

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No.: 04-44507

David J. Theissen,

Chapter 13

Debtor.

**OBJECTION BY THE LOAN STORE TO CONFIRMATION
OF CHAPTER 13 PLAN WITH MEMORANDUM**

TO: Debtor(s) and other entities specified in Local Rule 9013-3.

1. The Loan Store (the "**Respondent**") is the holder of a claim in the above case, and, by its undersigned attorney, objects to confirmation of the proposed Chapter 13 Plan.

2. The petition commencing this Chapter 13 case was filed on August 12, 2004. The Debtor(s) have filed a Chapter 13 Plan which is scheduled for confirmation hearing on October 21, 2004 at 10:30 a.m.

3. This objection arises under 11 U.S.C. § 1324 and Fed. R. Bankr. P. 3015, and is filed under Fed. R. Bankr. P. 9014 and Local Rules 3015-3, 9013-2, 9013-3. Respondent objects to confirmation of the proposed Plan and requests an order denying confirmation of the proposed Plan.

4. Respondent is the holder of a claim and is thus a party in interest.

5. The balance outstanding on the debt owed to Respondent by Debtor(s) is \$26,077.60.

6. Respondent holds a perfected interest in the following: 1994 Ford Aerostar; VIN: 1FMDA41X1RZB00839, 1994 Ford Explorer; VIN: 1FMCU24X5RUA56618, 1990 Chevy Lumina; VIN: 2G1WL54T51144244, 1996 Tuffy 1700 Boat; VIN: 07DD698 and 1996 Mercury 135 HP Motor; VIN 08424501. Copies of the Lien Cards and of Respondent's

Contracts evidencing the underlying transactions are attached as Exhibits A and B, respectively. The collateral is in the possession of the Debtor(s) herein. The present market value of the collateral on September 9, 2004 was \$11,325.00. Respondent's Contracts provide for interest on the balance at the rate of 16 and 20 percent per year.

7. The Plan proposes that Debtor(s): (1) pay the Chapter 13 Trustee \$450.00 per month, (2) keep possession of the collateral, (3) allow Respondent to retain its lien on the collateral, and (4) pay Respondent on its claim through the Trustee payments.

8. The Plan includes Respondent's claim as an "Other Secured Claim [§1325(a)(5)]" and values Respondent's secured claim at \$8,800.00, treating any claim amount in excess of that value as a general unsecured claim and paying the secured claim value on a deferred payment basis.

9. The Plan proposes payments to Respondent of \$423.00 per month with payments beginning in month four with interest at 12.00 percent per year for total payments of \$9,916.00.

10. The Plan is objected to on the following grounds:

a. Good Faith. That the Plan has not been proposed in good faith in violation of §1325(a)(3).

Under § 1325(a)(3), the court cannot confirm a Chapter 13 plan that is not filed in good faith. In the Eighth Circuit, good faith is determined by considering the totality of circumstances. *In re LeMaire*, 898 F.2d 1346 (8th Cir. 1990). *See also, In re Estus*, 695 F.2d 311 (8th Cir. 1982) and *Education Assistance Corp. v. Zellner*, 827 F.2d 1222 (8th Cir. 1987).

Three factors are considered in determining whether a plan was proposed in good faith: (1) whether the Debtor accurately stated his expenses and debts; (2) whether the Debtor made a fraudulent misrepresentation to the Bankruptcy Court; and (3) whether the Debtor unfairly manipulated the Bankruptcy Code. *Bayer v. Hill*, 210 B.R. 794, 796 (8th Cir. BAP August 12,

1997). Other factors may also be considered, such as: the nature of the debts sought to be discharged, including their dischargeability under Chapter 7, and the debtor's reasons for seeking Chapter 13 relief. See *In re Reynold and Patricia Mattson*, 241 B.R. 629 (Bankr. Minn. 1999) (No. 99-42865, Nov. 30, 1999). "The bottom line for most courts, even those outside of this circuit, is whether the debtor is attempting to thwart his creditors or is making an honest attempt to repay them." *Mattson*, supra, page 637.

Debtor(s)' Schedules I and J show the following unnecessary expenses and/or luxury goods/services being retained:

Respondent's collateral includes a boat and trailer valued at \$7,000.00 by the Debtor.

Debtor's proposal to retain luxury goods while proposing to pay unsecured creditors only a percentage of their claims is indicative of a lack of good faith. *In re Nkanang*, 44 B.R. 955, 956 (Bankr. N.D.Ga. 1984), *In re Porter*, 102 B.R. 773 (9th Cir. B.A.P. 1989).

Allocating plan payments and disposable income toward loans and maintenance costs of non-essential assets while also proposing to defer, reduce or even deny a return to other creditors, raises serious good faith questions. "In such a case, the Debtor proposes to build up equity in assets which the legislature has not found essential to a fresh start; more crucially, the Debtor proposes to correspondingly defer, reduce, or even deny a return to other creditors on their prior claims, by diverting estate resources to nonessential purposes . . . Such a plan grants a windfall to the Debtor, enriching him at creditors' expense to the extent of the equity accumulated post-petition." *In re Cordes*, 47 B.R. 498, 505 (Bankr.D.Minn. 1992).

The Debtor's Schedule I and Statement of Financial Affairs shows evidence of potential for increased income as seen in the higher income enjoyed in the recent past and in Debtor's control of income/expenses arising out of self-employment. To satisfy the good faith

requirement of § 1325(a)(3), the Plan must propose a method for the Debtor to submit increased disposable income to the Trustee without putting the creditors and Trustee to the task of finding a way to monitor Debtor's future earnings and business expenses and then moving to increase Plan payments later. *In re Dunning*, 157 B.R. 51 (Bankr. W.D.N.Y. 1993).

A Debtor(s)' proposal to maintain a high standard of living while proposing to pay unsecured creditors only a percentage of their claims is further indicative of a lack of good faith and "while the Court readily concedes that the function of the provisions under Chapter 13 of the act is not designed to condemn a Debtor(s) to a state of poverty, the Court also recognizes that the act was not designed to thrust a Debtor into a state of luxury to the detriment of his creditors." *In re Jenkins*, 20 B.R. 642, 643 (Ark. 1982). The burden is on the Chapter 13 Debtor(s) to establish good faith in the filing of a debt adjustment plan once that good faith is questioned. *In re Belt*, 106 B.R. 553 (Bankr. N.D.Ind. 1989), §1325(a)(3).

In addition to the foregoing, this is the Debtor's fourth bankruptcy filing since January 15, 2002, which was a Chapter 7 filing. Two failed Chapter 13 cases followed, the most recent being dismissed on July 28, 2004. This case followed on August 12, 2004. The Debtor's series of filings have prevented Respondent from acting or collecting on its seriously past due loans.

Debtor claims the collateral is worth \$8,800.00. Respondent claims the collateral has a value of \$11,325.00 and the same is supported by N.A.D.A. valuations. See, Exhibit D.

Where the Debtor(s) propose to keep and use the collateral, the proper standard for Chapter 13 secured claim valuation where the debt is secured by a motor vehicle is the replacement value of the collateral or the account balance, if less than replacement value. See, *Associates Commercial Corp. v. Rash*, 117 S.Ct. 1879 (1997). The 8th Circuit has recognized the use of N.A.D.A. published retail value at the time the Debtor(s) files for protection under the

Bankruptcy Code as an appropriate standard for the replacement value where a creditor holds a motor vehicle as collateral. *In re Trimble*, 50 F.3d 530 (8th Cir. 1995). See also, *In re Green*, 151 B.R. 501 (Bankr.D.Minn.1993). Appropriate additions and deductions are made in accordance with option accessories and mileage tables in the N.A.D.A. publication.

