

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

GARY L. STEWART
DARLA J. STEWART,

Debtor.

BKY Case No. 02-32136-GJK

Chapter 7

FIDELITY & DEPOSIT COMPANY
OF MARYLAND,

Plaintiff,

vs.

GARY L. STEWART
DARLA J. STEWART,

Defendants.

Adv. Proc. No. 03-_____ GJK

COMPLAINT

Plaintiff, Fidelity & Deposit Company of Maryland ("Fidelity"), for its Complaint against Defendants Gary L. Stewart and Darla J. Stewart (collectively the "Defendants"), states and alleges as follows:

JURISDICTION

1. This is an action brought by the Plaintiff as a creditor of the Defendants to determine whether the claim held by the Plaintiff against the Defendants in the above-captioned bankruptcy case is, under the provisions of 11 U.S.C. §523(a)(2)(A) or alternatively (a)(2)(B), excepted from the discharge available under 11 U.S.C. §727.
2. The Defendants are subject to the jurisdiction of this Court in the pending Chapter 7 case captioned above.

3. This Complaint is filed under Bankruptcy Rule 7001. This action arises under 11 U.S.C. § 523(a)(3). The Court has jurisdiction over all issues arising hereunder pursuant to 28 U.S.C. § 1334 and § 157. This is a core proceeding under 28 U.S.C. § 157(b)(2)(I).
4. Venue is proper before this Court pursuant to 28 U.S.C. §1408 and §1409.
5. The Debtor filed a voluntary Chapter 7 petition on June 6, 2002.

GENERAL ALLEGATIONS

6. Fidelity is a Maryland corporation engaged in the insurance business with a statutory home office located at 3910 Keswick Road, Baltimore, Maryland 21211 and a principal place of business located at 1400 American Lance, Schaumburg, Illinois 60196.
7. First Federal Bank ("First Federal") is a is a federally-chartered bank headquartered in Hutchinson, Minnesota with locations in Central Minnesota including Hastings, Minnesota.
8. Gary L. Stewart and Darla J. Stewart (collectively the "Defendants") are the Debtors in this Chapter 7 proceeding, and residents of the state of Minnesota. Upon information and belief, the Defendants are currently residing at 7997 Jocelyn Avenue, Cottage Grove, Minnesota 55016.
9. On or about August 18, 2000, Gary Stewart applied to First Federal for a line of credit in the amount of \$50,000 by filing out and signing a Loan Application (the "First Application"). Attached hereto as **Exhibit A** is a true and correct copy of the First Application, the terms of which are incorporated herein by reference.
10. In connection with the First Application, Gary Stewart identified the property described below as an asset that First Federal could use to secure repayment of the proposed line of credit:

Lot 25, Block 4, Pinetree Pond 5th Addition

(the "Property"). The Property is located at 7715 Iverson Avenue South, Cottage Grove, Minnesota 55016.

11. In connection with its efforts to ascertain the priority of its mortgage lien against the Property, First Federal required Gary Stewart and his wife, Darla Stewart, to identify all "Lenders or Other Lienholder" who held an interest in the Property. In this regard, on or about August 21, 2000, the Defendants filled out and signed a Property Owner(s) Affidavit (the "First Affidavit"). In the First Affidavit, the Defendants averred that they were the owners of the Property and that there was only mortgage, a mortgage evidence by a lien of \$80,000 from US Bank, against the Property. The Defendants did not list any other entity as having an interest in or lien on the Property. Attached hereto as **Exhibit B** is a true and correct copy of the First Affidavit, the terms of which are incorporated herein by reference.
12. In reliance on the First Application and the First Affidavit, First Bank extended a line of credit to Gary Stewart in the principal amount of \$50,000 pursuant to a Home Equity Line of Credit Agreement entered into on or about August 21, 2000 (the "Initial Credit Agreement"). Attached hereto as **Exhibit C** is a true and correct copy of the Initial Credit Agreement, the terms of which are incorporated herein by reference.
13. To secure its obligation to repay First Federal for monies advanced by First Federal to Gary Stewart pursuant to the Initial Credit Agreement, the Defendants executed a Mortgage in favor of First Federal (the "Mortgage"). Attached hereto as **Exhibit D** is a true and correct copy of the Mortgage, the terms of which are incorporated herein by reference. The Mortgage granted First Federal the power of sale with regard to the

Property. The Mortgage was filed with the Washington County Recorder as document number 3119171 on September 5, 2000.

14. On or about August 30, 2000, Gary Stewart applied to First Federal for an increase in the First Line of Credit in the amount of \$45,000 by filling out and signing a Loan Application (the "Second Application"). Attached hereto as **Exhibit E** is a true and correct copy of the Second Application, the terms of which are incorporated herein by reference.
15. In connection with the Second Application, Gary Stewart identified the Property as an asset securing repayment of the proposed increase to the Initial Credit Agreement.
16. In connection with its efforts to ascertain the priority of its mortgage lien against the Property, First Federal required Gary Stewart and his wife, Darla Stewart, to identify all "Lenders or Other Lienholder" who held an interest in the Property. In this regard, on or about September 1, 2000, the Defendants filled out and signed a Property Owner(s) Affidavit (the "Second Affidavit"). In the Second Affidavit, the Defendants again averred that they were the owners of the Property and that there was only mortgage, a mortgage evidence by a lien of \$80,000 from US Bank, against the Property. The Defendants did not list any other entity as having an interest in or lien on the Property. Attached hereto as **Exhibit F** is a true and correct copy of the Second Affidavit, the terms of which are incorporated herein by reference.
17. In reliance on the Second Application and the Second Affidavit, First Bank increased the line of credit granted in the Initial Credit Agreement to the Defendants in the principal amount of \$45,000 for a total line of credit in the principal amount of \$95,000 pursuant to a Home Equity Line of Credit Amendment entered into on or about September 1, 2000

(the "Amended Credit Agreement"). Attached hereto as **Exhibit G** is a true and correct copy of the Amended Credit Agreement, the terms of which are incorporated herein by reference.

18. To secure its obligation to repay First Federal for monies advanced by First Federal to Gary Stewart pursuant to the Amended Credit Agreement, the Defendants executed a Home Loan Modification Agreement in favor of First Federal (the "Amended Mortgage"). A true and correct copy of the Amended Mortgage is attached hereto as **Exhibit H**, the terms of which are incorporated herein by reference. The Amended Mortgage granted First Federal the power of sale with regard to the Property. The Amended Mortgage was filed with the Washington County Recorder as document number 3132312 on December 6, 2000.
19. Pursuant to the terms of the Initial Credit Agreement and the Amended Credit Agreement First Federal advance monies to the Defendants.
20. At the time Defendants filled out and signed the First Affidavit and Second Affidavit the Property was subject to two mortgages previously undisclosed by Defendants, one in favor of Bank of America, N.A. and another in favor of Firststar Bank, U.S.A. N.A.. Defendants had failed to disclose the existence of these mortgages to First Federal.
21. In October 2001, Defendants defaulted under the terms and conditions of the Amended Credit Agreement. In connection with its efforts to foreclose the Amended Mortgage due to Defendants defaults there under, First Federal discovered that Defendants had misrepresented to First Federal the number of liens they had against the Property. These misrepresentations materially reduced the value of First Federal's security interest thereby damaging First Federal's ability to recover its loan.

22. As a result of the Defendants failure to disclose other mortgage liens against the Property, Fidelity became obligated pursuant to a Processors Liability Policy (the "Policy") to pay First Federal \$94,000.00 (the "Payment"). A true and correct copy of the Policy is attached hereto as **Exhibit I**, the terms of which are incorporated herein by reference.
23. Fidelity paid First Federal \$94,000.00 pursuant to the Policy.
24. By virtue of Fidelity's payment to First Federal and pursuant to the Policy and the common law of subrogation, Fidelity became subrogated to the rights of First Federal, including rights of action for both fraud and nondischargeability of the resulting debt.

COUNT I
(11 U.S.C. § 523(a)(2)(A): False Pretenses,
False Representation, and Actual Fraud)

25. Fidelity incorporates by reference all other allegations and claims for relief asserted in the Complaint.
26. Section 523(a)(2)(A) of the Bankruptcy Code provides that a debtor may not be discharged from any debt "for money . . . or an extension, renewal, or refinancing of credit, to the extent obtained by . . . false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition."
27. The Defendants made material misrepresentations and omissions of material fact to First Federal as to the number and extent of the liens on the Property and, therefore, caused First Federal to make advances to Gary Stewart in excess of the amounts it otherwise would have advanced.
28. First Federal justifiably relied upon these misrepresentations and omissions of material fact concerning the Property.

29. First Federal was deceived by these misrepresentations and omissions of material fact concerning the Property.
30. First Federal was damaged in an amount to be determined at trial because of these misrepresentations and omissions of material fact concerning the Property. First Federal's claims against Defendants under 11 U.S.C. 523 are now held by Fidelity, as subrogee.
31. By reason of the foregoing, Defendants are liable to Fidelity in the amount of \$96,789.23 which is the amount of unpaid principal and interest as of February 2, 2002, plus other amounts allowable under the Amended Credit Agreement and the Amended Mortgage (the "Debt"). The Debt constitutes a nondischargeable debt under 11 U.S.C. § 523(a)(2)(A).

COUNT II
(11 U.S.C. § 523(a)(2)(B): False Statements in Writing)

32. Fidelity incorporates by reference all other allegations and claims for relief asserted in the Complaint.
33. Section 523(a)(2)(B) of the Bankruptcy Code provides that a debtor may not be discharged from any debt "for money . . . or an extension, renewal or refinancing of credit, to the extent obtained by . . . use of a statement in writing (i) that is materially false; (ii) respecting the debtor's or an insider's financial condition; (iii) on which the creditor to whom the debtor is liable for such money . . . or credit reasonably relied; and (iv) that the debtor caused to be made or published with intent to deceive."
34. The Defendants made material misrepresentations and omissions of material fact to First Federal as to the number and extent of the liens on the Property and, therefore, caused

First Federal to make advances to Gary Stewart in excess of the amounts it otherwise would have advanced.

