

1988

# Janet K. Jones v. Mark T. Johnson : Brief of Respondent

Utah Supreme Court

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## Recommended Citation

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DOCKET NO. 880251-CA IN THE SUPREME COURT

OF THE

STATE OF UTAH

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JANET K. JONES,

:

Plaintiff-  
Appellant,

:

vs.

:

Case No. 860182

:

MARK T. JOHNSON,

:

Defendant-  
Respondent.

:

\* \* \* \* \*

BRIEF OF RESPONDENT JOHNSON

\* \* \* \* \*

Appeal from Judgment of the Third Judicial  
District Court, Salt Lake County, State of Utah,  
The Honorable Dean E. Conder, District Court Judge.

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**FILED**  
SEP 22 1986

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Clerk, Supreme Court, Utah

IN THE SUPREME COURT

OF THE

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JANET K. JONES,

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TABLE OF CONTENTS

	<u>Page</u>
ISSUE PRESENTED ON APPEAL.....	1
STATEMENT OF FACTS.....	1
SUMMARY OF ARGUMENT.....	8
ARGUMENT.....	8
<p style="margin-left: 40px;">POINT I: THE WARRANTY DEED, OPTION, RENTAL AGREEMENTS AND OTHER WRITTEN DOCUMENTS EXECUTED BY THE APPELLANT AND/OR THE RESPONDENT, DID NOT CONSTITUTE AN UNCONSCIONABLE TRANSACTION AGAINST APPELLANT.</p>	
CONCLUSION.....	22
ADDENDUM A.....	24
ADDENDUM B.....	32

## TABLE OF AUTHORITIES

	<u>Page</u>
<u>Baker v. Pattee</u> , 684 P.2d 632 (Utah, 1984).....	22
<u>Bekins Bar V Ranch v. Huth, et al</u> , 664 P.2d 455 (Utah, 1983).....	14
<u>Resource Management Company v. Weston Ranch and Livestock Company, Inc.</u> , 706 P.2d 1028 (Utah, 1985).....	8

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BRIEF OF RESPONDENT JOHNSON

\* \* \* \* \*

ISSUE PRESENTED ON APPEAL

The sole issue on appeal is the same issue presented to the Lower Court by stipulation of the parties: Whether or not the written documents signed by the Plaintiff-Appellant Janet K. Jones constituted an unconscionable transaction against her (R. 214).

STATEMENT OF FACTS

Respondent can only agree in part with the Statement of Facts set forth in the Brief of Appellant since some of the facts recited are not supported by the Record. In addition, the facts recited are incomplete. For these reasons, Respondent deems it proper to formulate a Statement of Facts which he believes to be supported by the Record.

Prior to February 2, 1982, Appellant was the owner of a home where she resided at 3841 South 6440 West, West Valley City, County of Salt Lake, State of Utah. She was in default in payment of her obligations under a Trust Deed Note and Trust Deed on her home with Western Mortgage Loan Corporation, as evidenced by that certain Notice of Default recorded October 27, 1981, in the Office of the County Recorder of Salt Lake County, State of Utah, as Entry No. 3617741 (Exb."A", R. 137). As provided in the Notice of Default, the default of the Appellant consisted of at least Appellant's failure to pay the monthly installments due May 1, 1981, and each monthly installment thereafter to the date of the filing of the Notice of Default.

Respondent initially contacted Appellant by way of a letter (Exb. "B", R. 138) sent to her in either November or December, 1981 (R.119). That on or about January 14, 1982, Appellant and Respondent entered into negotiations as to how Respondent could assist Appellant in saving her home from the contemplated Trust Deed foreclosure by Western Mortgage Loan Corporation, as evidenced by the said Notice of Default (Exb."A", R. 137), and still providing an opportunity for the Appellant to remain in her home (R. 119). Following negotiations, Appellant accepted Respondent's offer to purchase her home for a purchase price in an amount equal to the unpaid principal balance of the Trust Deed Note with Western Mortgage Loan Corporation, which

was the approximate amount of \$13,816.00 (R.120), plus all costs and amounts needed to be paid out in order to remedy the recorded Notice of Default, which amount was \$3,016.58, as reflected on Appellant's Buyer's Statement issued by Stewart Title of Utah (Exb. "C", R.139). That simultaneous with the purchase of Appellant's home, the Respondent would lease back the home to her under the terms and conditions of a written lease, and would also enter into an option with her to repurchase the home under the terms of a written option for \$21,700.00 (R.120).

That on January 14, 1982, Appellant signed a document entitled Equity Assurance and Investment Full Disclosure (Exb. "D", R.140), wherein she agreed to sell her home, lease back the home, and enter into an Option Agreement for repurchase of the home from Respondent. In conjunction with signing the Full Disclosure Document, Appellant also signed an agreement entitled Equity Purchase Form (Exb. "E", R.141).

The transaction was closed by Stewart Title Company of Salt Lake City, Utah, on February 2, 1982. Closing documents were prepared, and at the closing the Appellant signed a Warranty Deed prepared by Stewart Title Company conveying the subject property to Respondent (Exb. "F", R.143). In addition, the Appellant and Respondent signed a Lease (Exb. "G", R.144), and an Option (Exb. "H", R.145), which were prepared by Stewart Title Company (R.120-121). The Option granted Appellant an option to repurchase the



subject property from Respondent upon payment of \$21,700.00, on or before February 28, 1983. Appellant also signed, at the closing, a document prepared by Stewart Title Company called Seller's Escrow Instructions (Exb. "I", R.146). Respondent paid, through Stewart Title Company, the amount of \$3,016.58, as reflected on his Buyer's Statement (Exb. "C", R.139), which was needed to remedy the Notice of Default, which amount was then sent by Stewart Title Company to Paul Halliday, the Attorney handling the Trust Deed foreclosure proceeding for Western Mortgage Loan Corporation (R.121). Following payment of the said \$3,016.58, a Cancellation of Notice of Default (Exb. "K", R.147) was issued by Attorney Halliday as Successor Trustee. The said Cancellation of Notice of Default was recorded in the Office of the Salt Lake County Recorder on February 9, 1982, as Entry No. 3647150. As a result of the closing of the transaction negotiated between the parties, Respondent assumed the outstanding Trust Deed obligation of \$13,816.00, with Western Mortgage Loan Corporation and has made all monthly payments on the said Trust Deed obligation since the date of closing of at least the amount of \$179.00 per month. In addition, Defendant has made payment of all taxes and assessments with respect to the subject property.

