

No. 9-369A113

Date DEC 26 1979

Fee \$ 50.00

ICC Washington, D. C.

**FIRST NATIONAL BANK**  
OF LOUISVILLE

First National Tower Louisville, Kentucky 40232 - Telephone (502) 581-4200

**11238**

RECORDATION NO. .... Filed 1425

December 19, 1979 **DEC 26 1979 - 12 45 PM**

INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission  
Interstate Commerce Building  
Washington, D.C. 20044

Re: Security Interest of First National Bank of Louisville

Ladies and Gentlemen:

You are hereby requested to record the enclosed Security Agreement, of which there is one original and two counterparts thereof. Enclosed is a check in the amount of \$50 to cover your recordation fee.

Under the Security Agreement, Broadway Properties, a Partnership whose address is 2800 First National Tower, Louisville, Kentucky 40202 grants a security interest in the equipment hereinafter described in this letter to the First National Bank of Louisville, a Kentucky Banking Corporation, whose address is P.O. Box 36000, Louisville, Kentucky 40232.

The Security Agreement relates to the railway equipment consisting of 20 4,750 cu. ft. capacity, 100 ton covered hopper car. ICC Road Numbers:

- |            |            |
|------------|------------|
| PLMX 11173 | PLMX 11377 |
| PLMX 11174 | PLMX 11176 |
| PLMX 11175 | PLMX 11177 |
| PLMX 11178 | PLMX 11466 |
| PLMX 11346 | PLMX 11467 |
| PLMX 11347 | PLMX 11374 |
| PLMX 11462 | PLMX 11370 |
| PLMX 11463 | PLMX 11371 |
| PLMX 11464 | PLMX 11372 |
| PLMX 11358 | PLMX 11373 |

*Donna Kelly*  
*[Signature]*

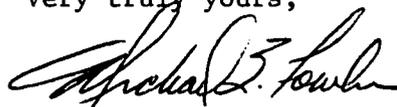
DEC 26 1979  
FEE \$ 50.00

Page 2  
Interstate Commerce Commission  
December 19, 1979

When recorded, the document should be returned to:

First National Bank of Louisville  
P.O. Box 36000  
Louisville, Kentucky 40232  
Attention: Michael E. Fowler

Very truly yours,



Michael E. Fowler  
Senior Commercial Banking Officer

MEF:jj

Enclosures

Interstate Commerce Commission

Washington, D.C. 20423

12/26/79

OFFICE OF THE SECRETARY

Michael E. Fowler  
First Natl. Bank Of Louisville  
P.O.Box 3600  
Louisville, Kentucky 40232

Dear

Sir:

The enclosed document (s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on \_\_\_\_\_ at \_\_\_\_\_, and assigned re-  
recording number (s) 12/26/79 12:45pm

11238, 11238-A

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure (s)

policies for such insurance or evidence thereof to Secured Party.

8. Debtor will pay promptly when due all taxes and assessments upon the Vehicles or for their use or operation or upon this security agreement.

9. Debtor will keep the Vehicles free from liens and encumbrances and in good order and repair, and will not waste or destroy the Vehicles, or any part thereof; Debtor will not use the Vehicles in violation of any statute or ordinance; and Secured Party may examine and inspect the Vehicles at any time, wherever located.

The entire balance of the sums secured hereby, with interest and all other sums due hereunder, shall, at the option of Secured Party, become immediately due and payable, without notice or demand upon the occurrence of any of the following events of default: (a) default of Debtor or of any guarantor or surety for it, in the payment of any installment of principal or interest called for by the above-mentioned note or in the performance of any covenant, liability or obligation contained or referred to herein or in the said note; (b) sale or encumbrance of any of the Vehicles or the making of any levy, seizure or attachment thereof or thereon which has not been released or provided for to the satisfaction of the Secured Party; (c) loss, theft, damage or destruction of any of the Vehicles where such loss, theft, damage or destruction is not covered by insurance; (d) death, dissolution, termination of existence, insolvency, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceedings under any bankruptcy or insolvency laws by or against, Debtor or any guarantor or surety for it; (e) default of Debtor resulting in the acceleration of the maturity of any other indebtedness of Debtor (f) such a change in the management or ownership of Debtor as in the opinion of Secured Party increases its risk.

PROVIDED, NEVERTHELESS, that if Debtor shall pay to Secured Party all sums called for by above note and this security agreement, on or before the time specified for payment, and shall have punctually performed and observed all the covenants, terms and conditions hereof and the said note and all liabilities and obligations of Debtor shall have been fully performed and paid, then this security agreement shall be void.

BUT UPON THE OCCURRENCE OF ANY EVENT OF DEFAULT listed above, and at any time thereafter, Secured Party shall have the remedies of a secured party under the Uniform Commercial Code. Secured Party may require Debtor to assemble the Vehicles and make them available to Secured Party at places to be designated by Secured Party that are reasonably convenient to both parties. Unless the Vehicles threaten to decline speedily in value or are of a type customarily sold on a recognized market, Secured Party will give Debtor reasonable notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made. The requirements of reasonable notice shall be met if such notice is mailed, postage paid, to the address of Debtor shown at the beginning of this security agreement at least five days before the time of the sale or disposition. Expenses of retaking, holding, preparing for sale, selling, or the like, shall include Secured Party's reasonable attorney's fees and legal expenses. If the rights of Secured Party in a Vehicle upon the occurrence of any event of default are not governed by the Uniform Commercial Code, Secured Party may sell the Vehicle at public auction or private sale first giving to Debtor such notice, if any, as may be required by law, of the time and place of such sale; and out of the money arising from any such sale Secured Party shall be entitled to retain all sums then