35. These material misrepresentations and omissions of material fact concerning the Property were made in writing.
36. Darla Stewart is an insider as defined in the Bankruptcy Code.
37. These material misrepresentations and omissions of material fact concerning the Property were made concerning the Defendants' financial condition.
38. First Federal justifiably relied upon these misrepresentations and omissions of material fact concerning the Property.
39. First Federal was deceived by these misrepresentations and omissions of material fact concerning the Property.
40. Debtors made these material misrepresentations and omissions of material fact concerning the Property with intent to deceive.
41. First Federal was damaged in an amount to be determined at trial because of these misrepresentations and omissions of material fact concerning the Property. First Federal's claims against Defendants under 11 U.S.C. 523 are now held by Fidelity, as subrogee.
42. By reason of the foregoing, Defendants are liable to Fidelity in the amount of the Debt. The Debt constitutes a nondischargeable debt under 11 U.S.C. § 523(a)(2)(B).

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Determine and adjudge that the claims of Plaintiff are excepted pursuant to the provisions of 11 U.S.C. § 523(a)(2)(A) or alternatively (a)(2)(B) from any discharge which the Debtor may receive.

2. Grant judgment to Plaintiff for the reasonable and necessary costs and expenses incurred by Plaintiff because of this proceeding, including, without limitation, its attorney's fees, costs and expenses.
3. Enter judgment against the Defendants in an amount to be determined at trial plus additional interest, late fees and any other amounts adjudged due Plaintiff.
4. Grant such other and further relief, as this Court may deem just and equitable.

DATED: April 22, 2003

FABYANSKE, WESTRA & HART, P.A.

By: /s/ Michael A. Rosow
Paul L. Ratelle (#273855)
Michael A. Rosow (#317998)
920 Second Avenue South
Suite 1100
Minneapolis, MN 55402
(612) 338-0115
ATTORNEYS FOR PLAINTIFF

Loan Application



Check appropriate box.

- If you are applying for individual credit in your own name and are relying on your own income or assets and not the income or assets of another person as the basis for repayment of the credit requested, complete Section A, C, & D omitting B.
- If this is an application for joint credit with another person, complete all Sections, providing information in B about the joint applicant.
- If you are applying for individual credit, but are relying on income from alimony, child support, or separate maintenance or on the income or assets of another person as the basis for repayment of the credit requested, complete all Sections to the extent possible, providing information in B about the person on whose alimony, support, or maintenance payments or income or assets you are relying.

Application # 22624 Loan # 730035634 Date: 8-18-00

SECTION A—INFORMATION REGARDING APPLICANT

PURPOSE <i>Line of Credit (unsecured)</i>	APP. TAKEN BY <input checked="" type="checkbox"/> BY PERSON <input type="checkbox"/> BY MAIL
AMOUNT <u>50,000</u>	<input type="checkbox"/> TELEPHONE <input type="checkbox"/> OTHER
APPLICANT'S NAME <u>DARLA L STEWART</u>	AGE <u>55</u> D.O.B. <u>6-18-45</u> SOC. SEC. NO. <u>360-34-1004</u>
ADDRESS & LGTH. <u>7715 IVERSON AVE. 3D. CANTON OH 44705</u> (# of dependents) <u>2514</u>	STATE <u>OH</u> ZIP <u>44705</u> PHONE <u>612-851-2000</u>
EMPLOYER <u>AMERICAN FARM</u> ADDRESS <u>AMERICAN FARM</u>	DATE EMPLOYED <u>9 YEARS</u> SALARY <u>160,000</u> PHONE <u></u>
PREV. ADDRESS & LGTH. (If at present address less than 2 years)	PREV. EMPLOYER & LGTH. (If with present employer less than 2 years)

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.
 Alimony, child support, separate maintenance received under: Court Order Written Agreement Oral Understanding

SECTION B—INFORMATION REGARDING JOINT APPLICANT OR OTHER PARTY

APPLICANT'S NAME	AGE	D.O.B.	SOC. SEC. NO.
ADDRESS & LGTH. (If spouse, # of dependents)	STATE	ZIP	PHONE
EMPLOYER ADDRESS	DATE EMPLOYED	SALARY	PHONE

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.
 Alimony, child support, separate maintenance received under: Court Order Written Agreement Oral Understanding

MARITAL STATUS: (NOT APPLICABLE IF INDIVIDUAL AND UNSECURED CREDIT.)

- Applicant: Married Separated Unmarried (including single, divorced, and widowed)
 Other Party: Married Separated Unmarried (including single, divorced, and widowed)

SECTION C—ASSET AND DEBT INFORMATION (If Section B has been completed, this Section should be completed giving information about both the Applicant and Joint Applicant or Other Person. Please mark Applicant-related information with an "A." If Section B was not completed, only give information about the Applicant in this Section.) Personal financial statement is attached when applicable.

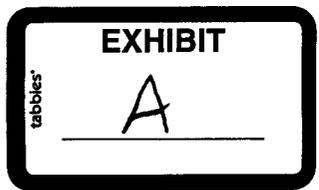
NAME OF CREDITOR	PURPOSE COLLATERAL	DATE MADE	ORIG. AMOUNT	TERM/PAYMENT	LAST PAID	NEXT DUE	BALANCE
Speedway				20			98
RUB Target				39			760
Wells Fargo				89			4476
FBS Card				70			3614
FBS Line				256			24960
FirstStar				685			76735
HRS Best Buy				10			144
Amex				35			35
FirstStar				1724			18200
MORTGAGE OR RENT <u>Bank America</u>				916			8004

LANDLORD OR MTG. HOLDER/ADDRESS	INSURANCE CO. & AGENT/PHONE <u>Steve Smith American Family 651-429-7737</u>	RETAIL VALUE <u>139,300</u> <u>Per Appraiser</u>	LOAN VALUE <u>139,300</u>
	COMP _____ COLL _____		

SECTION D - SECURED CREDIT

Conforms: Consignap Rev 3/99

Lot 25, Blk 4, PineTree Pond 5th Addition
PID 0902721440031
wife - Darla J. Stewart as Collateral owner



PERSONAL FINANCIAL STATEMENT

DEPOSIT/CASH-ON HAND		OWED TO	
LIFE INS. (CASH VALUE)			
STOCK			
REAL ESTATE OWNED		REAL ESTATE MTG.	
PERSONAL PROPERTY			
VEHICLES			
		TOTAL LIABILITIES	
		N/W	
TOTAL ASSETS		TOTAL ASSETS	

LOAN DATE _____ MTG. REG. TAX 15.00
 INTEREST DATE _____ FILING FEE 24.50
 _____ MP 39.14
 RELEASE FEE _____ OTHER Fees 13.00

REAL ESTATE INFORMATION

ABSTRACT _____
 TORRENS _____
 INS. AMT. _____

Everything that I have stated in this application is correct to the best of my knowledge. I understand that you will retain this application whether or not it is approved. You are authorized to check my credit and employment history and to answer questions about your credit experience with me. I (We) hereby acknowledge that First Federal S&B has not given me (us) any tax advice pertaining to consumer or real estate loans. Should you require any tax information or advice concerning these matters, we recommend you contact an attorney or accountant.

Applicant's Signature [Signature]

Other Signature (Where applicable) _____

INFORMATION FOR GOVERNMENT MONITORING PURPOSES

The following information is requested by the Federal Government for certain types of loans related to a dwelling in order to monitor the lender's compliance with equal credit opportunity, fair housing, and home mortgage disclosure laws. You are not required to furnish this information, but are encouraged to do so. The law provides that a lender may not discriminate on the basis of this information, or on whether you choose to furnish it. However, if you choose not to furnish the information and you have made this application in person, under Federal regulations the lender is required to note race or national origin and sex on the basis of visual observation or surname. If you do not wish to furnish the information, please check below.

APPLICANT:

- I do not wish to furnish this information.
- Race or National Origin:
- American Indian, Alaskan Native
 - Asian, Pacific Islander
 - Black
 - Hispanic
 - White
 - Other (specify): _____
- Sex:
- Female Male

CO-APPLICANT:

- I do not wish to furnish this information.
- Race or National Origin:
- American Indian, Alaskan Native
 - Asian, Pacific Islander
 - Black
 - Hispanic
 - White
 - Other (specify): _____
- Sex:
- Female Male

COMMENTS: wife name - Darla J. Stewart
In 2 Agent - Steve Smith
WBL MN

NOTE INFORMATION

_____ \$ _____
 _____ \$ _____
 _____ \$ _____
 _____ \$ _____
 _____ \$ _____
 _____ \$ _____
 _____ \$ _____
 NET PROCEEDS \$ -0-
 CREDIT LIFE \$ YES
 DISABILITY \$ YES
 FEE \$ -0-
 _____ \$ _____
 AMOUNT FINANCED \$ 25,000
 INTEREST \$ _____
 TOTAL OF PAYMENTS \$ _____
 APR 11.25
 PMTS. OF \$ _____
 COMMENCING _____

Revised file 831-00

Loan approved by [Signature]

\$ 59,000 - HELLOC @ 1.75% -
1% paid reduction

**PROPERTY OWNER(S) AFFIDAVIT
FOR FIRST FEDERAL FSB (LENDER)**

OWNER(S) GARY L. STEWART & DARLA J. STEWART

PROPERTY ADDRESS 7715 IVERSON AVE S COTTAGE GROVE, MN 55016

The owner(s) is (are) the sole owner(s) of property. Yes No

Title to this residence is held as _____ Individual Husband and Wife _____ Two or more unrelated persons.

(If held as _____ Trust _____ Land Contract Life Estate, refer copy of the Trust, Land Contract or Life Estate state document to underwriting)

OCCUPANCY:

This residence is a one to four family dwelling, and occupied as a principal residence.

Yes No

If not a principal residence, the property is a vacation home occupied by owners.

Yes _____ No

The only liens against this residence are as follows:

LENDERS OR OTHER LIENHOLDER

BALANCE OWED

First Lien US BANK \$ 20,000

Second Lien _____ \$ _____

Third Lien _____ \$ _____

We (I) certify the following:

All real estate taxes and assessments which are due and payable are paid in full.

This Property is free of State Federal tax liens.

This Property is free of judgments.

We (I) have not filed bankruptcy in the past 90 days.