That under the terms of the Lease between the parties (Exb. "G", R.144), the Appellant was to pay monthly rental in

the sum of \$179.00. Following the date of the Lease, February 2, 1982, Appellant became delinquent in payment of the monthly rental payments as therein set forth. As a result, the parties entered into negotiations as to how the past-due rental would be paid in order for Appellant to remain in the subject home (R.122). Following negotiations, the parties entered into a second lease agreement entitled Residential Rental Agreement, dated August 3, 1982, (Exb. "L", R.148), requiring Appellant to make rental payments of \$280.00 per month. Appellant defaulted under the terms of the said Residential Rental Agreement and Respondent caused, by and through his Attorney, to be prepared and served upon Appellant a Notice to Pay Rent or to Quit the Premises because of her failure to pay the rental payments due for November, 1982, in the amount of \$280.00, and December, 1982, in the amount of \$280.00 (R.150). Said Notice to Pay Rent or to Quit the Premises was served upon Appellant on December 4, 1982, (Exb. "M", R.152). Appellant made payment of the past-due rent of \$560.00 (R.123).

Appellant did not exercise her option pursuant to the terms of the Option Agreement (Exb. "H", R.145) between the parties. Appellant again became delinquent in payment of her rental for the month of March, 1983, and Respondent, through his Attorney, caused to be prepared and served upon the Appellant a Notice to Pay Rent or to Quit the Premises, and a Notice of Termination of Tenancy (Exb. "N", R.153). Said Notice was served on Appellant on March 8,

1983 (R.156-157). Appellant made payment of the arrearage in rent as set forth in the Notice served upon her on March 8, 1983. The payment of rent was sent by Appellant's then-Attorney John A. Rokich, in his letter dated March 17, 1983 (Exb. "O", R.158), to Respondent's Attorney, Richard W. Perkins.

Appellant did not vacate on or before March 31, 1983, as required by the Notice of Termination of Tenancy (Exb. "N", R.154), served upon her on March 8, 1983, (R.156-157), and Respondent filed in the Circuit Court for the State of Utah, Salt Lake Department, his Complaint for Eviction and Unlawful Detainer in April, 1983, (R.24). In addition thereto, Respondent filed his Possession Bond (R.34), and served all notices upon the Appellant as required by the State of Utah (R.39). Appellant, by and through her then-Attorney John A. Rokich, filed a general denial Answer dated April 18, 1983 (R.43), to Respondent's Complaint for Eviction and Unlawful Detainer. Appellant, in her Answer, did not demand a hearing, nor did she file a counterbond, which bond would have allowed her to remain in the subject home pending the hearing on the merits. Because of the failure to either file a counterbond or to demand a hearing, as required by the Statutes of the State of Utah, the Circuit Court, by and through Larry Keller, Circuit Court Judge, issued a Writ of Restitution dated April 22, 1983, (R.45), wherein the Court required the

Appellant to deliver to Respondent the subject home and to move therefrom. Following service of the Writ of Restitution in April, 1983, the Appellant delivered possession of the subject property to Respondent and moved therefrom (R.125). Respondent has been in possession of the subject property since April, 1983, and since the payment of rent made by the Appellant through her Attorney John A. Rokich, in March, 1983, the Appellant has made no payments nor has she attempted to make any payments to Respondent of any kind (R.125).

On May 6, 1983, the Respondent was served with the Summons and Complaint filed in this action. Following discovery and at a Pre-Trial Conference held January 6, 1986, before the Honorable Dean E. Conder, District Court Judge, the parties stipulated that the only issue to be determined by the Lower Court was whether or not the written documents constituted an unconscionable transaction against the Appellant. Appellant dismissed all other issues relating to her Amended Complaint. The parties agreed that a determination of the issue could be determined by the Lower Court based upon the pleadings and records on file and the Memoranda to be submitted (R.214). The Lower Court issued its written Memorandum Decision on January 31, 1986 (R.214), finding that the transaction between the parties was not unconscionable under the facts and circumstances of this particular case. Findings of Fact and Conclusions of Law and the Judgment were entered by the Lower Court on February 24, 1986, (R. 217-221).

#### SUMMARY OF ARGUMENT

Appellant's home was in foreclosure. She had a Trust Deed on her home which was five months' delinquent. Respondent learned of the foreclosure action and following negotiations as to how the Respondent could assist Appellant in saving her home from the imminent foreclosure, the parties executed the Warranty Deed, Option, Rental Agreements and other documents described in the foregoing Statement of Facts. These written documents do not constitute an unconscionable transaction against Appellant.

#### ARGUMENT

THE WARRANTY DEED, OPTION, RENTAL AGREEMENTS AND OTHER WRITTEN DOCUMENTS EXECUTED BY THE APPELLANT AND/OR THE RESPONDENT, DID NOT CONSTITUTE AN UNCONSCIONABLE TRANSACTION AGAINST APPELLANT.