The Contract requires Debtor(s) to maintain property damage insurance insuring the motor vehicle for the benefit of both Debtor(s) and Respondent. Any damage should be covered and repaired through such property insurance. Such damage should not be allowed to reduce the value of the secured claim since any such damage is covered by insurance proceeds.

Debtor(s) propose to treat Respondent's claim as secured in the amount of \$8,800.00 despite a collateral value of \$11,325.00. The proposed lower valuation of Respondent's secured claim diminishes the actual amount Respondent will receive from the Trustee in a composition Plan, diminishes the amount of interest Respondent will receive on its claim pursuant to §506(b), and delays Respondent's claim being paid in full. Debtor(s)' proposal to treat Respondent's claim as secured for less than the N.A.D.A. retail value is in violation of §506(a) and §361(1), and thus Respondent objects to this Plan pursuant to §1325(a)(1) because the proposed Plan does not comply with the adequate protection requirements in the Bankruptcy Code.

- c. Disposable Income. That the Plan does not provide that all of the Debtor(s)' projected disposable income to be received in the first 26 months of the Plan will be applied to make Plan payments as required under §1325(b)(1)(B).

Debtor(s) in Chapter 13 Bankruptcy must include all "disposable income" in their payments to the Chapter 13 Trustee. *In re McDaniel*, 126 B.R. 782, 784 (Bankr.D.Minn. 1991), §1325(b)(1)(B). "Disposable income" is defined as that which is not "reasonably necessary" to be expended by the Debtor(s). The court must balance the interests of creditors against the interests of the Debtor(s) to determine the manner in which they should maintain and support

themselves. *Id.* at 784. "But Debtors in Chapter 13 cases are not entitled to maintain their former lifestyles and statuses in society at the expense of their creditors." *Id.* at 784. The Schedules indicate additional disposable income is available for Plan use based on the unnecessary expenses and luxury lifestyle being maintained by the Debtors. A comparison to Debtor's prior schedules shows that Debtor is toying with his numbers in each cost. Exhibit C.¹

In considering whether all of Debtor(s)' disposable income is going into the plan, the Court applies a "best efforts" test. *In re Sitarz*, 150 B.R. 710 (Bankr.D.Minn. 1993). Failure of the Debtor(s) to pass the "best efforts" test and to submit all disposable income during the first 26 months also constitutes a lack of good faith under §1325(a)(3). *In re Cordes*, 147 B.R. 498 (Bankr.D.Minn.1992).

- d. Present Value. That, in violation of §1325(a)(5)(B)(ii), the total payments proposed do not provide Respondent with the present value of Respondent's secured claim there being no calculation for the proposed 6% plan interest rate on the full value of the collateral up to the amount owed to Respondent.

The Code clearly provides that secured claims that are paid through deferred time payments must be paid at their present value in accordance with §1325(a)(5)(B)(ii).

The Plan regarding the specifics of Respondent's secured claim does **not** provide for the appropriate interest or present value computation although the Plan does provide for deferred periodic payments on Respondent's secured claim.

Based on the 12 percent plan interest rate proposed in the Plan, and using 36 months as an appropriate time frame for payments on Respondent's secured claim, Respondent would be entitled to total payments of \$10,522.44 over 36 months to compensate Respondent for the deferral in payment of the present value of the secured claim. See attached Exhibit D Amortization Schedule.

¹ While the particulars vary for income and expenses, the net comes out to be exactly the same in each case.

Failure to provide for appropriate present value compensation on deferred payments is grounds for denial of confirmation. *See, In re Green*, 151 B.R.501 (Bankr.D.Minn. 1993); *Resolution Trust Corp. v. Adams*, 142 B.R. 331 (E.D.Mo. 1991); and *Landmark Financial Services v. Hall*, 918 F.2d 1150 (4th Cir. 1990).

e. Allowance of Fees and Costs.

Respondent requests the court allow its attorneys' fees to Respondent with such allowance to be added to Respondent's secured claim, if any, or to Respondent's unsecured claim.

The Contract signed by Debtor requires Debtor to pay any reasonable attorney fees and costs incurred by the Movant in protecting its rights and exercising its remedies in the event of a default. Movant is the holder of a secured claim in the amount of \$26,077.60. The estimated value of the collateral securing the claim is \$11,325.00. 11 U.S.C. §506(b) provides that the holder of a secured claim may be allowed reasonable fees, costs or charges provided for under the agreement under which such claim arose, to the extent that the value of the property securing the claim exceeds the amount of the claim.

WHEREFORE, The Loan Store requests the court deny confirmation of the proposed plan, and such other relief as may be just and equitable.

**LEONARD, O'BRIEN,
SPENCER, GALE & SAYRE, LTD.**

/e/ Matthew R. Burton

Dated: September 28, 2004

By: _____
Matthew R. Burton, #210018
Attorneys for Movant
100 South Fifth Street
Suite 2500
Minneapolis, MN 55402
(612) 332-1030

VERIFICATION

I, Brian Anderson, a Manager of The Loan Store named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: 9-28, 2004

The Loan Store by
Brian Anderson

Brian Anderson

311772/WORD



Sh. M. Marso
9/28/04

MINNESOTA DEPARTMENT OF PUBLIC SAFETY **80783**
 DRIVER & VEHICLE SERVICES DIVISION
 445 MINNESOTA ST., ST. PAUL, MN 55101
 CONFIRMATION OF LIEN PERFECTION - DEBTOR NAME AND ADDRESS

First Class
 U.S. Postage
PAID
 Permit No. 171
 St. Paul, MN

THEISSEN DAVID JEFFERY
 910 WALL ST
 NO. MANKATO MN 56003

BSD527

Year 94	Make FORD	Model ESARD	Title NR. K0610N546
VIN 1FMDA41X1RZB00839		Security Date 01/25/01	Rebuilt NO

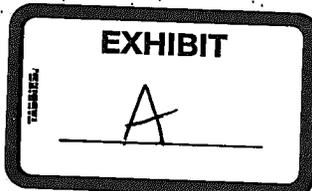
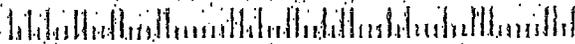
1ST SECURED PARTY

LIEN HOLDER

RETAIN THIS DOCUMENT - See reverse
 side of this form for removing this lien.

STERLING ST FINANCIAL
 640 HOLLY AVE
 MANKATO MN 56001-4809

33



MINNESOTA DEPARTMENT OF PUBLIC SAFETY
DRIVER & VEHICLE SERVICES DIVISION
45 MINNESOTA ST., ST. PAUL, MN 55101

81380

CONFIRMATION OF LIEN PERFECTION - DEBTOR NAME AND ADDRESS

First Class
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PAID
Permit No. 171
St. Paul, MN

THEISSEN DAVID JEFFERY
936 RANGE ST
MANKATO MN 56003

JYK394

1ST SECURED PARTY

Year 94	Make FORD	Model UTEPR	Title NR. K3440P334
VIN FMCU24X5RUA56618		Security Date 10/23/02	Rebuilt NO

LIEN HOLDER

RETAIN THIS DOCUMENT - See reverse
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THE LOAN STORE
620 HOLLY LANE
MANKATO MN 56001-4809

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
DRIVER & VEHICLE SERVICES DIVISION
445 MINNESOTA ST., ST. PAUL, MN 55101

80806

CONFIRMATION OF LIEN PERFECTION - DEBTOR NAME AND ADDRESS

First Class
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PAID
Permit No. 171
St. Paul, MN

THEISSEN DAVID JEFFERY
910 WALL ST
MANKATO MN 56003

AKA564

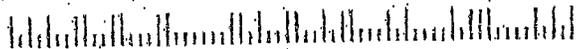
1ST SECURED PARTY

Year 90	Make CHEV	Model 4DLUM	Title NR. H0660N089
VIN 2G1WL54T5L1144244		Security Date 02/12/01	Rebuilt NO

LIEN HOLDER

RETAIN THIS DOCUMENT - See reverse
side of this form for removing this lien.