This Affidavit is given to induce

FIRST FEDERAL FSB (Lender) to make the loan and

THE EMPIRE INDEMNITY INSURANCE COMPANY to issue its Processors Liability Policy. We (I) state that

the above information is true and complete and understand that any intentional or negligent misrepresentation(s) of

the information contained in this Affidavit may result in civil liability and/or criminal penalties including, but not

limited to, fine or imprisonment or both under the provisions of Title 18, United States Code. Section 1001. Et seq.

And liability for monetary damages to Lender, its agents, successors and assigns, insurers and any other person who may suffer any loss in reliance upon any misrepresentations when made in this Affidavit.

Signature:

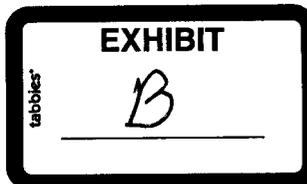
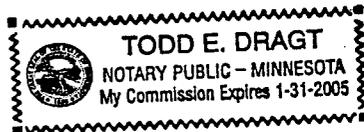
Owner(s) [Signature]

Owner's Spouse Darla J. Stewart

Subscribed and sworn to before me this 21st day of August 2000 Notary Public [Signature]

My commission expires _____

Original for Loan File
Copy for Borrower



H:\installment\afidavit.doc

GARY L STEWART
7715 IVERSON AVE S
COTTAGE GROVE, MN 55016
 Borrower's Name and Address
 "You" means each borrower above, jointly and severally.

FIRST FEDERAL fsb
 201 MAIN STREET SOUTH
 HUTCHINSON, MN 55350
 Lender's Name and Address
 "We" or "us" means the lender named above.

No. <u>73-003563-4</u>	Initial Advance \$ <u>n/a</u>	Maturity Date <u>August 15, 2005</u>
Date <u>August 21, 2000</u>	Minimum Advance \$ <u>n/a</u>	Billing Cycle: Ends <u>the last day</u>
Trans. Acct. # <u>53-003563-4</u>	Minimum Balance \$ <u>n/a</u>	of every <u>month</u>
Line of Credit \$ <u>50000.00</u>	Draw Period <u>5 years</u>	Payment Date <u>the 15th day</u>
Triggering Balance \$ <u>n/a</u>	Repayment Period _____	of every <u>month</u>

HOME EQUITY LINE OF CREDIT

GENERALLY: This is an agreement about your home equity line of credit. Many of the terms we use in this agreement have special meanings. The term "loan account balance" means the sum of: (1) the unpaid principal of loans made under this plan; (2) any unpaid but earned finance charges; and (3) any credit insurance premiums that are due. "Transaction Account" means an account you have with us. The number of this account is listed at the top of the form on the line labeled "Trans. Acct. #." "Line of Credit" means the maximum amount of principal we will ordinarily allow you to owe us under this plan at any time. "Triggering Balance" is the amount you must keep in your transaction account to prevent us from lending you money under this plan.

In addition, we will use the following terms for this home equity plan: "Initial Advance" means the amount of money we will require you to accept as an advance to open the plan. "Minimum Advance" means the smallest amount of money we will advance to you at your request. The "Minimum Balance" is the amount of principal of loans we will require you to maintain outstanding during the plan. If the principal balance outstanding falls below the minimum balance, you may have to pay a fee described below.

The "Draw Period" is the time during the plan that you may request advances and will make payments on your loan account balance. The "Repayment Period" is the time during the plan that you must repay your loan account balance but may not request further advances. Except where otherwise indicated, the regulatory disclosures contained in this agreement apply to both the draw and repayment periods.

If any term of this agreement violates any law or for some other reason is not enforceable, that term will not be part of this agreement. This agreement is subject to the laws of the state where we are located.

This loan is made under Minnesota Statutes, Chapter 53.

TAX DEDUCTIBILITY: You should consult a tax advisor regarding the deductibility of interest and charges you pay under this home equity plan.

REQUESTING A LOAN: You request a loan under this plan whenever you:
 ♦ write a check for at least the minimum advance listed above using one of the special checks you have for that purpose.

HOW THE LOAN IS ADVANCED: When you request a loan, we will, subject to any limitations contained in this agreement, give you the exact amount you request or the minimum advance amount whichever is greater. Depending on how we agree to make the advance, we will either deposit the money into your transaction account, give the money directly to you, or pay any third person or account you tell us to pay. We will record the advance as a loan in your loan account.

We ordinarily will not grant any request for a loan that would cause your loan account balance to be greater than the Line of Credit listed above. But if we do: (1) the amount we advance will be covered by this agreement; (2) it does not mean we have to do so again; and (3) it does not mean we have permanently increased your Line of Credit.

LIMITATIONS: The following additional limitations apply:

- ♦ During the draw period, you may not request advances totaling more than \$ N/A per N/A.
- ♦ During the draw period, you will be limited to a total of N/A advances per N/A.
- ♦ During the term of the plan, you may not request advances totaling more than \$ N/A per N/A.
- ♦ During the term of the plan, you will be limited to a total of N/A advances per N/A.

HOW FINANCE CHARGES ARE COMPUTED: We will begin to earn finance charges when we make a loan to you. To calculate the finance charge for a billing cycle, we will apply a daily periodic rate of finance charge to the daily balance of your loan account. This amount is added daily to accrued interest.

To compute the daily balance we will: (1) take your loan account balance at the beginning of each day and subtract any unpaid finance charges or any credit insurance premiums (if any) that are due; (2) subtract the portion of any payments or credits received that day that apply to the repayment of your loan account (We apply a portion of each payment to reduce any finance charges and credit insurance premiums that are due, if any.); and (3) add any new loans made that day (This gives us the daily balance.). The annual percentage rate includes interest but not other costs.

The daily periodic rate of **FINANCE CHARGE** is .03082 %.

This is equal to an **ANNUAL PERCENTAGE RATE** of 11.25 %.

If checked, the periodic rate and corresponding annual percentage rate described above are the initial rates which apply to this plan, and are based on the relationship between the base rate and the interest rate used for later rate adjustments. The initial rate will be in effect until the prime rate changes. At that time the rates will be subject to further adjustments and limitations, which are described below.

If checked, the periodic rate and corresponding annual percentage rate described above are the initial rates which apply to this plan, and are not based on the relationship between the base rate and the interest rate used for later rate adjustments. Had these rates been based on that relationship, the daily periodic rate of **FINANCE**

CHARGE would have been _____ % which would correspond to an **ANNUAL PERCENTAGE RATE** of _____ %. The initial rate will be in effect until _____. At that time the rates will be subject to further adjustments and limitations, which are described below.

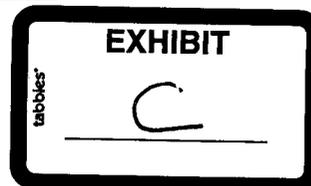
VARIABLE RATE: The annual percentage rate may change, and will be 1.75% above the following "base rate": highest U.S. Prime Rate as published daily in The Wall Street Journal "Money Rates" table. The annual percentage rate may increase if this "base rate" increases. An increase may take effect on Tuesday of each week. An increase will result in an increase in the finance charge and it may have the effect of increasing your periodic minimum payment. A decrease will have the opposite effect of an increase disclosed above.

If the base rate changes more frequently than the annual percentage rate, we will always use the base rate in effect on the day we adjust the annual percentage rate to determine the new annual percentage rate. In such a case, we will ignore any changes in the base rate that occur between annual percentage rate adjustments.

The "annual percentage rate" referred to in this section is the annual rate which corresponds to the periodic rate applied to the balance as described above. This corresponding **ANNUAL**

PERCENTAGE RATE will never exceed 18.00 %, and will never exceed the highest allowable rate for this type of agreement as determined by applicable state or federal law.

The **ANNUAL PERCENTAGE RATE** will never decrease below 8.50 %.



HOW YOU REPAY YOUR LOANS: If checked, on or before each payment date, you agree to make a minimum payment to reduce your debt. The minimum payment amount is the amount of earned finance charges and credit insurance premiums (if any) on the last day of the billing cycle, or \$ _____, whichever is greater.

HOW YOU REPAY YOUR LOANS: If checked, on or before each payment date, you agree to make a minimum payment to reduce your payment debt. The minimum payment amount is 1 % of the loan balance or the earned finance charges and credit insurance premiums (if any), or \$ 25.00, whichever is greater.

FINAL PAYMENT: On the maturity date listed on page 1, you must pay any remaining loan account balance. The minimum payment will not fully repay the principal that is outstanding on your line. At that time, you may have to pay the entire balance in a single balloon payment.

We are not obligated to refinance your loan at that time, but will consider your request to do so. If you refinance this account at maturity, you may have to pay some or all of the closing costs normally associated with a new loan even if you obtain financing from us.

ADDITIONAL REPAYMENT TERMS: If your loan account balance on a payment date is less than the minimum payment amount, you must pay only the loan account balance.

If you fail to make a payment, we may, but are not required to, advance money to you to make the payment. All the terms of this agreement would apply to such a loan.

You can pay off all or part of what you owe at any time. However, so long as you owe any amount you must continue to make your periodic minimum payment.

The amounts you pay will be applied first to any charges you owe other than principal and finance charges, then to any finance charges that are due, and finally to principal.

SECURITY: You agree that we have the right to subtract any loan account balance from any money that we must pay you (such as money in your savings or checking account). We may do so without notice to you, any time your debt is in default. (The conditions of default are explained on page 3 of this agreement.)

Under certain conditions, we will not subtract the money you owe us from the money we must pay you. For example: (1) if the money we must pay you is part of an IRA or a qualified retirement plan, (2) if your debt is from a consumer credit transaction under a credit or debit card plan, or (3) if prohibited by law.

To be sure that you pay us the money you may owe us under this plan, we have taken a security interest in the following collateral: (Describe by item or type.)

Real Estate at:

7715 IVERSON AVE S
COTTAGE GROVE, MN 55016

We have taken this security interest by way of a separate mortgage dated August 21, 2000.

You agree that the money you receive under this agreement will not be used to finance or refinance the purchase of any one-to-four-family dwelling that is used to secure this line of credit.

Any present or future agreement securing any other loan you have with us also will secure the payment of this loan. Property securing another loan will not secure this loan if such property is your principal dwelling and we fail to provide any required notice of right of rescission. Also, property securing another loan will not secure this loan to the extent such property is in household goods.

