

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

CASE NO. 04-35342 GFK

Terry Ennen
SSN XXX-XX-0063
Karin Ennen
SSN XXX-XX-6189

CHAPTER 13 CASE

Debtor.

NOTICE OF OBJECTION TO CONFIRMATION OF PLAN

TO: Debtor and other entities specified in Local Rule 3015-3.

1. Union Acceptance Corporation c/o Systems & Services Technologies, Inc. (hereinafter "Secured Creditor") moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this objection at 10:00 a.m. on October 28, 2004, before the Honorable Gregory F. Kishel in Courtroom 228B at U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.

3. Any reply to this objection must be filed and delivered not later than 10:00 a.m. on October 27, 2004, which is 24 hours before the time set for the hearing, or filed and served by mail not later than October 25, 2004, which is three days before the time set for the hearing. **UNLESS A REPLY OPPOSING THE OBJECTION IS TIMELY FILED, THE COURT MAY SUSTAIN THE OBJECTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this objection pursuant to 28 U.S.C. §§ 157 and 1334, Federal Rule of Bankruptcy Procedure 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 13 case was filed September 13, 2004. The case is now pending before this Court.

5. This objection arises under 11 U.S.C. § 1322 and Local Rule 3007-1.

6. Debtor is indebted to Secured Creditor in the principal amount of \$18,706.00, as evidenced by that certain Retail Installment Contract dated May 11, 2001, a copy of which is attached hereto as Exhibit "A", together with interest thereon.

7. Debtor's indebtedness is secured by a contract on personal property in which Debtor has an interest as evidenced by that certain Retail Installment Contract dated May 11, 2001, executed by Terry Ennen for the purchase of a 2000 Pontiac Grand Prix-V6, VIN 1G2EJ52J7YF159220, a copy of which is attached hereto as Exhibit "A". The name and address of the original creditor is contained in the attached Exhibit "A".

8. The total debt due and owing to Claimant as of the Filing Date was \$9,464.85 as evidenced by Claimant's Proof of Claim and Debtor is indebted to Claimant as of this date in the amount of \$8,114.85.

9. According to the September, 2004 issue of the NADA Official Used Car Guide (a publication commonly relied upon by banks, insurance companies, government agencies and car dealers in determining the value of used vehicles), the retail market value of the Vehicle as of the Filing Date was approximately \$7,250.00. Pursuant to *In re Rash*, 117 S. Ct. 1879, 1884 n.2, 1887 n.6 (1997), "the value of property retained because the debtor has exercised Chapter 13's 'cram down' option is the cost the debtor would incur to obtain a like asset for proposed use."

10. Claimant objects to confirmation of the Plan pursuant to 11 U.S.C. § 1325 because:

- a. The Plan understates the value of the Vehicle; and
- b. The Plan does not fully provide for Claimant's allowed secured claim at the agreed interest rate contained in the Contract.

11. Claimant has been forced to file this Objection to Confirmation to protect its interest in the Vehicle and has agreed to pay the undersigned counsel reasonable attorney fees. Claimant requests that Debtor be required to pay such attorney fees as required by the Court.

WHEREFORE, PREMISES CONSIDERED, Claimant prays that this Court (1) deny confirmation of the Plan; (2) require Debtor to pay Claimants' reasonable attorney's fees and costs; and (3) grant Claimant such other and further relief, at law and in equity, as is just.

Dated this 18th day of October, 2004.

WILFORD & GESKE

By /e/ James A. Geske
James A. Geske
Attorneys for Secured Creditor
7650 Currell Blvd., Suite 300
Woodbury, Minnesota 55125
651-209-3300
Attorney Reg. No. 14969X

THIS COMMUNICATION IS FROM A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

RETAIL INSTALLMENT CONTRACT AND SECURITY AGREEMENT		BUYER / TRUCK CITY 1400 6TH ST, SOUTH PINE CITY MN 55063	SELLER TERRY RAY EAGEN SR 350 1ST ST NE PINE CITY MN 55063
No. _____ Date MAY 11th, 2001	"We" and "us" mean the Seller above, its successors and assigns.		"You" and "your" mean each Buyer above, and partners, jointly and individually.

SALE: You agree to purchase from us, over time, the Motor Vehicle (Vehicle) and services described below. Your purchase is subject to the terms and conditions of this contract and security agreement (Contract). The Vehicle is sold in its present condition, together with the usual accessories and attachments.

Description of Motor Vehicle Purchased	Year 2000 Make PONTIAC Model	VIN 1GKJSEJ7YF15966	Color
Description of Trade In 1996 CHEVROLET CAVALIER 3G1JC247T5903186			

SECURITY: To secure your payment and performance under the terms of this Contract, you give us a security interest in the Vehicle, all accessories, attachments, accessories, and equipment placed in or on the Vehicle, together called Property, and proceeds of the Property. You also agree to us and give us a security interest in proceeds and premium income if any insurance and service contracts purchased with this Contract.

