of personal property placed in his possession to be improved he has a lien upon it for his proper charges until paid, but in order to charge a chattel with this lien, the labor for which this lien is claimed must have been done at the request of the owner or under circumstances from which his assent can be reasonably implied. It does not extend to one not in privity with the owners. Meyer and Brothers v. Bratespiece, 174 Pa. 119, 341 A551, 551 (1896) quoted in Associates Financial Services Co. v. O'Dell, ____ Pa. ____, 417 A.2d 604 (1980).

In this case North Star is entitled to a common law lien. North Star stored the Debtor's oil at the Debtor's request and thereby added to its value.

4. Whether North Star's common law lien is entitled to priority over the secured status of Equibank?

This Court must first decide whether U.C.C. Section 9-310 13 Pa. C.S.A. §9310, gives North Star a lien position prior to that of Equibank. While on its face this section would seem to give a prior lien position to North Star because of the common law lien, the Supreme Court of Pennsylvania in Associates v. O'Dell, supra, n. 1, p. 605, has held that Section 9310 is not applicable to

BPDR 0005490

common law liens. The Pennsylvania Comments to this Section of the U.C.C. come to the same conclusion.

The O'Dell Court concluded that the secured party must consent to the services if the common law lien was to take priority.

> Given Associates objectives in acting as the O'Dell's creditor, as well as reasons of public policy, it is only common sense to consider Associates an "owner" for purposes of common law possessory liens, and thus require Associates' consent to the establishment of such a lien on the tractor. Associates Financial Services Co. v. O'Dell, supra, n. 5, p. 607.

The question before the Court then is whether or not Equibank consented to the services rendered by North Star or whether said consent can be implied from the circumstances.

To answer the question of consent, this Court must look to the original security documents. The Court must ascertain whether there were any restrictions in those documents with regard to the Debtor's handling of the inventory. One of the items of inventory mentioned in the Security Agreement is waste oil. It is obvious that waste oil in the Debtor's inventory must be stored. The Court concludes from the financing statements attached as Exhibit A to Equibank's Answer that Equibank was aware that the Debtor was storing waste oil in storage tanks belonging to third parties. For example, Equibank filed a financing statement covering inventory stored at the Skyline Terminals in Baltimore, Maryland, as well as a financing statement covering the North Star terminal.

We conclude, therefore, that Equibank consented to the services of North Star and that a lien for those services arises

BPDR 0005491

against the waste oil stored at the North Star facility.

5. What is the extent of North Star's lien?

North Star's common law possessory lien is for improvements to the value of the waste oil. See Associates Financial Services, Co. v. O'Dell, supra. This cannot include North Star's claim for cleaning the storage tanks. This claim for cleaning the tanks is an unsecured claim arising out of the contract between the Debtor and North Star. The lien claim against the waste oil is only for the amount due for storage that is for expenses due for the improvement of value of the oil. The Court will lift the stay as to North Star so that it may foreclose upon its lien. The exact amount of that lien cannot be determined at this time, but charges have accrued at the rate of $11,000.00 a month since the contract was entered into.

An appropriate Order will issue.

Dated this 28 day of May, 1982
at Pittsburgh, Pennsylvania

JOSEPH L. COSETTI
Bankruptcy Judge

cc: David J. Humphreys, Esq.
1000 Lawyers Building
Pittsburgh, PA 15219

Patrick Autry, Esq.
20th Floor, Frick Building
Pittsburgh, PA 15219

F. Scott Gray, Esq.
710 Fifth Avenue
Pittsburgh, PA 15219

BPDR 0005492

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	)	
WISEMAN OIL COMPANY	)	
Debtor	)	
NORTH STAR COAL COMPANY	)	Bankruptcy No. 81-3367
Plaintiff	)	Adversary No. 82-418
vs.	)	
WISEMAN OIL COMPANY and EQUIBANK, N.A.	)	
Defendants	)	

ORDER OF COURT

AND NOW, this 28 day of May, 1982, upon the basis of the Memorandum Opinion of even date herewith, IT IS ORDERED, ADJUDGED AND DECREED that the Plaintiff's Complaint for Relief from Stay to pursue their lien as that lien is defined in the Memorandum Opinion is GRANTED.

At Pittsburgh, Pennsylvania.

JOSEPH L. COSETTI
Bankruptcy Judge

cc: David J. Humphreys, Esq.
Patrick Autry, Esq.
F. Scott Gray, Esq.

LAW OFFICES

LAMPL, SABLE & MAKOROFF

SUITE 3000

710 FIFTH AVENUE

PITTSBURGH, PA. 15219-3088

(412) 471-4996

SANFORD M. LAMPL
ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

RECEIVED
MAY 13 1982
EQUIBANK
Comm. Loan Adj.

May 11, 1982

William Densmore, Vice President
Commercial Loan Adjustment
Equibank
Two Oliver Plaza
Pittsburgh, Pennsylvania 15222

RE: North Star Coal Company
VS: Wiseman Oil Company

Dear Bill:

Enclosed is a copy of a Reply Brief of North Star Coal Company to the Briefs that we filed by Wiseman Oil Company and Equibank.

Very truly yours,

F. Scott Gray

F. Scott Gray

FSG/ket
Enclosure

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	:	
WISEMAN OIL COMPANY, INC.,	:	BANKRUPTCY NO. 81-3367
Debtor.	:	CHAPTER 11
NORTH STAR COAL COMPANY,	:	
Plaintiff,	:	
VS.	:	ADVERSARY NO. 82-418
WISEMAN OIL COMPANY, INC. and EQUIBANK,	:	
Defendants.	:	

REPLY BRIEF OF NORTH STAR COAL COMPANY

I.

In response to the first argument of counsel for Wiseman, it is obvious that a basic difference between the storage of goods in cartons, boxes, or otherwise must differ from the storage of liquids. Regardless of where you place them, liquids have a nasty habit of running until they reach a barrier or wall. A box, placed on the floor of a warehouse, can reasonably be expected to stay in that location until moved by someone. Such is not the characteristic of waste oil. Consequently, while two boxes

owned by different persons can be placed side by side, without danger of the contents becoming intermingled, the same cannot be said for waste oil or any other liquid.

Consequently, the liquid of two different parties cannot be stored in a storage tank that has no internal barriers without mixing them. Consequently, when the oil of one person is placed in a tank, the entire tank is utilized, and no other person's oil can be placed therein. It is for this reason that a rental charge must be based upon the cost of utilizing the entire tank, regardless of the quantity that may be in the tank at any particular time.

Secondly, no testimony has been taken in this case. However, the testimony will reveal that regardless of what the agreement may have provided, the assistance of North Star's employees was essential to the removal or addition of oil. What the agreement is saying is that additional salaries are not included within the Eleven thousand ($11,000.00) dollars. If additional labor is needed, it must be paid for. Since locks were placed on the tank, and Wiseman Oil Company and did not have the key to those locks, their exclusive possession being in the hands of North Star, Wiseman did not have possession.

Counsel quotes the portion of the agreement relating to working hours as "Clear implication of which is

BPDR 0005496

that Wiseman had free access to the oil contained within the tanks". This begs the question of possession. One of the first characteristics of a warehouseman is business hours during which any bailee can place or retrieve property pursuant to the bailment agreement. The paragraph quoted means nothing more than that 7:00 a.m. to 3:00 p.m. is the normal hours, but if necessary, North Star will have an employee present at an additional charge to Wiseman at other hours. In fact, the latter provision underlines the fact that a North Star employee was required to be present and that North Star had possession of the oil.

Finally, no further description other than "Waste Oil" is necessary nor does an amount have to be indicated, for the entire tank is to be utilized. The need for the entire tank has previously been argued. Since all other parties are excluded from using the tank, and this use by Wiseman has gone on for a number of years, whatever is in there belongs to them, subject to their duty to pay for the storage charges.

II

The lien of North Star is a possessory lien. A possessory lien differs from other kinds of statutory liens in that a warehouseman's possessory lien is given the status of a perfected security interest. Consequently, it is

BPDR 0005497

within one of the exceptions of "Statutory Lien, as defined in §101 (38) of the Bankruptcy Code as quoted in the Brief of Wiseman Oil. This is more fully argued North Star's original Brief.

A comparison of a landlord who provides a security lock on an apartment building is not at all analagous to the present situation, since a landlord would generally give each tenant a key to the security lock. The reason he gives the key is that he has rented this space and the tenant is entitled to gain access to the space whenever he wants to. Wiseman did not rent the space, was not entitled to access at any time its employees wanted access and did not receive a key. It did not have possession. North Star had possession. Herein lies the entire distinction.

DATED: May 10, 1982

Respectfully submitted,

David J. Humphreys, P. A.

BY:

David J. Humphreys, Esquire
Counsel for North Star Coal Co.
1000 Lawyers Building
Pittsburgh, PA 15219
(412) 391-6533

BPDR 0005498

CERTIFICATE OF SERVICE

I hereby certify that a true and correct of the foregoing Reply Brief of North Star Coal Company was mailed, postage prepaid, this 10th day of May, 1982, to:

F. Scott Gray, Esq.
Lampl, Sable & Makoroff
Attorneys for Equibank
710 Fifth Avenue
Suite 3000
Pittsburgh, PA 15219

Patrick H. Autry, Esq.
Berkman, Ruslander, Pohl,
Attorneys for Wiseman Oil
Lieber & Engel
20th Floor, Frick Bldg.
Pittsburgh, PA 15219

DAVID J. HUMPHREYS, P. A.

BY: David J. Humphreys
David J. Humphreys, Esquire
Attorney for North Star Coal Co.

BPDR 0005499

LAW OFFICES
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ROBERT G. SABLE
STANLEY G. MAKOROFF
STEPHEN J. LAIDHOLD
MARK L. GLOSSER
MARY ANNE MCKEEN
F. SCOTT GRAY

JUN 14 1982

June 11, 1982

Equibank
Two Oliver Plaza
Commercial Loan Adj. Dept.
13th Floor
Pittsburgh, PA 15222

Att: William M. Densmore, Vice President

In re: WISEMAN OIL COMPANY, INC.

Dear Bill:

Enclosed are copies of a Complaint for Relief From Stay by Perry Equipment and Answer to Complaint filed by Wiseman Oil. I have also enclosed a copy of a Motion to Intervene and Answer on behalf of Equibank.

The equipment that Perry is trying to obtain from Wiseman is the centrifuge.

If you have any questions on this matter, please contact me.

Very truly yours,

LAMPL, SABLE & MAKOROFF

F. Scott Gray

F. Scott Gray

FSG/gp
Enclosures

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF:	) Bankruptcy No. 81-3367
WISEMAN OIL COMPANY, INC.,	) Chapter 11
Debtor.	) Judge Cosetti

* * * * * * * * * * * * * * *

PERRY EQUIPMENT COMPANY, INC.,	)
Plaintiff,	)
vs.	) Adversary No. 82-791
WISEMAN OIL COMPANY, INC.,	)
Defendant.	)

MOTION TO INTERVENE

AND NOW comes Equibank, by its attorneys, LAMPL, SABLE & MAKOROFF, and files its Motion to Intervene as a party defendant in the captioned adversary proceeding pursuant to Rule 24(c) of the Federal Rules of Civil Procedures based upon the following.

1. Equibank, hereinafter referred to as "Bank", is a Pennsylvania banking institution with offices located at Two Oliver Plaza, Pittsburgh, Pennsylvania 15222.

2. Bank has a first lien perfected security interest in all of Wiseman Oil Company, Inc.'s inventory, accounts receivable, choses in action, equipment, machinery, motor vehicles,

fixtures, additions to replacements and all proceeds of said collateral as is evidenced by copies of Security Agreements attached hereto as Exhibit "A" and financing statements attached hereto as Exhibit "B".

3. On December 7, 1981, the date Wiseman Oil Company, Inc. filed bankruptcy, there was due and owing to Bank by Wiseman Oil Company, Inc. the sum of $2,202,500.94 plus accrued interest thereafter.

4. The assets pledged to Bank as collateral for the amount due and owing in Paragraph 3 have a value less than the amount owed to Bank.

5. Perry Equipment Company, Plaintiff in the captioned adversary proceeding, has instituted action to take and sell Wiseman Oil Company, Inc.'s Bird Machine Company centrifuge, Serial No. LB2233 and spare conveyor, which is collateral belonging to Bank.

6. Bank has a right to intervene in the captioned adversary proceeding because Bank has a first lien perfected security interest in all of Wiseman Oil Company, Inc.'s equipment and machinery, which Perry Equipment, Inc., by this adversary action, is seeking to claim for itself.

WHEREFORE, Equibank respectfully request that this Honorable Court grant Bank's Motion to Intervene in the captioned

BPDR 0005502

adversary matter as Defendant so that Bank may protect its security interest in the equipment and machinery of Wiseman Oil Company, Inc.

Respectfully submitted,

LAMPL, SABLE & MAKOROFF

BY: F. Scott Gray

F. Scott Gray
710 Fifth Avenue
Suite 3000
Pittsburgh, PA 15219
(412) 471-4996

ATTORNEYS FOR THE DEBTOR

BPDR 0005503

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF:	) Bankruptcy No. 81-3367
WISEMAN OIL COMPANY, INC.,	) Chapter 11
Debtor.	) Judge Cosetti

* * * * * * * * * * * * * * *

PERRY EQUIPMENT COMPANY, INC.,	)
Plaintiff,	)
vs.	) Adversary No. 82-791
WISEMAN OIL COMPANY, INC.,	)
Defendant.	)

ORDER OF COURT

AND NOW at Pittsburgh, this _____ day of June, 1982, it is hereby ORDERED that Equibank may intervene as an additional defendant.

BY THE COURT:

_____
J.

WISEMAN OIL CO., INC.

Make	VIN
Trailmobile	F111T4DBH50320
International	416060H776813
White	BB037HA756279

This Financing Statement is presented to a Filing Officer for filing pursuant to the Uniform Commercial Code.

No. of Additional Sheets Presented: 4

Maturity Date (optional):

1. Debtor(s) Name(s) and Address(es):

Wiseman Oil Company, Inc.
84 Montour Road
Coraopolis, PA 15108

2. Secured Party(ies) Name(s) and Address(es):

Equibank, N.A.
Two Oliver Plaza
Pittsburgh, PA 15222

4. For Filing Officer: Date, Time, No. Filing Off

21899

5. This Financing Statement covers the following types (or items) of property:

All inventory, accounts receivable, choses in action, equipment, machinery, motor vehicles, fixtures, additions thereto and replacements thereof, all proceeds of said collateral, and all collateral heretofore pledged to Equibank.

6. Assignee(s) of Secured Party and Address(es)

7. ☐ The described crops are growing or to be grown on: *
☐ The described goods are or are to be affixed to: *
* (Describe Real Estate Below)

☒ Proceeds— ☐ Products of the Collateral are also covered.

DATE

REMA

8. Describe Real Estate Here:

Premises of Wiseman Oil Company, Inc. at 84 Montour Road, Coraopolis, PA 15108. See DVB 2845, p. 42, Allegheny Co.

9. Name(s) of Record Owner(s): Joseph Wiseman and Ruth Wiseman

No. & Street 84 Montour Town or City Moon Township County Allegheny Section Block Lot

10. This statement is filed without the debtor's signature to perfect a security interest in collateral (check appropriate box)

21899

☐ already subject to a security interest in another jurisdiction when it was brought into this state, or

☐ which is proceeds of the original collateral described above in which a security interest was perfected:

WISEMAN OIL COMPANY, INC.

By [signature]
Signature(s) of Debtor(s)

EQUIBANK, N.A.

By [signature]
Signature(s) of Secured Party(ies)

(9/72) (2) FILING OFFICER COPY-ACKNOWLEDGEMENT

STANDARD FORM - FORM UCC-1 — Approved by the Secretary of the Commonwealth of Pa.

EXHIBIT "B"

This FINANCING STATEMENT is presented to a Filing Officer for filing pursuant to the Uniform Commercial Code.

No. of Additional Sheets Present

3. Maturity Date (optional):

1. Debtor(s) (Last Name First and Address(es)):

Wiseman Oil Company, Inc.
84 Montour Road
Coraopolis, PA 15108

2. Secured Party(ies): Name(s) and Address(es):

Equibank, N.A.
Two Oliver Plaza
Pittsburgh, PA 15222

4. For Filing Officer: Date, Time, No. Filing C

4752 - 197

5. This Financing Statement covers the following types (or items) of property:

All inventory, accounts receivable, choses in action, equipment, machinery, motor vehicles, fixtures, additions thereto and replacements thereof, all proceeds of said collateral, and all collateral heretofore pledged to Equibank.

6. Assignee(s) of Secured Party and Address(es)

☒ Proceeds— ☐ Products of the Collateral are also covered.

7. ☐ The described crops are growing or to be grown on. ☐ The described goods are or are to be affixed to: (Describe Real Estate Below).

8. Describe Real Estate Here:

Premises of Wiseman Oil Company, Inc. at 84 Montour Road, Coraopolis, PA 15108. See DVB 2845, p. 42, Allegheny Co.

9. Name(s) of Record Owner(s): Joseph Wiseman, Ruth Wiseman

No. & Street 84 Montour Town or City Moon Township County Allegheny Section Block Lot

10. This statement is filed without the debtor's signature to perfect a security interest in collateral (check appropriate box)

☐ already subject to a security interest in another jurisdiction when it was brought into this state, or

☐ which is proceeds of the original collateral described above in which a security interest was perfected:

WISEMAN OIL COMPANY, INC.

By [signature]
Signature(s) of Debtor(s)

EQUIBANK, N.A.

By [signature] Vice President
Signature(s) of Secured Party(ies)

9/72

(2) FILING OFFICER COPY - ACKNOWLEDGEMENT

STANDARD FORM - FORM UCC-1 — Approved by the Secretary of the Commonwealth of Pa.

This FINANCING STATEMENT is presented to a Filing Officer for filing pursuant to the Uniform Commercial Code.

No. of Additional Sheets Presented:

1. Debtor(s) (Last Name First and Address(es):

Wiseman Oil Company, Inc
84 Montour Road
Coraopolis, PA 15108

2. Secured Party(ies): Name(s) and Address(es):

Equibank, N.A.
Two Oliver Plaza
Pittsburgh, PA 15222

4. For Filing Officer: Date, Time, No., Filing Office

9520/09

5. This Financing Statement covers the following types (or items) of property:

All inventory, accounts receivable, choses in action, equipment, machinery, motor vehicles, fixtures, additions thereto and replacements thereof, all proceeds of said collateral, and all collateral heretofore pledged to Equibank,

XX Proceeds— ☐ Products of the Collateral are also covered.

6. Assignee(s) of Secured Party and Address(es)

7. ☐ The described crops are growing or to be grown on *
☐ The described goods are or are to be affixed to: *
*(Describe Real Estate Below)

8. Describe Real Estate Here:

Premises of Wiseman Oil Company, Inc.
at 84 Montour Road, Coraopolis, PA 15108
SeeDBV 2845, p. 42, Allegheny Co.