Filing fees \$ 191.64

You may buy property insurance from anyone you want who is acceptable to us, or you may provide the insurance through an existing policy. If you buy the insurance from or through us, your premium will be _____.

CREDIT INSURANCE: Credit life insurance and credit disability insurance are not required to obtain credit. We will provide no coverage unless you sign and agree to pay the additional cost. The rates listed below are applied to your average cycle balance to determine the premium you owe per billing cycle.

	TYPE	RATE
You <input checked="" type="checkbox"/> do <input type="checkbox"/> do not want	single credit life	<u>.615</u>
You <input type="checkbox"/> do <input type="checkbox"/> do not want	joint credit life	<u>1.026</u>
You <input checked="" type="checkbox"/> do <input type="checkbox"/> do not want	credit disability	<u>1.63</u>
Signature _____	Date _____	Signature _____
_____	_____	_____

CHANGING THE TERMS OF THIS AGREEMENT: Generally, we may not change the terms of this agreement. However, we may change the terms in the following circumstances:

- ◆ If this is a variable rate plan, we may change the index and margin if the original index described on page 1 becomes unavailable. Any new index will have changed in the past similar to the original, and, together with a new margin, will produce a similar interest rate.
- ◆ We may make changes that you have agreed to in writing.
- ◆ We may make changes that are of benefit to you.
- ◆ We may make changes to insignificant terms of this agreement.

Also, we may make these changes if the following things happen:

- ◆ We will increase the **ANNUAL PERCENTAGE RATE** N/A % if you leave your job with us.
- ◆ We will increase the margin N/A % if you leave your job with us.
- ◆ We will increase the **ANNUAL PERCENTAGE RATE** N/A % if you fail to maintain a qualifying minimum balance of \$ N/A in a savings account or money market account at our institution.
- ◆ We will increase the margin N/A % if you fail to maintain a qualifying minimum balance of \$ N/A in a savings account or money market account at our institution.
- ◆ We will refuse to make additional extensions of credit or we will reduce your credit limit if the maximum annual percentage rate is reached.

If we are required to send notice of a change in terms, we will send the notice to your address listed on page 1. (You should inform us of any change in address.)

ADDITIONAL CHARGES: You agree to pay the following additional charges:

- ◆ A late charge of 5.00 % of the minimum payment due if the payment is not paid in full within 15 days after it is due.
- ◆ Annually, on the anniversary date of the loan, if the loan proceeds were not accessed during the previous 12 month period, an annual fee of \$ n/a may be charged.
- ◆ Appraisal \$ _____; Official Fees \$ _____;
- ◆ Property Survey \$ _____; Title Search \$ _____;
- ◆ Credit Report Fees \$ _____; Title Insurance \$ _____;
- ◆ Documentation Preparation Fees \$ _____;
- ◆ Mortgage Registration Tax \$ _____;
- ◆ (Other) _____ \$ _____.

ATTORNEY'S FEES: You agree to pay all costs we have (including reasonable attorney's fees and court costs) to collect this debt (unless prohibited by law).

NOTICE: See page 3 for additional terms and for information about your rights in the event of a billing error.

SIGNATURES: By signing below, you agree to the terms of this agreement and you promise to pay any amounts you owe under this agreement. You also state that you received a completed copy of the agreement on today's date.

Signature _____
GARY L STEWART

Signature _____

By: TODD DRAGT, PERSONAL BANKER

ADDITIONAL TERMS

DEFAULT: If any of the following occur, you will be in default of this agreement:

- (1) You commit fraud or make a material misrepresentation in connection with this plan, for example, by making a false statement to us;
- (2) You do not pay us when you are supposed to pay us;
- (3) You act (or do not act when you should act) in such a way that the home which is the collateral for this plan is harmed or our rights in the home are harmed. Examples of this include among other things (a) you do not keep the home insured as required by this agreement, (b) you transfer the property to another, (c) you do not pay taxes on the property or otherwise allow a lien to be filed that is senior to our lien, (d) you die, (e) you use the property in a destructive manner or fail to keep the property in good condition, (f) your property is taken by eminent domain (basically, eminent domain is the legal right of the government to take your property for a public purpose, paying you the value of the property which is taken), (g) a judgement is filed against you or the property which would harm our interest in the property, or (h) someone who holds a lien which is prior to our lien forecloses on the property.

REMEDIES: If you default, we can close your account and make you pay the whole loan account balance immediately. We may charge you a closing fee (if a closing fee is provided for in our agreement), and we may charge you fees for collecting the balance. We may take action short of closing your account, such as charging you a fee if you fail to keep required insurance and we buy insurance. If we close your account and require you to pay the whole loan account balance immediately, we may use our right of set-off, unless prohibited.

If we choose not to use one of our remedies when you default, we do not lose our right to use them if you default again. In that case, we can still consider your actions as a default in the future.

SUSPENSION OF CREDIT AND REDUCTION OF CREDIT LIMIT: If the following conditions occur, we may suspend your right to obtain credit, or we may reduce your credit line.

- (1) The value of the home which secures this credit line falls significantly below its appraised value for purposes of this plan;
- (2) We reasonably believe you cannot make your payments due to a material change in your financial circumstances;
- (3) You are in default of a material obligation of this plan;
- (4) Government action stops us from imposing the annual percentage rate allowed by this plan;
- (5) The value of our security interest becomes less than 120% of the credit line because of governmental action;
- (6) The highest annual percentage rate under this plan is reached, if this term is included elsewhere in this agreement; or
- (7) A government agency has told us that continued advances would be an unsafe business practice.

If we suspend your right to additional advances or reduce your credit line, we will send you notice of our decision at the address listed in this contract. If our decision was based on an assessment of your financial status, you must ask us to review your status and reinstate your credit privileges if you think your status has improved.

CREDIT INFORMATION: You agree to supply us with whatever information we reasonably feel we need to decide whether to continue this plan. We agree to make requests for this information without

undue frequency, and to give you reasonable time in which to supply the information.

You authorize us to make or have made any credit inquiries we feel are necessary. You also authorize the persons or agencies to whom we make these inquiries to supply us with the information we request.

YOUR BILLING RIGHTS KEEP THIS NOTICE FOR FUTURE USE

This notice contains important information about your rights and our responsibilities under the Fair Credit Billing Act.

Notify Us In Case of Errors or Questions About Your Bill

If you think your bill is wrong, or if you need more information about a transaction on your bill, write us at the address listed on your bill. Write to us as soon as possible. We must hear from you no later than 60 days after we send you the first bill on which the error or problem appeared. You can telephone us, but doing so will not preserve your rights.

In your letter, give us the following information:

- ◆ Your name and account number.
- ◆ The dollar amount of the suspected error.
- ◆ Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are not sure about.

If you have authorized us to pay your bill automatically from your savings, checking or other account, you can stop the payment on any amount you think is wrong. To stop the payment your letter must reach us three business days before the automatic payment is scheduled to occur.

Your Rights and Our Responsibilities After We Receive Your Written Notice

We must acknowledge your letter within 30 days, unless we have corrected the error by then. Within 90 days, we must either correct the error or explain why we believe the bill was correct.

After we receive your letter, we cannot try to collect any amount you question, or report you as delinquent. We can continue to bill you for the amount you question, including finance charges, and we can apply any unpaid amount against your credit limit. You do not have to pay any questioned amount while we are investigating, but you are still obligated to pay the parts of your bill that are not in question.

If we find that we made a mistake on your bill, you will not have to pay any finance charges related to any questioned amount. If we didn't make a mistake, you may have to pay finance charges, and you will have to make up any missed payments on the questioned amount. In either case, we will send you a statement of the amount you owe and the date that it is due.

If you fail to pay the amount that we think you owe, we may report you as delinquent. However, if our explanation does not satisfy you and you write to us within ten days telling us that you still refuse to pay, we must tell anyone we report you to that you have a question about your bill. And, we must tell you the name of anyone we reported you to. We must tell anyone we report you to that the matter has been settled between us when it finally is.

If we don't follow these rules, we can't collect the first \$50 of the questioned amount, even if your bill was correct.

3119171



Office of the
County Recorder
Washington County, MN

Certified filed and/or recorded on:
2000/09/05 11:33:00 AM

3119171



Cindy Kosmann
County Recorder

Cindy Kosmann

WASHINGTON COUNTY
08-30-2000 Receipt No: 49682
Registration tax hereon of \$115.00 Paid
MN Conservation Fund M.S. 473H \$5.00 Paid
Virginia R. Erdahl, Auditor-Treasurer by DSimonet

1st Federal \$1950
201 Main St. So.
Hutchinson mn 55350-2573

MORTGAGE

(With Future Advance Clause)
For Revolving Line of Credit

1. **DATE AND PARTIES.** The date of this Mortgage (Security Instrument) is August 21, 2000 and the parties, their addresses and tax identification numbers, if required, are as follows:

MORTGAGOR:
GARY L STEWART, HUSBAND
DARLA J STEWART, WIFE
7715 IVERSON AVE S
COTTAGE GROVE, MN 55016

If checked, refer to the attached Addendum incorporated herein, for additional Mortgagors, their signatures and acknowledgments.

LENDER:

First Federal fsb
201 Main Street South
Hutchinson, MN 55350-2573

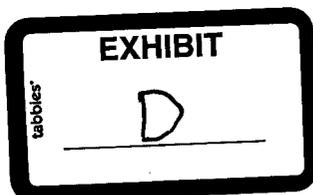
2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Mortgagor's performance under this Security Instrument, Mortgagor grants, bargains, sells, conveys and mortgages to Lender, with the power of sale, the following described property:

LOT 25, BLOCK 4, PINE TREE POND 5TH ADDITION

The property is located in WASHINGTON at
(County)
7715 IVERSON AVE S COTTAGE GROVE Minnesota 55016
(Address) (City) (ZIP Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, ditches, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

3. **MAXIMUM OBLIGATION LIMIT.** Notwithstanding anything to the contrary herein, the maximum principal indebtedness secured by this Security Instrument at any one time is \$ 50000.00
This limitation of amount does not include interest and any other amount advanced by Lender in protection of the Property or this Security Instrument including but not limited to taxes, assessments, charges, claims, fines, impositions, insurance premiums, amounts due under prior or superior mortgages and other prior or superior liens, encumbrances and interests, legal expenses and attorneys' fees.
4. **SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" is defined as follows:
A. Debt incurred under the terms of all promissory note(s), contract(s), guaranty(s) or other evidence of debt described below and all their extensions, renewals, modifications or substitutions. (You must specifically identify the debt(s) secured and you should include the final maturity date of such debt(s).)