STERLING STATE FINANCIAL
620 HOLLY LANE
MANKATO MN 56001-4809





NOTE, DISCLOSURE AND SECURITY AGREEMENT

| APR 2004 |
|----------|----------|----------|----------|----------|----------|----------|----------|
| APR 2004 |

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

Borrower: DAVID THEISSEN (SSN: 472-74-8088)
910 WALL ST
MANKATO, MN 56001

Lender: The Loan Store
Mankato
620 Holly Lane
Mankato, MN 56001
(507) 344-1670

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments
The cost of my credit as a yearly rate.	This dollar amount the credit will cost me.	The amount of credit provided to me or on my behalf.	The amount I will have paid after I have made all payments as scheduled.
20.147%	\$4,382.23	\$11,759.97	\$16,122.20

PAYMENT SCHEDULE. My payment schedule will be 36 monthly payments of \$413.39 each, beginning October 27, 2002; and one payment of \$413.38 on December 27, 2006.

PROPERTY INSURANCE. I may obtain property insurance from anyone I want that is acceptable to Lender.

SECURITY. I am giving a security interest in 1994 FORD AEROSTAR (VIN 1FMDA41X1RZB00839), 1996 TUFFY 1700 (VIN 07DD698) and 1996 MERC 133 HP MOTOR (VIN 08424801).

LATE CHARGE. If a payment is 10 days or more late, I will be charged 5.000% of the unpaid portion of the regularly scheduled payment or \$6.24, whichever is greater.

PREPAYMENT. If I pay off early, I may be entitled to a refund of part of the prepaid finance charges, and I will not have to pay a penalty.

I will look at my contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds.

Amount Financed Itemization

Amount paid to me directly:	\$11,759.97
\$11,759.97 Deposited to Account # 90789	
Total Financed Prepaid Finance Charges:	\$25.00
Note Principal:	\$11,784.97
Prepaid Finance Charges:	\$25.00
Financed:	\$25.00
\$25.00 Documentation Fee	
In Cash:	\$0.00
Amount Financed:	\$11,759.97

Principal Amount: \$11,784.97 **Interest Rate:** 20.000% **Date of Agreement:** September 26, 2002

PROMISE TO PAY. I ("Borrower") promise to pay to The Loan Store ("Lender"), or order, in lawful money of the United States of America, the principal amount of Eleven Thousand Seven Hundred Eighty-four & 87/100 Dollars (\$11,784.97), together with interest at the rate of 20.000% per annum on the unpaid principal balance from September 27, 2002, until paid in full.

PAYMENT. I will pay this loan in 36 payments of \$413.39 each payment and an irregular last payment estimated at \$413.38. My first payment is due October 27, 2002, and all following payments are due on the same day of each month after that. My final payment will be due on December 27, 2006, and will be for all principal and all accrued interest not yet paid. Payments include principal and interest. Unless otherwise agreed or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs and late charges. Interest on this Agreement is computed on a 365/365 simple interest basis; that is, by applying the ratio of the annual interest rate over the number of days in a year, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. I will pay Lender at Lender's address shown above or at such other place as Lender may require in writing.

PREPAYMENT. I may pay without penalty all or a portion of the amount owed earlier than it is due. If I do make any payments before they are due, I understand that unless Lender agrees otherwise in writing, I will still have to continue to make my regular payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in my making fewer payments. I agree not to send Lender payments marked "paid in full", "without recourse", or similar language. If I send such a payment, Lender may accept it without losing any of Lender's rights under this Agreement, and I will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is rendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: The Loan Store, P.O. Box 307 Rochester, MN 55903.

LATE CHARGE. If a payment is 10 days or more late, I will be charged 5.000% of the unpaid portion of the regularly scheduled payment or \$6.24, whichever is greater.

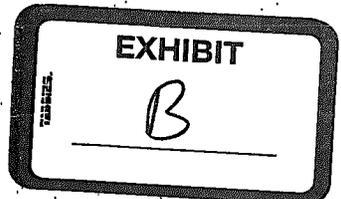
INTEREST AFTER DEFAULT. Upon default, including failure to pay upon final maturity, the total sum due under this Agreement will bear interest from the date of acceleration or maturity at the interest rate on this Agreement. The interest rate will not exceed the maximum rate permitted by applicable law.

PROPERTY DESCRIPTION. The word "Property" as used in this Agreement means the following described property in which I am giving to Lender a security interest for the payment of the indebtedness and performance of all other obligations under this Agreement:

- 1994 FORD AEROSTAR (VIN 1FMDA41X1RZB00839)
- 1996 TUFFY 1700 (VIN 07DD698)
- 1996 MERC 133 HP MOTOR (VIN 08424801)

In addition, the word "Property" also includes all the following:

- (A) All accessories, attachments, accessories, replacements and additions to any of the property described herein (such as tires or batteries attached to a car, a motor attached to a boat, or appliances and fixtures attached to a mobile home), whether added now or later.
- (B) All products and produce of any of the property described in this Property section.
- (C) All accounts, general intangibles, instruments, rents, monies, payments, and all other rights, arising out of a sale, lease, or other disposition of any of the property described in this Property section.



Loan No: B1552

(D) All proceeds (including insurance proceeds) from the sale, destruction, loss, or other disposition of any of the property described in this Property section, and sums due from a third party who has damaged or destroyed the Property or from that party's insurer, whether due to judgment, settlement or other process.

(E) All records and data relating to any of the property described in this Property section, whether in the form of a writing, photograph, microfilm, microfiche, or electronic media, together with all of my right, title, and interest in and to all computer software required to utilize, create, maintain, and process any such records or data on electronic media.

Despite any other provision of this Agreement, Lender is not granted, and will not have, a nonpurchase money security interest in household goods, to the extent such a security interest would be prohibited by applicable law. In addition, if because of the type of any Property, Lender is required to give a notice of the right to cancel under Truth in Lending for the indebtedness, then Lender will not have a security interest in such Property unless and until such a notice is given.

GRANT OF SECURITY INTEREST. To secure payment of the indebtedness and performance of my obligations under this Agreement, I grant to Lender a security interest in all the Property described above. I understand that the following statements set forth my responsibilities, as well as Lender's rights, concerning the Property. I agree as follows:

REPRESENTATIONS AND PROMISES WITH RESPECT TO THE PROPERTY. I represent and promise to Lender that:

Ownership. I am the lawful owner of the Property. The Property is free and clear of all loans, liens, security interests, mortgages, claims, and encumbrances except for those I have disclosed to Lender in writing prior to my signing this Agreement. I agree to defend Lender's rights in the Property against the claims and demands of all persons. I will not allow any other liens on the Property, even if they are junior to Lender's lien.

No Sale. Without Lender's prior written consent, I will not sell, lease, transfer, borrow against, or otherwise dispose of any of my rights in the Property unless and until all the indebtedness is paid in full.