No. & Street 84 Montour Town or City Moon Township Allegheny County Section Block Lot

9. Name(s) of Record Owner(s): Joseph Wiseman
Ruth Wiseman

10. This statement is filed without the debtor's signature to perfect a security interest in collateral (check appropriate box)

☐ already subject to a security interest in another jurisdiction when it was brought into this state, or

☐ which is proceeds of the original collateral described above in which a security interest was perfected:

WISEMAN OIL COMPANY, INC.

By [signature] President

Signature(s) of Debtor(s)

EQUIBANK, N.A.

By [signature] Vice-President

Signature(s) of Secured Party(ies)

(9/72) (2) FILING OFFICER COPY-ACKNOWLEDGEMENT

STANDARD FORM - FORM UCC-1 — Approved by the Secretary of the Commonwealth of Pa.

Equibank N.A.

SECURITY AGREEMENT

THIS AGREEMENT IS MADE BETWEEN

WISEMAN OIL COMPANY, INC.

(hereinafter called the "Borrower") and the Equibank N.A. (hereinafter called the "Bank").

THE BACKGROUND OF THIS AGREEMENT IS AS FOLLOWS: The Borrower being in the business of

refining oil

may from time to time request the Bank to make loans to the Borrower to be secured as hereinafter provided, the making of said loans to be at the sole discretion of the Bank. The Borrower and the Bank intend that all such loans, and all other present and future obligations of the Borrower to the Bank, shall be secured by a security interest under the Uniform Commercial Code, as from time to time in force in Pennsylvania, in all Inventory as herein defined owned by the Borrower during the time or times any of such loans or obligations are outstanding, in all accounts receivable owing to the Borrower during said time and on all proceeds of said Inventory and in all equipment of every kind used by Borrower at his place or places of business and all additions thereto or replacements thereof. and in common stock of Wiseman Oil Company, Inc. evidenced by Certificate No.

NOW, THEREFORE, THE BACKGROUND OF THIS AGREEMENT BEING AS ABOVE SET FORTH and being incorporated herein, the Borrower and the Bank, with the intent to be legally bound, hereby warrant and agree as follows:

1. The Borrower warrants that it is engaged in the business of refining oil

and that its places of business are located at Moon Township, Allegheny County, Pennsylvania. The Borrower agrees to promptly notify the Bank in Writing (a) of any change in or discontinuance of any of the said places of business, and (b) of any other places at which the Borrower may hereafter conduct business.

2. The term "Inventory" as used herein means ~~all petroleum and related products~~ whether waste oil, crude oil, or petroleum products in any state of refining and all byproducts of refining and all additives used in such processes

used by the Borrower in its business.

3. The term "Equipment" shall include all personal property of the Borrower in which it has any ownership or interest used in its business, including but not limited to the following specifically described property; all equipment, parts, accessories, and attachments and any and all replacements and additions now or hereafter installed in or used in connection therewith.

New Used	Year	Make	Trade Name	Description	Model Number	Serial Number

SEE LIST ATTACHED

~~4. Whenever from time to time the Borrower desires~~ the Bank to make a loan to the Borrower ~~secured as herein provided, the Borrower shall advise the Bank orally or in writing. If the Bank elects to make the loan, it shall be made upon:~~

~~(a) Delivery of the Borrower's judgment note dated on the date of the loan and appropriately filled in to show the amount of the loan, the interest rate and maturity as agreed upon by the Borrower and the Bank.~~

~~(b) Compliance with such other requirements as may be imposed by the Bank.~~

5. The term "Borrower's liabilities to the Bank" means all loans made from time to time by the Bank to the Borrower pursuant to this Agreement and any amendments thereof, and all other present and future direct or contingent liabilities of the Borrower to the Bank of any nature whatsoever.

6. The Borrower agrees that, to secure the Borrower's liability to the Bank, the Bank shall have a security interest, under said Uniform Commercial Code:

(a) In all Inventory owned by the Borrower during the time or times when any of the Borrower's liabilities to the Bank is outstanding (regardless of whether the Borrower became the owner of such Inventory prior to, contemporaneously with or subsequent to the incurring of any such liabilities);

(b) In all accounts receivable owing to the Borrower during the time or times when any of the Borrower's liabilities to the Bank is outstanding (regardless of whether such accounts receivable come into existence prior to, contemporaneously with or subsequent to the incurring of any such liabilities);

34 060 (9-73)1

EXHIBIT "A"

(c) In all proceeds of said Inventory and Accounts Receivable, and that the Bank shall have with respect thereto all of the rights provided by said Code as well as the rights herein provided or provided in any documents executed by Borrower in connection with any of said liabilities; and

(d) In all equipment of every kind used by Borrower at his place or places of business and all additions thereto or replacements thereof.

7. The Borrower agrees to join with the Bank in executing such Financing Statements pursuant to said Code in form satisfactory to the Bank as the Bank may request, and to pay the cost of filing the same in any public offices deemed advisable by the Bank.

8. The Borrower agrees that so long as any of the Borrower's liabilities to the Bank is outstanding:

(a) All Inventory and Equipment owned by the Borrower will be located at the Borrower's place(s) of business referred to in paragraph 1 hereof in Moon Township, Allegheny County, Pennsylvania, and Fort Pitt Federal Building, Pittsburgh, Pennsylvania

and that the Borrower will not remove such Inventory or Equipment from said place(s) of business without the prior written consent of the Bank. except in the ordinary course of business.

(b) The Borrower will maintain insurance on all Inventory and Equipment owned by the Borrower against fire and such other hazards as the Bank may require and in such amounts as the Bank may require, said policies to contain appropriate provisions satisfactory to the Bank under which all losses thereunder shall be paid first to the Bank as its interest may appear and then to the Borrower. Certificates of said insurance shall be furnished to the Bank.

(c) The Borrower will maintain accurate business records and books of account showing, among other things, all Inventory owned by the Borrower and all accounts receivable owing to the Borrower. The Bank or its representatives shall have the right during business hours to inspect said books and records and make extracts therefrom. The Borrower will furnish to the Bank such information concerning the Borrower's business affairs, including Borrower's Inventory and Accounts Receivable, as may be requested from time to time by the Bank.

(d) The Borrower will not voluntarily give or permit to exist, any security interest or lien on, any of the Borrower's Inventory, Accounts Receivable, or Equipment, except the security interest of the Bank. Any sale of accounts receivable by the Borrower shall be deemed for the purpose of this Agreement to be the giving of a security interest or lien upon the accounts receivable so sold and a default under this Agreement.

(e) The Borrower will not permit any Financing Statement or Security Agreement covering any of the Borrower's Inventory, Accounts Receivable or Equipment thereof or the proceeds, to be on file in any public office pursuant to said Code, or otherwise except the Financing Statement in favor of the Bank.

(f) Notwithstanding the Bank's security interest in the Borrower's Inventory the Borrower shall have the right, until the Bank mails to the Borrower a written revocation thereof, to sell any of the said Inventory in the regular course of business for cash or on open account. The Bank's security interest hereunder shall attach to all proceeds of all sales or other dispositions of Borrower's Inventory or Equipment.

The Borrower shall have the right, until the Bank mails to the Borrower a written revocation thereof, to use the proceeds of cash sales of Inventory and the proceeds of Accounts Receivable derived through the sale of said Inventory in the regular course of business without accountability.

All proceeds of said sales received by the Borrower which consist of accounts receivable, and all other accounts receivable owing to the Borrower, will, without cost to the Bank, be collected by the Borrower as agent of the Bank. The Bank may, by mailing written notice to the Borrower at any time before or after a default by the Borrower, revoke the Borrower's said agency to collect and may notify the debtors on said accounts receivable of the Bank's interest therein and instruct them to make payment thereof direct to the Bank; if the Bank so requests, the Borrower will notify said debtors to make payment direct to the Bank. The Borrower will also, at the request of the Bank, send the Bank two copies of each invoice applicable to Borrower's accounts receivable, both of which shall bear a statement that the amount thereof is payable to the Bank, and such additional statements as the Bank may require.

(g) The Borrower shall have the right at any time to prepay in whole or in part the loans made pursuant to this Agreement and any amendments thereof.

9. The occurrence of any of the following shall constitute a default by the Borrower:

(a) Default by the Borrower in the payment when due of any amount payable on any of the Borrower's liabilities to the Bank.

(b) Default in the observance or performance of any of the Borrower's agreements contained herein or in any amendments hereof or in any writing executed by the Borrower in connection with any of the Borrower's liabilities to the Bank.

(c) Any information, warranty or certificate made or furnished at any time by the Borrower to the Bank in connection with any of the Borrower's liabilities to the Bank shall prove to have been materially false.

(d) The Borrower shall become insolvent or shall be adjudicated a bankrupt or shall make an assignment for the benefit of creditors; or bankruptcy, insolvency, reorganization, arrangement, debt adjustment or liquidation proceedings, or receivership proceedings in which the Borrower is alleged to be insolvent or unable to pay his debts as they mature, shall be instituted by or against the Borrower, and, if any of said proceedings are instituted against the Borrower, the Borrower shall consent to the same or admit in writing the material allegations of the petition filed in said proceedings ~~or said proceedings shall not be dismissed within 60 days after their institution.~~

Upon the occurrence of any of the above events of default and at any time thereafter (such default not having previously been cured) the Bank shall have, in addition to all other rights and remedies, the remedies of a secured party under the

Uniform Commercial Code of Pennsylvania or _____ (regardless of whether the Code has been enacted in the jurisdiction where rights or remedies are asserted) including, without limitation, the right to take immediate possession of the collateral and for that purpose the Bank may require the Borrower to assemble the collateral and make it available at a place to be designated by the Bank which is reasonably convenient to both parties or, so far as the Borrower can give authority therefore, enter upon any premises on which the collateral may be situated and remove the same therefrom. Unless the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Bank shall give the Borrower at least five (5) days prior written notice of the time and place of any public sale of collateral or of the time after which any private sale or any other intended disposition is to be made. The Bank may at any time in its discretion transfer any securities or other property constituting collateral into its own name or that of its nominee and receive the income thereon and hold the same as security for liabilities or apply it on principal or interest due on liabilities. Insofar as collateral shall consist of accounts receivable, insurance policies, instruments, chattel paper, choses in action, or the like, the Borrower shall be liable for any deficiency due the Bank. The Bank may demand, collect, receipt for, settle, compromise, adjust, sue for, foreclose, or realize upon collateral as the Bank may determine, whether or not liabilities or collateral are then due and for the purpose of realizing the Bank's rights therein, the Bank may receive, open, and dispose of mail addressed to the Borrower and endorse notes, checks, drafts, money orders, documents of title, or other evidence of payment, shipment, or storage or any form of collateral on behalf of and in the name of the Borrower. *

IN WITNESS WHEREOF, the Borrower and the Bank have duly executed this Agreement this _____

day of March 1979.

WISEMAN OIL COMPANY, INC.

By _____ (SEAL)

_____

EQUIBANK, N.A.

By _____ (SEAL)

_____

*This agreement is supplemental to other agreements and notes executed by the parties and rights granted to Bank in this document are in addition to the rights granted to Bank and are not in lieu thereof.

34-060 (9-73)3

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF:	) Bankruptcy No. 81-3367
	)
WISEMAN OIL COMPANY, INC.,	) Chapter 11
	)
	) Judge Cosetti
Debtor.	)

* * * * * * * * * * * * * * *

PERRY EQUIPMENT COMPANY, INC.,	)
	)
Plaintiff,	)
	)
vs.	) Adversary No. 82-791
	)
WISEMAN OIL COMPANY, INC. and EQUIBANK,	)
	)
	)
Defendants.	)

ANSWER TO COMPLAINT FOR APPLICATION TO DETERMINE SECURED STATUS AND TERMINATE AUTOMATIC STAY

AND NOW comes Equibank, Defendant, by its attorneys, LAMPL, SABLE & MAKOROFF and answers the Application to Determine Secured Status and Terminate Automatic Stay by Perry Equipment Company, Inc., Plaintiff, as follows:

ANSWER

1. Paragraphs 1, 2 and 3 are admitted.

2. Paragraph 4 and 5 are denied.

3. Equibank is without knowledge or sufficient information to form a belief as to the averments of Paragraphs 6, 7, 8 and 9 and therefore, denies same.

4. Paragraph 10 and 11 are denied.

WHEREFORE, Defendant requests this Honorable Court to deny Plaintiff's Application to Determine Secured Status and Terminate the Automatic Stay.

FIRST AFFIRMATIVE DEFENSE

5. Although Perry Equipment claims that the transaction between it and Wiseman Oil was a Lease, it is a secured transaction wherein Wiseman Oil is the Debtor and Perry Equipment is the secured party.

6. Wiseman Oil has made substantial payments on the equipment in question and there is value in the equipment over and above the amount owed to Perry Equipment.

WHEREFORE, Equibank prays this Honorable Court to direct that the equipment in question be sold at public sale so that the equity can be realized by the estate.

SECOND AFFIRMATIVE DEFENSE

7. Equibank has a prior security interest in all of Wiseman Oil's machinery and equipment including that claim by Perry Equipment by virtue of financing statements filed on the 23rd day of March, 1979. True and correct copies of Equibank's Security Agreement and financing statements are attached hereto and made a part hereof and marked Exhibit "A" and Exhibit "B".

BPDR 0005513

8. The security interest of Perry Equipment was not perfected until October, 1980, after Equibank's security interest had attached.

WHEREFORE, Equibank prays this Honorable Court to deny the request of Perry Equipment Company for relief from stay and renews its request for relief from stay in actions previously filed herein.

Respectfully submitted,

LAMPL, SABLE & MAKOROFF

BY: F. Scott Gray
F. Scott Gray

BY: Robert G. Sable
Robert G. Sable
710 Fifth Avenue
Suite 3000
Pittsburgh, PA 15219
(412) 471-4996

ATTORNEYS FOR THE DEBTOR

BPDR 0005514

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF:	) Bankruptcy No. 81-3367
	)
WISEMAN OIL COMPANY, INC.,	) Chapter 11
	)
	) Judge Cosetti
Debtor.	)

* * * * * * * * * * * * * * *

PERRY EQUIPMENT COMPANY, INC.,	)
	)
Plaintiff,	)
	)
vs.	) Adversary No. 82-
	)
WISEMAN OIL COMPANY, INC. and EQUIBANK,	)
	)
Defendants.	)

ORDER OF COURT

AND NOW at Pittsburgh, this _____ day of June, 1982, it is hereby ORDERED, ADJUDGED and DECREED that Perry Equipment Company be and hereby is denied relief from stay and is enjoined from taking and/or selling any machinery and equipment of Wiseman Oil Company, Inc. which is claimed by Equibank.

BY THE COURT:

_____
J.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:	)	
	)	
WISEMAN OIL COMPANY, INC.,	)	Bankruptcy No. 81-3367
	)	
Debtor	)	Chapter 11
	)	
PERRY EQUIPMENT COMPANY, INC.,	)	
	)	
Plaintiff	)	
	)	
vs.	)	Adversary No. 82-791
	)	
WISEMAN OIL COMPANY, INC.,	)	
	)	
Defendant	)	

ANSWER TO APPLICATION TO DETERMINE
SECURED STATUS AND COMPLAINT TO
TERMINATE AUTOMATIC STAY

Wiseman Oil Company, Inc. ("Wiseman Oil"), by its undersigned attorneys, makes this Answer to Application to Determine Secured Status and Complaint to Terminate Automatic Stay as to Plaintiff Perry Equipment Company, Inc., as follows:

1. Denied for lack of knowledge.

2. Admitted.

BERKMAN RUSLANDER
POHL LIEBER & ENGEL
10TH FLOOR, FRICK BUILDING
PITTSBURGH, PENNSYLVANIA
15219

3. Admitted.

4. Admitted.

5. The averments of Paragraph 5 are conclusions of law to which no response is necessary.

6. The averment of Paragraph 6 is a conclusion of law to which no response is necessary.

7. Denied as stated. It is admitted that Perry Equipment Company, Inc., is listed on Debtor's Schedule A-3 as an unsecured creditor. The remaining allegations are conclusions of law to which no response is necessary.

8. Denied as stated. It is admitted that Wiseman Oil is in possession of the leased equipment. The remaining allegations of Paragraph 8 are conclusions of law to which no response is necessary.

9. Denied as stated. It is admitted that the leased equipment is not operating, and has not operated since the filing of the Petition. The remaining allegations are denied.

10. Denied.

11. Denied.

AFFIRMATIVE DEFENSES

12. Wiseman Oil possesses equity in the leased property, in that the value of the property exceeds any amount owed to Plaintiff.

BPDR 0005517

13. Wiseman Oil avers that the leased property is being well maintained and that any depreciation from non-use has been minimal, and that, therefore, Plaintiff's interest is adequately protected.

14. The leased property is a valuable asset to Wiseman Oil, in that it permits the plant to utilize low grade waste oil which can be obtained at a more favorable price than other waste oil.

WHEREFORE, Wiseman Oil respectfully requests that the relief requested by Perry Equipment Company, Inc., be denied.

Respectfully submitted,

BERKMAN RUSLANDER POHL LIEBER & ENGEL

By _____
Patrick H. Autry, Esquire

Attorneys for WISEMAN OIL COMPANY, INC., Debtors

BPDR 0005518

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Answer was served upon counsel of record for Perry Equipment Company, Inc., by first-class mail, postage prepaid, this 13th day of May 1982, at the following address:

Estelle Comay, Esquire
Titus Marcus & Shapira
624 Oliver Building
Pittsburgh, Pennsylvania 15222

BERKMAN RUSLANDER POHL LIEBER & ENGEL

By /S/
Patrick H. Autry, Esquire

Attorneys for WISEMAN OIL COMPANY, INC., Debtors

BERKMAN RUSLANDER
POHL LIEBER & ENGEL
9TH FLOOR, FRICK BUILDING
PITTSBURGH, PENNSYLVANIA
15219

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In Re: WISEMAN OIL COMPANY, INC., Debtor-in-Possession	)	Bankruptcy Case No. 81-3367 Chapter 11
PERRY EQUIPMENT COMPANY, INC., Plaintiff,	)	
v.	)	Adversary Proceeding
WISEMAN OIL COMPANY, INC., Defendant/ Debtor-in-Possession.	)	No. _____

APPLICATION TO DETERMINE SECURED
STATUS AND COMPLAINT TO TERMINATE AUTOMATIC
STAY AS TO PLAINTIFF PERRY EQUIPMENT COMPANY, INC.

Plaintiff, PERRY EQUIPMENT COMPANY, INC., by its counsel, TITUS MARCUS & SHAPIRA, brings this complaint to amend Schedule A of the list of creditors, filed by the Debtor-in-Possession pursuant to Rule 1007, and for relief from the automatic stay incident to the filing of the debtor's Voluntarty Petition under Chapter 11.