Instrument is specifically referenced. If more than one person signs this Security Instrument, each Mortgagor agrees that this Security Instrument will secure all future advances that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others. All future advances are secured by this Security Instrument even though all or part may not yet be advanced. Nothing in this Security Instrument shall constitute a commitment to make additional future advances or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing

C. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

5. **MORTGAGE COVENANTS.** Mortgagor agrees that the covenants in this section are material obligations under the Secured Debt and this Security Instrument. If Mortgagor breaches any covenant in this section, Lender may refuse to make additional extensions of credit and reduce the credit limit. By not exercising either remedy on Mortgagor's breach, Lender does not waive Lender's right to later consider the event a breach if it happens again.

Payments. Mortgagor agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.

Prior Security Interests. With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagor agrees to make all payments when due and to perform or comply with all covenants. Mortgagor also agrees not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written approval.

Claims Against Title. Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagor may have against parties who supply labor or materials to maintain or improve the Property.

Property Condition, Alterations and Inspection. Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor shall not commit or allow any waste, impairment, or deterioration of the Property. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims and actions against Mortgagor, and of any loss or damage to the Property.

Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Mortgagor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

Authority to Perform. If Mortgagor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument.

Leaseholds; Condominiums; Planned Unit Developments. Mortgagor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

Condemnation. Mortgagor will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

Insurance. Mortgagor shall keep Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Security Instrument.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "loss payee clause." Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor.

Unless otherwise agreed in writing, all insurance proceeds shall be applied to the restoration or repair of the Property or to the Secured Debt, whether or not then due, at Lender's option. Any application of proceeds to principal shall not extend or postpone the due date of the scheduled payment nor change the amount of any payment. Any excess will be paid to the Mortgagor. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

Financial Reports and Additional Documents. Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Security Instrument and Lender's lien status on the Property.

6. **WARRANTY OF TITLE.** Mortgagor warrants that Mortgagor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to grant, bargain, convey, sell and mortgage, with the power of sale, the Property. Mortgagor also warrants that the Property is unencumbered, except for encumbrances of record.

(page 2 of 4)

Loan Application



- Check appropriate box.
- If you are applying for individual credit in your own name and are relying on your own income or assets and not the income or assets of another person as the basis for repayment of the credit requested, complete Section A, C, & D omitting B.
 - If this is an application for joint credit with another person, complete all Sections, providing information in B about the joint applicant.
 - If you are applying for individual credit, but are relying on income from alimony, child support, or separate maintenance or on the income or assets of another person as the basis for repayment of the credit requested, complete all Sections to the extent possible, providing information in B about the person on whose alimony, support, or maintenance payments or income or assets you are relying.

Application # 22794 Loan # _____ Date: 8-30-00

SECTION A—INFORMATION REGARDING APPLICANT

PURPOSE <u>100,000 Heloc for Auto Dirship</u>	APP. TAKEN BY <u>TED</u>	<input checked="" type="checkbox"/> IN PERSON <input type="checkbox"/> TELEPHONE	<input type="checkbox"/> BY MAIL <input type="checkbox"/> OTHER
AMOUNT	AGE	D.O.B. <u>6/18/45</u>	SOC. SEC. NO. <u>360 34 1804</u>
APPLICANT'S NAME <u>Gary Stewart</u>	STATE	ZIP <u>55016</u>	PHONE <u>651 459 2766</u>
ADDRESS & LGTH <u>7715 Iverson Av S Cottage Grove 251 mn</u>	DATE EMPLOYED <u>14058/m</u>	PHONE <u>612 851 7000</u>	
EMPLOYER <u>American Ford GM</u>	PREV. EMPLOYER & LGTH. (If with present employer less than 2 years)		
PREV. ADDRESS & LGTH. (If at present address less than 2 years)			

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.
 Alimony, child support, separate maintenance received under: Court Order Written Agreement Oral Understanding

SECTION B—INFORMATION REGARDING JOINT APPLICANT OR OTHER PARTY

APPLICANT'S NAME	AGE	D.O.B.	SOC. SEC. NO.
ADDRESS & LGTH. (If spouse, # of dependents)	STATE	ZIP	PHONE
EMPLOYER ADDRESS	DATE EMPLOYED	SALARY	PHONE

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.
 Alimony, child support, separate maintenance received under: Court Order Written Agreement Oral Understanding

MARITAL STATUS: (NOT APPLICABLE IF INDIVIDUAL AND UNSECURED CREDIT.)

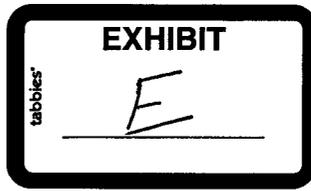
Applicant: Married Separated Unmarried (including single, divorced, and widowed)
 Other Party: Married Separated Unmarried (including single, divorced, and widowed)

SECTION C—ASSET AND DEBT INFORMATION (If Section B has been completed, this Section should be completed giving information about both the Applicant and Joint Applicant or Other Person. Please mark Applicant-related information with an "A." If Section B was not completed, only give information about the Applicant in this Section.) Personal financial statement is attached when applicable.

NAME OF CREDITOR	PURPOSE COLLATERAL	DATE MADE	ORIG. AMOUNT	TERM/PAYMENT	LAST PAID	NEXT DUE	BALANCE
<u>Speedway</u>				<u>20</u>			<u>98</u>
<u>Target</u>				<u>39</u>			<u>760</u>
<u>Wells Fargo</u>				<u>89</u>			<u>4476</u>
<u>EBS Card</u>				<u>150</u>			<u>3614</u>
<u>EBS Line</u>				<u>256</u>			<u>24960</u>
<u>FirstStar Heloc</u>				<u>185</u>			<u>76735</u>
<u>Best Buy</u>				<u>10</u>			<u>144</u>
<u>FirstStar</u>				<u>1724</u>			<u>182000</u>
<u>First Federal 730035634</u>							<u>28,000</u>
MORTGAGE OR RENT <u>Bank America</u>				<u>916</u>			<u>80042</u>
LANDLORD OR MTG. HOLDER/ADDRESS	INSURANCE CO. & AGENT/PHONE		RETAIL VALUE <u>185,000</u>		LOAN VALUE		
	COMP _____	COLL _____					

SECTION D - SECURED CREDIT

Conforms: Conslnap Rev 3/99



PERSONAL FINANCIAL STATEMENT

DEPOSIT/CASH-ON HAND		OWED TO	
LIFE INS. (CASH VALUE)			
STOCK			
REAL ESTATE OWNED		REAL ESTATE MTG.	
PERSONAL PROPERTY			
VEHICLES			
		TOTAL LIABILITIES	
		N/W	
TOTAL ASSETS		TOTAL ASSETS	

LOAN DATE 9-1 MTG. REG. TAX 103.50
Sat
 INTEREST DATE 9-7 FILING FEE 24.50
PIP 39.14
 RELEASE FEE _____ OTHER Appraised 325.00

REAL ESTATE INFORMATION

ABSTRACT _____
 TORRENS _____
 INS. AMT. _____

Everything that I have stated in this application is correct to the best of my knowledge. I understand that you will retain this application whether or not it is approved. You are authorized to check my credit and employment history and to answer questions about your credit experience with me. I (We) hereby acknowledge that First Federal has not given me (us) any tax advice pertaining to consumer or real estate loans. Should you require any tax information or advice concerning these matters, we recommend you contact an attorney or accountant.

Applicant's Signature _____

Other Signature (Where applicable) _____

INFORMATION FOR GOVERNMENT MONITORING PURPOSES

The following information is requested by the Federal Government for certain types of loans related to a dwelling in order to monitor the lender's compliance with equal credit opportunity, fair housing, and home mortgage disclosure laws. You are not required to furnish this information, but are encouraged to do so. The law provides that a lender may not discriminate on the basis of this information, or on whether you choose to furnish it. However, if you choose not to furnish the information and you have made this application in person, under Federal regulations the lender is required to note race or national origin and sex on the basis of visual observation or surname. If you do not wish to furnish the information, please check below.

APPLICANT:

I do not wish to furnish this information.

Race or National Origin:

- American Indian, Alaskan Native
- Asian, Pacific Islander
- Black
- Hispanic
- White
- Other (specify): _____

Sex:

- Female Male

CO-APPLICANT:

I do not wish to furnish this information.

Race or National Origin:

- American Indian, Alaskan Native
- Asian, Pacific Islander
- Black
- Hispanic
- White
- Other (specify): _____

Sex:

- Female Male

NOTE INFORMATION

First Fed \$ 28,000
 _____ \$ _____
 _____ \$ _____
 _____ \$ _____
 _____ \$ _____
 _____ \$ _____
 _____ \$ _____
 NET PROCEEDS \$ 28,000
 CREDIT LIFE \$ _____
 DISABILITY \$ _____
 FEE \$ _____
 AMOUNT FINANCED \$ 75,000
 INTEREST \$ _____
 TOTAL OF PAYMENTS \$ _____
 APR 11.25
 PMTS. OF \$ _____

COMMENCING _____

COMMENTS:

*Need copy of deed
 8/30 if John does not have to us
 by 8/31
 Wife-collateral owner Dula J. Stewart
 Modification of loan # 73 0035634 Plan 82
 we to pay for all fees.
 copy of flood insurance should be in open file 7/12*

**PROPERTY OWNER(S) AFFIDAVIT
FOR FIRST FEDERAL FSB (LENDER)**

OWNER(S) GARY L. STEWART & DARLA J. STEWART

PROPERTY ADDRESS 7715 IVERSON AVE S COTTAGE GROVE, MN 55016

The owner(s) is (are) the sole owner(s) of property. Yes No

Title to this residence is held as _____ Individual _____ Husband and Wife Two or more unrelated persons.

(If held as _____ Trust _____ Land Contract Life Estate, refer copy of the Trust, Land Contract or Life Estate state document to underwriting)

OCCUPANCY:

This residence is a one to four family dwelling, and occupied as a principal residence.