Location of the Property. Except for vehicles, I agree to keep the Property at my address shown above unless Lender tells me I can move it. If the Property is a vehicle, I will keep the Property at those addresses except for routine travel. If I move from my address shown above to another location within the same state, I may move the Property to my new address, but only if I give Lender the new address in writing prior to my moving. In any event, I agree to keep Lender informed at all times of my current address.

Maintenance and Insurance. I will keep the Property in good condition and repair. If the Property is damaged, lost or stolen, I immediately will inform Lender. I will keep the Property fully insured against all loss or damage by fire, theft, collision, and such other hazards as Lender may require from time to time. The insurance will be on terms, including deductible provisions and endorsements, that are satisfactory to Lender, including stipulations that coverage will not be cancelled or diminished without at least thirty (30) days prior written notice to Lender and not including any disclaimer of the insurer's liability for failure to give such notice. I understand I may obtain insurance from any insurance company I may choose that is reasonably acceptable to Lender. I will provide Lender with the original insurance policy, or other proof satisfactory to Lender of the insurance coverage, together with all endorsements required by Lender, including an endorsement naming Lender as the party to whom all losses will be paid.

Inspection. I agree that Lender or Lender's agents shall have the right from time to time to inspect the Property wherever located.

Financing Statements. I authorize Lender to file a UCC-1 financing statement, or alternatively, a copy of this Agreement to perfect Lender's security interest. At Lender's request, I additionally agree to sign all other documents that are necessary to perfect, protect, and continue Lender's security interest in the Property. I will pay all filing fees, title transfer fees, and other fees and costs involved unless prohibited by law or unless Lender is required by law to pay such fees and costs. I irrevocably appoint Lender as my attorney-in-fact to execute financing statements and documents of title in my name and to execute all documents necessary to transfer title if there is a default. Lender may file a copy of this Agreement as a financing statement. If I change my name or address, or the name or address of any person granting a security interest under this Agreement changes, I will promptly notify the Lender of such change.

LENDER'S EXPENDITURES. If I fail (A) to keep the Property free of all taxes, liens, security interests, encumbrances, and other claims, (B) to provide any required insurance on the Property, or (C) to make repairs to the Property then Lender may do so. If any action or proceeding is commenced that would materially affect Lender's interests in the Property, then Lender on my behalf may, but is not required to, take any action that Lender believes to be appropriate to protect Lender's interests. All expenses incurred or paid by Lender for such purposes will then bear interest at the rate charged under this Agreement from the date incurred or paid by Lender to the date of repayment by me. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of this Agreement and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of this Agreement; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Agreement also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of any default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

DEFAULT. I will be in default if any of the following happens:

Payment Default. I fail to make any payment when due under this Agreement.

Break Other Promises. I break any promise made to Lender or fail to perform promptly at the time and strictly in the manner provided in this Agreement or in any agreement related to this Agreement, or in any other agreement or loan I have with Lender.

False Statements. Any representation or statement made or furnished to Lender by me or on my behalf under this Agreement or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished.

Death or Insolvency. I die or become incompetent or insolvent, a receiver is appointed for any part of my property, I make an assignment for the benefit of creditors, or any proceeding is commenced either by me or against me under any bankruptcy or insolvency laws.

Taking of the Property. Any creditor or governmental agency tries to take any of the property or any other of my property in which Lender has a lien. This includes taking of, garnishing of or levying on my accounts with Lender. However, if I dispute in good faith whether the claim on which the taking of the property is based is valid or reasonable, and if I give Lender written notice of the claim and furnish Lender with monies or a surety bond satisfactory to Lender to satisfy the claim, then this default provision will not apply.

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

Collateral Damage or Loss. Any collateral securing this Agreement is lost, stolen, substantially damaged or destroyed and the loss, theft, substantial damage or destruction is not covered by insurance.

Insecurity. Lender in good faith believes itself insecure.

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

Cure Provisions. If any default, other than a default in payment is curable and if I have not been given a notice of a breach of the same provision of this Agreement within the preceding twelve (12) months, it may be cured (and no event of default will have occurred) if I, after receiving written notice from Lender demanding cure of such default, (1) cure the default within thirty (30) days; or (2) if the cure requires more than thirty (30) days, immediately initiate steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

LENDER'S RIGHTS. I may keep and use the Property so long as I am not in default under this Agreement. If I am in default, this is what Lender may do, in addition to any other rights Lender may have:

Accelerate Indebtedness. Lender may, subject to any cure and notice provisions required by law, declare all indebtedness immediately due and payable, without notice.

Other Rights and Remedies. In addition, Lender will have all the rights of a secured party under the Uniform Commercial Code and other applicable law. This means, among other things, that Lender may enter upon the premises at the address shown above and take the Property peaceably and sell it. Lender may also, to the extent permitted by law, enter peaceably upon other premises for the purpose of re-taking the Property, and I consent to such entry. If the Property contains any goods not covered by this Agreement at the time of repossession, I agree that Lender may take such goods, provided that Lender makes reasonable efforts to return them to me after repossession. If Lender asks me to do so, I will gather the Property and make it available to Lender at a place reasonably convenient to both Lender and me.

NOTE, DISCLOSURE AND SECURITY AGREEMENT
(continued)

Loan No: 81662

3

Application of Proceeds. If Lender sells the Property, Lender will apply the "net proceeds" of the sale to reduce the amount owed Lender. "Net proceeds" means the sale price less the expenses of repossession, repair, sale, and as provided below, reasonable attorneys' fees and other collection expenses. I agree that, to the extent permitted by law, I will owe Lender any difference between the amount of the indebtedness and the net proceeds Lender receives from the sale of the Property.

Notice. Unless the Property threatens to decline speedily in value or is of a type customarily sold on a recognized market, Lender will give me, and other persons as required by law, reasonable notice of the time and place of any public sale or of the time after which any private sale or any other intended disposition of the Property is to be made. The requirements of reasonable notice shall be met if such notice is given at least ten (10) days before the time of the sale or disposition, except as otherwise required by applicable law.

ATTORNEYS' FEES; EXPENSES. Lender may hire or pay someone else to help collect this Agreement if I do not pay. I will pay Lender that amount. This includes, subject to any limits under applicable law, Lender's reasonable attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including reasonable attorneys' fees, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, I also will pay any court costs, in addition to all other sums provided by law.

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

GOVERNING LAW. This Agreement will be governed by and interpreted in accordance with federal law and the laws of the State of Minnesota. This Agreement has been accepted by Lender in the State of Minnesota.

CHOICE OF VENUE. If there is a lawsuit, I agree upon Lender's request to submit to the jurisdiction of the courts of the State of Minnesota, in the county in which my following address is located: 810 WALL ST, MANKATO, MN 56001.

DISHONORED ITEM FEE. I will pay a fee to Lender of \$30.00 if I make a payment on my loan and the check or preauthorized charge with which I pay is later dishonored.

RIGHT OF SETOFF. To the extent permitted by applicable law, Lender reserves a right of setoff in all my accounts with Lender (whether checking, savings, or some other account). This includes all accounts I hold jointly with someone else and all accounts I may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. I authorize Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any and all such accounts, and, at Lender's option, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights provided in this paragraph.