In Resource Management Company vs. Weston Ranch & Livestock Company, Inc., et al, 706 P.2d 1028 (Utah, 1985), the Court observed:

With a few exceptions, it is still axiomatic in contract law that "persons dealing at arm's length are entitled to contract on their own terms without the intervention of the courts for the purpose of relieving one side or the other from the effects of a bad bargain." [Citations omitted]. Parties "should be permitted to enter into contracts that actually may be unreasonable or which may lead to hardship on one side." [Citations omitted]. Although courts will not be parties to enforcing flagrantly unjust agreements, it is not for the courts to assume the paternalistic role of declaring that one who has freely bound himself need not perform

because the bargain is not favorable. Of course, this general principle has its limits. An established exception is that if a contract is unconscionable, in whole or in part, the court may, on equitable grounds, refuse to enforce the unconscionable provisions, or it may construe the contract to avoid an unconscionable result. [Citations omitted]. Id. at 1040.

In Resource Management, supra, Resource Management Company agreed to prepare surveys and evaluations and to help negotiate oil and gas leases for Weston's vast holdings. In return, Weston would convey to Resource Management certain percentages of various oil, gas, and mineral rights. The Court upheld the agreement against claims of substantive and procedural unconscionability. In regard to the substantive unconscionability issue, the Court stated that "Whatever the particular formulation, the standard for determining unconscionability is high, even if not precise." Id. at 1041. (Emphasis added). The formulation of substantive unconscionability adopted by the Court is that of the UCC, whether the "contract terms are so one sided as to oppress or unfairly surprise an innocent party," Id. at 1041, and that such oppression or surprise must be demonstrated by "clear and convincing evidence." Id. at 1043. In determining whether substantive unconscionability exists, the Court considers, in addition to the disparity between the amount of consideration provided by one party and the benefit that party ultimately stands to gain, the speculativeness of the contract and the need of one party for expert assistance. In regard to the need of one party for

expert assistance, the Court stated, "...It is difficult to place a monetary value on expert advice...it is in light of their need for advice and current information that the consideration...must be viewed in determining unconscionability or oppressiveness." Id. at 1044.

In the instant case, it was the Appellant's need for financial assistance and the Respondent's need to provide that assistance which constituted much of the consideration of the contract.

On the issue of procedural unconscionability, the Court defined procedural unconscionability as "...absence of meaningful choice." Id. at 1042. The Court strongly implied, contrary to Appellant's statement in her Brief that either procedural unconscionability or substantive unconscionability would be sufficient to invalidate a contract, that procedural unconscionability is not sufficient to invalidate a contract unless there is also substantive unconscionability. The Court further stated that "Unconscionability has generally been recognized to include an absence of meaningful choice on the part of one of the parties, together with contract terms which are unreasonably favorable to the other party." Id. at 1042. Thus, as the Court noted, the definition of procedural unconscionability includes an element of substantive unconscionability. "... in the cases cited...in which unconscionability was found to exist, the existence of

substantive unconscionability was either the dominant or exclusive issue. Id. at 1043. The Court further stated that "Where only procedural irregularities are involved, the judicial doctrines of fraud, misrepresentation, duress and mistake may provide superior tools for analyzing the validity of contracts." Id. at 1043.

In the Resource Management Company case, the Court held that there was no procedural unconscionability even though the Plaintiff used a long and fairly complicated form contract, and Weston had never previously entered into a contract regarding mineral rights. Resource Management made no effort to explain the terms of the contract. The contract was proposed, considered, and agreed to in one meeting lasting several hours and without Counsel present and Resource Management did not give Weston a copy of the contract. In regard to Weston's claim of ignorance of the contract terms, the Court stated,

One party to a contract does not have a duty to insure that the other has a complete and accurate understanding of all terms embodied in a written contract [citations omitted]. Each party has the burden to understand the terms of the contract before he affixes his signature to it and may not thereafter assert his ignorance as a defense. Id. at page 1047.

The Court further observed:

Ignorance of the contents of an instrument does not ordinarily affect the liability of one who signs it. If a man acts negligently and in such a way as to justify others in supposing that the writing is assented to by him, he will be bound both at law and equity, even though he supposes



the writing is an instrument of an entirely different character. A person who, having the capacity and an opportunity to read a contract, is not misled as to its contents and who sustains no confidential relationship to the other party cannot avoid the contract on the ground of mistake if he signs it without reading it, at least in the absence of special circumstances excusing his failure to read it. If the contract is plain and unequivocal in its terms, he is ordinarily bound thereby. Id. at 1047.

A disparity in the degree of understanding between the parties over the subject matter and content of a contract does not constitute unconscionability. In the Resource Management Company case, the Court stated, "Although it is apparent that Stevenson's (an agent of Resource Management) expertise in dealing with oil and gas leases exceeded the Westons... the bargain struck was not unconscionable because of the Westons' ignorance or inability to read." Id. at 1048. The insistence on the modification of a contract by one of the parties indicates that that party understands the terms of the contract. The Court went on to state, "Nor is this a situation in which one party to the contract is confronted by an absence of meaningful choice. The very fact that the Westons insisted that Resource Management amend paragraph 3 of the contract to coincide with their wishes evidences to the contrary." Id. at 1048.

The ability of a party to assent, negotiate, or walk away from a deal indicates that that party is not the victim of procedural unconscionability. In this respect, the Court in

Resource Management said, "Nor were the Westons in a position where they were compelled to accept the bargain offered by Resource Management and Stevenson. In fact, it was the Westons who held the trump card, the choice to assent to the deal, to negotiate modifications of its terms, or to simply walk away was theirs." Id. at 1048.