1. Plaintiff is Perry Equipment Company, Inc. ("Plaintiff"), a corporation having its principal office at Mount Laurel Road, Hainesport, New Jersey 08036.

2. Defendant is Wiseman Oil Company, Inc. ("Debtor"), a corporation having its principal offices at 84 Montour Road, Coraopolis, Pennsylvania 15108.

3. On December 7, 1981, debtor filed an original Petition in this Court for relief, pending reorganization under Chapter 11 of the Bankruptcy Act.

4. At the time of the filing of the Petition, debtor was in possession of leased equipment (a Bird Machine Company centrifuge, Serial No. LB2233, and spare conveyor) belonging to plaintiff, under a Rental Agreement dated September 12, 1980, a copy of which is attached hereto as Exhibit A.

5. Plaintiff is a secured creditor as to the said leased equipment, the parties having executed a Financing Statement (Form UCC-1), which was filed with the Allegheny County Prothonotary's Office on October 6, 1980 and with the Commonwealth of Pennsylvania on October 24, 1980. Copies of Proof of Claim and the Financing Statements are attached hereto as Exhibit B.

6. At the time of the filing of the debtor's Petition, the debtor was in default under the said lease.

7. Pursuant to Rule 1007, debtor filed a Statement of Financial Affairs & Schedules (Bankruptcy Form No. 6), incorrectly identifying plaintiff, Perry Equipment Co., Inc., as a Schedule A-3 creditor--"Creditors Having Unsecured Claims Without Priority." In fact, plaintiff has a perfected

security interest in the leased property and, therefore, should properly be included on Schedule A-2--"Creditors Holding Security." (See Rule 3001).

8. At present, debtor remains in possession of the leased equipment and continues to be in default in the principal amount of approximately $50,000.00, plus interest, late charges, and costs of collection.

9. Plaintiff asserts, on information and belief, that the leased equipment is not operating at the present time and has remained inoperative since the time of the filing of the debtor's Petition. As a result, plaintiff's interest in the property is inadequately protected in that the equipment is deteriorating in condition and value due to non-use.

10. The debtor has no equity in the leased property.

11. The leased property is not necessary to an effective reorganization; and, in any event, the debtor has no reasonable prospect for reorganization.

WHEREFORE, plaintiff requests that this Court grant the following relief pursuant to Sections 362(d) and Sections 501 et seq. of the Bankruptcy Act, 11 U.S.C. §§ 362(d) and 501 et seq.:

A. Order the debtor to amend the Statement of creditors to properly reflect plaintiff's status as a creditor holding security;

B. Enter an order terminating the stay with respect to plaintiff, so as to permit plaintiff to reclaim its leased property; and

C. Grant such other or further relief as this Court shall deem appropriate and necessary to prevent irreparable damage to plaintiff's interest in the said property.

Estelle F. Comay

Paul H. Titus
Estelle F. Comay
TITUS MARCUS & SHAPIRA
624 Oliver Building
Pittsburgh, Pennsylvania 15222
(412) 471-3490

Attorneys for Perry Equipment Company, Inc.

Dated: April 14, 1982

PERRY

PERRY EQUIPMENT COMPANY, INC. MACHINERY AND EQUIPMENT FOR THE PROCESS INDUSTRIES

MOUNT LAUREL ROAD, HAINESPORT, NEW JERSEY 08036 ☎ PHONE: (609) 267-1600 ☎ TELEX: 84-5397 ☎ CABLE: PERI

September 12, 1980

RENTAL AGREEMENT

uring the performance of a used Bird Machine Company 36" x 72" horizontal bowl Centrifuge, erial #LB2233, with its gearbox, 125 HP motor, spare conveyor (identified as Perry's Item o. 15584), being rented by Wiseman Oil Company, Inc., 524 Penn Avenue, Pittsburgh, Pa. 15222 Wiseman), from owner Perry Equipment Company, Inc. (Perry), Mt. Laurel Road, Hainesport, N.J., iseman Oil Company, Inc. agrees to protect, defend, indemnify and save harmless Perry against ny and all claims, damages, liability and suits - including attorney's fees, for property damage odily injury, or death caused by or alleged to be caused by or resulting from the activities or gligence of Wiseman Oil Company or any of its employees or any sub-contractors or their emplo es.

erry makes no representation or warranty, either expressed or implied, that the equipment in he form in which it is being rented hereunder complies with OSHA or any other law or regulation

n the event that OSHA or any other law or regulation requires additions or modifications to the quipment before it may be used, it shall be the obligation of Wiseman Oil Company, at its xpense, to make such additions and modifications.

urther, Wiseman Oil Company, agrees to indemnify Perry and hold harmless of and from any and ll liabilities, including reasonable counsel fees and costs, resulting from any claim made pon Perry as a result of an alleged violation of OSHA or any other law or regulation.

he Centrifuge and its spare parts are to be kept at Wiseman Oil Company, Inc., 84 Montour Road, oraopolis, Pa. 15108, and must not be removed without prior written permission from Perry.

seman Oil Company agrees during the period covered by this agreement to use said property in careful and prudent manner, to make, at Wiseman's expense, any and all repairs thereon which ay be necessary to keep said equipment in as good condition as when rented, reasonable use and ear thereof excepted.

itle to the equipment shall at all times be vested in Perry Equipment Company, Inc. unless ransferred to Wiseman Oil Company through sale. Wiseman agrees not to assign or transfer this greement or any interest therein, or sublet the equipment, without the written consent of Perry. or shall Wiseman mortgage the same or permit any items or claims to be filed against said roperty while in Wiseman's possession.

ental agreement is based on 15% of purchase price for first month's rent, 10% of purchase price or each additional month's rent, minimum rental period (3) months. If unit is purchased, 90% f rentals charged will be applied towards the purchase price of $82,500.00. Wiseman to pay reight both ways if unit is returned. If unit is returned, it must be in similar condition as hen shipped, less ordinary wear.

deposit of $5,625.00 has been received from Wiseman, an additional payment of $6,750.00 is to

PERRY

ɔe made by Wiseman before shipment is made. ~~Monthly rental payments are to be made at the sta~~ ~~f the monthly rental period.~~ The second month's rental payment (10%) shall be due 30 DAYS following shipment.

n the event that any payment of the rent shall become due as herein provided and shall remain :npaid for (60) days, Perry may, at its option declare Wiseman Oil Company to be in default an: :erminate this rental agreement. Wiseman shall thereupon pay to Perry any damage occasioned t 'erry by reason of said breach and termination.

'iseman Oil Company further specifically agrees that for the purposes of recovering possession f the rented equipment, Perry, its agents and servants, may enter upon any of the premises whe aid equipment is located and remove the same therefrom, and Wiseman Oil Company hereby waives ny trespass or right of action for damages by reason of said entry and removal.

ertificates of Insurance, with (30) days cancellation notice, must be furnished to Perry as ollows:

KIND OF INSURANCE	MINIMUM LIMITS
. Workmen's Compensation	Statutory
. Employer's Liability	$100,000.00
. Bodily Injury	$250,000.00 each person $500,000.00 each occurrence $500,000.00 aggregate
. Property Damage Liability	$250,000.00 each occurrence $250,000.00 aggregate
Fire, vandalism and extended coverage (Loss Payable Clause in favor of Perry)	$82,500.00
. Property Damage Coverage (Property in Care, custody and control)	$82,500.00

e understand and agree to the above.

PERRY EQUIPMENT COMPANY, INC.

Harry Goodman

Harry Goodman VP

ISEMAN OIL COMPANY, INC.

ATE: 8/25/80

BPDR 0005525

Form No. 338N—Proof of Claim in Bankruptcy (Secured, Unsecured, or Priority)—General Orders in Bankruptcy, as amended in 1961.
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For Sale by P. O. Naly Co., Law Blank Publishers
427 Fourth Ave., Pittsburgh, Pa. 15219

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In the matter of WISEMAN OIL COMPANY, INC.

In Bankruptcy

No. 81-3367

(Important—Insert name of bankrupt or debtor above).

PROOF OF CLAIM IN BANKRUPTCY

Perry Equipment Company, Inc., of ~~No.~~ Mount Laurel Road ~~Street~~, in Hainesport (City), County of ....., State of New Jersey, says:

IF CLAIMANT IS AN INDIVIDUAL:

1. *(a)* That he is the claimant herein. [If claim is for wages.] The claim for wages is set forth on the reverse side of this form.

IF CLAIMANT IS A PARTNERSHIP:

1. *(b)* That he is a member of ....., a copartnership, composed of the undersigned and ....., of ....., in the County of ....., State of ....., and carrying on business at No. ..... Street, in ..... (City), County of ..... State of ....., ...

IF CLAIMANT IS A CORPORATION:

1. *(c)* That the undersigned is the ..... (Official title) of ..... (Creditor), a corporation organized under the laws of the State of ....., and carry on business at ~~No.~~ Mount Laurel Road ~~Street~~ in Hainesport (City), County of ....., State of New Jersey, and is duly authorized to make this proof of claim on its behalf.

IF MADE BY AGENT OR ATTORNEY:

1. *(d)* That the undersigned is the agent or attorney of Perry Equipment Co., Inc. (Creditor) of No. Mount Laurel Road Street, in Hainesport (City), County of ..... State of New Jersey; that he is duly authorized by said claimant Corporation to make this proof of claim in his behalf; that said proof cannot be made by said Perry Equipment Co., Inc. (Creditor) in person because an officer of the corporation is unavailable to sign this Proof of Claim at this time. Counsel will submit such signed Proof of Claim when available.

2. That the above-named bankrupt (or debtor) was at and before the filing by (or against) him of the petition herein (for adjudication of bankruptcy), and still is, justly and truly indebted (or liable) to the claimant (or copartnership or corporation), in the sum of in excess of Fifty Thousand---------- dollars ($ 50,000+).

3. That the consideration of this debt (or liability) is as follows:
Rental of the following property: Used 36" x 72" centrifuge, Serial No. LB 2233; stainless steel contact parts; hard-surfaced conveyor; 80:1 ratio gearbox; 125 HP TEFC motor (No. EG-15584)

4. That no part of the debt (or liability) has been paid except None

5. That there are no set-offs or counterclaims to the debt (or liability), except None

6. That claimant (or said copartnership or said corporation) does not hold, and has not, nor has any person by his or (its) order, or to the knowledge or belief of the undersigned, for his (or its) use, had or received, any security, or securities for the debt (or liability), except perfected security interest in the property (UCC-1 Financing Statements filed)

7. [If the debt or liability is founded upon an instrument of writing.] That the instrument upon which the debt (or liability) is founded is attached hereto ~~[illegible]~~

8. [If the debt is founded upon an open account.] That the said debt was (or will become) due on ..... (or that the average date thereof is .....); that no note, or other negotiable instrument, has been received for such account, or any part thereof (or that the said debt is evidenced by a note, (or other negotiable instrument), which is attached hereto); and that no judgment has been rendered thereon, except None

9. This claim is filed as a ~~[illegible]~~ SECURED ~~[illegible]~~ CLAIM

Dated at Pittsburgh, Pennsylvania, this 19th day of April, 1982.

Signed Paul H. Titus per sfc
(Name of individual, agent, officer, or partner signing this claim)
Paul H. Titus, Esquire
Attorney for Claimant

PENALTY FOR PRESENTING FRAUDULENT CLAIM.—Fine of not more than $5,000 or imprisonment for not more than five years or both—Title 18, U.S.C. § 152.

(When signed mail this proof of claim to Referee in Bankruptcy)

state

This FINANCING STATEMENT is presented to a Filing Officer for filing pursuant to the Uniform Commercial Code.

No. of Additional Sheets Presented:

3. Maturity Date (optional): OCT 27 1980

1. Debtor(s) (Last Name First and Address(es):

Hiseman Oil Company, Inc.
84 Montour Rd.
Coraopolis, PA 15108

2. Secured Party(ies): Name(s) and Address(es):

Perry Equipment Company, Inc.
Mt. Laurel Road
Hainesport, NJ 08036

4. For Filing Officer: Date, Time, No.-Filing Office

10230496
OCT 24 9 05 AM '80

5. This Financing Statement covers the following types (or items) of property:

(1) Bird Machine Company 36" x 72" Centrifuge, Serial #LB2233, stainless steel contact parts, with gearbox and 125 HP TEFC motor. Includes spare conveyor

(X) Proceeds— (X) Products of the Collateral are also covered.

6. Assignee(s) of Secured Party and Address(es)

7. ☐ The described crops are growing or to be grown on: *
☐ The described goods are or are to be affixed to: *
* (Describe Real Estate Below)

8. Describe Real Estate Here:

9. Name(s) of Record Owner(s):

No. & Street | Town or City | County | Section | Block | Lot

10. This statement is filed without the debtor's signature to perfect a security interest in collateral (check appropriate box)

☐ already subject to a security interest in another jurisdiction when it was brought into this state, or
☐ which is proceeds of the original collateral described above in which a security interest was perfected:

Hiseman Oil Company, Inc.

By [signature]
Signature(s) of Debtor(s)

Perry Equipment Company, Inc.

By [signature] CORP. SEC.
Signature(s) of Secured Party(ies)

9/72

(2) FILING OFFICER COPY - ACKNOWLEDGEMENT

STANDARD FORM - FORM UCC-1 — Approved by the Secretary of the Commonwealth of Pa.

BPDR 0005527

1. Debtor(s) Name (Last Name First)

Wiseman Oil Company, Inc.

2. Debtor(s) Complete Address

84 Montour Rd.
Coraopolis, PA 15108

This space for use of Filing Officer. (Date, Time, File Number and Filing Office)

ORIGINAL (Red)

THE SPACES TO THE RIGHT HAVE BEEN DESIGNED FOR USE IN A WINDOW ENVELOPE WHEN RETURNING THE SECOND COPY TO THE PERSON FILING. →

3. & 4. Secured Party(ies) and Complete Address

Perry Equipment Company, Inc.
Mt. Laurel Rd.
Hainesport, N.J. 08036

5. & 6. Assignee(s) of Secured Party and Complete Address

15809-19

7. This financing statement covers the following types (or items) of property:

(1) Bird Machine Company 36" x 72" Centrifuge, Serial #LB2233, stainless steel contact parts, with gearbox and 125 HP TEFC motor. Includes spare conveyor.

8. When collateral is crops or fixtures complete this portion of form.
a. Description of real estate (Sufficient to identify the property).

b. Name and complete address of record owner.

9a. (X) Proceeds of Collateral are also covered. 9b. (X) Products of Collateral are also covered. No. of additional sheets presented. ( )

( ) Filed with Register of Deeds and Mortgages of County. ( ) Secretary of State.
(X) Filed with the County Clerk of Allegheny County.

TERMINATION STATEMENT

This statement of termination of financing is presented to a Filing Officer for filing pursuant to the Uniform Commercial Code. The Secured Party certifies that the Secured Party no longer claims a security interest under the financing statement bearing the file number above.

Dated: _____ 19____

(Signature of Secured Party or Assignee of Record --Not Valid until signed)

FILING OFFICER COPY — ACKNOWLEDGMENT -- Filing Officer is requested to note file number, date and hour of filing on this copy and return it to the person filing, as an acknowledgment.

recd - 10/6/88

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In Re: WISEMAN OIL COMPANY, INC., Debtor-in-Possession	)	Bankruptcy Case No. 81-3367 Chapter 11
PERRY EQUIPMENT COMPANY, INC., Plaintiff, v. WISEMAN OIL COMPANY, INC., Defendant/ Debtor-in-Possession.	)	Adversary Proceeding No. _____

ORDER

AND NOW, to-wit, this ____ day of April, 1982, upon the application of plaintiff, Perry Equipment Company, Inc., for relief from the automatic stay provided in 11 U.S.C. § 362(a),

IT IS HEREBY ORDERED a) that plaintiff, a secured creditor, be listed on Schedule A-2 of debtor's Statement of Liabilities, and b) that the automatic stay be and hereby is terminated with respect to Perry Equipment Company, Inc. for the reasons set forth in plaintiff's Complaint for Relief from Stay, in order to permit said plaintiff to enter upon the debtor's premises to remove and repossess its property now situate therein.

By the Court,

_____
Bankruptcy Judge

CERTIFICATE OF SERVICE

I, Estelle F. Comay, hereby certify that a true and correct copy of the foregoing Application to Determine Secured Status and Complaint to Terminate Automatic Stay as to Plaintiff Perry Equipment Company, Inc. was sent by first-class mail to Patrick H. Autry, Esquire, Berkman Ruslander Pohl Lieber & Engel, 20th Floor, Frick Building, Pittsburgh, Pennsylvania 15219, counsel for defendant, this ____ day of April, 1982.

Estelle F. Comay

CERTIFICATE OF SERVICE

I, Estelle F. Comay, hereby certify that a true and correct copy of the foregoing Application to Determine Secured Status and Complaint to Terminate Automatic Stay as to Plaintiff Perry Equipment Company, Inc. was sent by first-class mail to Patrick H. Autry, Esquire, Berkman Ruslander Pohl Lieber & Engel, 20th Floor, Frick Building, Pittsburgh, Pennsylvania 15219, counsel for defendant, this 28th day of April, 1982.

Estelle F. Comay

Estelle F. Comay

PROPOSAL

REORGANIZATION
WISEMAN OIL COMPANY
CORAOPOLIS, PENNSYLVANIA

August 31, 1982

BPDR 0005532

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ATTACHMENTS

Number

1 Financial Statements, Wiseman Oil Company
1980, 6 months 1981

2 Background Information - Robert P. Robosson

3 Background Information - John W. Swain, Jr.

4 Pro Forma Income Statements
Schedule - Use of Invested Funds

5 Application of Waste Water Discharge
Water Quality Standards,
State of Pennsylvania

6 Land, Buildings, Plant Equipment

ORIGINAL
filed

WISEMAN OIL COMPANY

ORRDIS PROSPECTUS

1.0 The Wiseman Oil Company, Coraopolis, Pennsylvania, a recycler of used oils, is currently operating, on a limited scale, under Chapter 11 bankruptcy. The company had sales totaling $8,069,835 for 1980 and $6,175,030 for the first six months of 1981 (Attachment 1). The secured creditor, Equibank, has foreclosed on the assets of the company and pursuant to court order is soliciting proposals for reorganization of the company.

One formal and one informal proposal have been submitted which Equibank considers to be inadequate.

Robert P. Robosson, a former Vice President of Equibank and court appointed Chief Executive officer of the Chapter 11 Wiseman operation, and John W. Swain, Jr., consultant to Equibank in this matter, have made an informal proposal for reorganization of Wiseman. Equibank has indicated interest in receiving a formal proposal. The informal proposal discussed with William Dinsmore, Equibank, included the following:

> Assumption of the amount of current loan to Wiseman, $2,400,000 plus accrued interest at date of closing, on a non-recourse basis for a period of 20 years at 10% interest. After an initial payment of approximately $55,000 the payment schedule would be:

Month	Amount/mo.
0-2	0
3-final	23,160

Provisions for increased or special payments would be provided for in the loan agreement. The bank will deliver all of the fixed assets and land. Unsecured creditors, now represented by counsel, would be paid a sum of $300,000, under

ORIGINAL (Red)

an extended payment terms agreement -- possibly 5 years at no interest and with no recourse or pledge of collateral. Counsel has advised that the payroll taxes and other obligations to governmental agencies would not be a liability of the purchasers of assets.