ARBITRATION. I and Lender agree that all disputes, claims and controversies between us whether individual, joint, or class in nature, arising from this Agreement or otherwise, including without limitation contract and tort disputes, shall be arbitrated pursuant to the Rules of the American Arbitration Association in effect at the time the claim is filed, upon request of either party. No act to take or dispose of any property securing this Agreement shall constitute a waiver of this arbitration agreement or be prohibited by this arbitration agreement. This includes, without limitation, obtaining injunctive relief or a temporary restraining order; invoking a power of sale under any deed of trust or mortgage; obtaining a writ of attachment or imposition of a receiver; or exercising any rights relating to personal property, including taking or disposing of such property with or without judicial process pursuant to Article 9 of the Uniform Commercial Code. Any disputes, claims, or controversies concerning the lawfulness or reasonableness of any act, or exercise of any right, concerning any property securing this Agreement, including any claim to rescind, reform, or otherwise modify any agreement relating to the property securing this Agreement, shall also be arbitrated, provided however that no arbitrator shall have the right or the power to enjoin or restrain any act of any party. Judgment upon any award rendered by any arbitrator may be entered in any court having jurisdiction. Nothing in this Agreement shall preclude any party from seeking equitable relief from a court of competent jurisdiction. The statute of limitations, estoppel, waiver, laches, and similar doctrines which would otherwise be applicable in an action brought by a party shall be applicable in any arbitration proceeding, and the commencement of an arbitration proceeding shall be deemed the commencement of an action for these purposes. The Federal Arbitration Act shall apply to the construction, interpretation, and enforcement of this arbitration provision.

SUCCESSOR INTERESTS. The terms of this Agreement shall be binding upon me, and upon my heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

NOTIFY US OF INACCURATE INFORMATION WE REPORT TO CONSUMER REPORTING AGENCIES. Please notify us if we report any inaccurate information about your account(s) to a consumer reporting agency. Your written notice describing the specific inaccuracy(ies) should be sent to us at the following address: The Loan Store, Mankato, 820 Holly Lane, Mankato, MN 56001

GENERAL PROVISIONS. Lender may delay or forgo enforcing any of its rights or remedies under this Agreement without losing them. I and any other person who signs, guarantees or endorses this Agreement, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Agreement, and unless otherwise expressly stated in writing, no party who signs this Agreement, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Agreement are joint and several. This means that the words "I", "me", and "my" mean each and all of the persons signing below.

SECTION DISCLOSURE. This loan is made under Minnesota Statutes, Section 47.59.

DEFINITIONS. The following words shall have the following meanings when used in this Agreement:

Agreement. The word "Agreement" means this Note, Disclosure and Security Agreement, as this Note, Disclosure and Security Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Note, Disclosure and Security Agreement from time to time.

Borrower. The word "Borrower" means DAVID THEISSEN, and all other persons and entities signing the Note.

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

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

Indebtedness. The word "Indebtedness" means the indebtedness evidenced by the Note or Related Documents, including all principal and interest together with all other indebtedness and costs and expenses for which I am responsible under this Agreement or under any of the Related Documents.

Lender. The word "Lender" means The Loan Store, its successors and assigns. The words "successors or assigns" mean any person or company that acquires any interest in the Note.

Note. The word "Note" means the note or credit agreement dated September 27, 2002, in the principal amount of \$11,784.97 from DAVID THEISSEN to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of and substitutions for the note or credit agreement.

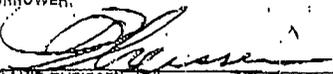
Property. The word "Property" means all of my right, title and interest in and to all the Property as described in the "Property Description" section of this Agreement.

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

PRIOR TO SIGNING THIS AGREEMENT, I READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. I AGREE TO THE TERMS OF THE AGREEMENT.

I ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THIS NOTE, DISCLOSURE AND SECURITY AGREEMENT.

BORROWER:


X DAVID THEISSEN, Individually

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NOTE, DISCLOSURE AND SECURITY AGREEMENT

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

Borrower: DAVID THEISEN (BBN: 472-74-8059)
 810 WALL ST
 MANKATO, MN 56001

Lender: The Loan Store
 Mankato
 820 Holly Lane
 Mankato, MN 56001
 (507) 344-1870

ANNUAL PERCENTAGE RATE The cost of my credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost me.	Amount Financed The amount of credit provided to me or on my behalf.	Total of Payments The amount I will have paid after I have made all payments as scheduled.
16.106%	\$6,278.21	\$14,178.88	\$19,453.78

PAYMENT SCHEDULE. My payment schedule will be 47 monthly payments of \$405.28 each, beginning July 8, 2002, and one payment of \$405.80 on June 8, 2008.

PROPERTY INSURANCE. I may obtain property insurance from anyone I want that is acceptable to Lender.

SECURITY. I am giving a security interest in 1998 DODGE DURANGO 4X4 (VIN 1B4H52B2WF114202) and 1990 CHEV LUMINA (VIN 2G1WL84T51144244).

LATE CHARGE. If a payment is 10 days or more late, I will be charged 5.000% of the unpaid portion of the regularly scheduled payment or \$8.72, whichever is greater.

PREPAYMENT. If I pay off early, I may be entitled to a refund of part of the prepaid finance charges, and I will not have to pay a penalty. I will look at my contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds.

Amount Financed Itemization

Amount paid to me directly:	\$14,178.88
\$14,178.88 Deposited to Account # 81077	\$14,178.88
Total Financed Prepaid Finance Charges:	\$25.00
Note Principal:	\$14,203.88
Prepaid Finance Charges:	\$25.00
Financed:	\$25.00
\$25.00 Documentation Fee	\$25.00
In Cash:	\$0.00
Amount Financed:	\$14,178.88

Principal Amount: \$14,203.88 **Interest Rate:** 16.000% **Date of Agreement:** May 24, 2002

PROMISE TO PAY. I ("Borrower") promise to pay to The Loan Store ("Lender"), or order, in lawful money of the United States of America, the principal amount of Fourteen Thousand Two Hundred Three & 88/100 Dollars (\$14,203.88), together with interest at the rate of 16.000% per annum on the unpaid principal balance from May 24, 2002, until paid in full.

PAYMENT. I will pay this loan in 47 payments of \$405.28 each payment and an irregular last payment estimated at \$405.80. My first payment is due July 8, 2002, and all following payments are due on the same day of each month after that. My final payment will be due on June 8, 2008, and will be for all principal and all accrued interest not yet paid. Payments include principal and interest. Unless otherwise agreed or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs and late charges. Interest on this Agreement is computed on a 365/365 simple interest basis; that is, by applying the ratio of the annual interest rate over the number of days in a year, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. I will pay Lender at Lender's address shown above or at such other place as Lender may require in writing.

PREPAYMENT. I may pay without penalty all or a portion of the amount owed earlier than it is due. If I do make any payments before they are due, I understand that unless Lender agrees otherwise in writing, I will still have to continue to make my regular payments under the payment schedule. Rather, early payments will reduce the principal balance due and may result in my making fewer payments. I agree not to send Lender payments marked "paid in full", "without recourse", or similar language. If I send such a payment, Lender may accept it without losing any of Lender's rights under this Agreement, and I will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: The Loan Store, P.O. Box 307 Rochester, MN 55903.

LATE CHARGE. If a payment is 10 days or more late, I will be charged 5.000% of the unpaid portion of the regularly scheduled payment or \$8.72, whichever is greater.

INTEREST AFTER DEFAULT. Upon default, including failure to pay upon final maturity, the total sum due under this Agreement will bear interest from the date of acceleration or maturity at the interest rate on this Agreement. The interest rate will not exceed the maximum rate permitted by applicable law.