Finally, the Court in Resource Management found that the fact that the contract was written by one of the parties does not constitute unconscionability. In this regard, it said:

That the terms of a contract are embodied in a written form developed by one of the parties does not automatically render it a contract of adhesion or unenforceable [Citations omitted.] Far more important is whether key terms are hidden in a maze of fine print and minimized by deceptive sales practices. [Citations omitted.] ...In this instance, the salient provisions of the contract were displayed with equal prominence to the other provisions in the contract. Id. at 1048-1049.

It is the position of the Respondent that the Resource Management case, supra, relied upon by Appellant in this action, in fact, provides authority for Respondent's arguments and provides no support for Appellant since the contract in the Resource Management case was held not to be unconscionable.

In the instant case, in the terms of the substantive unconscionability issue, Appellant indicates that the \$3,016.58 outlay for remedy of the Trust Deed foreclosure was the only consideration provided by Respondent for this contract, when, in fact, Respondent also expended the time and effort to remedy

the default proceedings and to assume the Trust Deed loan and payments to Western Mortgage Loan Corporation. Appellant also fails to consider Respondent's speculation on changes in the value of the property. The unconscionability of an agreement should be measured in terms of the amount of forfeiture to the disadvantaged party rather than the amount of benefit to the advantaged party. Under this analysis, Appellant was not disadvantaged by the contract at all since she stood to lose her property without the agreement. The agreement allowed the Appellant to remain in the subject property for an additional 13 months, and gave her the right to repurchase.

If Appellant had, in fact, exercised her option to repurchase, the Respondent would have stood to gain the amount of \$4,867.42 as a result of the transaction. This amount is the difference between the repurchase price under the option of \$21,700.00, and the outstanding balance due on the obligation to Western Mortgage Loan Corporation of \$13,816.00, plus the \$3,016.58 amount paid by Respondent for cancellation of the Notice of Default for a total of \$16,832.58. This gain on a percentage basis is a return of 22.4%, a rate of return considerably less than the respective rates of interest in the Bekins Bar V Ranch v. Huth, et al, 664 P.2d 455 (Utah, 1983), of 36.3% and 58%, which the Court held were not

unconscionable and that the promissory notes should be enforced as written.

Further, in the terms of substantive unconscionability, the contract documents such as the Warranty Deed (Exb. "F", R. 143), the Option (Exb. "H", R.145), and the rental agreements (Exb."G", R. 144 and Exb. "L", R. 148), identified in the Statement of Facts, do not contain incomprehensible language, nor is there an overall imbalance in the obligations and rights imposed by the bargain between the parties. The Respondent paid out the necessary funds to cancel the Notice of Default (Exb. "A", R. 137), assumed the mortgage balance with Western Mortgage Loan Corporation and has had the responsibility of making payments on the subject loan since the date of the transaction in February, 1982.

Finally, the Appellant indicates in her Brief that "... the more likely result" was that she would fail to fulfill her part of the contract and that the Respondent would thus gain her equity in the property, but the Appellant has introduced no evidence that either party believed that the Appellant would be unable to fulfill the terms of the contract or, in fact, that it was likely that the Appellant would be unable to fulfill the terms of the contract at the time the contract was entered into. Even in the event that Appellant was unable to fulfill the terms of the contract, Respondent's further expense in selling the property

should be deducted from the resale value of the property in determining Respondent's profit as should a certain amount for Respondent's speculation in the fluctuation of the value of the property.

With respect to procedural unconscionability, Appellant raises three issues. The first regards Respondent's use of a form contract. As the Resource Management case, supra, indicates, this, in itself, is not evidence of unconscionability unless material terms of the contract are hidden or are incomprehensible. In the instant case, the Warranty Deed (Exb. "F", R.143) the Option (Exb. "H", R.145) the rental agreements, (Exb. "G", R. 144, and Exb. "L", R.148), and the other written documents were short, relatively simple, and in clear, straightforward language. Moreover, as Appellant admits in her Trial Memorandum (R.173), Respondent explained his program as described in the documents entitled Equity Assurance and Investment Full Disclosure (Exb. "D", R.140), and Equity Purchase Form (Exb. "D", R. 140), which documents were left with Appellant on January 14, 1982, and remained in her possession for review until January 22, 1982, the date she signed the same. No such explanation was available in the Resource Management case, and yet that contract was found not to be unconscionable.

Appellant's second argument under the procedural unconscionable issue is that she was ignorant of the terms of the contract and was "compelled to accept the terms" by her circumstances. This issue is also largely resolved by the Court's statement in the Resource Management Company case, supra, wherein it made the observation as specifically set forth in the quote on page 11 of this Brief that "Ignorance of the contents of an instrument does not ordinarily affect the liability of one who signs it..." Further, as previously stated, on page 11 of this Brief, "One party to a contract does not have a duty to insure that the other has a complete and accurate understanding of all terms embodied in a written contract. Each party has the burden to understand the terms of a contract before he affixes his signature to it and may not thereafter assert ignorance as a defense."

In addition, it is worth noting again that in the instant case, the Respondent explained the terms of the contract to the Appellant and the Appellant had a considerable amount of time to consider the contract and to obtain advice if she so desired. The document entitled Equity Assurance & Investment Full Disclosure, dated January 14, 1982, (Exb. "D", R. 140), wherein Appellant agreed to sell her home, lease back her home, and enter into the Option Agreement for repurchase of the home from Respondent, and the document entitled Equity Purchase Form (Exb. "E", R.141), dated January 14, 1982, were left with the Appellant on January

14, 1982. The documents were finally executed in a meeting between Appellant and Respondent some eight days later on January 22, 1982. In the Resource Management Company case, the Westons had very little opportunity to consider the contract and virtually no opportunity to obtain outside advice, yet the contract was held not to be procedurally unconscionable. In this regard, the Court said, "If the Westons felt uninformed about the provisions of the contract, were unsatisfied with Stevenson's explanations, or were desirous of legal advice, it was incumbent upon them to read the contract and to seek the advice of an attorney before signing the contract...The Westons had all attended high school, one of them attended college." Id. at 1048. In the instant case, the Appellant was short three credits from graduating from high school; however, she later earned a high school degree by taking the GED test. Appellant obtained additional education by attending Trade Tech. She later worked at Harmon's as a grocery checker. She learned to run a cash register. Appellant could read, and, in fact, read one of the contract documents at the taking of her deposition (R.168-169).