Yes No

If not a principal residence, the property is a vacation home occupied by owners.

Yes No

The only liens against this residence are as follows:

<u>LENDERS OR OTHER LIENHOLDER</u>	<u>BALANCE OWED</u>
First Lien <u>Bank America</u>	\$ <u>80,000</u>
Second Lien _____	\$ _____
Third Lien _____	\$ _____

We (I) certify the following:

All real estate taxes and assessments which are due and payable are paid in full.

This Property is free of State Federal tax liens.

This Property is free of judgments.

We (I) have not filed bankruptcy in the past 90 days.

This Affidavit is given to induce

FIRST FEDERAL FSB (Lender) to make the loan and THE EMPIRE INDEMNITY INSURANCE COMPANY to issue its Processors Liability Policy. We (I) state that the above information is true and complete and understand that any intentional or negligent misrepresentation(s) of the information contained in this Affidavit may result in civil liability and/or criminal penalties including, but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code. Section 1001. Et seq. And liability for monetary damages to Lender, its agents, successors and assigns, insurers and any other person who may suffer any loss in reliance upon any misrepresentations when made in this Affidavit.

Signature:

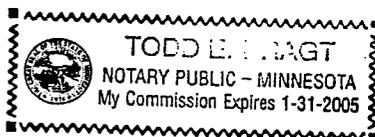
Owner(s) _____

Owner's Spouse Darla J. Stewart

Subscribed and sworn to before me this 1st day of September 2003 Notary Public _____

My commission expires _____

Original for Loan File
Copy for Borrower



H:\installment\afidavit.doc

FIRST FEDERAL fsb
HOME EQUITY LINE OF CREDIT AMENDMENT

Stewart

Date 09/01/00 Loan Account No. 73-003563-4 Plan # 82

In this Amendment, the word "I" means each and all of the Borrowers who sign below. The words "you" and "your" mean First Federal fsb. You and I agree that:

1. Agreement. You and I have a Line of Credit Agreement dated 08/21/2000.

2. Changes. Please place an "X" next to the options that apply:

A. Change maturity date. The purpose of this Amendment is to change the maturity date on which I must pay you in full the principal balance plus the FINANCE CHARGE under the Line of Credit Agreement. The maturity date is changed from to .

B. Variable Rate. The annual percentage rate which is now 9.50 may change, and will be above the following "base rate": highest U.S. Prime Rate as published daily in the Wall Street Journal "Money Rates" table. The annual percentage rate may increase if this "base rate" increases. An increase may take effect on Tuesday of each week. An increase will result in an increase in the finance charge and it may have the effect of increasing your periodic minimum payment. A decrease will have the opposite effect of an increase disclosed above.

If the base rate changes more frequently than the annual percentage rate, we will always use the base rate in effect on the day we adjust the annual percentage rate to determine the new annual percentage rate. In such a case, we will ignore any changes in the base rate that occur between annual percentage rate adjustments.

The "annual percentage rate" referred to in this section is the annual rate which corresponds to the periodic rate applied to the balance as described above. This corresponding ANNUAL PERCENTAGE RATE will never exceed 18.00 %, and will never exceed the highest allowable rate for this type of agreement as determined by applicable state or federal law.

The ANNUAL PERCENTAGE RATE will never decrease below 7.50 %.

C. Minimum Advance \$ N/A

D. How to repay your loan.

If checked, on or before each payment date, you agree to make a minimum payment to reduce your debt. The minimum payment amount is the amount of earned finance charges and credit insurance premiums (if any) on the last day of the billing cycle, or \$25.00, whichever is greater.

If checked, on or before each payment date you agree to make a minimum payment to reduce your payment debt. The minimum payment amount is % of the loan balance or the earned finance charges and credit insurance premiums (if any) or \$, whichever is greater.

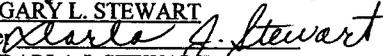
E. Home Equity Line of Credit INCREASE – The original line of credit amount of \$50,000.00 has been INCREASED to \$95,000.00.

3. Other Charges. I am paying you the following other charges at this time:

Mortgage Registry Tax	\$	<u>103.50</u>
Abstract Fee	\$	<u> </u>
Appraisal Fee	\$	<u> </u>
Filing Fee	\$	<u> </u>
Document Preparation	\$	<u> </u>
Title Insurance	\$	<u>39.14</u>
Credit Report Fee	\$	<u> </u>
Recording Ext. Mtg	\$	<u> </u>
Title Opinion	\$	<u> </u>
Recording Modification	\$	<u>19.50</u>
Total Other Charges	\$	<u>330.00</u>



4. Other Agreements. All other provisions of the Line of Credit Agreement remain the same. This Amendment is subject to your bylaws, rules, and regulations, which may be amended from time to time. This Amendment is governed by Minnesota law.

Borrower 
Name GARY L. STEWART
Borrower 
Name DARLA J. STEWART

First Federal fsb

By 
Title Branch Manager

3132312



Office of the
County Recorder
Washington County, MN

Certified filed and/or recorded on:
2000/12/06 10:44:00 AM

3132312



Cindy Kocsmann
County Recorder

By: *Cindy Kocsmann*

WASHINGTON COUNTY

12/4/00 Receipt No: 54825
Registration tax hereon of \$103.50 Paid
MN Conservation Fund M.S. 473H \$5.00 Paid
Virginia R. Erdahl, Auditor-Treasurer by KHaan

1st Federal

1990

HOME EQUITY LOAN MODIFICATION AGREEMENT

This Loan Modification Agreement ("Agreement"), made this 1ST day of SEPTEMBER, 2000, between GARY L. STEWART, HUSBAND AND DARLA J. STEWART, WIFE ("Borrower") and First Federal fsb ("Lender") amends and supplements (1) the Mortgage, Deed of Trust or Deed to Secure Debt (the Home Equity Line of Credit Agreement "Note"), dated 8/21/2000, and recorded as document 3119171 in Book ***, page(s) ***** at the County WASHINGTON and (2) the Note bearing the same date as, and secured by, the Security Instrument, which covers the real and personal property described in the Security Instrument and defined therein as the "Property", located at the real property described being set forth as follows:

LOT 25, BLOCK 4, PINETREE POND 5TH ADDITION

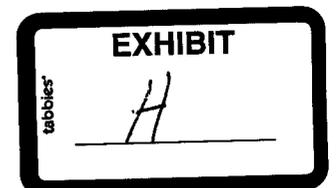
In consideration of the mutual promises and agreements exchanged, the parties hereto agree as follows (notwithstanding anything to the contrary contained in the Note or Security Instrument):

2. As of 09/01/2000, the amount payable under the Note and Security Instrument (the "Unpaid Principal Balance") is modified to a maximum, not to exceed NINETY FIVE THOUSAND AND NO/100 -----U.S. \$ 95,000.00.

3. Nothing in this Agreement shall be understood or construed to be a satisfaction or release in whole or in part of the Note and Security Instrument. Except as otherwise specifically provided in this Agreement, the Note and Security Instrument will remain unchanged, and the Borrower and Lender will be bound by, and comply with, all of the terms and provisions thereof, as amended by this Agreement.

4. As used herein, "Lender" refers to the original Lender named above and to any subsequent Note Holder, as defined in the Note.

5. When the mortgage was recorded, mortgage registration tax was paid on a principal amount of \$ 50,000.00 (Receipt No.). As stated above, now the principal amount secured by the Mortgage is being increased, so upon recording of this Amendment mortgage registration tax on the additional amount of \$ 45,000.00, is being paid.



In witness whereof, the parties have executed this Agreement.

[Handwritten signature of Gary L. Stewart]

GARY L. STEWART

[Handwritten signature of Darla J. Stewart]

DARLA J. STEWART

FIRST FEDERAL fsb

BY: *[Handwritten signature of Gregg S. Sainsbury]*
ITS V. P.

BY: *[Handwritten signature of Dale O. Ortloff]*
ITS CONTROLLER

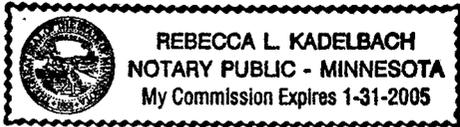
STATE OF MINNESOTA
COUNTY OF Renville

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 1ST
DAY OF SEPTEMBER, 2000 BY GREGG S. SAINSBURY

AND DALE O. ORTLOFF
THE V. P. AND CONTROLLER OF FIRST
FEDERAL FSB, A CORPORATION UNDER THE LAWS OF THE UNITED STATES OF
AMERICA, ON BEHALF OF THE CORPORATION.

MY COMMISSION EXPIRES:

[Handwritten signature of Rebecca L. Kadelbach]
NOTARY PUBLIC



STATE OF MINNESOTA
COUNTY OF _____

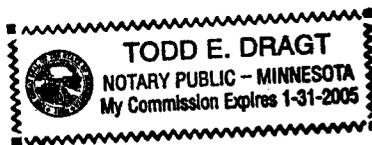
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 1ST
DAY OF SEPTEMBER, 2000 BY GARY L. STEWART, HUSBAND
AND DARL A J. STEWART, WIFE, TO ME KNOW TO BE THE PERSONS
DESCRIBED IN AND WHO EXECUTED THE FOREGOING INSTRUMENT, AND
ACKNOWLEDGED THAT THEY EXECUTED THE SAME AS THEIR FREE ACT AND
DEED.

MY COMMISSION EXPIRES:

NOTARY PUBLIC



This document was drafted by:
First Federal fsb
201 Main Street
Hutchinson MN 55350



ZC SPECIALTY INSURANCE COMPANY

PROCESSORS LIABILITY POLICY

1. INSURING AGREEMENT

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the Insurer, including the statements made in the Application, and subject to all the terms, conditions, limitations and exclusion provisions of this Policy, the Insurer agrees to indemnify the **Insured** for **Loss** resulting from a **Mortgage Lending Wrongful Act** in connection with its **Mortgage Lending Activities**.