We plan a group (ORRDIS Company -- Oil Recovery Recycling and Disposal) of investors operating as a corporation. The group would include operators of oil recycling and/or service firms including rerefiners, in suitable and contiguous locations. The amount to be raised is $500,000 to $600,000 with units of $50,000 for each investor participant. Management of the reorganized company will be the responsibility of Robosson -- administration, finance and marketing (see Attachment 2), and Swain -- marketing, operations and research and development (see Attachment 3).

Robosson, in his five months as Chief Executive Officer of Wiseman, has gained an intimate knowledge of the company; its former failings; and the potential for a reorganized operation.

Swain, as a consultant for Equibank, has become familiar with the plant and operations as well as the opportunity for assessing the employee core group which has been maintained and which Swain considers to be exceptionally well qualified for the planned operations.

2.0 Plan

2.1 Management Plan

Wiseman failed largely because of unnecessary sales, administrative and operational costs; unwise equipment engineering and installation; feed stock and product quality problems and costs; lack of flexibility in utilization of available equipment to react to market conditions and opportunities.

We are confident that the business can operate profitably with a different

marketing approach.

The key concept is a low overhead, no frills operation in all areas -- administration, marketing and plant operation -- with careful and conservative financial management. For example, Wiseman employed 18 persons on the administrative staff. The present plan includes 4, including Robosson and Swain, with a possible fifth person when the "C" or "D" stage is reached (see Attachment 4).

2.2 Marketing Plan

Marketing of products and services will utilize equipment in the most efficient manner possible, which may include in-plant employee managed modifications. The plant is equipped to produce fuel oils, certain, but not all, lubricating oils and to perform service work. The latter includes processing of high water content oily wastes and closed loop contract processing of used oils or high oil content oily wastes.

Under Wiseman management the company concentrated on fuel oil production. The recently installed lubricating (lube) oil plant was intended to augment fuel sales. Service work was not pursued vigorously. The proposed plan gives first priority to increase of service work which is, under Chapter 11 operation, producing as much as $30,000/month current income.

We believe that this income can be increased substantially and the immediate target would be a minimum of $75,000/month income with sales efforts directed toward increasing this amount.

2.2.1 Service Work

This market is available since Wiseman is disposing of waste waters under a Department of Environmental Resources (DER) consent decree permit; the only one in the area. Swain has conferred with DER officials who are aware of his former connection as a five year part-time consultant with the Environmental Protection

ORIGINAL (Red)

Agency, Washington, DC. DER representatives are very interested in continuing this oily waste disposal operation and there are indications that an interim operating status can be maintained subject to certain conditions, which have applied to Wiseman. The major element of the conditions is further improved treatment of waste water to meet DER quality standards specified by sections of the Clean Water Act (Attachment 5).

It is Swain's opinion, and concurred in by Walter Protch, Production Manager, that these standards can be met with a relatively small capital expenditure. Protch has been with Wiseman for eight years; has degrees in chemistry and biology; and has an intimate knowledge of the plant equipment and processes and has good relations with DER. DER has indicated that it does not require unnecessarily high capital investment as long as laboratory bench and, possibly, pilot plant results, assure compliance with water quality standards. Some of the fuel and lube production equipment such as filters can be used to improve waste water treatment. Closed loop high oil content oily waste and contaminated lubricating and industrial oil processing present substantial income opportunities and require no capital investment.

A third possibility is custom blending of lubricating oils both automotive and industrial.

The advantage of pursuing service work is that it requires little working capital, only required chemicals and energy, but utilizes the currently installed equipment and experienced personnel. Further, there would be very little competition -- in some cases none -- and DER would be the major source of information concerning generators of oily wastes as well as being in a position of recommending the service or, at least, be a referral source.

2.2.2 Fuels

The second, but concurrent, sales effort would be directed to the fuel oil market. Wiseman has produced and sold over 1 million gallons/month of such fuels in

the past. Robosson has high level contacts with large industrial users and Swain has contacts at operating levels and with firms in the oil recycling business.

There are good indications that much of this volume, consistent with the economy, can be regained through Robosson's and Swain's contacts and through service work which would assist industry in compliance with environmental regulations.

One of the problems oil recyclers face is used oil feed stock supply. Since planned fuel production is considerably lower than that during the Wiseman peak sales this problem is reduced. The solution, we believe, is fair dealing with local collectors, who have few suitable outlets in the area, and immediate payment on delivery. Further, increased service work will generate fuel oil feed stock.

2.2.3 Lubricating Oils

The third marketing effort will be sales of lubricating oils. This will require some changes. First, the system is not a rerefinery which is necessary to produce high quality lubricating oils from a variety of feed stocks. Installation of high temperature distillation equipment would complete the present plant for such production. But the plant can produce certain lube oil stocks from selected and segregated feed stocks, used industrial oils and others, such as certain virgin oil refining mixtures.

However, the market for industrial oils, particularly metalworking fluids and other specialty products can provide a reasonable amount of income. Apparently there is no source for such oil closer than the Philadelphia area and, to some extent, in the Cleveland area. Swain's former plants in Michigan and Indiana handled only industrial oils used by the automotive and allied industries. Some of this business would be handled on a closed loop basis which has the reduced working capital requirement advantage and increased profit potential.

The plan does not include staffing a sales force since marketing will be

ORIGINAL (Red)

handled by Robosson and Swain, with some assistance by Walter Protch, who has had contact with customers and suppliers in the past. Outside commission agents, where useful or necessary, will also be employed.

2.3 Plant Operations

A detailed description of land, buildings, storage, processing and process equipment is contained in Attachment 6.

2.3.1 Personnel

Since the key to successful operations is the personnel, it is significant that Robosson has been able to retain key operating employees during Chapter 11 operations.

Walter Protch - Production Manager

Degrees in chemistry, biology and solar engineering. Has been with the company since its inception and knows the plant, processes and products well, since he has been involved in the installation of the equipment. He is hard working and resourceful. He is familiar also with feed stock sources, products and markets.

Marianne Cilla - Chemist

Degrees in chemistry and biology. Has good technical knowledge of the plant. Has acted as dispatcher, as well as assuming other tasks and responsibilities.

Steve Laudenberg - First Shift Foreman

Formerly dispatcher. Has good knowledge of the plant, process and trucks. Is highly regarded by Protch and Cilla.

Joe Smola - Maintenance

Regarded as hard working, efficient and has thorough knowledge of the equipment.

Jim Cassidy - Second Shift Foreman

Well regarded by co-workers. Knows the equipment and processes.

Two drivers of company trucks are handling pick-up of oily waste water for service work.

2.3.2 Processing

The basic operations plan calls for a concept which removes labels, such as "fuel plant," "lube plant," to utilize the equipment with maximum flexibility. This will require no changes, such as, relocation of pipe lines or pumps, at this time. As the markets develop, some simple changes may be required for efficiency or quality. Installation of new equipment or larger scale modification of present equipment will follow market requirements.

There is one exception and that is development of an improved process method and installation of equipment to meet DER water quality standards for waste water disposal. We believe that a technically sound system can be developed using modified installed equipment and fabrication and installation of auxiliary equipment with in-house plant personnel performing the major portion of the work. DER has indicated that, if laboratory, and possibly pilot plant, results show compliance with standards, approval will be forthcoming.

When the concept that various pieces of process equipment are in place and operable, such as, two 500 HP 150 PSI boilers, dehydration system, vibratory screen separators, filters, centrifuge heated and steam sparged heating vessels, mixing tanks and storage tanks suitably located for service work and processing of products, the possibilities for production, sales and profitable operation are greatly enhanced. The pro forma income statements (Attachment 4) include an expense factor covering chemicals and energy. This can be reduced by using waste materials such as spent acids (pickle liquor), and the waste materials available in the area.

Swain's experience in his own plants, including recycling process and product development, as well as knowledge of processes used in other plants, can lead to improved processing and products using present equipment. Wiseman core group personnel also have ideas which Wiseman management stifled. They will be most co-operative.

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2.3.3 Laboratory

The plant has a well-equipped laboratory, with an experienced chemist, who has remained during the Chapter 11 operation. Therefore, quality control is assured. Further, development and assessment of ad hoc process methods, following market requirements, can be implemented quickly and economically. Associate investors may also generate business and feed stocks as well as provide technical assistance.

2.3.4 Transportation

There is no intention of operating a large fleet of company owned trucks. The company would contract for most deliveries and large volume pick-up. Service work now requires company trucks and increase of this may require more equipment to provide reliable company pick-up service, which is sometimes necessary but, which also commands premium prices. Contract trucking can also be employed in many cases.

2.3.5 Spare Parts

A list of spare parts with an estimated value of $62,120 is shown in Attachment 6.

3.0 Reorganization Plan/Proposal

This section embodies the elements of a proposal to be made to Equibank and the court after consultation with investors. Legal and accounting counsel will advise and assist in the preparation of the formal proposal.

3.1 Organization - Proposed Company (ORRDIS)

The proposed company, formed to own and operate the facilities of Wiseman Oil Company, will be organized as a corporation. The proposed plan requires investment of $520,000 to $620,000 by three types of investors, organizing

managers, associate investors and allied investors. The first Robosson and Swain will organize and manage the company. The second will be persons or firms which are not engaged in the oil recycling or related activities. The third will be persons or firms which are engaged in oil recycling or allied activities such as transportation and handling of hazardous wastes.

The organizing managers will invest $10,000 each for shares of the company equal to the shares of other investors. The associate and allied investors will provide funds in $50,000 units. $10,000 per unit will be applied to common stock purchase and the company will issue subordinated debentures bearing 10% interest in the amount of $40,000. The stock ownership for each investor unit at the $520,000 investment level will be one twelfth or 8.33%. These allied investors will benefit by being able to use the facilities for market penetration both with products, e.g., rerefined oils, storage feed stock acquisition and possible disposal services. ORRDIS will benefit from payment for services rendered, increased feed stock source and product sales possibilities, technology interchange and operational experience.

Management will report to a Board of Directors, which will be composed of the two active managers (Robosson, Swain), one or two members from the "associate" investor group, one or two members from the "allied" investor group and a fifth or seventh member from either group or someone not part of the management or investor group.

It is suggested that an advisory operations committee be formed, composed of Swain, Robosson and any or all of the "allied" investors who may consent to serve.

3.2 Financial

Attachments 4A to 4E, inclusive, are: a pro forma one month income

statement with four levels of income and expense, one annualized statement, an exhibit showing prospective use of invested funds, and cash flow projections based on pro forma income statements 4A and 4B.

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The 12 month pro forma income statements show incentive bonus payments, based on sales, for management and plant personnel when Stages C and D are reached.

3.3 Proposal to Equibank and the Court

The proposal to Equibank, which will also be submitted to the court under Chapter 11 terms, will include the following:

- Assumption of the amount owned by Wiseman to Equibank (approximately $2,400,000) plus interest to date of transaction at 10% interest for a period twenty years.

- Payment terms after an initial payment of $55,000 to be:

Months	Amount/Mo.
0-2	$ -0-
3-final	23,160

Loan provisions will allow for increase in the payment schedule amounts, extra payments and a retirement of the debt without penalty in the event of more favorable financing terms.

Collateral for the loan will be the land -- title to which the bank must convey -- and plant equipment on a non-recourse basis, which, in the event of failure of the business, will allow the bank to regain the collateral without lengthy and expensive legal action. Inventory may or may not be included in the collateral. It would be useful to have such an asset, as well as receivables, for short term borrowings for sales increase surges and favorable raw material purchases.

- Offer of payment to unsecured creditors in the amount of $300,000, according to the following schedule without interest or collateral:

Months	Amount/Mo.
0-2	$ 60,000
3-final	5,000

Counsel for the Creditors' Committee has indicated favorable interest in this informal proposal. The current amount owned by Wiseman is approximately $2,450,000.

- Possible payment to Joseph and Ruth Wiseman after land title passes to Equibank and is available for purchase by ORRDIS. Equibank may also acquire title to the "A" building owned by Joseph and Ruth Wiseman. This building would not only increase the value of the assets, but is useful as a maintenance and storage facility and has potential use for manufacturing.

4.0 Advantages of Reorganization Proposal

Several factors indicate that the business, as proposed, can be successful and profitable and can expand beyond the stages shown in the financial section (Attachment 4).

4.1 Location

The Wiseman plant is the only one in the Pittsburgh area and has only partial competition in an area within a radius of 200 miles. Those such as Petromark, McKees Rocks, PA, Baumgardner, Fayetteville, PA, Petrocon, Valley Forge, PA, Berks Associates, Douglasville, PA, Wallover, Fostoria, OH, and the recently formed new small facility, Ameritech, Cleveland, OH are either more specialized or do not have the facilities and processing potential of the Wiseman plant. The industrial market in the area, despite economic conditions, can still

ORIGINAL
(Red)

use both product and services in greater volumes than those shown in the pro forma income statements.

4.2 Plant

The plant is in good repair and can begin operations in a very short time. A more flexible operation and use of equipment offer opportunities for a wider and more efficient use of the equipment.

4.3 Management Personnel

The proposed management -- Robosson, responsible for financial, administrative and industry contacts; and Swain, responsible for technical, operational, marketing, recycling and environmental agency contacts -- will provide experienced and knowledgeable efficient management. The experienced and dedicated core group of plant and laboratory personnel further strengthens the optimistic view of the enterprise. Further, the combination of the potential "associate" and "allied" investors will provide management with invaluable advice and opportunities for increased income and profits.

4.4 Investors

The "associate" investors will receive a good return on investment and participate in the growth of the company. The "allied" investors will participate in these but also may receive benefits from inter-company business and the availability of the facilities.

Based on pro-forma income statement 4B, Stage C, the company will show a $546,900 profit before taxes. This includes an estimated depreciation of $150,000. After tax cash flow -- $546,900 less $236,000 tax plus $150,000 depreciation gives the company a cash flow total of $460,900.

4.5 Bank

Equibank will replace a questionable loan with one more favorable. A

prepayment of $50,000 is planned with a manageable payment schedule. The members of the investor management group are acceptable to the bank, which has shown interest in the informal discussion proposal since the management principals are known to the bank as will be most, if not all, of the "associate" investors. "Allied" investors will, it is sure, be acceptable.

4.6 Unsecured Creditors

These will receive $300,000 according to the payment schedule shown on Page 11 of this presentation. Also, there is the good possibility of renewed business by trade creditors.

WISEMAN OIL COMPANY, INC.

BALANCE SHEET

ASSETS	June 30, 1981 (Reviewed)	December 31, 1980 (Audited)
Current assets:		
Cash	$ 6,291	$ 120,153
Accounts receivable:		
Trade	480,780	1,105,045
Other	57,824	39,425
Officers and employees	66,067	7,194
Inventories	609,370	586,985
Prepaid expenses	64,212	94,555
Total current assets	1,284,544	1,953,357
Property, plant, and equipment - at cost	4,492,753	3,678,186
Less accumulated depreciation and amortization	821,773	705,480
	3,670,980	2,972,706
Other assets and deferred charges	92,509	95,583
	$5,048,033	$5,021,646

See accompanying notes to the financial statements and accountants' report.

	June 30, 1981 (Reviewed)	December 31, 1980 (Audited)
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Current maturities of long-term debt, and short-term notes:		
Bank notes	$ 598,810	$ 385,457
Equipment notes	94,586	53,560
Accounts payable	1,631,651	1,760,423
Accrued liabilities:		
Salaries and wages	25,258	65,743
Payroll and other taxes	71,366	79,334
Income taxes	45,509	33,070
Interest	19,441	19,190
Other	11,086	40,791
Due affiliates	58,694	59,138
Total current liabilities	2,556,401	2,496,706
Long-term debt, less current maturities:		
Bank notes	1,658,307	1,823,335
Equipment notes	43,013	64,923
Officers	256,001	256,001
	1,957,321	2,144,259
Deferred income taxes	38,793	8,338
Stockholders' equity:		
Capital stock - Class A Common, voting, par value $1, authorized 1,000 shares, issued and outstanding 370 shares	370	370
Capital stock - Class B Common, nonvoting, par value $.10, authorized 10,000 shares, and outstanding, none		
Additional paid-in capital	455,759	455,759
Retained earnings and accumulated deficit	39,389	[illegible]
Total stockholders' equity	495,518	[illegible]
	$5,048,033	$5,021,646

WISEMAN OIL COMPANY, INC.

STATEMENT OF INCOME

	Six Months Ended June 30, 1981 (Reviewed)	Year Ended December 31, 1980 (Audited)
Sales	$6,175,030	$8,069,835
Cost of sales	5,476,368	7,155,969
Gross profit	698,662	913,866
Selling, general, and administrative expenses	391,812	740,550
Operating profit	306,850	173,316
Other income (expense):		
Interest expense	(140,781)	(160,958)
Other		20,643
	(140,781)	(140,315)
Income before income taxes and extraordinary item	166,069	33,001
Income taxes	66,862	8,338
Income before extraordinary item	99,207	24,663
Extraordinary item:		
Tax benefit of net operating loss carryforward	23,968	
Net income	$ 123,175	$ 24,663

See accompanying notes to financial statements and accountants' report.

ATTACHMENT 2

Robosson Resume

BACKGROUND INFORMATION

JOHN W. SWAIN, JR.

JALAR ASSOCIATES, Senior Associate

Twenty eight years operating industrial oil plants producing virgin and recycled oil products.

- Management

  President
  Mergraf Oil Company, Michigan
  Mergraf Oil Company of Indiana
  PSC Resources, Massachusetts, New Jersey

- Marketing
- Process development
- Product development
- Product application

One year operating automotive oils rerefining plant including construction of a used oil reprocessing plant and an automotive oil rerefinery.

Six years as on-board part time consultant to Environmental Protection Agency, Hazardous Waste Management Division, Office of Solid Waste as oil recycling expert; Contract consultant to Department of Energy and National Bureau of Standards; Secretary (as EPA consultant) Interagency Committee on Resource Recovery, Oil Recycling Task Force; Program Manager, Workshop - National Association of Oil Recovery Coordinators (States); Consultant - private industry - lubricant conservation, oil recycling and disposal and allied areas.

Technical Societies

- American Society of Lubrication Engineers (ASLE)

  Chairman - Lubricant Conservation and Disposal Committee
  - Detroit Section
  Vice Chairman - Boston Section
  Member - Government Affairs Committee
  - Hydraulics Committee
  - Metalworking Fluids Committee
  - Joint Technical Committee

- American Society for Testing and Materials (ASTM)

  Chairman - Joint Task Force, Base Stock Characterization Methodology
  - Technical Division P-4, Recycled Hydraulic and Industrial Oils

JOHN W. SWAIN, JR.