As previously stated on page 13 of this Brief, the Court in the Resource Management Company case observed, "Nor were the Westons in a position where they were compelled to accept the bargain offered by Resource Management Company

and Stevenson. In fact, it was the Westons who held the trump card, the choice to assent to the deal, to negotiate modifications of its terms, or to simply walk away was theirs." In the instant case, Appellant was not in a position where she was compelled to accept the bargain offered by Respondent. In fact, she, too, as did the Westons, held the trump card, the choice to assent to the deal was hers, voluntarily made, without fraud or duress. In fact, any claim of fraud, duress or incompetency has been dismissed from the action. As the Appellant points out in her Brief on page 3, she "does not claim that the transaction was fraudulent. The documents are clear." Further, she had the choice to negotiate modifications of the contract terms or to simply walk away by not signing the contract agreements.

Finally, the Appellant claims there was no opportunity for meaningful negotiation and implies the exploitation of the underprivileged, unsophisticated, and uneducated. Respondent would submit that the facts do not support these claims. There was no lack of opportunity for meaningful negotiation. Appellant always had the right to not go through with the contract as negotiated. Also, she could have negotiated other terms to the contract. At no time did she voice any objection to the transaction, but she freely and voluntarily, on an arm's length basis, entered into the transaction and signed all applicable documents of sale, and transfer of title, lease, and option to repurchase. Substantial



evidence that the transaction was arm's length is the fact that all closing papers were prepared by the closing agent, Stewart Title Company of Utah, and that the closing was held at the offices of Stewart Title Company on February 2, 1982. The parties had an inherent contractual right to make whatever bargain they desired. As previously stated in this Brief, in the absence of fraud, duress, undue influence, mistake or incompetency, it is the duty of this Court to enforce the contract between the Appellant and the Respondent. Again, in the instant case, the only issue is one of unconscionability, and any and all claims with respect to duress, undue influence, fraud, and incompetency which were alleged in Appellant's Second Amended Complaint were all dismissed on Appellant's Motion made at the last Pre-Trial Conference hearing before Judge Dean E. Conder. Further, any claim of the Appellant with respect to her exploitation because of the claim that she is underprivileged, unsophisticated and uneducated, is without merit for the reason that this claim was likewise dismissed at the Pre-Trial hearing.

As a concluding argument, it is important to note the observation of the Court in Resource Management, wherein it stated "Generally, the critical juncture for determining whether a contract is unconscionable is the moment when it is entered into by both parties...Unconscionability cannot be demonstrated by hind-sight..." Id. at 1043. The Court went on to state that the policy for such a rule is:

That virtually all contracts involve the assessment of risk. How fast, if at all, will land values rise over the next ten years? Are interest rates likely to increase, decrease, or remain constant? Is a particular venture likely to be a wild success or an abysmal failure? What is the probability of a debtor's not repaying his debt? What collateral is necessary as security to protect against the debtor's possible failure to repay? Assessment of such risks is intrinsic to the process of contracting and affects the terms on which contracts are entered into.

This rule applies in the instant case. It required the Appellant to act promptly and unequivocally in announcing her intention. This did not happen. The Appellant made no objection but upheld the lease agreements she entered into with Respondent after conveying the property to him by the Warranty Deed. She paid rent for the inclusive months of March, 1982, through March, 1983. It was not until May, 1983, in her Complaint filed in this action, that she voiced any objection and claimed unconscionability of contract. The Respondent has exercised and asserted his rights under the contract entered into and changed his then position by paying out money to cancel the Notice of Default, assuming the Western Mortgage Loan Corporation Trust Deed obligation, and by making monthly payments thereon. It would be inequitable to permit at this time the Appellant to assert her claim of unconscionability. In addition, based upon the other facts of this case and the application of the law of the Resource Management case, it is the position of Respondent that the aspects of unconscionability are not present in the instant case.

The Respondent also cites the case of Baker v. Pattee, 684 P.2d 632 (Utah, 1984), in support of his position that there is no unconscionability: In this case, the estate of the deceased sought to declare unconscionable a deed to three houses which was given in return for a promise to pay taxes on the houses and to give the Grantor a place to stay for the remainder of the decedent's life. The deed had been recorded. The Court held that the execution and recording of a deed creates a presumption of legal intent to create a conveyance of property and denied the estate's claim that the transaction was unconscionable.

In the instant case, as in the Baker case, a Warranty Deed (Exb. "F", R. 143) was executed by Appellant transferring the subject property to Respondent, which deed was recorded.


#### CONCLUSION

In looking at the facts as herein stated, and as they exist from the file and record entered herein, only one conclusion arises, the Warranty Deed, Rental Agreements, Option, and the other written documents signed by the Appellant do not constitute an unconscionable transaction against her. Therefore, the Lower Court was correct in finding, with regard to the facts, that the transaction is not unconscionable.

Respondent Mark T. Johnson respectfully requests that the determination and judgment of the Lower Court be affirmed.

Respectfully submitted,

PERKINS, SCHWOBE & McLACHLAN

By   
Richard W. Perkins  
Attorney for Respondent Johnson

MAILING CERTIFICATE

I hereby certify that four true and correct copies of the foregoing Brief of Respondent were mailed to Edward K. Brass, Attorney for Plaintiff-Appellant, at 321 South 600 East, Salt Lake City, Utah 84102, postage prepaid, this 22 day of September, 1986.