SECURITY AGREEMENT

DEC 26 1979 - 12 45 PM

BROADWAY PROPERTIES, a partnership, with its chief place of business at 2900 First National Tower, Louisville, Kentucky 40202 (hereinafter called "Debtor"), for valuable consideration paid to it, the receipt of which is hereby acknowledged, hereby grants to FIRST NATIONAL BANK OF LOUISVILLE, P. O. Box 36000, Louisville, Kentucky 40232, (hereinafter called "Secured Party"), a security interest in the vehicles listed in the attached schedule or schedules, and in any and all additions, accessions and substitutions thereto and therefor and in the proceeds thereof (all hereinafter called the "Vehicles"), to secure the payment of the indebtedness evidenced by Debtor's promissory note dated November 16, 1979, in the original amount of \$885,800.00 together with all renewals, extensions or modifications thereof. Such security interest shall also secure the payment and performance of all liabilities, direct or indirect, due or to become due, now existing or hereafter arising, of Debtor to Secured Party.

To induce Secured Party to enter into this agreement, Debtor hereby warrants and covenants as follows:

1. Debtor is a partnership duly organized and existing under the laws of Kentucky and is duly qualified and in good standing in every other state in which it is doing business. Debtor has full power and authority under its partnership agreement to grant this security interest, and this security agreement is not in contravention of law or of any other agreement or undertaking to which Debtor is a party or by which it is bound.

2. Debtor is, and as to Vehicles acquired after the date hereof shall be, the lawful owner of the Vehicles; the same are free from all encumbrances, liens and security interests except for the security interest herein granted; and Debtor will warrant and defend the same against the claims and demands of all persons adverse to the Secured Party.

3. The address of Debtor shown at the beginning of this Security Agreement is the place from which in fact the Debtor manages the main part of his business operations and Debtor will give Secured Party at least sixty days' notice of any change in the location of such place.

4. With respect to each Vehicle as to which a certificate of registration is outstanding or has been or will be applied for by Debtor, Debtor has caused or taken the necessary steps to cause or, in the case of a vehicle to be registered in the future, will take the necessary steps to cause the interest of Secured Party to be noted on said certificate and has taken or will take such other steps as are necessary and proper to create and perfect the security interest herein created in accordance with law.

5. Debtor will join the Secured Party in executing one or more financing statements pursuant to the Uniform Commercial Code in form satisfactory to Secured Party for filing in such jurisdictions as Secured Party may deem necessary or desirable.

6. Debtor will not assign, sell or transfer any interest hereunder or in the Vehicles, without the written consent of Secured Party.

7. Debtor will maintain liability, fire, theft, and collision insurance satisfactory to Secured Party upon the Vehicles, with provision for payment of losses under the fire, theft and collision policies to Secured Party as its interests may appear and will, upon request of Secured Party, deliver all

secured by this security agreement and also all costs and the expenses of retaking, holding, preparing for sale or selling the Vehicles or the like, including reasonable attorneys' fees, rendering the surplus, if any, to Debtor.

Neither the injury to or loss or destruction of the Vehicles, nor any delay in exercising or failure to exercise any right or remedy accruing to the Secured Party hereunder upon any breach or default by Debtor shall: (1) impair in any way the security interest granted hereunder nor any right or remedy; (2) be construed as a waiver of any such breach or default; (3) release the Debtor from payment of the Indebtedness, or (4) release the Debtor from performance of any conditions of this agreement.

AND IT IS FURTHER AGREED that this instrument shall bind and inure to the benefit of, and that the terms "Debtor" and "Secured Party" as used in this instrument shall respectively include, the respective parties and their respective heirs, executors, administrators, successors and assigns, and that all rights, titles and interests of Secured Party in, to and under this instrument and in and to the Vehicles, and all rights, powers, privileges and remedies of Secured Party hereunder shall pass to and may be exercised by any assignee from Secured Party and any subsequent assignee.

IN TESTIMONY WHEREOF witness the signatures of the said Debtor and Secured Party this 16th day of November, 1979.

(Debtor)

BROADWAY PROPERTIES  
A PARTNERSHIP

By

Richard B. Stewart

(Secured Party) FIRST NATIONAL BANK OF  
LOUISVILLE

By

Richard B. Lewis

Acknowledgement:

State of Kentucky  
County of Jefferson

The foregoing instrument was acknowledged before me this 16th day of November, 1979 by Richard B. Stewart, partner on behalf of Broadway Properties, a partnership.

Richard B. Lewis  
Title Commercial Banking Officer

XC22/2A1-3  
8Bnk(D1-3)

SCHEDULE A

<u>DESCRIPTION</u>	<u>SERIAL NUMBER</u>
4,750 cu. ft. capacity, 100 ton covered hopper car	PLMX 11173
4,750 cu. ft. capacity, 100 ton covered hopper car	PLMX 11174
4,750 cu. ft. capacity, 100 ton covered hopper car	PLMX 11175
4,750 cu. ft. capacity, 100 ton covered hopper car	PLMX 11178
4,750 cu. ft. capacity, 100 ton covered hopper car	PLMX 11346
4,750 cu. ft. capacity, 100 ton covered hopper car	PLMX 11347
4,750 cu. ft. capacity, 100 ton covered hopper car	PLMX 11462
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4,750 cu. ft. capacity, 100 ton covered hopper car	PLMX 11371
4,750 cu. ft. capacity, 100 ton covered hopper car	PLMX 11372
4,750 cu. ft. capacity, 100 ton covered hopper car	PLMX 11373