- American Society for Testing and Materials (cont.

  Member - other committees

- American Petroleum Institute

  Member

Author and Papers

- Chapters - Industrial Oily Waste Control (ASLE/API)
  - Lubrication Guide ASLE
- Papers - Presented at Annual Meetings of ASLE, National Petroleum Refiners Association, Society of Manufacturing Engineers and many ASLE local sections

Wide contacts in industry and government and knowledge of virgin oil products and applications, oil conservation and recycling.

Private industry consulting includes preparation of feasibility studies and application for Federal government grant for oil recycling plants, equipment, and operations analyses, expert witness court appearances, consultant and contract manager for energy studies, consultant, marketing and application, of high gradient magnetic separation equipment, and wear particle analytical devices relating to lubricant application and use.

PRO FORMA INCOME STATEMENT
ONE MONTH

	A ($)		B ($)		C ($)		D ($)	
Income								
Fuel Oil @ $0.50/gal								
200,000 gal	100,000							
300,000 gal			150,000					
400,000 gal					200,000			
500,000 gal							250,000	
Lube Oil @ $1.00								
50,000 gal	50,000		50,000					
100,000 gal					100,000			
150,000 gal							150,000	
Service $0.15/gal (av)(1)	30,000		50,000		75,000		100,000	
TOTAL INCOME/MO		180,000		250,000		375,000		500,000
Expense Materials & Heat								
Fuel @ $0.30	66,000		98,000		132,000		165,000	
Lube @ $0.50	27,500		27,500		55,000		82,500	
Heat @ $0.03(feed stock)	6,600		9,900		13,200		16,500	
TOTAL EXPENSE		100,100		135,400		200,200		264,000
GROSS PROFIT		79,900		114,600		174,800		236,000

(1) After freight and chemicals cost

ATTACHMENT 4 A
Page 1

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ORIGINAL (Red)

PRO FORMA INCOME STATEMENT
ONE MONTH

Expense	A ($)		B ($)		C ($)		D ($)	
Plant:								
Payroll	14,200		14,200		15,600		16,800	
Fringe benefits,other	1,800		1,800		2,000		2,200	
Maintenance	1,000		1,200		1,400		1,600	
Supplies	1,000		1,100		1,200		1,200	
Utilities	3,000		3,500		4,000		4,500	
Freight	7,500		10,500		15,000		19,500	
Truck costs	2,500		3,000		3,500		4,000	
Insurance	3,000		3,000		3,000		3,000	
Sludge disposal	2,000		2,800		4,000		5,200	
Taxes, property	1,000		1,000		1,000		1,000	
		37,000		42,100		50,700		59,100
Sales, General, Adm:								
Salaries (inc. payroll taxes)	12,400		12,400		12,400		12,400	
Fees	0		0		0		0	
Telephone, postage	1,000		1,000		1,000		1,000	
Supplies	500		500		500		500	
Travel,entertainment	2,000		2,000		2,500		3,000	
Sales exp (inc. comm.)	2,500		3,500		5,000		6,500	
Car expense	750		750		1,000		1,200	
Insurance	500		500		500		500	
Legal, accounting	1,000		1,000		1,000		1,000	
Taxes	1,000		1,000		1,000		1,000	
Other	1,000		1,000		1,000		1,000	
		22,650		23,650		25,900		28,100
TOTAL EXPENSE		59,650		65,750		76,600		87,200
NET PROFIT (1)		20,250		48,850		98,200		148,800

(1) Before depreciation, interest, taxes, payments to unsecured creditors.

ATTACHMENT 4A
Page 2

PRO FORMA INCOME STATEMENT
12 MONTHS

	A ($)		B ($)		C ($)		D ($)	
Income (1)		2,160,000		3,000,000		4,500,000		6,000,000
Material Cost (2)	1,201,200		1,624,800		2,402,400		3,168,000	
Expense, plant	444,000		505,200		608,400		709,200	
, SG&A	271,800		283,800		310,800		337,200	
TOTAL		1,917,000		2,413,800		3,321,600		4,214,400
PROFIT (3)		243,000		586,200		1,178,400		1,785,600
Depreciation (4)	150,000		150,000		150,000		150,000	
Payment, bank	278,000		278,000		278,000		278,000	
Payment, creditors	60,000		60,000		60,000		60,000	
Interest, debentures	40,000		40,000		40,000		40,000	
TOTAL		528,000		528,000		528,000		528,000
PROFIT (5)		(285,000)		58,200		650,400		1,257,600
Bonus payments								
Management	0		0		69,000		101,250	
Plant	0		0		34,500		51,000	
TOTAL		0		0		103,500		152,250
NET PROFIT (6)		(285,000)		58,200		546,900		1,105,350

(1) Ref Attach 4A x 12 months
(2) Ref Attach 4A x 12 months
(3) Before depreciation, bank and creditor payments, taxes
(4) Estimated
(5) Before taxes
(6) Before taxes

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ATTACHMENT 4B

ATTACHMENT 4C

Use of Invested Funds	
Total amount available	$ 500,000
Organizational costs	15,000
Equibank	55,000
Unsecured creditors	5,000
Inventory, supplies, plant	10,000
Feed stock, used oil	150,000
Operating costs, incl. payroll	150,000
Plant - repairs, modification	50,000
Other	10,000
	$ 445,000

Work Capital	
Reserve	55,000
Inventory	160,000
	215,000

Annual Cash Flow, Stage C	
Net profit, before tax	546,900
Taxes (1)	236,000
Net profit, after tax	310,900
Depreciation	150,000
Net cash flow	$ 460,900

(1) Does not include investment tax credit

NPDES PUBLIC NOTICE - INDUSTRIAL WASTE

Regional Office - 600 Kossman Building, 100 Forbes Avenue, Pittsburgh, PA 15222, (412) 565-5091.

Application No. PA 0044695, Industrial Waste, Wiseman Oil Company, Inc., Fort Pitt Federal Building, 524 Penn Avenue, Pittsburgh, PA 15222.

The applicant proposes to discharge treated and untreated industrial wastewater to Montour Run in Moon Township, Allegheny County. The receiving stream is classified for existing and/or potential uses as follows: aquatic life, water supply, recreation and trout stocking.

The proposed discharge limitations are as follows:

Outfall 101, from the process areas.

	Load (lbs/day)		Concentration (mg/l)	
Parameter	Daily Average	Daily Maximum	Daily Average	Instantaneous Maximum
Zinc	0.5	1.0	1.0	2.0
Nickel	0.25	0.50	0.5	1.0
Free Cyanide	0.035	0.070	.07	.14
Phenol	0.035	0.070	.07	.14
Hexavalent Chromium	0.13	0.26	0.25	0.50
Manganese	1.0	2.0	2.0	4.0
Lead	0.13	0.26	0.25	0.5
Copper	0.10	0.20	0.2	0.4
Oil & Grease	7.6	15.2	15	30
Total Iron	2.0	3.56	4.0	7.0
Total Suspended Solids	15.3	30.6	30	60
Temperature	N/A	N/A	N/A	125°
NH_3-N				
(6/1 - 10/31)	4.3	8.6	8.5	17.0
(Rem. of Year)	8.6	17.2	17.0	34.0
BOD_5				
(6/1 - 10/31)	15.3	30.5	30	60
(Rem. of Year)	25.4	50.9	50	100
COD	203.5	407.0	400	800
pH	shall not be less than 6.0 nor greater than 9.0 standard units			

Outfall 201, from the paved area runoff.

	Load (lbs/day)		Concentration (mg/l)	
Parameter	Daily Average	Daily Maximum	Daily Average	Instantaneous Maximum
TOC	N/A	N/A	35	70
Oil & Grease	N/A	N/A	15	30
pH	shall not be less than 6.0 nor greater than 9.0 standard units			

Outfall 002, hillside storm runoff.

This discharge shall contain uncontaminated stormwater runoff only.

This permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under Sections 301 (b) (2) (C), and (D), 304 (b) (2), and 307 (a) (2) of the Clean Water Act, if the effluent standard or limitation so issued or approved:

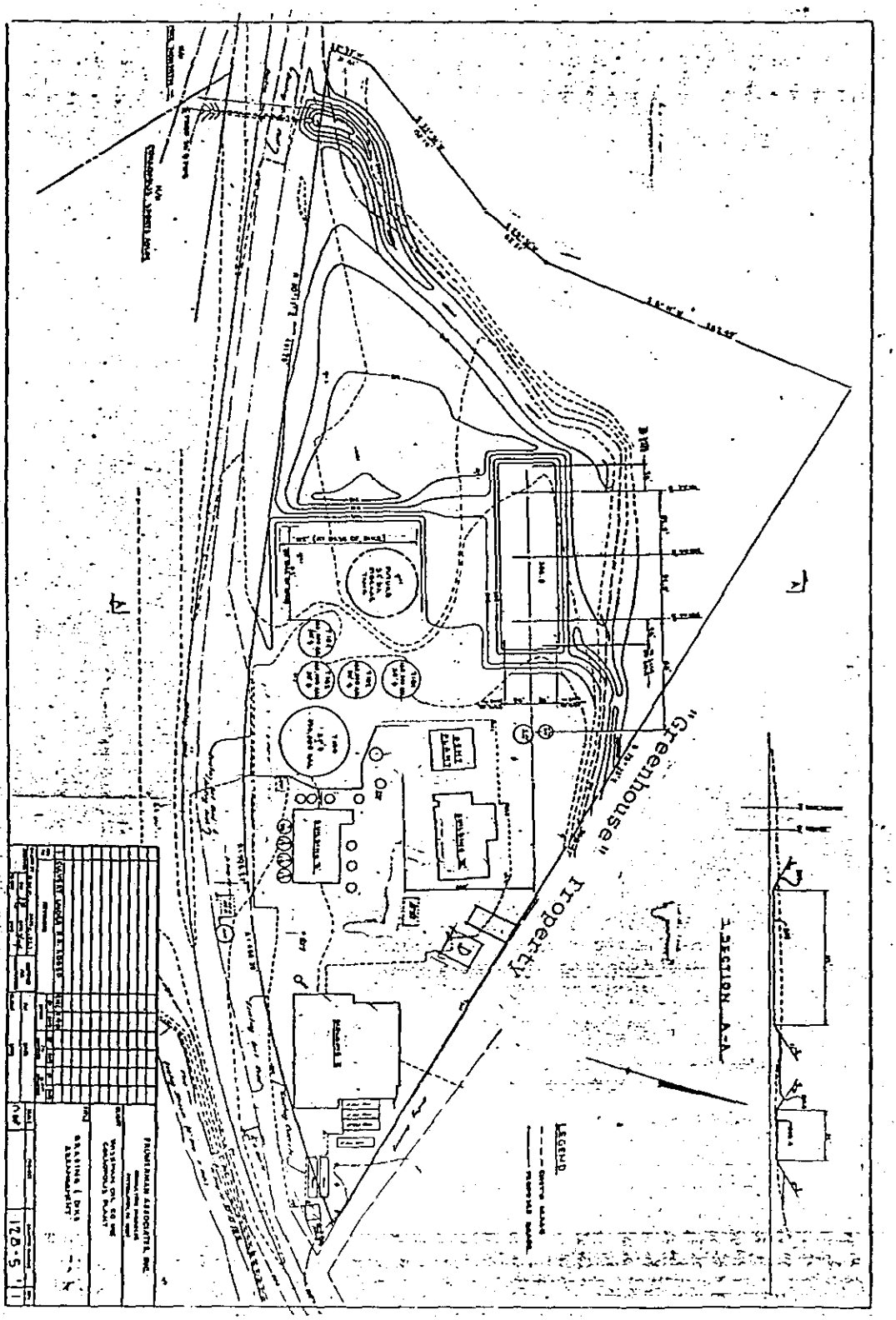
1. Contains different conditions or is otherwise more stringent than any effluent limitations in the permit; or

2. Controls any pollutant not limited in the permit.

This permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable.

This permit does not authorize the construction of any treatment facilities. If new or existing unpermitted facilities are necessary to meet the herein specified effluent limitations, the permittee shall apply for and obtain a Part II DER facilities permit as required by the Clean Streams Law.

The EPA waiver is not in effect.



BPDR 0005560

LAND, BUILDINGS, PLANT EQUIPMENT

1.0 Land and Buildings

1.1 Land

The Wiseman facility is situated on an approximately 11 acres site, roughly pie-shaped, with the longest side (905') east-west fronting on a private road (with access rights) parallel to the Montour Railroad and the Montour Run Stream (Attachment 6A). The property does not have a direct rail connection, but we understand that a spur could be installed. The land to the north and west is higher than the plant site, but has been graded and diked to divert run-off water from the operating areas. Plant area drainage and waste waters are handled by two receiving, in-ground storage systems, two API type separators, preliminary, final, and an effluent site surrounded by an in-stream floating boom.

The access road is well maintained and there have been no problems with truck traffic.

The land has two parcels: original rendering plant land hereinafter called "oil plant land" and "greenhouse land." Both of these are owned by Joseph Wiseman and Ruth Wiseman and leased to Wiseman Oil . The "greenhouse land" was purchased by Joseph Wiseman in 1981 (?) but is not being used for oil plant operations. The "A" building is also owned by Joseph and Ruth Wiseman. The rendering plant equipment has been sold to a third party. The equipment has not been used for the oil recycling operation; is not necessary for the proposed operation but could be useful for future operations. The building has been used for truck maintenance and parts storage.

Joseph and Ruth Wiseman are guarantors, for $500,000, of the Equibank loan and a relative, whom Joseph Wiseman has indemnified, is a guarantor for $100,000. Since the terms of our reorganizational proposal will require delivery of title to the "oil plant land," and possibly, the "greenhouse land" and rendering plant

(Building "A") it is expected that this can be accomplished by relief of the Joseph Wiseman guarantee. A token payment of $25,000 from invested funds may be useful. It should be noted that Wiseman purchased the "greenhouse land" for $160,000 in 1987. This was the amount of a bank evaluation for loan purposes.

2.0 Storage, Processes and Process Equipment

The following describes the process methods and equipment as used in the past and does not indicate the flexibility of the plant nor the different or expanded use of the equipment. For example, installation of relatively inexpensive distillation equipment alone would produce rerefined lubricating oils for automotive and industrial uses. Other process methods utilizing installed equipment could produce or contract process certain industrial lubricants and metalworking fluids.

Despite the fact that operations have been at a minimum since November 1981 -- largely oily waste disposal service -- the plant is in very good condition; has been well maintained and could be in complete operation in a short time.

2.1 Storage

Installed -- approximately 1,400,000 gallons
Not installed -- approximately 24,000 gallons
Note: Installed includes all piping valves, screens and pumps.

2.2 Processes

Fuel Oils -- Process A

a. Segregate
b. Settle
c. Demulsify (if over 15% water)
d. Dehydrate
e. Solids removal - vibratory screen separator
   - filtration (if required)

Fuel Oils -- Process B

a. Segregate
b. Heat 160°F-190°F
   25,000 gallon coiled tanks with steam spargers
c. Chemicals - demulsifiers, pH adjustment

d. Centrifuge - Bird Centrifugal*
e. Dehydrate
f. Secondary solids removal - vibratory screens
- filtration

This recently installed system has an excellent equipment control system

Lubricating Oils - selected feed stocks

This system is not a rerefinery by common definition since high temperatures (600°F-700°F) distillation is not employed. It can, however, produce acceptable lubricating from selected feed stocks.

a. Dehydrate
b. Acid treatment - 1.0-2.0 sulfuric acid
c. Activated clay contact - 0.2-0.4 lbs/gallon
d. Heat 300°F
e. Filter

Contract, Service Processing

Processing and disposal of oily wastes.

a. Emulsions -- High water content oily wastes

Split emulsion with pH adjustment, demulsifiers and heat
Skim oil
Treat waste water

b. Special

Dehydrate
Centrifuge and/or vibratory screening and/or
Filtration
Clay treatment/heat, and
Filtration

2.3 Equipment

Fuel production -- 1,000,000-2,000,000 gal/mo.

a. 110,000 gallon treatment tank - 180°F

2-Kason Vibratory Screen separators
Dehydration unit - 3500 GPH

2-500 lb, 150 PSI Fire tube Scotch Marine boilers with a good control system.

b. 2-25,000 gallon treatment tanks - 180°F-250°F, 750,000-1,000,000 gal/mo.

Chemical mix tank
Bird Centrifugal
Sludge removal facility
Receiving tank
Controls

*The used Bird Centrifugal has been repossessed by supplier.

BPDR 0005563

Lubricating Oil -- 250,000-400,000 gal/mo.

a. Bulk clay storage system
b. Acid treatment settling and sludge tanks
c. Clay/oil treatment tanks
d. Niagara plate and frame filter - 50,000 gal/day
e. 1-24" plate and frame filter
f. 1-24" leaf filter
g. 1-DeLaval centrifuge - 1800 GPH
h. Controls

BPDR 0005564

ORIGINAL (Red)

The following is taken from the plant evaluation which Swain prepared for Equibank, March 10-13, 1982. It was not intended to be, nor is, a complete appraisal. The values are based on use of the facility for oil recycling.