ADDENDUM A

Memorandum Decision  
Findings of Fact &  
Conclusions of Law  
Judgment

*By Robinson*

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH  
-----

JANET K. JONES,	:	
	:	
Plaintiff,	:	MEMORANDUM DECISION
	:	
VS.	:	CIVIL NO. C-83-3249
	:	
MARK T. JOHNSON,	:	
	:	
Defendant.	:	

-----

At a pre-trial settlement conference held January 6, 1986, both parties stipulated that the only issue to be determined by the court was whether or not the written documents constituted an "unconscionable" transaction against the plaintiff. Plaintiff dismissed all other issues relating to plaintiff's Amended Complaint. Briefs and memorandums have been submitted by each of the respective parties and reviewed by the court.

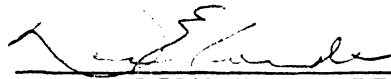
In substance plaintiff's home was in foreclosure. She had a Trust Deed on her property which was five months delinquent per the "Notice of Default" dated October 27, 1981. Defendant learned of the foreclosure action and sent her an unsolicited letter offering to assist her. In January, 1982, the parties executed the documents attached to the defendant's memorandum. It is these particular documents which are attacked by the plaintiff as constituting the "unconscionable transaction". Both sides seek judgment in their favor and each seems to

rely heavily on two recent cases from the Utah Supreme Court, i.e., Resource Management Company v. Western Ranch and Livestock Company, Inc., 16 Utah Adv. Rep. 36 (August 23, 1985) and Bekins Bar V. Ranch v. Huth, Utah, 664 P2d 455 (1983).

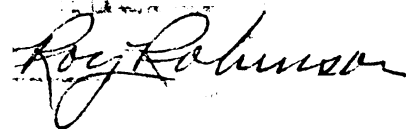
This court has read the cases cited and the memorandums submitted and concludes that the transaction is not unconsonable under the circumstances of this particular case. Plaintiff was certainly in imminent danger of losing the home by foreclosure. This gave her an additional thirteen months to work out of the difficulty. Obviously, this may not have been the most prudent course for her to choose, i.e., she may have been able to sell the home and salvage some equity - but there is no evidence to support this either way.

Under the circumstances of this case the court finds in favor of the defendant and against the plaintiff.

Dated this 31 day of January, 1986.

  
DEAN E. CONDER  
DISTRICT JUDGE

Copies mailed to each counsel.



FILMED

FILED IN CLERK'S OFFICE  
Salt Lake County Utah

PERKINS, SCHWOBE & McLACHLAN  
Richard W. Perkins (2567)  
Attorney for Defendant  
343 South 4th East  
Salt Lake City, Utah 84111  
Telephone: (801) 532-6808

FEB 25 1986

H. Dixon Hinkley, Clerk, 3rd Dist. Court  
By W. D. Hinkley  
Deputy Clerk

IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY,  
STATE OF UTAH

\* \* \* \* \*

JANET K. JONES,	:	
	:	
Plaintiff,	:	FINDINGS OF FACT
	:	&
vs.	:	CONCLUSIONS OF LAW
	:	
MARK T. JOHNSON,	:	Civil No. C-83-3249
	:	
Defendant.	:	(Judge Dean E. Conder)

\* \* \* \* \*

The above-entitled case came on for Pre-Trial Settlement Conference on January 6, 1986, in the above-entitled Court, the Honorable Dean E. Conder, District Court Judge, presiding; the Plaintiff being present in person and represented by her Counsel Edward K. Brass, and the Defendant Mark T. Johnson being present in person and represented by his Counsel Richard W. Perkins, and both parties having stipulated that the only issue to be determined by the Court was whether or not the written documents constituted an "unconscionable" transaction against Plaintiff. Plaintiff dismissed all other issues relating to Plaintiff's Amended Complaint. Briefs and Memorandums having been submitted by each of the respective parties and reviewed by the Court, and the Court being fully advised in the premises, makes the following

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### FINDINGS OF FACT

1. That in January, 1982, Plaintiff's home located at 3841 South 6440 West, West Valley City, County of Salt Lake, State of Utah, and more particularly described as: All of Lot 13, COPPER HILL HEIGHTS NO. 7, according to the official plat thereof was in foreclosure.

2. That Plaintiff had a Trust Deed on her property which pursuant to the Notice of Default dated October 27, 1981, was five months delinquent.

3. Plaintiff was in imminent danger of losing the home by foreclosure.

4. Defendant learned of the foreclosure action and sent Plaintiff an unsolicited letter offering to assist her.

5. In January, 1982, the parties executed the documents attached to the Defendant's Memorandum. It is these particular documents which are attacked by the Plaintiff as constituting the "unconscionable transaction."

6. The transaction entered into between the parties provided Plaintiff with an additional thirteen (13) months to work out her difficulty.

7. That in conjunction with the filing of Plaintiff's Amended Complaint, Plaintiff filed and caused to be reported a Lis Pendens with respect to this matter, which Lis Pendens was dated April 29, 1983, and recorded May 2, 1983, in Book 5455, page 2142, as Entry No. 3787681, in the Official Records of the Office of the Salt Lake County Recorder.

CONCLUSIONS OF LAW

From the foregoing Findings of Fact, the Court now makes and enters the following Conclusions of Law:

1. That the transaction is not unconscionable under the circumstances of this particular case.

2. That Defendant is entitled to an award of Judgment against Plaintiff, said judgment to adjudge and decree that the Plaintiff's Amended Complaint be dismissed, with prejudice, no cause of action, and that the Lis Pendens referred to in the Findings of Fact be released.