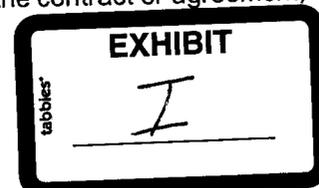
2. DEFINITIONS

- (a) **Company** means the entity named in Item 1. of the Declarations.
- (b) **Extended Reporting Periods** means the period shown in Item 7. of the Declarations from the date of origination of each **Mortgage** made during the **Policy Period**.
- (c) **Insured** means the **Company** and any **Subsidiary** of the **Company** as of the effective date of this Policy if such **Subsidiary** is named in the Application.
- (d) **Loss(es)** means the unpaid principal and accrued interest on the loan as of the date of default by the borrower. This does not include any late charges or penalty interest. **Loss** shall not include:
 - (1) interest, fees or other monies accruing after notice of **Loss** pursuant to Clause 7. of the Policy; or
 - (2) taxes, fines or penalties; or
 - (3) matters which may be deemed uninsurable under the law pursuant to which this Policy is construed; or
 - (4) any amount to which the **Insured** is not legally entitled.
- (e) **Mortgage(s)** means an agreement which conveys property to the **Insured** for debt according to specific terms and is evidenced by a deed of trust; contract for deed; loan contract; or a contract for sale originated during the **Policy Period**.
- (f) **Mortgage Lending Wrongful Act(s)** means any actual and material error, neglect, omission, or breach of duty in the actual performance of, or failure to perform, any **Mortgage Lending Activities**.
- (g) **Mortgage Lending Activities** means those activities performed or required to be performed pursuant to Clause 9. (k) of the Policy.
- (h) **Policy Period** means the period from the effective date to the expiration date shown in Item 2. of the Declarations or to any earlier date of termination.
- (i) **Policy Year** means the period of one year following the effective date and hour of this Policy or any anniversary thereof, or if the time between the effective date or any anniversary and termination of the **Policy Period** is less than one year, such lesser period.
- (j) **Preliminary Premium** means the initial premium paid by the **Insured** on a provisional basis pending a premium adjustment.
- (k) **Subsidiary** means any corporation in which the **Company** owns more than fifty percent (50%) of the voting stock, whether directly or indirectly through one or more of its **Subsidiaries**.

3. EXCLUSIONS

The Insurer shall not be liable to make any payment for **Loss**:

- (a) for any liability of others assumed by the **Insured** under any contract or agreement, either oral or in writing, unless the liability would have attached in the absence of the contract or agreement;



- (b) for any actual or alleged bodily injury, mental anguish, emotional distress, sickness, disease or death of any person, or damage to or destruction of any property, including loss of use thereof, or libel, slander, defamation, false arrest, detention or imprisonment, malicious prosecution, violation of any right of privacy, wrongful entry or eviction or other invasion of any right of private occupancy.
- (c) for any intentional misconduct, or any dishonest, fraudulent or criminal act or omission, or any willful violation of any common or statutory law or regulation by the **Insured**, or by any person for whose actions the **Insured** is legally responsible;
- (d) for any conflict of interest or the gaining of any profit or advantage to which the **Insured**, or any person for whose actions the **Insured** is legally responsible, was not legally entitled;
- (e) from any facts, circumstances, situations, transactions or events which have been the subject of any notice given under any other policy of insurance prior to the effective date of this Policy;
- (f) with respect to any **Subsidiary**, based upon or attributable to or arising from any **Mortgage Lending Wrongful Act** committed during any time in which such entity is not or was not a **Subsidiary**;
- (g) for:
 - (1) any actual, alleged or threatened exposure to or generation, transportation, discharge, emission, dispersal, release, escape, treatment, storage, removal or disposal of any **Pollutants** or other irritants or contaminants; or
 - (2) any regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize any **Pollutants**, or any action taken in contemplation or anticipation of any such regulation, order, direction or request;

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, toxic chemicals and waste materials, including materials which are intended to be or have been recycled, reconditioned or reclaimed, or any other similar substance of any kind or nature whatsoever.
- (h) for any dispute involving fees, commissions, costs or other charges for any **Mortgage Lending Activities**;
- (i) from any purchase money **Mortgage**;
- (j) for any **Mortgage** whose priority position is not lower than its priority position when recorded. This exclusion does not apply to **Mortgages** whose priority position is the same as or higher than when recorded because of the satisfaction of a lien;
- (k) from any property interest which was recorded after origination of a **Mortgage**, unless State Law deems that property interest to have a higher priority than the **Mortgage**;
- (l) from any holders of equity interest in the collateral which was recorded after the origination of a **Mortgage**, unless State Law deems that equity interest to have a higher priority than the **Mortgage**;
- (m) from any collection expenses or penalty charges that are assessed under any financing contract;
- (n) from any bookkeeping, accounting or billing errors or omissions;
- (o) from any late payment or past due amounts;
- (p) from any amounts due from the mortgagor because of any bankruptcy or similar legal proceeding;
- (q) from any costs or expenses incurred in determining the validity or superiority of any security interest;
- (r) for the costs of foreclosure including any amounts the **Insured** must pay for liens, judgments, or easements in order to take possession of collateral property;
- (s) for any loan or line of credit that is unsecured or secured by personality;
- (t) for any loan other than an equity line or equity loan or consumer loan secured by realty;

- (u) from any stocks, bonds, notes, and other evidences of indebtedness;
- (v) for any **Mortgage** secured by collateral that is other than a 1-4 family dwelling.

4. PER MORTGAGE LIMIT; AGGREGATE LIMIT OF LIABILITY

The Per Mortgage Limit shown in Item 3. of the Declarations applies per **Mortgage**. It is the most the Insurer will pay for any **Loss**.

The Aggregate Limit of Liability of the Insurer shall be the amount stated in Item 4. of the Declarations, which amount, regardless of the time of payment by the Insurer, shall be the maximum liability of the Insurer for all **Loss** resulting from all **Loss** in the **Policy Period**. The Aggregate Limit of Liability shall apply regardless of the number of persons and entities included within the definition of **Insured**, the number of **Loss** or the number of persons or entities discovering a **Loss**.

The liability of the Insurer for all **Loss** resulting from all **Claims** made during the **Extended Reporting Periods**, if applicable, shall be part of, and not in addition to, the Aggregate Limit of Liability of the Insurer in the **Policy Year** which terminates at the inception of the **Extended Reporting Periods**.

Loss based upon or arising out of, directly or indirectly resulting from, in consequence of, or in any way involving the same or related **Mortgage Lending Wrongful Act**, facts, circumstances, situations, transactions or events, or the same or related series of **Mortgage Lending Wrongful Act**, facts, circumstances, situations, transactions or events shall be deemed to be a single **Loss**, which shall be deemed to have been made when the earliest such **Loss** was first made.

5. DEDUCTIBLE PER LOSS; DEDUCTIBLE ANNUAL AGGREGATE

The Deductible shown in Item 5. of the Declarations applies per **Loss**. Each **Loss** is adjusted separately and the Deductible is subtracted from the adjusted amount.

The Deductible Annual Aggregate shall be the amount stated in Item 6. of the Declarations, which amount, regardless of the number of Deductible payments by the **Insured**, shall be the maximum payment by the **Insured** for all **Loss** resulting from all **Loss** in the **Policy Period**. The Deductible Annual Aggregate shall apply regardless of the number of entities included within the definition of **Insured**, the number of **Loss(es)** or entities discovering a **Loss**.

Once the Deductible Annual Aggregate amount shown in Item 6. of the Declarations is satisfied, the Insurer shall be liable for all **Loss** up to the Annual Aggregate Limit of Liability.

6. EXTENDED REPORTING PERIODS

The **Company** shall have the right to an **Automatic Extended Reporting Period** and an **Optional Extended Reporting Period** as follows:

(a) Automatic Extended Reporting Period

The **Company** shall have the right to an extension of the coverage otherwise provided under this Policy with respect to any **Loss** during the period of sixty (60) months from the date of origination of each **Mortgage** made during the **Policy Period**, (the **Automatic Extended Reporting Period**), but only with respect to any **Mortgage Lending Wrongful Act** committed during the **Policy Period**.

(b) Optional Extended Reporting Period

The **Company** shall have the right, upon payment of additional premium, to purchase an extension of an additional sixty (60) months of the coverage otherwise provided under this policy with respect to any **Loss** during the period shown in Item 7b. of the Declarations from the date of origination of each **Mortgage** made during the **Policy Period**, (the **Optional Extended Reporting Period**), but only with respect to any **Mortgage Lending Wrongful Act** committed during the **Policy Period**. The right to purchase the **Optional Extended Reporting Period** shall terminate unless written notice is given to the Insurer, together with payment of the appropriate premium, within thirty (30) days after the expiration date of the **Policy Period**.

7. NOTICE OF MORTGAGE LENDING WRONGFUL ACT, CIRCUMSTANCES OR LOSS

(a) If, during the **Policy Period** or the **Extended Reporting Period**, the **Insured**:

- (1) discovers a specified **Mortgage Lending Wrongful Act**, or becomes aware of facts or circumstances which may subsequently give rise to a **Mortgage Lending Wrongful Act**; and
- (2) the **Mortgage** originated in conjunction with the **Mortgage Lending Wrongful Act** is in default;

then the **Insured** shall provide written notice thereof to the Insurer as soon as practicable and prior to the date of termination of the **Policy Period** or the **Extended Reporting Periods**, specifying with particularity the **Mortgage Lending Wrongful Act**, the consequences which have resulted or may result therefrom and the circumstances by which the **Insured** first became aware thereof.

- (b) The **Insured** must, as a condition precedent to its rights under this Policy, give the Insured written notice of any **Loss** as soon as practicable, but in any event not later than thirty (30) days after the date of termination of the **Policy Period** or before the expiration of the **Extended Reporting Period**, and such information and cooperation as the Insurer may reasonably require.
- (c) Notice hereunder shall be given to the Insurer at the address shown in Item 10. of the Declarations.
- (d) As soon as practicable, after giving notice required in Clause 7.(a) of the Policy, the **Insured** shall provide, the Insurer with a signed, sworn proof of **Loss** which sets forth to the best of the **Company's** knowledge and belief all **Loss** incurred as a result of the **Mortgage Lending Wrongful Act** and copies of all reports, investigations, and other papers in connection therewith.

8. REPORTS AND COMPUTED PREMIUM

(a) Reports: The **Insured** must file with the Insurer a Mortgage Lending Activities report within 15 days after the end of each period specified in Item 8.(b) of the Declarations; and the Policy's expiration or termination date.