1.0	Estimated Plant Value	
1.1	Land	Not estimated
1.2	Buildings and Equipment	
	"A"	
	Former rendering plant, multi-level including partial second floor - used for maintenance, spare parts and equipment storage. Some rendering equipment (autoclaves, tanks) are installed and operable, and have possible value for special services.	
	Condition - fair (owned by Joseph Wiseman)	-0-
	"B"	
	Lube oil processing plant. 21' high. Good general purpose.	
	Condition - new, excellent	$ 36,000
	"C"	
	Laboratory, plant office. Second floor 90% completed for offices and storage.	
	Condition - excellent	72,000
	"D"	
	Partially completed for Bird Centrifugal and controls (investment included in Bird Centrifugal System estimate)	
	Condition - excellent as completed	Not estimated
	Total buildings.	$108,000

Grand Total Forward
$ 108,000

ORIGINAL (Red)

1.3 Plant Equipment

1.3.1	Feed Stock Receiving System Condition – good	9,000	
1.3.2	Storage tanks, installed Includes pumps, controls and portion of piping 1,500,000 gallons @ 0.75 Condition - good	1,125,000	
1.3.3	Bird Centrifugal System Includes pre-heat tanks, pumps, piping, Bird Centrifugal controls, receiving tank, unfinished building and unfinished sludge removal system Condition - good/excellent	130,000	
1.3.4	Fuel Process System, complete Includes tanks not listed in Section 1.4, heating coils, gauges, vibratory screen separators, etc. Condition - good	180,000	
1.3.5	Dehydration System Includes reboiler, condensor, water cooling tower, heat exchangers, pumps, piping and controls Condition - good	90,000	
1.3.6	Lube Oil System Includes acid treat tanks, clay handling equipment, clay mixing tank, product tank, large and small filters, centrifuges, controls, pumps and piping Condition - excellent	220,000	
1.3.7	Waste Water System Partially completed for maximum utilization. Includes "API" separators, pumps, piping, etc. Condition - fair	100,000	
1.3.8	Boilers, installed Includes water treatment system, controls, fuel tank, etc. Condition - good	50,000	
1.3.9	Spare parts, equipment and maintenance tools Condition - fair/good (as reported)	61,120	
1.3.10	Vehicles Condition - scrap to good	30,000	
		Total equipment, forward	1,995,120
		Grand Total, forward	2,103,120

Grand Total Forward: $ 108,000

1.3 Plant Equipment

1.3.1	Feed Stock Receiving System Condition - good	9,000	
1.3.2	Storage tanks, installed Includes pumps, controls and portion of piping 1,500,000 gallons @ 0.75 Condition - good	1,125,000	
1.3.3	Bird Centrifugal System Includes pre-heat tanks, pumps, piping, Bird Centrifugal controls, receiving tank, unfinished building and unfinished sludge removal system Condition - good/excellent	130,000	
1.3.4	Fuel Process System, complete Includes tanks not listed in Section 1.4, heating coils, gauges, vibratory screen separators, etc. Condition - good	180,000	
1.3.5	Dehydration System Includes reboiler, condensor, water cooling tower, heat exchangers, pumps, piping and controls Condition - good	90,000	
1.3.6	Lube Oil System Includes acid treat tanks, clay handling equipment, clay mixing tank, product tank, large and small filters, centrifuges, controls, pumps and piping Condition - excellent	220,000	
1.3.7	Waste Water System Partially completed for maximum utilization. Includes "API" separators, pumps, piping, etc. Condition - fair	100,000	
1.3.8	Boilers, installed Includes water treatment system, controls, fuel tank, etc. Condition - good	50,000	
1.3.9	Spare parts, equipment and maintenance tools Condition - fair/good (as reported)	61,120	
1.3.10	Vehicles Condition - scrap to good	30,000	
	Total equipment, forward		1,995,120
	Grand Total, forward		2,103,120

	Total Equipment forward		1,995,120
	Grand Total forward		2,103,120

ORIGINAL (Red)

1.3.11	Laboratory Includes hood, furniture, centrifuge, analytical equipment, research equipment, glassware, hot plates, balances, R&D equipment and miscellaneous supplies and chemicals Condition - excellent	25,000	
1.3.12	Architects and engineering fees - land improvements - diking, curbing, blacktop in operating area. Office buildings on "greenhouse" property.		
1.3.13	Contingency, equipment and other physical assets not listed. 2,103,000 x 10%	210,300	
	TOTAL, EQUIPMENT		2,230,420
	GRAND TOTAL, estimated value		2,338,420

Robert Wiseman stated that the depreciated value of plant and equipment is $3,500,000. This is not unreasonable since property such as automobiles, office equipment and land are not included in the grand total.

WISEMAN

ORIGINAL (Red)

SUBJECT: PLANT EQUIPMENT INVENTORY
DATE: DEC. 17, 1981

TRUCK MAINTENANCE EQUIPMENT

QUANTITY	DESCRIPTION	CONDITION	ESTIMATED VALUE
1	10 TON FLOOR JACK	GOOD	$150.00
1	TRANSMISSION JACK	GOOD	$200.00
1	TIRE PULLER	GOOD	$150.00
4	JACK STANDS	GOOD	$100.00
1	GREASE DRUM PUMP	GOOD	$50.00
1	GEAR OIL DRUM PUMP	GOOD	$50.00
1	$^3/_4$ IN. IMPACT GUN	GOOD	$200.00
1	$^1/_2$ IN. IMPACT GUN	GOOD	$50.00
1	BATTERY CHARGER	GOOD	$100.00
1	$^1/_2$" DRILL	GOOD	$50.00
1	SET OF JUMPER CABLES	GOOD	$30.00
1	10 TON PORTABLE JACK	GOOD	$250.00
1	BENCH GRINDER	GOOD	$150.00

PLANT MAINTENANCE EQUIPMENT

QUANTITY	DESCRIPTION	CONDITION	ESTIMATED VALUE
1	PORTABLE WASH UNIT	GOOD	$500.00
1	$^1/_2$ '' HAMMER DRILL	NEW	$600.00
1	VENT BLOWER	GOOD	$125.00
1	MODEL #401 MSA MASK	GOOD	$300.00
1	LINCOLN ARC WELDER	GOOD	$2000.00
1	PORTABLE ARC WELDER	GOOD	$1500.00
1	PIPE THREADER	JUNK	SCRAP
1	40' LADDER	GOOD	$200.00
1	STEAM JENNY	GOOD	$200.00
1	POWER WASHER	GOOD	$150.00
1	CUTTING TORCH	GOOD	$100.00
1	DRILL PRESS	GOOD	$150.00
	MAINTENANCE ROOM SUPPLIES (HAND TOOLS, VARIOUS PARTS & SUPPLIES FOR PUMPS, MOTORS, AND ELECTRICAL WORK)	GOOD	$3500.00

ORIGINAL (Red)

WISEMAN

PLANT EQUIPMENT INVENTORY (Cont.)

PUMPS, MOTORS, & ELECTRICAL SUPPLIES

QUANTITY	DESCRIPTION	CONDITION	ESTIMATED VALU
2	VACUUM PUMPS (TRUCKS)	GOOD	$1500.00
1	VACUUM PUMP (TRUCK PARTS)	JUNK	$400.00
1	2" PORTABLE PUMP	JUNK	SCRAP
1	AIR COMPRESSOR	JUNK	SCRAP
30	MOTORS THAT CAN BE USED	GOOD	$9000.00
2000 LBS.	ELECTRICAL BOXES & STARTERS	NEW & USED	$4000
10,000 FT.	VARIOUS SIZE WIRE	JUNK	SCRAP
20	SCRAP PUMPS	PARTS	$1000.00
3	VIKING PUMPS	GOOD	$400.00
3	TELLTAIL FILTER CARTRIDGES	GOOD	$450.00
22	SHAKER SCREENS	RIPPED	SCRAP
4	SHAKER SCREENS	GOOD	$450.00
500 FT.	CONDUIT	GOOD	$500.00
1	COMPLETE BARNES PUMP SETUP	NEW	$2500.00
10	BURNED OUT PUMPS & MOTORS	REPAIRABLE	$1000.00
1 TON	ROPER PUMP PARTS	GOOD USED	
1	2 STAGE PUMP	NEW	$1000.00
5	3" FLEX PIPES	GOOD	$500.00
2	4" ROPER PUMPS	NEW	$2000.00
7 BOXES	INSULATION MATERIAL	GOOD	$500.00
4	GAF FILTERS	USED	$1000.00
2	HIGH SPEED PUMPS & MOTORS	USED	$2000.00
6	APPLETON LIGHTS 1000 Watts, 240 Volts PART #AMBC100 240	NEW	$4200.00
3	NORTHERSTAR LIGHTING LITES	NEW	$1500.00
VARIOUS CONDUIT, BOXES, SWITCHES, BREAKERS, & WIRE		NEW	$2500.00
4	SPOOLS OF 600 VOLT WIRE (APPROX. 500')	NEW	$500.00

MISCELLANEOUS EQUIPMENT

1	BACKHOE	USED	$1000.00
1	AUSTIN HEILY CRANE	JUNK	$300.00
2	SHAKER STAGES	NEW	$400.00
10	STAINLESS STEEL SCREENS	USED	

ORIGINAL (Red)

WISEMAN

T EQUIPMENT INVENTORY (Cont.)

MISCELLANEOUS EQUIPMENT

QUANTITY	DESCRIPTION	CONDITION	ESTIMATED VALU
1	FIN TUBE HEATER	GOOD	$500.00
1	TANK SKIMMER	NEW	350.00
1	COALESCER FILTER	USED	$1000.00
1	ADSCO HEAT EXCHANGER	USED	$5000.00
1	GAS SPACE HEATER	GOOD	$150.00
3	DRUM PIPES	GOOD	$150.00
VARIOUS	SHELVES & CABINETS	GOOD	$100.00

GARAGE BACKROOM ITEMS

VALVES, FLANGES, FITTINGS, PUMP PARTS, SMALL PIECES OF PIPE. (4 TONS)		USED (PARTS)	
15	VALVES	NEW & GOOD	$3000.00
25	FLANGES	NEW	$ 375.00

HOSES IN PLANT

**3" HOSE

QUANTITY	DESCRIPTION	CONDITION	ESTIMATED VALUE
3	10' LONG HOSE	GOOD	$75.00
5	15' LONG HOSE	GOOD	$190.00
3	20' LONG HOSE	GOOD	$150.00
4	25' LONG HOSE	GOOD	$250.00
6	50' LONG HOSE	GOOD	$750.00

**2" HOSE

QUANTITY	DESCRIPTION	CONDITION	ESTIMATED VALUE
3	10' LONG HOSE	GOOD	$75.00
2	15' LONG HOSE	GOOD	$75.00
9	20' LONG HOSE	GOOD	$450.00
2	25' LONG HOSE	GOOD	$125.00

*(AM HOSE

QUANTITY	DESCRIPTION	CONDITION	ESTIMATED VALUE
5	25' LONG HOSE	GOOD	$450.00

TOTAL, 3 PAGES $61,120.00

Viseman Oil Corporation 84 Montour Road Coraopolis, Pennsylvania 15108
412/262-9290

Form MALY No. 33 - Grant or Special Warranty Deed From an Individual to a Corporation (Not Signed by Officers) (With Coal Notice)
© Copyright 1973 P. G. Maly Co.
For Sale by P. G. Maly Co., Law Blank Publishers
437 Fourth Avenue, Pittsburgh, Pa. 15219

This Indenture

272-N-52

Made the 29th day of October 1982

Between JOSEPH WISEMAN and RUTH N. WISEMAN, his wife

(hereinafter called "Grantor")

AND

BRESLUBE-PENN, INC.

(hereinafter called "Grantee")

Witnesseth, That the said Grantor in consideration of Eighteen Thousand, One Hundred Fifty and no/100 ($18,150.00)---------- Dollars, paid to the Grantor by the Grantee, receipt of which is hereby acknowledged, does grant, bargain, sell and convey to the said Grantee, its successors and assigns

THAT CERTAIN LOT OR PIECE OF GROUND situate in the Township of Moon, County of Allegheny and Commonwealth of Pennsylvania, being bounded and described as follows, to-wit:

BEGINNING at a point in the center line of the public road known as the Ewing Road leading from the Middletown Road to Ewings Mill, which point is the Southwest corner of the tract of land of which the within described is a part; thence along the center line of said road and along lands of C. R. Boyd and Thomas Pugh, North 23°17'40" East 280 feet to an iron pin; thence still along the center of the same, North 54°17'40" East 321.75 feet to a pin to line of lands now or formerly of A.K. Joy heirs; thence along line of land conveyed by Gust E. Walz et ux., to Stewart E. Shields et ux., by deed dated November 19, 1929, recorded in the Recorder's Office of Allegheny County in Deed Book Vol. 2415, page 80, South 4°3'40" West, 394.90 feet to an iron pin; thence South 74°8'20" East along the same 551.28 feet to an iron pin; thence along line of lands of the Montour Railroad Company, South 48°21' West 169.69 feet to an iron pin on line of lands now or formerly of the Pittsburgh Coal Company; thence along said line, North 74°8'20" West 777.09 feet to the iron pin at the place of beginning.

CONTAINING 4.25 acres

BEING designated as Block 272-N, Lot No. 52 in the Deed Registry Office of Allegheny County, Pennsylvania.

SUBJECT to rights of the public and others entitled thereto in and to the use of that portion of the premises within the bounds of Ewing Mill Road. Drainage easements and easements in cuts and fills of slopes along the Railroad right of way of Montour Railroad, Easement, 33 feet wide, recorded in Deed Book Vol. 2293, page 681.

BEING the same property which Joseph Kenneth Walz and Evelyn E. Walz, his wife, granted and conveyed to Joseph Wiseman and Ruth N. Wiseman, his wife, by their deed dated July 7, 1981 and recorded in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania in Deed Book Volume 6384, page 4.

BPDR 0005572

DEED TRANSFER TAX
COUNTY OF ALLEGHENY

No. C 50059

☐ BORO
☐ TWP
☒ SCH. DIST. Moon Area
☐ CITY

12/2/1982

AM'T $ 18,150 —
BLOCK AND LOT NO.

REC'D. $ 90 — 75 /100

☐ CASH
☒ CHECK

MICHAEL A. DELLA VECCHIA, County Agent
BY [illegible]

DEED TRANSFER TAX
COUNTY OF ALLEGHENY

No. C 50058

☐ BORO
☒ TWP
☐ SCH. DIST. Moon
☐ CITY

12/2/1982

AM'T $ 18,150 —
BLOCK AND LOT NO.

REC'D. $ 90 — 75 /100

☐ CASH
☒ CHECK

MICHAEL A. DELLA VECCHIA, County Agent
BY [illegible]

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
REALTY TRANSFER TAX
DEC 2 - '82
R.B. 11371
181.50

with the appurtenances: **To Have and To Hold** *the same to and for the use of the said Grantee*, its successors *and assigns forever, and the Grantor for its successors and assigns hereby covenant and agree that it will WARRANT* the property hereby conveyed.*

NOTICE—THIS DOCUMENT MAY NOT / DOES NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE / HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P. L. 984, as amended, and is not intended as notice of unrecorded instruments, if any.)

Witness *the hand and seal of the said part of the first part.*

WITNESS:

[signature]	[signature]	SEAL
[signature]	[signature]	SEAL
[signature]	[signature]	SEAL
		SEAL
		SEAL

NOTICE THE UNDERSIGNED, AS EVIDENCED BY THE SIGNATURE(S) TO THIS NOTICE AND THE ACCEPTANCE AND RECORDING OF THIS DEED, (IS, ARE) FULLY COGNIZANT OF THE FACT THAT THE UNDERSIGNED MAY NOT BE OBTAINING THE RIGHT OF PROTECTION AGAINST SUBSIDENCE, AS TO THE PROPERTY HEREIN CONVEYED, RESULTING FROM COAL MINING OPERATIONS AND THAT THE PURCHASED PROPERTY, HEREIN CONVEYED, MAY BE PROTECTED FROM DAMAGE DUE TO MINE SUBSIDENCE BY A PRIVATE CONTRACT WITH THE OWNERS OF THE ECONOMIC INTEREST IN THE COAL. THIS NOTICE IS INSERTED HEREIN TO COMPLY WITH THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1966.

WITNESS: [signature]

RESLUBE PENN, INC.

BY [signature]
President

Commonwealth of Pennsylvania
County of ALLEGHENY } SS.

On this the 29th day of October, A.D. 19 82, *before me* a Notary Public *the undersigned officer, personally appeared* Joseph Wiseman and Ruth N. Wiseman, his wife *known to me (or satisfactorily proven) to be the persons whose names subscribed to the within instrument and acknowledged that* they *executed the same for the purposes therein contained.*

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

[signature]

FOSTER S. GOLDMAN, JR., Notary Public
Pittsburgh, Allegheny County
My Commission Expires October 8, 1983

**If general warranty deed is desired, insert GENERALLY.*
If special warranty deed is desired, insert SPECIALLY.

BPDR 0005574

Commonwealth of Pennsylvania } ss.
County of .....

On this day of
A.D. 19 , before me
in and for said
came the above named

and acknowledged the foregoing Indenture to be
act and deed, to
the end that it may be recorded as such.

Witness my hand and seal.

SEAL

My Commission Expires.....

State of
County of

On this, the day of , 19
before me
the undersigned officer, personally appeared

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

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

.....

.....
Title of Officer.

My Commission Expires.....

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the grantee herein is 84 Montour Road Coraopolis, Pennsylvania 15108

For Grantee

Recorded DEC 2 82 65358 Number

Deed (3)

Vol. Page

From
JOSEPH WISEMAN and
RUTH N. WISEMAN, his wife

To
BRESLUBE-PENN, INC.

DEED REGISTRY
DEC 6 '82
COUNTY OF ALLEGHENY.

Fees, $

MAIL TO:
Joseph Chalhoub, President
Breslube-Penn, Inc.
84 Montour Road
Coraopolis, PA 15108

RECORDER OF DEED ALLEGHENY COUNTY, PA.
DEC 2 2 40 PM '82

For Sale by P. O. Kelly Co., Law Blank Publishers, 427 Fourth Avenue, Pittsburgh, Pa. 15219

Commonwealth of Pennsylvania, } ss:
County of Allegheny

Recorded on this 2nd day of December
A. D. 1982 , in the Recorder's Office of the said County, in Deed Book,
Vol. 6574 , page 23 .

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

Michael J. Pelle Vuchia
Recorder.

RECORDER OF DEEDS ALLEGHENY COUNTY, PA.

VOL. 6574 PAGE 26

BPDR 0005575

Form NALY No. 33 - General or Special Warranty Deed From an Individual to a Corporation or Individual (Endorsed by Officers) (With Coal Notice)
© Copyright 1972, P. O. Naly Company

For Sale by P. O. Naly Co., Law Blank Publishers
437 Fourth Avenue, Pittsburgh, Pa. 15219

271-A-320

This Indenture

Made the 29th day of October 1982

Between JOSEPH WISEMAN and RUTH WISEMAN, his wife

(hereinafter called "Grantor")

A N D

BRESLUBE-PENN, INC.

(hereinafter called "Grantee")

Witnesseth, That the said Grantor in consideration of One Hundred Twelve Thousand Two Hundred and no/100 ($112,200.00)----------*Dollars, paid to the Grantor by the Grantee, receipt of which is hereby acknowledged, does grant, bargain, sell and convey to the said Grantee*, its successors *and assigns*

All that certain lot or piece of ground situate in the Township of Moon, County of Allegheny and State of Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin on line dividing the G. E. Walz tract from the original tract of which the herein described tract is a part; said iron pin being situate North 75°23' West 125.43 feet from a stone marking the most westerly corner of tract of John A. Ferguson Estate et al; said iron pin being also situate N 75° 23'W 24.57 feet from a point marking a corner common to said G. E. Walz tract and said original tract; thence by a line thru said original tract which line curves to the right on a radius of 905.37 feet a distance of 468.52 feet to an iron pin marking a point of tangent; thence by a line thru said original tract S 80° 17'W 491.79 feet to an iron pin the center line of a certain public road; thence along center line of said public road and thru said original tract the following four courses and distances as follows: -N 02° 32'E 31.41 feet to an iron pin; thence N 33 deg. 51' E 152.32 feet to an iron pin; thence N 25 deg. 31' E 62.21 feet to an iron pin; thence N 06 deg. 11'E 262.49 feet to an iron pin on line of G. E. Walz tract aforesaid; thence leaving said public road and along line of said tract S 75 deg. 23'E 790.77 feet to an iron pin at the place of beginning, containing 5.127 acres.