DATED this 24 day of February, 1986.

BY THE COURT:

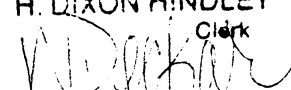


DEAN E. CONDER  
DISTRICT COURT JUDGE

ATTEST

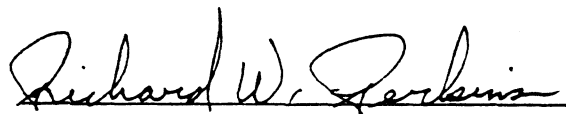
H. DIXON HINDLEY  
Clerk

By



Deputy Clerk

I hereby certify I mailed a true and correct copy of the foregoing Findings of Fact and Conclusions of Law to Edward K. Brass, Attorney for Plaintiff, at 321 South 600 East, Salt Lake City, Utah 84102, postage prepaid, this 10th day of February, 1986.



FILED

FILED IN CLERK'S OFFICE  
Salt Lake County Utah

PERKINS, SCHWOBE & McLACHLAN  
Richard W. Perkins (2567)  
Attorney for Defendant  
343 South 4th East  
Salt Lake City, Utah 84111  
Telephone: (801) 532-6808

FEB 24 1986

H. Dixon Hildesley, Clerk of Dist. Court  
By W. Dickson Deputy Clerk

IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY,

STATE OF UTAH

\* \* \* \* \*

JANET K. JONES, :

Plaintiff, :

vs. :

MARK T. JOHNSON, :

Defendant. :

\* \* \* \* \*

JUDGMENT

Civil No. C-83-3249

(Judge Dean E. Conder)

The above-entitled case came on for Pre-Trial Settlement Conference on January 6, 1986, in the above-entitled Court, the Honorable Dean E. Conder, District Court Judge, presiding; the Plaintiff being present in person and represented by her Counsel Edward K. Brass, and the Defendant Mark T. Johnson being present in person and represented by his Counsel Richard W. Perkins, and both parties having stipulated that the only issue to be determined by the Court was whether or not the written documents constituted an "unconscionable" transaction against Plaintiff. Plaintiff dismissed all other issues relating to Plaintiff's Amended Complaint. Briefs and Memorandums having been submitted by each of the respective parties and reviewed by the Court, and the Court being fully advised in the premises, and having

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heretofore made and entered its Findings of Fact and Conclusions of Law herein,

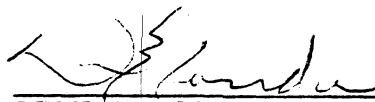
IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant have and is hereby awarded Judgment against the Plaintiff as follows:

1. That Plaintiff's Amended Complaint be, and is hereby, dismissed with prejudice, no cause of action.

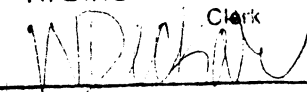
2. That the Lis Pendens filed and recorded by Plaintiff in the official records of the Salt Lake County Recorder's Office on May 2, 1983, in Book 5455, page 2142, as Entry No. 3787681, and pertaining to the hereinafter-described real property, is released: All of Lot 13, Copper Hill Heights No. 7, according to the official plat thereof.

DATED this 24 day of February, 1986.

BY THE COURT:

  
DEAN E. CONDER  
DISTRICT COURT JUDGE

ATTEST  
H. DIXON HINDLEY  
Clerk

By   
Deputy Clerk

ADDENDUM B

Notice of Default - Exhibit "A"  
Letter to Appellant - Exhibit "B"  
Respondent's Buyer's Statement - Exhibit "C"  
Full Disclosure - Exhibit "D"  
Equity Purchase Form - Exhibit "E"  
Appellant's Warranty Deed - Exhibit "F"  
Lease - Exhibit "G"  
Option - Exhibit "H"  
Appellant's Escrow Instructions - Exhibit "I"  
Cancellation of Notice of Default - Exhibit "K"  
Residential Rental Agreement - Exhibit "L"  
Notice to Pay Rent or Quit - Exhibit "M"  
Notice of Termination of Tenancy - Exhibit "N"  
Appellant's Attorney's Letter - Exhibit "O"

RETURN TO:  
J. J. HALLICAY  
455 East 400 South, Suite 400  
Salt Lake City, Utah 84111

**3617741**

NOTICE OF DEFAULT

NOTICE IS HEREBY GIVEN by MCGHIE LAND TITLE COMPANY that a default has occurred under that certain Trust Deed dated October 13, 1970, executed by JAMES G. THOMAS and JANET K. THOMAS, husband and wife, as TRUSTOR, in favor of WESTERN MORTGAGE LOAN CORPORATION, a Utah Corporation, as BENEFICIARY, and in which MCGHIE LAND TITLE COMPANY was named as TRUSTEE, and said Trust Deed having been assigned to FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF CHICAGO by Assignment of Trust Deed dated December 21, 1970, and the Trust Deed having been recorded in the office of the County Recorder of Salt Lake County, State of Utah, on November 9, 1970, as Entry No. 235 602, in Book 2914, at page 734, of said Official Records, all relating to and describing the real property situated in the County of Salt Lake, State of Utah, particularly described as follows:

All of Lot 13, COPPER HILL HEIGHTS NO. 7,  
according to the official plat thereof.

Commonly known as 3841 South 6460 West,  
Salt Lake City, Utah 84120.

Said Trust Deed secures certain obligations under a Note of even date, in the original principal sum of \$16,000.00, bearing interest at the rate of 8½% per annum and the beneficial interest under the Trust Deed and the obligations secured thereby are now owned by First Federal Savings and Loan Association of Chicago.