PROPERTY DESCRIPTION. The word "Property" as used in this Agreement means the following described property in which I am giving to Lender a security interest for the payment of the indebtedness and performance of all other obligations under this Agreement:

- 1998 DODGE DURANGO 4X4 (VIN 1B4H52B2WF114202)
- 1990 CHEV LUMINA (VIN 2G1WL84T51144244)

In addition, the word "Property" also includes all the following:

- (A) All accessions, attachments, accessories, replacements of and additions to any of the property described herein (such as tires or batteries attached to a car, or a motor attached to a boat, or appliances and fixtures attached to a mobile home), whether added now or later;
- (B) All products and produce of any of the property described in this Property section;
- (C) All accounts, general intangibles, instruments, rents, monies, payments, and all other rights, arising out of a sale, lease, or other disposition of any of the property described in this Property section;
- (D) All proceeds (including insurance proceeds) from the sale, destruction, loss, or other disposition of any of the property described in this

Property section, and sums due from a third party who has damaged or destroyed the Property or from that party's insurer, whether due to judgment, settlement or other process.

(E) All records and data relating to any of the property described in this Property section, whether in the form of a writing, photograph, microfilm, microfiche, or electronic media, together with all of my right, title, and interest in and to all computer software required to utilize, create, maintain, and process any such records or data on electronic media.

Despite any other provision of this Agreement, Lender is not granted, and will not have, a nonpurchase money security interest in household goods, to the extent such a security interest would be prohibited by applicable law. In addition, if because of the type of any Property, Lender is required to give a notice of the right to cancel under Truth In Lending for the indebtedness, then Lender will not have a security interest in such Property unless and until such a notice is given.

GRANT OF SECURITY INTEREST. To assure payment of the indebtedness and performance of my obligations under this Agreement, I grant to Lender a security interest in all the Property described above. I understand that the following statements set forth my responsibilities, as well as Lender's rights, concerning the Property. I agree as follows:

REPRESENTATIONS AND PROMISES WITH RESPECT TO THE PROPERTY. I represent and promise to Lender that:

Ownership. I am the lawful owner of the Property. The Property is free and clear of all loans, liens, security interests, mortgages, claims, and encumbrances except for those I have disclosed to Lender in writing prior to my signing this Agreement. I agree to defend Lender's rights in the Property against the claims and demands of all persons. I will not allow any other liens on the Property, even if they are junior to Lender's lien.

No Sales. Without Lender's prior written consent, I will not sell, lease, transfer, borrow against, or otherwise dispose of any of my rights in the Property unless and until all the indebtedness is paid in full.

Location of the Property. Except for vehicles, I agree to keep the Property at my address shown above unless Lender tells me I can move it. If the Property is a vehicle, I will keep the Property at those addresses except for routine travel. If I move from my address shown above to another location within the same state, I may move the Property to my new address, but only if I give Lender the new address in writing prior to my moving. In any event, I agree to keep Lender informed at all times of my current address.

Maintenance and Insurance. I will keep the Property in good condition and repair. If the Property is damaged, lost or stolen, I immediately will inform Lender. I will keep the Property fully insured against all loss or damage by fire, theft, collision, and such other hazards as Lender may require from time to time. The insurance will be on terms, including deductible provisions and endorsements, that are satisfactory to Lender, including stipulations that coverages will not be cancelled or diminished without at least thirty (30) days prior written notice to Lender and not including any disclaimer of the insurer's liability for failure to give such notice. I understand I may obtain insurance from any insurance company I may choose that is reasonably acceptable to Lender. I will provide Lender with the original insurance policy, or other proof satisfactory to Lender of the insurance coverage, together with all endorsements required by Lender, including an endorsement naming Lender as the party to whom all losses will be paid.

Inspection. I agree that Lender or Lender's agents shall have the right from time to time to inspect the Property wherever located.

Financing Statements. I authorize Lender to file a UCC-1 financing statement, or alternatively, a copy of this Agreement to perfect Lender's security interest. At Lender's request, I additionally agree to sign all other documents that are necessary to perfect, protect, and continue Lender's security interest in the Property. I will pay all filing fees, data transfer fees, and other fees and costs involved unless prohibited by law or unless Lender is required by law to pay such fees and costs. I irrevocably appoint Lender as my attorney-in-fact to execute financing statements and documents of title in my name and to execute all documents necessary to transfer title if there is a default. Lender may file a copy of this Agreement as a financing statement. If I change my name or address, or the name or address of any person granting a security interest under this Agreement changes, I will promptly notify the Lender of such change.

LENDER'S EXPENDITURES. If I fail (A) to keep the Property free of all taxes, liens, security interests, encumbrances, and other claims, (B) to provide any required insurance on the Property, or (C) to make repairs to the Property then Lender may do so. If any action or proceeding is commenced that would materially affect Lender's interests in the Property, then Lender on my behalf may, but is not required to, take any action that Lender believes to be appropriate to protect Lender's interests. All expenses incurred or paid by Lender for such purposes will then bear interest at the rate charged under this Agreement from the date incurred or paid by Lender to the date of repayment by me. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of this Agreement and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of this Agreement; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Agreement also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of any default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

DEFAULT. I will be in default if any of the following happens:

• **Payment Default.** I fail to make any payment when due under this Agreement.

• **Breach Other Promises.** I break any promise made to Lender or fail to perform promptly at the time and strictly in the manner provided in this Agreement or in any agreement related to this Agreement, or in any other agreement or loan I have with Lender.

• **False Statements.** Any representation or statement made or furnished to Lender by me or on my behalf under this Agreement or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished.

• **Death or Insolvency.** I die or become incompetent or insolvent, a receiver is appointed for any part of my property, I make an assignment for the benefit of creditors, or any proceeding is commenced either by me or against me under any bankruptcy or insolvency laws.

• **Taking of the Property.** Any creditor or governmental agency tries to take any of the property or any other of my property in which Lender has a lien. This includes taking of, garnishing of or levying on my accounts with Lender. However, if I dispute in good faith whether the claim on which the taking of the property is based is valid or reasonable, and if I give Lender written notice of the claim and furnish Lender with monies or a surety bond satisfactory to Lender to satisfy the claim, then this default provision will not apply.

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

• **Collateral Damage or Loss.** Any collateral securing this Agreement is lost, stolen, substantially damaged or destroyed and the loss, theft, substantial damage or destruction is not covered by insurance.

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

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

• **Cure Provisions.** If any default, other than a default in payment is curable and if I have not been given a notice of a breach of the same provision of this Agreement within the preceding twelve (12) months, it may be cured (and no event of default will have occurred) if I, after receiving written notice from Lender demanding cure of such default: (1) cure the default within thirty (30) days; or (2) if the cure requires more than thirty (30) days, immediately initiate steps which Lender deems, in Lender's sole discretion to be sufficient to cure the default and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

LENDER'S RIGHTS. I may keep and use the Property so long as I am not in default under this Agreement. If I am in default, this is what Lender may do, in addition to any other rights Lender may have:

• **Accelerate Indebtedness.** Lender may, subject to any cure and notice provisions required by law, declare all indebtedness immediately due and payable, without notice.

• **Other Rights and Remedies.** In addition, Lender will have all the rights of a secured party under the Uniform Commercial Code and other applicable law. This means, among other things, that Lender may enter upon the premises at the address shown above and take the Property peacefully and sell it. Lender may also, to the extent permitted by law, enter peacefully upon other premises for the purpose of retaking the Property, and I consent to such entry. If the Property contains any goods not covered by this Agreement at the time of repossession, I agree that Lender may take such goods, provided that Lender makes reasonable efforts to return them to me after repossession. If Lender asks me to do so, I will gather the Property and make it available to Lender at a place reasonably convenient to both Lender and me.

NOTE, DISCLOSURE AND SECURITY AGREEMENT

(Continued)

Loan No: 81380

3

Application of Proceeds. If Lender sells the Property, Lender will apply the "net proceeds" of the sale to reduce the amount owed Lender. "Net proceeds" means the sale price less the expenses of repossession, repair, sale, and as provided below, reasonable attorneys' fees and other collection expenses. I agree that, to the extent permitted by law, I will owe Lender any difference between the amount of the indebtedness and the net proceeds Lender receives from the sale of the Property.