TOGETHER with and under and subject to such rights of way for gas and sewer lines, ingress, egress and regress, conveyance of coal, rights pertaining to telegraph and telephone and power poles, and rights, restrictions and encumbrances, all as set forth in Deed dated June 18, 1945 from Perry A. Sletteland and Margaret T. Sletteland, his wife, to the grantors herein, recorded in Recorder of Deeds Office of Allegheny County, Pennsylvania, in Deed Book Volume 2845, page 642.

BEING the same property which Perry A. Sletteland and Margaret T. Sletteland, his wife, granted and conveyed to Joseph Wiseman and Ruth Wiseman, his wife, Grantors herein, by Deed dated June 18, 1945 and recorded in the office of the Recorder of Deeds of Allegheny County, Pennsylvania, in Deed Book Volume 2845, page 642.

Having erected thereon an oil reprocessing plant.

BPDR 0005576

ORIGINAL

DEED TRANSFER TAX
COUNTY OF ALLEGHENY

NO. C 50061

☐ BORO
☐ TWP
☐ SCH. DIST. Moon Area
☐ CITY

12/2/1982

AM'T $ 112,200 — BLOCK AND LOT NO.

REC'D. $561 — 100

☐ CASH
☐ CHECK
MICHAEL A. DELLA VECCHIA, County Agent
BY

DEED TRANSFER TAX
COUNTY OF ALLEGHENY

NO. C 50060

☐ BORO
☐ TWP
☐ SCH. DIST. Moon
☐ CITY

12/2/1982

AM'T $ 112,200 BLOCK AND LOT NO.

REC'D. $561 — 100

☐ CASH
☐ CHECK
MICHAEL A. DELLA VECCHIA, County Agent
BY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
REALTY TRANSFER TAX DEC 2-'82
222.00

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
REALTY TRANSFER TAX DEC 2-'82
900.00

with the appurtenances: To Have and To Hold the same to and for the use of the said Grantee, its successors and assigns forever, and the Grantor for its successors and assigns hereby covenant and agree that it will WARRANT* the property hereby conveyed.

NOTICE—THIS DOCUMENT MAY NOT / DOES NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE / HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P. L. 984, as amended, and is not intended as notice of unrecorded instruments, if any.)

Witness the hand and seal of the said part of the first part.

WITNESS:

Joseph Wiseman (SEAL)

Ruth Wiseman (SEAL)

Keith D. Wiseman (SEAL)

(SEAL)

(SEAL)

NOTICE THE UNDERSIGNED, AS EVIDENCED BY THE SIGNATURE(S) TO THIS NOTICE AND THE ACCEPTANCE AND RECORDING OF THIS DEED, (IS, ARE) FULLY COGNIZANT OF THE FACT THAT THE UNDERSIGNED MAY NOT BE OBTAINING THE RIGHT OF PROTECTION AGAINST SUBSIDENCE, AS TO THE PROPERTY HEREIN CONVEYED, RESULTING FROM COAL MINING OPERATIONS AND THAT THE PURCHASED PROPERTY, HEREIN CONVEYED, MAY BE PROTECTED FROM DAMAGE DUE TO MINE SUBSIDENCE BY A PRIVATE CONTRACT WITH THE OWNERS OF THE ECONOMIC INTEREST IN THE COAL. THIS NOTICE IS INSERTED HEREIN TO COMPLY WITH THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1966.

WITNESS: Scott Guy

BRESLUBE-PENN, INC.

By _____ President

Commonwealth of Pennsylvania } SS.
County of ALLEGHENY

On this the 29th day of October, A.D. 1982, before me a Notary Public the undersigned officer, personally appeared Joseph Wiseman and Ruth Wiseman, his wife known to me (or satisfactorily proven) to be the persons whose names subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

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

My commission expires

FOSTER B. GOLDMAN, Notary Public (Notarial Officer)
Pittsburgh, Allegheny County, PA.
My Commission Expires October 8, 1983

*If general warranty deed is desired, insert GENERALLY.
If special warranty deed is desired, insert SPECIALLY.

BPDR 0005578

Commonwealth of Pennsylvania } ss.
County of _____ }

On this _____ *day of* _____
A.D. 19 _____ *, before me* _____
in and for said _____
came the above named _____

and acknowledged the foregoing Indenture to be _____ *act and deed, to the end that it may be recorded as such.*

Witness *my hand and* _____ *seal.*

_____ SEAL

My Commission Expires _____

State of
County of

On this, the _____ *day of* _____ *, 19* _____
before me _____
the undersigned officer, personally appeared _____

known to me (or satisfactorily proven) to be the person whose name _____ *subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.*

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

_____

_____
Title of Officer.

My Commission Expires _____

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the Grantee herein is 84 Montour Road, Coraopolis, PA 15108

_____
For Grantee

DEC -2-82 65357
Recorded _____ *Number*

Vol. _____ *Page* _____

From JOSEPH WISEMAN and RUTH WISEMAN, his wife

To BRESLUBE-PENN, INC.

$10.50

DEED REGIS[illegible] Dec 6 [illegible] COUNT[illegible] ALLEGHE[illegible]

Fees,$

MAIL TO:
Joseph Chalhoub, President
Breslube-Penn, Inc.
84 Montour Road
Coraopolis, PA 15108

RECORDER OF DEEDS ALLEGHENY COUNTY, PA
DEC 2 12 [illegible] PM '82

For Sale by P. O. Mair Co., Law Blank Publishers, 427 Fourth Avenue, Pittsburgh, Pa. 15219

Commonwealth of Pennsylvania, } ss:
County of Allegheny }

Recorded *on this* 2nd *day of* December
A. D. 19 82 *, in the Recorder's Office of the said County, in Deed Book,*
Vol. 6574 *, page* 19 .

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

_____ *Recorder.*

VOL 6574 PAGE 22

BPDR 0005579

Form MALY No. 33 - General or Special Warranty Deed from an Individual to a Corporation or Individual (Executed by Officers) (With Coal Notice)
©Copyright 1977, P. O. Maly Company
For Sale by P. O. Maly Co., Law Blank Publishers 431 Fourth Avenue, Pittsburgh, Pa. 15219

272-T-376

This Indenture

made the 29th day of October 19 82

Between JOSEPH WISEMAN and RUTH WISEMAN, his wife

(hereinafter called "Grantor")

A N D

BRESLUBE-PENN, INC.

(hereinafter called "Grantee")

Witnesseth. *That the said Grantor in consideration of* Thirteen Thousand Two Hundred and no/100 ($13,200.00)---------- *Dollars, paid to the Grantor by the Grantee, receipt of which is hereby acknowledged, does grant, bargain, sell and convey to the said Grantee,* its successors *and assigns*

All that certain parcel or tract of land situate in the Township of Moon, County of Allegheny and State of Pennsylvania, bounded and described as follows, to-wit:

BEGINNING at the Northwestern corner thereof at a pin at a corner common to lands of the grantors, A. M. Gunkle and lands formerly of the A. K. Joy heirs and now of J. P. Mariades; thence along lands of A. M. Gunkle, South 19°46' West, a distance of Three hundred thirty-five and 74/100 (335.74) feet to a pin; thence continuing along the same, South 74°8'20" East, a distance of Two hundred five and 07/100 (205.07) feet to a pin; thence by land now or formerly of the Montour Railroad Company, North 48°12' East a distance of Ten and 52/100 (10.52) feet to a point; thence continuing along the same North 34°55' East, a distance of Seventy-six and 39/100 (76.39) feet to a point; and thence further along the same, North 14°1' East a distance of Two hundred forty (240) feet to a point at the line of lands formerly of A.K. Joy's heirs and now of Mariades and thence along said line North 70° 14' West, a distance of Two hundred five and 55/100 (205.55) feet to the point at the place of beginning.

CONTAINING 1.64 acres.

HAVING thereon erected a one story frame cottage.

BEING the same property which Robert R. Berg and Bernice L. Berg, his wife, granted and conveyed to Joseph Wiseman and Ruth Wiseman, his wife, Grantors herein, by deed dated June 29, 1946 and recorded in the office of the Recorder of Deeds of Allegheny County, Pennsylvania in Deed Book Volume 2906, page 79.

THERE is also included in this conveyance a right of way with right of ingress and regress over and along that certain strip of ground which begins at the corner of property of A. M. Gunkle and on the Northerly line of Gust E. Walz and running thence along said Walz line, South 74°8'20" East, a distance of One hundred ninety-three and 70/100 (193.70) feet to a post on land now or formerly of the Montour Railroad Company; thence by said line North 48°21' East a distance of Twenty Three and 71/100 (23.71) feet to line of property above described; thence along line of property herein conveyed, North 74°8'20" West, a distance of Two hundred five and 07/100 (205.07) feet to a pin on line of Gunkle and thence by said A. M. Gunkle line, South 19°46' West, a distance of Twenty and 05/100 (20.05) feet to the point at the place of beginning.

BPDR 0005580

SAID right of way to be used in common with the owners of lands abutting upon the same for purposes of ingress and regress to and from the property above described.

DEED TRANSFER TAX
COUNTY OF ALLEGHENY
NO. C 50056

☐ BORO
☑ TWP
☐ SCH. DIST. Moon
☐ CITY
12/2/1982
AM'T $ 13,200 — BLOCK AND LOT NO.
REC'D. $ 66 — no /100
☐ CASH MICHAEL A. DELLA VECCHIA, County Agent
☑ CHECK BY [signature]

DEED TRANSFER TAX
COUNTY OF ALLEGHENY
NO. C 50057

☐ BORO
☐ TWP
☑ SCH. DIST. Moon Area
☐ CITY
12/2/1982
AM'T $ 13,200 — BLOCK AND LOT NO.
REC'D. $ 66 — no /100
☐ CASH MICHAEL A. DELLA VECCHIA, County Agent
☑ CHECK BY [signature]

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
REALTY TRANSFER TAX DEC 2-'82
P.B. 11371
132.00

with the appurtenances: **To Have and To Hold** *the same to and for the use of the said Grantee*, its successors *and assigns forever, and the Grantor for its successors and assigns hereby covenant and agree that it will WARRANT* the property hereby conveyed.*

NOTICE—THIS DOCUMENT MAY NOT / DOES NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE / HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. [This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P. L. 984, as amended, and is not intended as notice of unrecorded instruments, if any.]

Witness *the hand and seal of the said part of the first part.*

WITNESS:

Joseph Wiseman SEAL
Ruth Wiseman SEAL
Ruth M. Wiseman SEAL
SEAL
SEAL

NOTICE THE UNDERSIGNED, AS EVIDENCED BY THE SIGNATURE(S) TO THIS NOTICE AND THE ACCEPTANCE AND RECORDING OF THIS DEED, (IS, ARE) FULLY COGNIZANT OF THE FACT THAT THE UNDERSIGNED MAY NOT BE OBTAINING THE RIGHT OF PROTECTION AGAINST SUBSIDENCE, AS TO THE PROPERTY HEREIN CONVEYED, RESULTING FROM COAL MINING OPERATIONS AND THAT THE PURCHASED PROPERTY, HEREIN CONVEYED, MAY BE PROTECTED FROM DAMAGE DUE TO MINE SUBSIDENCE BY A PRIVATE CONTRACT WITH THE OWNERS OF THE ECONOMIC INTEREST IN THE COAL. THIS NOTICE IS INSERTED HEREIN TO COMPLY WITH THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1966.

WITNESS: Scott Gray

BRESLUBE-PENN, INC.
By [signature]
President

Commonwealth of Pennsylvania
County of ALLEGHENY } ss.

On this the 29th *day of* October, *A.D. 19*82, *before me* a Notary Public *the undersigned officer, personally appeared* Joseph Wiseman and Ruth Wiseman, his wife *known to me (or satisfactorily proven) to be the persons whose names subscribed to the within instrument and acknowledged that* they *executed the same for the purposes therein contained.*

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

My commission expires

FOSTER S. GOLDMAN, JR., Notary Public
Pittsburgh, Allegheny County
My Commission Expires October 6, 1983
(Title of Officer)

**If general warranty deed is desired, insert GENERALLY.*
If special warranty deed is desired, insert SPECIALLY.

BPDR 0005582

Commonwealth of Pennsylvania } ss.
County of _____

On this day of
A.D. 19 , before me
in and for said
came the above named

and acknowledged the foregoing Indenture to be
act and deed, to
the end that it may be recorded as such.
Witness *my hand and seal.*

_____ SEAL

My Commission Expires _____

State of
County of
On this, the day of , 19
before me
the undersigned officer, personally appeared

known to me (or satisfactorily proven) to be the person whose name subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.
In Witness Whereof, I hereunto set my hand and official seal.

_____

_____
Title of Officer.

My Commission Expires _____

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the grantee herein is 84 Montour Road, Coraopolis, Pennsylvania 15108

_____
For Grantee

DEC -2-82 65359
Recorded *Number*

Deed

Vol. *Page*

From
JOSEPH WISEMAN and
RUTH WISEMAN, his wife

To
BRESLUBE-PENN, INC.

$10.50

DEED REGISTRY
Dec 6 '82
COUNTY OF ALLEGHENY, PA.

Fees, $

MAIL TO:
Joseph Chalhoub, President
Breslube-Penn, Inc.
84 Montour Road
Coraopolis, PA 15108

RECORDER OF DEED ALLEGHENY COUNTY
DEC 2 12 43 PM '82

For Sale by P. D. Nuly Co., Law Blank Publisher
427 Fourth Avenue, Pittsburgh, Pa. 15219

Commonwealth of Pennsylvania, } ss:
County of Allegheny

Recorded *on this* 2nd *day of* December
A. D. 1982 , in the Recorder's Office of the said County, in Deed Book,
Vol. 6574 *, page* 27

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

_____
Recorder.

RECORDER OF DEEDS COUNTY, PA.

VOL. 6574 PAGE 30

BPDR 0005583

Form NALY No. 53 - General or Special Warranty Deed From an Individual to a Corporation or Individual (Executed by Officers) (With Coal Notice)
© Copyright 1977, P. O. Naly Company

For Sale by P. O. Naly Co., Law Blank Publishers
427 Fourth Avenue, Pittsburgh, Pa. 15219

This Indenture

ORIGINAL (Red)

Made *the* *day of* October *19* 82

Between JOSEPH WISEMAN and RUTH WISEMAN, his wife

(hereinafter called "Grantor")

A N D

(hereinafter called "Grantee")

Witnesseth, *That the said Grantor in consideration of*

Dollars,

paid to the Grantor by the Grantee, receipt of which is hereby acknowledged, does grant, bargain, sell and convey to the said Grantee, its successors *and assigns*

All that certain parcel or tract of land situate in the Township of Moon, County of Allegheny and State of Pennsylvania, bounded and described as follows, to-wit:

BEGINNING at the Northwestern corner thereof at a pin at a corner common to lands of the grantors, A. M. Gunkle and lands formerly of the A. K. Joy heirs and now of J. P. Mariades; thence along lands of A. M. Gunkle, South 19°46' West, a distance of Three hundred thirty-five and 74/100 (335.74) feet to a pin; thence continuing along the same, South 74°8'20" East, a distance of Two hundred five and 07/100 (205.07) feet to a pin; thence by land now or formerly of the Montour Railroad Company, North 48°12' East a distance of Ten and 52/100 (10.52) feet to a point; thence continuing along the same North 34°55' East, a distance of Seventy-six and 39/100 (76.39) feet to a point; and thence further along the same, North 14°1' East a distance of Two hundred forty (240) feet to a point at the line of lands formerly of A.K. Joy's heirs and now of Mariades and thence along said line North 70° 14' West, a distance of Two hundred five and 55/100 (205.55) feet to the point at the place of beginning.

CONTAINING 1.64 acres.

HAVING thereon erected a one story frame cottage.

BEING the same property which Robert R. Berg and Bernice L. Berg, his wife, granted and conveyed to Joseph Wiseman and Ruth Wiseman, his wife, Grantors herein, by deed dated June 29, 1946 and recorded in the office of the Recorder of Deeds of Allegheny County, Pennsylvania in Deed Book Volume 2906, page 79.

THERE is also included in this conveyance a right of way with right of ingress and regress over and along that certain strip of ground which begins at the corner of property of A. M. Gunkle and on the Northerly line of Gust E. Walz and running thence along said Walz line, South 74°8'20" East, a distance of One hundred ninety-three and 70/100 (193.70) feet to a post on land now or formerly of the Montour Railroad Company; thence by said line North 48°21' East a distance of Twenty Three and 71/100 (23.71) feet to line of property above described; thence along line of property herein conveyed, North 74°8'20" West, a distance of Two hundred five and 07/100 (205.07) feet to a pin on line of Gunkle and thence by said A. M. Gunkle line, South 19°46' West, a distance of Twenty and 05/100 (20.05) feet to the point at the place of beginning.

(OVER)

upon the same for purposes of ingress and regress to and from the property above described.

ORIGINAL (Red)

with the appurtenances: **To Have and To Hold** *the same to and for the use of the said Grantee*, its successors *and assigns forever, and the Grantor for its successors and assigns hereby covenant and agree that it will WARRANT* the property hereby conveyed.*

NOTICE—THIS DOCUMENT MAY NOT / DOES NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE / HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. [This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P. L. 984, as amended, and is not intended as notice of unrecorded instruments, if any.]

Witness *the hand and seal of the said part of the first part.*

WITNESS:

		SEAL
		SEAL
		SEAL
		SEAL
		SEAL

NOTICE THE UNDERSIGNED, AS EVIDENCED BY THE SIGNATURE(S) TO THIS NOTICE AND THE ACCEPTANCE AND RECORDING OF THIS DEED. (IS, ARE) FULLY COGNIZANT OF THE FACT THAT THE UNDERSIGNED MAY NOT BE OBTAINING THE RIGHT OF PROTECTION AGAINST SUBSIDENCE. AS TO THE PROPERTY HEREIN CONVEYED, RESULTING FROM COAL MINING OPERATIONS AND THAT THE PURCHASED PROPERTY, HEREIN CONVEYED, MAY BE PROTECTED FROM DAMAGE DUE TO MINE SUBSIDENCE BY A PRIVATE CONTRACT WITH THE OWNERS OF THE ECONOMIC INTEREST IN THE COAL. THIS NOTICE IS INSERTED HEREIN TO COMPLY WITH THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1966.

WITNESS:

Commonwealth of Pennsylvania
County of ALLEGHENY } **ss.**

On this the day of October, *A.D. 19*82, *before me* a Notary Public *the undersigned officer, personally appeared* Joseph Wiseman and Ruth Wiseman, his wife *known to me (or satisfactorily proven) to be the persons whose names subscribed to the within instrument and acknowledged that* they *executed the same for the purposes therein contained.*

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

FOSTER S. GOLDMAN, JR., Notary Public
Pittsburgh, Allegheny County, PA
My Commission Expires October 6, 1983
(Title of Officer)

My commission expires

**If general warranty deed is desired, insert GENERALLY.*
If special warranty deed is desired, insert SPECIALLY.

BPDR 0005586

ORIGINAL (Red)

Commonwealth of Pennsylvania
County of ..... } ss.