Each report must show the **Insured's** security interest on all **Mortgages** originated during the **Policy Period**, including the total number and amount of each equity line of credit loan; and closed end consumer loan.

With the Insurer's prior approval, the **Insured** may report **Mortgages** originated prior to the **Policy Period**. The Insurer will use these reports to figure the earned premium.

If at the time of **Loss** the **Insured** has failed to submit any required reports, the Insurer will only pay for **Loss** on **Mortgages** reported in the last report filed before the **Loss**. The **Insured** may not correct inaccurate reports after a **Loss**.

(b) Computed Premium: The premium shown in Item 8. of the Declarations as a **Preliminary Premium** will be applied to earned premium. Earned Premium will be determined at each period or at policy termination by using the applicable rates on reported values.

9. GENERAL CONDITIONS

(a) Acquisitions, Creations and Assumptions

In the event, during the **Policy Period**, the **Company** acquires or creates a **Subsidiary** or acquires or assumes any assets or liabilities which, in either event, represent an increase of more than twenty five percent (25%) of the total assets or liabilities, respectively, of the **Company** (as reflected in its most recent consolidated financial statement), written notice thereof shall be given to the Insurer as soon as practicable after the acquisition together with a revised application, along with a report of **Mortgages** and premium. There shall be no coverage for **Loss** in connection with any **Loss** based upon or attributable to or arising from such acquired or assumed assets or liabilities or acquired or created **Subsidiary** unless:

- (1) written notice thereof shall be given to the Insurer as soon as practicable after the date of acquisition, assumption or creation, together with a revised application, along with a report of **Mortgages** and the premium, and
- (2) the **Company** accepts any terms, conditions and limitations of coverage and pays such additional premium as the Insurer, in its sole discretion, may require, and

(3) the Insurer agrees, in writing, to provide such coverage subject to any terms, conditions and limitations it deems necessary.

(b) Acquisition of the Insured

Upon the occurrence of any of the following events during the **Policy Period**:

- (1) the acquisition of the **Company** by another entity; or
- (2) the acquisition of fifty percent (50%) or more of the issued and outstanding voting securities representing the present right to vote for the election of directors of the **Company** by any person, entity or affiliated group of persons or entities; or
- (3) the acquisition, divestiture or sale of more than fifty percent (50%) of the assets or liabilities of the **Company** (as reflected in its most recent consolidated financial statement) by or to any entity or affiliated group or entities; or
- (4) the appointment of a receiver, conservator, trustee, liquidator or rehabilitator, or any similar official, for or with respect to the **Company** or any **Subsidiary**; or
- (5) the merger or consolidation of the **Company** into or with another entity such that the **Company** is not the surviving entity;

coverage under this policy shall continue in full force and effect with respect to **Loss for Mortgage Lending Wrongful Act(s)** committed or allegedly committed before such event, but coverage shall cease with respect to **Loss for Mortgage Lending Wrongful Act(s)** committed or allegedly committed after such event.

After any such event, the policy may not be terminated or cancelled except as provided for in Clause 9. (g)(2) of the Policy until the expiration date of the **Policy Period** shown in Item 2. of the Declarations, and the entire premium for the policy becomes fully earned.

Occurrence of any of the foregoing events shall not affect the right of the **Company** to purchase the **Optional Extended Reporting Period** under Clause 6.(b) **Extended Reporting Periods**, except when all premium due for the remainder of the **Policy Period** is not fully paid within thirty (30) days of the effective date of such event, in which case:

- a. there will be no right to purchase the **Optional Extended Reporting Period**, under Clause 6.(b) of the Policy **Extended Reporting Periods**, and
- b. notwithstanding the foregoing, the Policy shall be deemed terminated at the end of the **Policy Year** in which such event occurred.

(c) Action Against Insurer

No action shall be taken against the Insurer unless, as a condition precedent thereto, there shall have been full compliance with all the terms of this Policy and the action is started within one year after notice of **Mortgage Lending Wrongful Act**, circumstances or **Loss**, pursuant to Clause 7. of the Policy.

No person or organization shall have any right under this Policy to join the Insurer as a party to any action against the **Insured** to determine a **Mortgage Lending Wrongful Act** by the **Insured**, nor shall the Insurer be impleaded by the **Insured** or their legal representative. Bankruptcy or insolvency of an **Insured** or of an **Insured's** estate shall not relieve the Insurer of any of its obligations hereunder.

(d) Appraisal

In case the **Insured** and the Insurer shall fail to agree as the amount of the **Loss**, then on written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 30 days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then, on request of the **Insured** or the Insurer, such umpire shall be selected by a judge of a court of record in the state in which the **Insured** is located. The appraisers shall then appraise the loss, stating separately the loss; and failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two, when filed with the Insurer shall determine the amount of **Loss**. Each appraiser shall be paid by the party selecting him and

the expenses of appraisal and umpire shall be paid by the parties equally.

(e) Assignment

No assignment of interest under this Policy shall bind the Insurer without its consent.

(f) Audit

The Insurer shall be permitted but not obligated to audit the **Insured** operations at any time. Neither the Insurer's right to audit nor the conducting thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the **Insured** or others, to determine that such operations are in compliance. The Insurer may examine and audit the **Insured's** books and records at any time during the **Policy Period** and extensions thereof and within three years after the final termination of this Policy, as far as they relate to the subject matter of this insurance.

(g) Cancellation

(1) Except as provided in Clause 9(b) of the Policy, this Policy may be canceled by the **Company** by surrender thereof to the Insurer or any of its authorized agents or by mailing to the Insurer written notice stating when thereafter the cancellation shall be effective.

(2) This policy may not be canceled by or on behalf of the Insurer except for failure to pay a premium when due.

The mailing of such notice shall be sufficient proof of notice. This Policy shall terminate and the **Policy Period** shall end at the date and hour specified in such notice.

If this Policy is canceled by the **Company**, the Insurer shall retain the customary short rate portion of the premium. Payment or tender of any unearned premium by the Insurer shall not be a condition precedent to the effectiveness of cancellation but such payment shall be made as soon as practicable.

If the period of limitation relating to the giving of notice is prohibited or made void by any law controlling the construction thereof, such period shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

(h) Changes

Notice to any agent or knowledge possessed by any agent or other person acting on behalf of the Insurer shall not effect a waiver or change in any part of this Policy or estop the Insurer from asserting any right under the terms and conditions of this Policy; nor shall any terms or conditions of this Policy be waived or changed except by written endorsement issued to form a part of this Policy.

(i) Concealment or Fraud

This entire Policy shall be void if, whether before or after a **Loss**, the **Insured** has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof or the interest of the **Insured** therein, or in case of any fraud or false swearing by the **Insured** relating thereto.

(j) Exhaustion of Limits

The exhaustion of the Annual Aggregate Limit of Liability by payment of **Loss** terminates and extinguishes any and all obligations and responsibilities of any kind or nature whatsoever of the Insurer under this Policy.

(k) Loan Origination

With respect to **Mortgages** to which this coverage applies, the **Insured** warrants in addition to undertaking all customary procedures to close **Mortgages**, and agrees to:

(1) obtain the property tax bill that lists the names in which the ownership of the warranty deed is vested, property street address, partial legal description and tax key number or review the first purchase **Mortgage** agreement;

- (2) acquire and review a recent credit bureau report within 60 days of the mortgage origination that lists outstanding **Mortgage(s)**, judgments, liens and the property address; and
- (3) secure an owners affidavit that will illustrate good title;
- (4) keep accurate records of the number of **Mortgage(s)** for the collateral property and their fair market value for foreclosed property and retain them for two years after the **Extended Reporting Period** ends;
- (5) present the **Mortgage** for filing with the proper public authority; and
- (6) follow prudent underwriting standards.

(l) Notice and Authorization

Notice from the Insurer shall be given to the **Company** in care of the person specified in Item 1. of the Declarations. The **Insured** agrees that such person is authorized to receive any and all notices hereunder.

The entity named in Item 1. of the Declarations agrees to act on behalf of the **Insured** with respect to all matters under this Policy, including but not limited to the giving of notice to the Insurer as required herein, the payment of premiums and the receiving of any return premiums that may become due under this Policy. All entities included within the definition of **Insured** agree that the entity named in Item 1. of the Declarations is authorized to act on their behalf in such respects.

(m) Other Insurance

If there is other valid and collectible insurance which would attach if this insurance had not been effected, this insurance shall apply only as excess and in no event as contributing insurance, and then only after all other insurance had been exhausted. This Policy shall not be subject to the terms and conditions of any other insurance.

(n) Representations

The **Insured** represents that the particulars and statements contained in the Application and any documents or information submitted to the Insurer in connection therewith are true, accurate and complete and are the basis of this Policy and are considered as incorporated in and constituting part of this Policy. It is agreed that such particulars and statements are material to the decision to issue this Policy and this Policy is issued in reliance upon the truth, accuracy and completeness of such representations, particulars and statements.

(o) Sale or Dissolution of a Subsidiary

In the event that, during the **Policy Period**, the **Company** sells or dissolves any **Subsidiary**, coverage under this policy for such **Subsidiary** and any **Insured** with respect thereto shall continue in full force and effect with respect to **Loss for Mortgage Lending Wrongful Acts** committed or allegedly committed before such event.

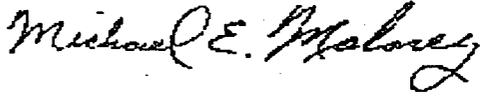
(p) Subrogation

In the event of any payment under this Policy, the Insurer shall be subrogated to the extent of such payment to all the **Insured's** rights of recovery therefor, and the **Insured** shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents as may be necessary to enable the Insurer to effectively bring suit in the name of the **Insured**. The **Insured** may take no action to impair the Insurer's right of subrogation without the written consent of the Insurer.

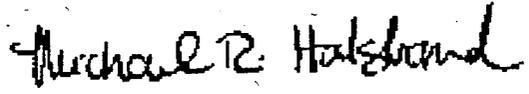
IN WITNESS WHEREOF, the Insurer has caused this policy to be signed by its Managing Director and by its Secretary at Stamford, Connecticut, and to be countersigned on the Declarations Page by a duly authorized representative.

Attest:

By:



Managing Director



Secretary