Notice. Unless the Property threatens to decline speedily in value or is of a type customarily sold on a recognized market, Lender will give me, and other persons as required by law, reasonable notice of the time and place of any public sale or of the time after which any private sale or any other intended disposition of the Property is to be made. The requirements of reasonable notice shall be met if such notice is given at least ten (10) days before the time of the sale or disposition, except as otherwise required by applicable law.

ATTORNEYS' FEES; EXPENSES. Lender may hire or pay someone else to help collect this Agreement if I do not pay. I will pay Lender that amount. This includes, subject to any limits under applicable law, Lender's reasonable attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including reasonable attorneys' fees, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, I also will pay any court costs, in addition to all other sums provided by law.

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

GOVERNING LAW. This Agreement will be governed by and interpreted in accordance with federal law and the laws of the State of Minnesota. This Agreement has been accepted by Lender in the State of Minnesota.

CHOICE OF VENUE. If there is a lawsuit, I agree upon Lender's request to submit to the jurisdiction of the courts of the State of Minnesota, in the county in which my following address is located: 910 WALL ST, MANKATO, MN 56001.

DISHONORED ITEM FEE. I will pay a fee to Lender of \$30.00 if I make a payment on my loan and the check or preauthorized charge with which I pay is later dishonored.

RIGHT OF SETOFF. To the extent permitted by applicable law, Lender reserves a right of setoff in all my accounts with Lender (whether checking, savings, or some other account). This includes all accounts I hold jointly with someone else and all accounts I may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. I authorize Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any and all such accounts, and, at Lender's option, to administratively freeze all such accounts to allow Lender to protect Lender's charge and setoff rights provided in this paragraph.

ARBITRATION. I and Lender agree that all disputes, claims and controversies between us whether individual, joint, or class in nature, arising from this Agreement or otherwise, including without limitation contract and tort disputes, shall be arbitrated pursuant to the Rules of the American Arbitration Association in effect at the time the claim is filed, upon request of either party. No act to take or dispose of any property securing this Agreement shall constitute a waiver of this arbitration agreement or be prohibited by this arbitration agreement. This includes, without limitation, obtaining injunctive relief or a temporary restraining order; invoking a power of sale under any deed of trust or mortgage; obtaining a writ of attachment or imposition of a receiver; or exercising any rights relating to personal property, including taking or disposing of such property with or without judicial process pursuant to Article 9 of the Uniform Commercial Code. Any disputes, claims, or controversies concerning the lawfulness or reasonableness of any act, or exercise of any right, concerning any property securing this Agreement, including any claim to rescind, reform, or otherwise modify any agreement relating to the property securing this Agreement, shall also be arbitrated, provided however that no arbitrator shall have the right or the power to enjoin or restrain any act of any party. Judgment upon any award rendered by any arbitrator may be entered in any court having jurisdiction. Nothing in this Agreement shall preclude any party from seeking equitable relief from a court of competent jurisdiction. The statute of limitations, estoppel, waiver, laches, and similar doctrines which would otherwise be applicable in an action brought by a party shall be applicable in any arbitration proceeding, and the commencement of an arbitration proceeding shall be deemed the commencement of an action for these purposes. The Federal Arbitration Act shall apply to the construction, interpretation, and enforcement of this arbitration provision.

SUCCESSOR INTERESTS. The terms of this Agreement shall be binding upon me, and upon my heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

NOTIFY US OF INACCURATE INFORMATION WE REPORT TO CONSUMER REPORTING AGENCIES. Please notify us if we report any inaccurate information about your account(s) to a consumer reporting agency. Your written notice describing the specific inaccuracy(ies) should be sent to us at the following address: The Loan Store, Mankato, 620 Holly Lane, Mankato, MN 56001

GENERAL PROVISIONS. Lender may delay or forgo enforcing any of its rights or remedies under this Agreement without losing them. I and any other person who signs, guarantees or endorses this Agreement, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Agreement, and unless otherwise expressly stated in writing, no party who signs this Agreement, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral or impair, fail to realize upon or perfect Lender's security interest in the collateral. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Agreement are joint and several. This means that the words "I", "me", and "my" mean each and all of the persons signing below.

SECTION DISCLOSURE. This loan is made under Minnesota Statutes, Section 47.89.

DEFINITIONS. The following words shall have the following meanings when used in this Agreement:

Agreement. The word "Agreement" means this Note, Disclosure and Security Agreement, as this Note, Disclosure and Security Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Note, Disclosure and Security Agreement from time to time.

Borrower. The word "Borrower" means DAVID THEISSEN, and all other persons and entities signing the Note.

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

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

Indebtedness. The word "Indebtedness" means the indebtedness evidenced by the Note or Related Documents, including all principal and interest together with all other indebtedness and costs and expenses for which I am responsible under this Agreement or under any of the Related Documents.

Lender. The word "Lender" means The Loan Store, its successors and assigns. The words "successors or assigns" mean any person or company that acquires any interest in the Note.

Note. The word "Note" means the note or credit agreement dated May 24, 2002, in the principal amount of \$14,209.85 from DAVID THEISSEN to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of and substitutions for the note or credit agreement.

Property. The word "Property" means all of my right, title and interest in and to all the Property as described in the "Property Description" section of this Agreement.

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

PRIOR TO SIGNING THIS AGREEMENT, I READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. I AGREE TO THE TERMS OF THE AGREEMENT.

I ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THIS NOTE, DISCLOSURE AND SECURITY AGREEMENT.

BORROWER:



DAVID THEISSEN, Individually.

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DAVID J. THEISSEN

04-40557

In re _____
Debtor

Case No. _____
(if known)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

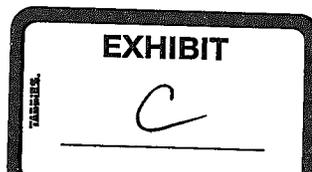
The column labeled "Spouse" must be completed in all cases filed by joint debtors and by a married debtor in a chapter 12 or 13 case whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

Debtor's Marital Status: Separated	DEPENDENTS OF DEBTOR AND SPOUSE	
	RELATIONSHIP	AGE 5, 10, 15 YEARS
Employment:	DEBTOR	SPOUSE
Occupation	SECURITY GUARD (39)	
Name of Employer	VANCE INT'L PROTECTION AGENCY	
How long employed	1 MONTH	
Address of Employer	ST. PAUL, MN	N.A.

	DEBTOR	SPOUSE
Income: (Estimate of average monthly income)		
Current monthly gross wages, salary, and commissions (pro rate if not paid monthly.)	\$ 2,255	\$ N.A.
Estimated monthly overtime	\$ 0	\$ N.A.
SUBTOTAL	\$ 2,255	\$ N.A.
LESS PAYROLL DEDUCTIONS		
a. Payroll taxes and social security	\$ 495	\$ N.A.
b. Insurance	\$ 0	\$ N.A.
c. Union Dues	\$ 0	\$ N.A.
d. Other (Specify: _____)	\$ 0	\$ N.A.
SUBTOTAL OF PAYROLL DEDUCTIONS	\$ 495	\$ N.A.
TOTAL NET MONTHLY TAKE HOME PAY	\$ 1,760	\$ N.A.
Regular income from operation of business or profession or farm (attach detailed statement)	\$ 0	\$ N.A.
Income from real property	\$ 0	\$ N.A.
Interest and dividends	\$ 0	\$ N.A.
Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above.	\$ 0	\$ N.A.
Social security or other government assistance (Specify) _____	\$ 0	\$ N.A.
Pension or retirement income	\$ 0	\$ N.A.
Other monthly income (Specify) <u>COMMISSION RENEWALS</u>	\$ 300	\$ N.A.
<u>FISHING GUIDE INCOME</u>	\$ 350	\$ N.A.
TOTAL MONTHLY INCOME	\$ 2,410	\$ N.A.
TOTAL COMBINED MONTHLY INCOME	\$ 2,410	

(Report also on Summary of Schedules)

Describe any increase or decrease of more than 10% in any of the above categories anticipated to occur within the year following the filing of this document:



DAVID J. THEISSEN

In re _____,
Debtor

Case No. _____
(If known)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTORS

Complete this schedule by estimating the average monthly expenses of the debtor and the debtor's family. Pro rate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate.

Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

Rent or home mortgage payment (include lot rented for mobile home)	\$ 325
Are real estate taxes included? Yes _____ No <u>✓</u>	
Is property insurance included? Yes _____ No <u>✓</u>	
Utilities Electricity and heating fuel	\$ 0
Water and sewer	\$ 0
Telephone	\$ 80
Other _____	\$ 0
Home maintenance (Repairs and upkeep)	\$ 0
Food	\$ 140
Clothing	\$ 50
Laundry and dry cleaning	\$ 16
Medical and dental expenses	\$ 70
Transportation (not including car payments)	\$ 140
Recreation, clubs and entertainment, newspapers, magazines, etc.	\$ 90
Charitable contributions	\$ 0
Insurance (not deducted from wages or included in home mortgage payments)	
Homeowner's or renter's	\$ 0
Life	\$ 0
Health	\$ 0
Auto	\$ 90
Other _____	\$ 0
Taxes (not deducted from wages or included in home mortgage payments) (Specify) _____	\$ 0
Installment payments (In chapter 12 and 13 cases, do not list payments to be included in the plan)	
Auto	\$ 0
Other _____	\$ 0
Other _____	\$ 0
Alimony, maintenance, and support paid to others	\$ 804
Payments for support of additional dependents not living at your home	\$ 0
Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$ 18
Other _____ PERSONAL CARE EXPENSES	\$ 137

TOTAL MONTHLY EXPENSES (Report also on Summary of Schedules) \$ 1,960

(FOR CHAPTER 12 AND 13 DEBTORS ONLY)

Provide the information requested below, including whether plan payments are to be made bi-weekly, monthly, annually, or at some other regular interval.

A. Total projected monthly income	\$ 2,410
B. Total projected monthly expenses	\$ 1,960
C. Excess income (A minus B)	\$ 450
D. Total amount to be paid into plan each _____ monthly (interval)	\$ 450

Principal borrowed: \$8800.00**Annual Payments: 12 Total Payments: 36****Annual interest rate: 12.00% Periodic interest rate: 1.0000%****Regular Payment amount: \$292.29 Final Balloon Payment: \$0.00**

*The following results are estimates which do not account for values being rounded to the nearest cent.
See the amortization schedule for more accurate values.*

Total Repaid: \$10522.44**Total Interest Paid: \$1722.44****Interest as percentage of Principal: 19.573%**

Pmt	Principal	Interest	Cum Prin	Cum Int	Prin Bal
1	204.29	88.00	204.29	88.00	8595.71
2	206.33	85.96	410.62	173.96	8389.38
3	208.40	83.89	619.02	257.85	8180.98
4	210.48	81.81	829.50	339.66	7970.50
5	212.58	79.71	1042.08	419.37	7757.92
6	214.71	77.58	1256.79	496.95	7543.21
7	216.86	75.43	1473.65	572.38	7326.35
8	219.03	73.26	1692.68	645.64	7107.32
9	221.22	71.07	1913.90	716.71	6886.10
10	223.43	68.86	2137.33	785.57	6662.67
11	225.66	66.63	2362.99	852.20	6437.01
12	227.92	64.37	2590.91	916.57	6209.09
13	230.20	62.09	2821.11	978.66	5978.89
14	232.50	59.79	3053.61	1038.45	5746.39
15	234.83	57.46	3288.44	1095.91	5511.56
16	237.17	55.12	3525.61	1151.03	5274.39
17	239.55	52.74	3765.16	1203.77	5034.84
18	241.94	50.35	4007.10	1254.12	4792.90
19	244.36	47.93	4251.46	1302.05	4548.54
20	246.80	45.49	4498.26	1347.54	4301.74
21	249.27	43.02	4747.53	1390.56	4052.47
22	251.77	40.52	4999.30	1431.08	3800.70
23	254.28	38.01	5253.58	1469.09	3546.42
24	256.83	35.46	5510.41	1504.55	3289.59
25	259.39	32.90	5769.80	1537.45	3030.20
26	261.99	30.30	6031.79	1567.75	2768.21
27	264.61	27.68	6296.40	1595.43	2503.60
28	267.25	25.04	6563.65	1620.47	2236.35
29	269.93	22.36	6833.58	1642.83	1966.42
30	272.63	19.66	7106.21	1662.49	1693.79
31	275.35	16.94	7381.56	1679.43	1418.44
32	278.11	14.18	7659.67	1693.61	1140.33
33	280.89	11.40	7940.56	1705.01	859.44
34	283.70	8.59	8224.26	1713.60	575.74
35	286.53	5.76	8510.79	1719.36	289.21

EXHIBIT**D**

36	*289.21	2.89	8800.00	1722.25	-0.00
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*The final payment has been adjusted to account for payments having been rounded to the nearest cent.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Case No.: 04-44507

David J. Theissen,

Chapter 13

Debtor.

UNSWORN CERTIFICATE OF SERVICE

I, Stephanie Wood, declare under penalty of perjury that on the 28th day of September, 2004, I mailed a copy of the annexed ***Objection by The Loan Store to Confirmation of Chapter 13 Plan with Memorandum and Order (proposed)*** on:

David J. Theissen
156-14th Avenue NE
Minneapolis, MN 55413

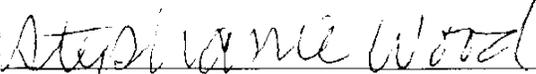
Ian Traquair Ball, Esq.
12 South Sixth Street, #326
Minneapolis, MN 55402

U.S. Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Jasmine Z. Keller, Esq.
12 South Sixth Street, Suite 310
Minneapolis, MN 55402

by mailing to all parties copies thereof, enclosed in an envelope, postage prepaid, and by depositing the same in the post office at Minneapolis, Minnesota, directed to said party at the last known addresses of said parties.

Dated: September 28, 2004


Stephanie Wood
100 South Fifth Street, Suite 2500
Minneapolis, MN 55402
(612) 332-1030

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No.: 04-44507

David J. Theissen,

Chapter 13

Debtor.

ORDER DENYING CONFIRMATION OF CHAPTER 13 PLAN

This Chapter 13 case came on before the Court on _____, 2004 at _____, for hearing on confirmation of a proposed Plan of individual debt adjustment.

Matthew R. Burton appeared on behalf of The Loan Store. Other appearances were as noted in the record.

Upon the record made at the hearing, and the other files, records, and proceedings in this case,

IT IS HEREBY ORDERED:

1. That confirmation of Debtor's Plan of debt adjustment is denied.
2. That Respondent is allowed its attorneys' fees in the amount of \$_____, such amount to be added to Respondent's claim amount and paid as part of such claim.

Dated: _____, 2004

United States Bankruptcy Judge