On this day of
A.D. 19 , before me
in and for said
came the above named

and acknowledged the foregoing Indenture to be act and deed, to the end that it may be recorded as such.

Witness *my hand and seal.*

..... SEAL

My Commission Expires .....

State of
County of

On this, the day of , 19
before me
the undersigned officer, personally appeared

known to me (or satisfactorily proven) to be the person whose name subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.
In Witness Whereof, I hereunto set my hand and official seal.

.....

.....
Title of Officer.

My Commission Expires .....

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the grantee herein is

.....
For Grantee.

Recorded ..... *Number* .....

Vol. ..... *Page* .....

From
JOSEPH WISEMAN and
RUTH WISEMAN, his wife

To

Fees, $

For Sale by P. O. Naly Co., Law Blank Publishers
427 Fourth Avenue, Pittsburgh, Pa. 15219

Commonwealth of Pennsylvania,
County of ..... } ss:

Recorded *on this day of*
A. D. 19 , in the Recorder's Office of the said County, in Deed Book,
Vol. , page .

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

.....
Recorder.

BPDR 0005587

Form NALY No. 53 - General or Special Warranty Deed From an Individual to a Corporation or Individual (Executed by Officers) (With Coal Notice)
©Copyright 1977, P. O. Naly Company

For Sale by P. O. Naly Co., Law Blank Publishers
427 Fourth Avenue, Pittsburgh, Pa. 15219

This Indenture

Made *the* *day of* October *19* 82

Between JOSEPH WISEMAN and RUTH WISEMAN, his wife

(hereinafter called "Grantor")

A N D

(hereinafter called "Grantee")

Witnesseth, *That the said Grantor in consideration of*

Dollars,

paid to the Grantor by the Grantee, receipt of which is hereby acknowledged, does grant, bargain, sell and convey to the said Grantee, its successors *and assigns*

All that certain lot or piece of ground situate in the Township of Moon, County of Allegheny and State of Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin on line dividing the G. E. Walz tract from the original tract of which the herein described tract is a part; said iron pin being situate North 75°23' West 125.43 feet from a stone marking the most westerly corner of tract of John A. Ferguson Estate et al; said iron pin being also situate N 75° 23'W 24.57 feet from a point marking a corner common to said G. E. Walz tract and said original tract; thence by a line thru said original tract which line curves to the right on a radius of 905.37 feet a distance of 468.52 feet to an iron pin marking a point of tangent; thence by a line thru said original tract S 80° 17'W 491.79 feet to an iron pin the center line of a certain public road; thence along center line of said public road and thru said original tract the following four courses and distances as follows: -N 02° 32'E 31.41 feet to an iron pin; thence N 33 deg. 51' E 152.32 feet to an iron pin; thence N 25 deg. 31' E 62.21 feet to an iron pin; thence N 06 deg. 11'E 252.49 feet to an iron pin on line of G. E. Walz tract aforesaid; thence leaving said public road and along line of said tract S 75 deg. 23'E 790.77 feet to an iron pin at the place of beginning, containing 5.127 acres.

TOGETHER with and under and subject to such rights of way for gas and sewer lines, ingress, egress and regress, conveyance of coal, rights pertaining to telegraph and telephone and power poles, and rights, restrictions and encumbrances, all as set forth in Deed dated June 18, 1945 from Perry A. Sletteland and Margaret T. Sletteland, his wife, to the grantors herein, recorded in Recorder of Deeds Office of Allegheny County, Pennsylvania, in Deed Book Volume 2845, page 642.

BEING the same property which Perry A. Sletteland and Margaret T. Sletteland, his wife, granted and conveyed to Joseph Wiseman and Ruth Wiseman, his wife, Grantors herein, by Deed dated June 18, 1945 and recorded in the office of the Recorder of Deeds of Allegheny County, Pennsylvania, in Deed Book Volume 2845, page 642.

with the appurtenances: **To Have and To Hold** *the same to and for the use of the said* ORIGINAL (Red)

Grantee, its successors *and assigns forever, and the*

*Grantor for its successors and assigns hereby covenant and agree that it will WARRANT**

the property hereby conveyed.

NOTICE—THIS DOCUMENT MAY NOT / DOES NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE / HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. [This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P. L. 984, as amended, and is not intended as notice of unrecorded instruments, if any.]

Witness *the hand and seal of the said part of the first part.*

WITNESS:

		SEAL
		SEAL
		SEAL
		SEAL
		SEAL

NOTICE THE UNDERSIGNED, AS EVIDENCED BY THE SIGNATURE(S) TO THIS NOTICE AND THE ACCEPTANCE AND RECORDING OF THIS DEED, (IS, ARE) FULLY COGNIZANT OF THE FACT THAT THE UNDERSIGNED MAY NOT BE OBTAINING THE RIGHT OF PROTECTION AGAINST SUBSIDENCE, AS TO THE PROPERTY HEREIN CONVEYED, RESULTING FROM COAL MINING OPERATIONS AND THAT THE PURCHASED PROPERTY, HEREIN CONVEYED, MAY BE PROTECTED FROM DAMAGE DUE TO MINE SUBSIDENCE BY A PRIVATE CONTRACT WITH THE OWNERS OF THE ECONOMIC INTEREST IN THE COAL. THIS NOTICE IS INSERTED HEREIN TO COMPLY WITH THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1966.

WITNESS:

Commonwealth of Pennsylvania
County of ALLEGHENY } **ss.**

On this the *day of* October, *A.D.* 1982, *before me* a Notary Public *the undersigned officer, personally appeared* Joseph Wiseman and Ruth Wiseman, his wife *known to me (or satisfactorily proven) to be the persons whose names subscribed to the within instrument and acknowledged that* they *executed the same for the purposes therein contained.*

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

My commission expires

(Title of Officer)
FOSTER S. GOLDMAN, JR., Notary Public
Pittsburgh, Allegheny County, PA.
My Commission Expires October 6, 1983

**If general warranty deed is desired, insert GENERALLY.*
If special warranty deed is desired, insert SPECIALLY.

Commonwealth of Pennsylvania
County of ..... } **ss.**

On this *day of*
A.D. 19 , *before me*
in and for said
came the above named

and acknowledged the foregoing Indenture to be
act and deed, to
the end that it may be recorded as such.

Witness *my hand and* *seal.*

..... SEAL

My Commission Expires.....

State of
County of

ORIGINAL (Red)

On this, the *day of* *, 19*
before me
the undersigned officer, personally appeared

known to me (or satisfactorily proven) to be the person whose name subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.
In Witness Whereof, I hereunto set my hand and official seal.

.....

.....
Title of Officer.

My Commission Expires.....

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the grantee herein is

.....
For Grantee

Recorded ..... *Number* ..... *Vol.* ..... *Page* .....

Deed

From
JOSEPH WISEMAN and
RUTH WISEMAN, his wife

To

Fees, $

For Sale by P. O. Naly Co., Law Blank Publishers
437 Fourth Avenue, Pittsburgh, Pa. 15219

Commonwealth of Pennsylvania,
County of..... } **ss:**

Recorded *on this* *day of*
A. D. 19 , *in the Recorder's Office of the said County, in Deed Book,*
Vol. *page*

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

.....
Recorder

Form NALY No. 53 - General or Special Warranty Deed From an Individual to a Corporation or Individual (Executed by Officers) (With Coal Notice)
©Copyright 1977, P. O. Naly Company

For Sale by P. O. Naly Co., Law Blank Publishers
427 Fourth Avenue, Pittsburgh, Pa. 15219

This Indenture

Made *the* *day of* October *19* 82

Between JOSEPH WISEMAN and RUTH N. WISEMAN, his wife

(hereinafter called "Grantor")

A N D

(hereinafter called "Grantee")

Witnesseth, *That the said Grantor in consideration of*

Dollars,

paid to the Grantor by the Grantee, receipt of which is hereby acknowledged, does grant, bargain, sell and convey to the said Grantee , its successors *and assigns*

All THAT CERTAIN LOT OR PIECE OF GROUND situate in the Township of Moon, County of Allegheny and Commonwealth of Pennsylvania, being bounded and described as follows, to-wit:

BEGINNING at a point in the center line of the public road known as the Ewing Road leading from the Middletown Road to Ewings Mill, which point is the Southwest corner of the tract of land of which the within described is a part; thence along the center line of said road and along lands of C. R. Boyd and Thomas Pugh, North 23°17'40" East 280 feet to an iron pin; thence still along the center of the same, North 54°17'40" East 321.75 feet to a pin to line of lands now or formerly of A.K. Joy heirs; thence along line of land conveyed by Gust E. Walz et ux., to Stewart E. Shields et ux., by deed dated November 19, 1929, recorded in the Recorder's Office of Allegheny County in Deed Book Vol. 2415, page 80, South 4°3'40" West, 394.90 feet to an iron pin; thence South 74°8'20" East along the same 551.28 feet to an iron pin; thence along line of lands of the Montour Railroad Company, South 48°21' West 169.69 feet to an iron pin on line of lands now or formerly of the Pittsburgh Coal Company; thence along said line, North 74°8'20" West 777.09 feet to the iron pin at the place of beginning.

CONTAINING 4.25 acres

BEING designated as Block 272-N, Lot No. 52 in the Deed Registry Office of Allegheny County, Pennsylvania.

SUBJECT to rights of the public and others entitled thereto in and to the use of that portion of the premises within the bounds of Ewing Mill Road. Drainage easements and easements in cuts and fills of slopes along the Railroad right of way of Montour Railroad, Easement, 33 feet wide, recorded in Deed Book Vol. 2293, page 681.

BEING the same property which Joseph Kenneth Walz and Evelyn E. Walz, his wife, granted and conveyed to Joseph Wiseman and Ruth N. Wiseman, his wife, by their deed dated July 7, 1981 and recorded in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania in Deed Book Volume 6384, page 4.

with the appurtenances: **To Have and To Hold** *the same to and for the use of the said Grantee*, its successors *and assigns forever, and the Grantor for its successors and assigns hereby covenant and agree that it will WARRANT* the property hereby conveyed.*

NOTICE—THIS DOCUMENT MAY NOT / DOES NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE / HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. [This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P. L. 984, as amended, and is not intended as notice of unrecorded instruments, if any.]

Witness *the hand and seal of the said part of the first part.*

WITNESS:

SEAL

SEAL

SEAL

SEAL

SEAL

NOTICE THE UNDERSIGNED, AS EVIDENCED BY THE SIGNATURE(S) TO THIS NOTICE AND THE ACCEPTANCE AND RECORDING OF THIS DEED, (IS, ARE) FULLY COGNIZANT OF THE FACT THAT THE UNDERSIGNED MAY NOT BE OBTAINING THE RIGHT OF PROTECTION AGAINST SUBSIDENCE, AS TO THE PROPERTY HEREIN CONVEYED, RESULTING FROM COAL MINING OPERATIONS AND THAT THE PURCHASED PROPERTY, HEREIN CONVEYED, MAY BE PROTECTED FROM DAMAGE DUE TO MINE SUBSIDENCE BY A PRIVATE CONTRACT WITH THE OWNERS OF THE ECONOMIC INTEREST IN THE COAL. THIS NOTICE IS INSERTED HEREIN TO COMPLY WITH THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1966.

WITNESS:

Commonwealth of Pennsylvania
County of ALLEGHENY } ss.

On this the *day of* October, *A.D. 19*82, *before me* a Notary Public *the undersigned officer, personally appeared* Joseph Wiseman and Ruth N. Wiseman, his wife *known to me (or satisfactorily proven) to be the persons whose names* [redacted] *subscribed to the within instrument and acknowledged that* they *executed the same for the purposes therein contained.*

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

[redacted]

FOSTER S. GOLDMAN, JR., Notary Public
Pittsburgh, Allegheny County, PA
My Commission Expires October 6, 1983

My commission expires

**If general warranty deed is desired, insert GENERALLY.*
If special warranty deed is desired, insert SPECIALLY.

ORIGINAL (Red)

Commonwealth of Pennsylvania
County of ..... } **ss.**

On this *day of*
A.D. 19 *, before me*
in and for said
came the above named

and acknowledged the foregoing Indenture to be
act and deed, to
the end that it may be recorded as such.

Witness *my hand and* *seal.*

..... SEAL

My Commission Expires.....

State of
County of

On this, the *day of* *, 19*
before me
the undersigned officer, personally appeared

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

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

.....

.....
Title of Officer.

My Commission Expires.....

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the grantee herein is

.....
For Grantee

Recorded ..... *Number*

Vol. ..... *Page*

From
JOSEPH WISEMAN and
RUTH N. WISEMAN, his wife

To

Fees, $

For Sale by P. O. Naly Co., Law Blank Publishers
427 Fourth Avenue, Pittsburgh, Pa. 15219

Commonwealth of Pennsylvania,
County of..... } **ss:**

Recorded *on this* *day of*

A. D. 19 *, in the Recorder's Office of the said County, in Deed Book,*

Vol. *, page* .

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

.....
Recorder.

Form NALY No. 53 - General or Special Warranty Deed From an Individual to a Corporation or Individual (Executed by Officers) (With Coal Notice)
©Copyright 1977, P. O. Naly Company

For Sale by P. O. Naly Co., Law Blank Publishers
427 Fourth Avenue, Pittsburgh, Pa. 15219

This Indenture

Made the day of October 19 82

Between Joseph Wiseman and Ruth Wiseman, his wife

(hereinafter called "Grantor")

A N D

(hereinafter called "Grantee")

Witnesseth, *That the said Grantor in consideration of*

Dollars,

paid to the Grantor by the Grantee, receipt of which is hereby acknowledged, does grant, bargain, sell

and convey to the said Grantee, its successors *and assigns*

All that certain parcel or tract of land situate in the Township of Moon, County of Allegheny, State of Pennsylvania, bounded and described as follows, to wit:

BEGINNING at the Northwest corner thereof, at a point in Ewing Road, thence by land now or formerly of A.K. Joy Heirs, South 70 degrees 14 minutes East, 463.61 feet to a pin; thence by other land of grantors this day conveyed to Robert R. Berg, et ux, South 19 degrees 46 minutes West, 355.78 feet to a pin on line of land now or formerly of G. E. Walz; thence by said land North 74 degrees 08 minutes 20 seconds West, 357.58 feet to a post; thence by same, North 4 degrees 03 minutes 40 seconds East, 394.90 feet to the point at place of beginning. Containing 3.48 acres, as surveyed by Edeburn Cooper & Company, November 1940.

ALSO, all that other certain parcel or tract of land situate as aforesaid, bounded and described as follows:

BEGINNING at the Southwestern corner thereof, said point being the Southeastern corner of the tract herein above conveyed; thence along line of land of G. E. Walz, South 74 degrees 08 minutes 20 seconds East, 193.70 feet to a post on line of land now or formerly Montour Railroad; thence by said line, North 48 degrees 21 minutes East, 23.71 feet to a pin; thence by land this day conveyed to Robert R. Berg, et ux. North 74 degrees 08 minutes 20 seconds West 205.07 feet to a pin; thence by land herein above conveyed South 19 degrees 46 minutes West, 20.05 feet to the place of beginning. Containing .09 acres.

BEING the same property which Catherine E. Gunkle, a widow, granted and conveyed to Joseph Wiseman and Ruth Wiseman, his wife, Grantors herein, by Deed dated July 17, 1979 and recorded in the office of the Recorder of Deeds of Allegheny County, Pennsylvania, in Deed Book Volume 6136, page 525.

with the appurtenances: **To Have and To Hold** *the same to and for the use of the said*

Grantee , its successors *and assigns forever, and the* ORIGINAL (Red)

*Grantor for its successors and assigns hereby covenant and agree that it will WARRANT**

the property hereby conveyed.

NOTICE—THIS DOCUMENT MAY NOT / DOES NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE / HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. [This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P. L. 984, as amended, and is not intended as notice of unrecorded instruments, if any.]

Witness *the hand and seal of the said part of the first part.*

WITNESS:

SEAL

SEAL

SEAL

SEAL

SEAL

NOTICE THE UNDERSIGNED, AS EVIDENCED BY THE SIGNATURE(S) TO THIS NOTICE AND THE ACCEPTANCE AND RECORDING OF THIS DEED, (IS, ARE) FULLY COGNIZANT OF THE FACT THAT THE UNDERSIGNED MAY NOT BE OBTAINING THE RIGHT OF PROTECTION AGAINST SUBSIDENCE, AS TO THE PROPERTY HEREIN CONVEYED, RESULTING FROM COAL MINING OPERATIONS AND THAT THE PURCHASED PROPERTY, HEREIN CONVEYED, MAY BE PROTECTED FROM DAMAGE DUE TO MINE SUBSIDENCE BY A PRIVATE CONTRACT WITH THE OWNERS OF THE ECONOMIC INTEREST IN THE COAL. THIS NOTICE IS INSERTED HEREIN TO COMPLY WITH THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1966.

WITNESS:

Commonwealth of Pennsylvania
County of ALLEGHENY } **SS.**

On this the day of October *, A.D. 19*82 *,*

before me a Notary Public *the undersigned officer, personally appeared*

Joseph Wiseman and Ruth Wiseman, his wife *known to me*

(or satisfactorily proven) to be the persons whose names subscribed to the within instrument

and acknowledged that they *executed the same for the purposes therein contained.*

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

FOSTER S. GOLDMAN, JR., Notary Public
Pittsburgh, Allegheny County, PA.
My Commission Expires October 6, 1983

(Title of Officer)

My commission expires

If general warranty deed is desired, insert GENERALLY.
If special warranty deed is desired, insert SPECIALLY.

BPDR 0005595

Commonwealth of Pennsylvania
County of ..... } ss.

On this *day of*
A.D. 19 *, before me*
in and for said
came the above named

and acknowledged the foregoing Indenture to be
act and deed, to
the end that it may be recorded as such.

Witness *my hand and* *seal.*

..... SEAL

My Commission Expires.....

State of
County of

ORIGINAL (Red)

On this, the *day of* *, 19*
before me
the undersigned officer, personally appeared

known to me (or satisfactorily proven) to be the person whose name subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.
In Witness Whereof, I hereunto set my hand and official seal.

.....

.....
Title of Officer.

My Commission Expires.....

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the grantee herein is

.....
For Grantee

Number *Page*

Recorded *Vol.*

From
Joseph Wiseman and
Ruth Wiseman, his wife

To

Fees, $

For Sale by P. O. Naly Co., Law Blank Publishers
427 Fourth Avenue, Pittsburgh, Pa. 15219

Commonwealth of Pennsylvania,
County of..... } ss:

Recorded *on this* *day of*
A. D. 19 *, in the Recorder's Office of the said County, in Deed Book,*
Vol. *, page* .

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

.....
Recorder.