PROMISE TO PAY AND PAYMENT TERMS: You promise to pay us the principal amount of \$ 18786.00 plus finance charges according to the unpaid balance at the rate of % per year from today's date until paid in full. Finance charges accrue on a day basis. You agree to pay this Contract according to the payment schedule and late charge provisions shown in the TRUTH IN LENDING DISCLOSURES. You also agree to pay any additional amounts according to the terms and conditions of this Contract.

LOAN ADMINISTRATION FEE: You agree to pay an additional, non-refundable loan administration fee of \$25.00 that will be paid in cash, paid pro rata over the contract term, withheld from the proceeds if this fee is withheld from the proceeds, the amount is included in the principal sum.

DOWN PAYMENT: You also agree to pay, or apply to the Cash Price, an or include today's date, any cash, rebate and net trade-in value described in the ITEMIZATION OF AMOUNT FINANCED. You agree to make required payments as part of the cash down payment as reflected in your Payment Schedule.

TRUTH IN LENDING DISCLOSURES			
ANNUAL PERCENTAGE RATE The cost of your credit on a yearly basis.	FINANCE CHARGE The dollar amount the credit will cost you.	AMOUNT FINANCED The amount of credit provided to you or on your behalf.	TOTAL OF PAYMENTS The amount you will have to pay in all scheduled payments.
<u> </u> %	<u>18786.00</u>	<u>18786.00</u>	<u>23998.00</u>
TOTAL SALE PRICE The total cost of your purchase (cash, including your down payment of <u>1856.00</u>) <u>25496.00</u>			

Payment Schedule: Your payment schedule will be		When Payments Are Due
Number of Payments	Amount of Payments	
<u> </u>	<u>399.00</u>	MONTHLY, BEGINNING JUNE 25th, 2001

SECURITY: You are giving a security interest in the Motor Vehicle purchased.
 Late charges if a payment is late will be per day, you will be charged per day or per month whichever is greater. This amount may increase up to the highest amount allowed by law under Minn. Stat. § 47.00.
 If you pay off the Contract early, you will not have to pay a penalty.
 If you pay off the Contract early, you will not be entitled to a rebate of part of the loan administration fee.
Contract Provisions: You can see the terms of this Contract for any additional information about repayment, interest, any required payment before the scheduled date, and prepayment rights and penalties.

CREDIT INSURANCE: Credit life, credit disability, accident and health, and any other insurance covering a loan, are not required to obtain credit and we will not advise them unless you sign and agree to pay the additional premium. If you want such insurance, we will obtain it for you (if you qualify for coverage). We are quoting below ONLY the coverage you have chosen to purchase.

Credit Life: Insured	Single <input type="checkbox"/> Joint <input type="checkbox"/> Term <input type="checkbox"/> N/A	Rate <input type="checkbox"/> N/A
Credit Disability: Insured	Single <input type="checkbox"/> Joint <input type="checkbox"/> Term <input type="checkbox"/> N/A	Rate <input type="checkbox"/> N/A

Your signature below means you want (buy) the insurance coverage(s) quoted above. If none are quoted, you have declined any coverage(s) offered.

PROPERTY REASSURANCE: You must insure the Property securing this Contract. You may purchase or provide the insurance through the insurance company reasonably acceptable to us. The collision coverage deductible may not exceed \$. If you get insurance from or through us you will pay \$ for of coverage.

<input type="checkbox"/> \$ <u> </u> Deductible, Collision Coverage	<input type="checkbox"/> N/A
<input type="checkbox"/> \$ <u> </u> Deductible, Comprehensive Cov	<input type="checkbox"/> N/A
<input type="checkbox"/> Fire-Theft and Combined optional Coverage	<input type="checkbox"/> N/A

LIABILITY INSURANCE: Coverage for bodily injury and motor vehicle damage caused to others is not included in this Contract unless checked and indicated.

FACTORY VEHICLE SERVICE CONTRACT: With your purchase of the Vehicle, you agree to purchase a Motor Vehicle Service Contract to cover SILVER. This Service Contract will be in effect for .

ITEMIZATION OF AMOUNT FINANCED	
Vehicle Price (incl. sales tax of \$ <u> </u>)	\$ <u>18967.00</u>
Service Contract, Paid to:	\$ <u>1326.00</u>
Cash Price	\$ <u>19917.00</u>
Manufacturers Rebate	\$ <u> </u>
Cash Down Payment	\$ <u>786.00</u>
Deferred Down Payment	\$ <u> </u>
a. Trade-In Allowance	\$ <u> </u>
b. Less: Amount owing	\$ <u> </u>
Paid to:	
e. Net Trade-In (a. minus b.)	\$ <u> </u>
c. Net Cash/Trade-In (a. plus d.)	\$ <u> </u>
Down Payment (c. + decrease as 04 if negative)	\$ <u> </u>
Unpaid Balance of Cash Price	\$ <u>1826.00</u>
Paid to Public Officials - Financing	\$ <u> </u>
Insurance Premiums*	\$ <u> </u>
Amount to Finance less (c. if negative)	\$ <u> </u>
To: TRUCK CITY	\$ <u>25.00</u>
To: <u> </u>	\$ <u> </u>
To: <u> </u>	\$ <u> </u>
To: <u> </u>	\$ <u> </u>
Total Other Charges/Discounts Paid to Others	\$ <u> </u>
1991* Prepaid Finance Charges	\$ <u>16786.00</u>
Amount Financed	\$ <u> </u>

*We may retain or receive a portion of this amount.

NOTICE TO BUYER
 (1) Do not sign this agreement before you read it or if it contains any blank spaces. (2) You are entitled to a completely blank copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charges. (4) IMPORTANT: THIS MAY BE A BINDING CONTRACT AND YOU MAY LOSE ANY DEPOSITS IF YOU DO NOT PERFORM ACCORDING TO ITS TERMS.

BY SIGNING BELOW BUYER AGREES TO THE TERMS ON PAGES 1 AND 2 OF THIS CONTRACT AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS CONTRACT.

ASSIGNMENT: This Contract and Security Agreement is assigned to INTERMOUNTAIN FINANCIAL CORP. The Assignee, Inter 6081773-6728. This assignment is made under the terms of a separate agreement. Under the terms of the ASSIGNMENT BY SELLER on page 2. This assignment is made with recourse.
 Seller: [Signature] Date 05/11/2001

Buyer: [Signature] Date 05/11/2001
 Signature: TERRY RAY EAGEN SR Date

Signature: [Signature]
 Signature: [Signature]
 MOTOR VEHICLE - NOT FOR MANUFACTURED HOME

EXHIBIT A

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

CONFIRMATION OF LIEN PERFECTION - DEBTOR NAME AND ADDRESS

ENNEN TERRY RAY SR
530 1ST ST NE
PINE CITY MN 55063

First Class
US Postage
PAID
Permit No 171
St Paul, MN

GSA110

1ST SECURED PARTY

LIEN HOLDER

00	PONT	4DGFS	G1730N134
Year	Make	Model	Title NR.
1G2WJ52J7YF159220	05/11/01	NO	
VIN	Security Date	Rebuilt	

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

UNION ACCEPTANCE CORP
P O BOX 1083
INDIANAPOLIS IN 46206-1083

46206+1083 



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

CHAPTER 13 CASE

Terry Ennen
SSN XXX-XX-0063
Karin Ennen
SSN XXX-XX-6189

CASE NO. 04-35342 GFK

Debtor.

**UNSWORN DECLARATION
FOR PROOF OF SERVICE**

Diana Waletzko, employed by Wilford & Geske, attorneys licensed to practice law in this Court, with office address at 7650 Currell Blvd., Suite 300, Woodbury, Minnesota, declares that on October 18, 2004, I served the annexed Notice of Objection to Confirmation of Plan and proposed Order Denying Confirmation of Plan to each person referenced below, a copy thereof by enclosing the same in an envelope with first class mail postage prepaid and depositing the same in the post office at Woodbury, Minnesota addressed to each of them as follows:

Terry Ennen
Karin Ennen
530 1st St NE
Pine City, MN 55063

Michael J. Farrell
PO Box 519
Barnesville, MN 56514

Curtis K. Walker
4356 Nicollet Ave S
Minneapolis, MN 55409

U.S. Trustee
1015 U.S. Courthouse
300 South 4th Street
Minneapolis, MN 55415

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated this 18th day of October, 2004.

/e/ Diana Waletzko
Diana Waletzko

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

**ORDER DENYING CONFIRMATION
OF PLAN**

Terry Ennen
SSN XXX-XX-0063
Karin Ennen
SSN XXX-XX-6189

Debtor.

CASE NO. 04-35342 GFK

This Chapter 13 Case came on before the Court on October 28, 2004, for hearing on Debtor's plan of debt adjustment. Appearances were as noted in the record. Upon the record made at hearing, and all other files and records in this case,

IT IS HEREBY ORDERED that confirmation of Debtor's plan of debt adjustment, as filed September 13, 2004, is denied.

Dated: _____
Judge of Bankruptcy Court