That the default which has occurred is the breach of an obligation for which the trust property was conveyed as security and consists of the failure of the Trustor to pay the monthly installment due May 1, 1981, and each monthly installment thereafter to the date hereof. That the holder of the Trust Deed Note has exercised its option of declaring the en-

W05326 M4 695

EXHIBIT "A"

000137

That by reason of such default First Federal Savings and Loan Association of Chicago, the present Beneficiary under said Trust Deed, has executed and delivered to said Trustee a written declaration of default and demand for sale, and has deposited with said Trustee the Trust Deed and all documents evidencing the obligations secured thereby and has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby. The default is subject to reinstatement in accordance with the Statutes of the State of Utah.

McGHIE LAND TITLE COMPANY

RATION RECORD  
 SALT LAKE COUNTY  
 UTAH  
 OCT 27 10 05 AM '18  
 HALLIDAY'S HALLIDAY  
 SEP 10 1918

BY: Paul M. Halliday  
Paul M. Halliday  
Attorney and Agent  
455 East 400 South, Suite 400  
Salt Lake City, Utah 84111  
Telephone: 355-2886

On the 27th day of October, 1981, personally appeared before me PAUL M. HALLIDAY, who being first duly sworn did say, that he is the attorney and agent for McGhie Land Title Company; and executed the foregoing Notice of Default for and on behalf of said McGhie Land Title Company.

My Commission Expires: 2-12-82

Notary Public  
Residing in Salt Lake City, Utah

**BOOK 5306** **FILE** **695**

# EQUITY ASSURANCE - INVESTMENT

DEAR HOMEOWNER,

We see by public record that you are in Default on your Mortgage payments. As you are probably aware, this is the first step of a foreclosure procedure. We're sure that you do not want a foreclosure against your name or on your credit record.

We have several methods that can help protect you. But first of all you need to take action...YOU MUST CALL US TODAY AT 266-8543.....Then we can Explain various ways to help you solve your problem.

WE CAN:

CATCH-UP YOUR BACK PAYMENTS.

KEEP THE FORECLOSURE OFF YOUR NAME AND RECORD.

IF NECESSARY BUY YOUR HOUSE.

No gimmick...No tricks...No sales pitch... Just plain understandable business. We want to help get you out of financial difficulty and get people off your back. But you must take the first step by calling us TODAY and asking for DOUGLAS JOHNSON OR MARK JOHNSON AT 266-8543.....

In the meantime, the very best to you and your family.

Sincerely,



  
  
DOUGLAS JOHNSON  
MARK JOHNSON

EXHIBIT "B"

CCC138

CALL 266-8543 ANY DAY OR ANY TIME DAY OR NIGHT.

Exhibit



261 East Third South  
Suite 100  
Salt Lake City, Utah 84111  
355-4783 & 532-6600

# STEWART TITLE OF UTAH

☐ 5288 South 320 West  
Building 148 B  
Murray, Utah 84107  
263-3002

## BUYER'S STATEMENT

row No. 8512 Property Address: 3841 South 6440 West  
row Officer: Sally Udy West Valley City, Utah 84120  
per JOHNSON, MARK T. Seller JONES, JANET K.

	Debit	Credit
Sales Price	\$	
Deposit, paid to		
Uniform Real Estate Contract <input type="checkbox"/> New <input type="checkbox"/> Assumed		
Trust Deed Assumed as of		
Trust Deed to		
Interest on Loan Assumed from to		
at % ( days)		
Reserve Assumed		
Fire Ins. Prem. Assumed - Co.:		
Prem.: \$ Expires:		
Policy No.: ( days)		
FHA Mortgage Ins. Assumed		
Taxes for Current Year to based		
on 19 tax of \$ ( days)		
Special Taxes		
S L. Co. Special District #1 to February 2, 1982	64.36	
Proration of Sewer & Water		
to Granger Hunter Improvement	38.00	
Interest on		
Rents		
Security Deposits		
Title Insurance Premium Owner's	150.00	
Recording: Deed \$ 5.00 ; Trust Deed \$		
Releases \$ 5.00 Notice of Int. \$		
Other \$5.00 ; Quit Claim	15.00	
Escrow Fee to Stewart Title of Utah	100.00	
Document preparation Fee to:		
Loan Transfer Fee To Western Mortgage	45.00	
Premium for New Insurance to		
Western Mortgage Payment due 5-1-82 thru 2-1-82	1,790.00	
Western Mortgage Late Charges due	32.22	
Attorney Fees	782.00	
Sub-Totals	3,016.58	00.00
Balance due to/from Buyer		3,016.58
TOTALS	\$ 3,016.58	\$ 3,016.58

I PROVED this 2nd day of February 1982, and Buyer understands the closing officer has assembled this information representing the transaction from the best information available from other sources and cannot warrant the accuracy thereof. Except as previously disclosed by Stewart Title, Buyer certifies that the Buyer does not have any judgments against them in Court, State or Federal, and have not been in bankruptcy, voluntarily or involuntarily, within the past eight (8) years, and no adverse occupant of said property or unrecorded options to purchase, sales contracts or lease agreements are outstanding affecting said property. We acknowledge we have been given the right to present this closing statement to our Real Estate Broker Lender or Attorney. Buyer also understands that tax and insurance prorations and reserves were based on figures for preceding year or supplied by others, estimated for current year, and in the event of any change for current year, all necessary adjustments must be made between buyer and seller outside of this escrow. The undersigned hereby authorize Stewart Title to make expenditures and disbursements as shown above and approve same for payment. The undersigned also acknowledge receipt of loan funds, if applicable, in the amount shown above and a receipt of a copy of this statement.

553 So 1st St  
Address (mailing)

MARK T. JOHNSON

Buyer

UTAH 84120  
State Zip

Buyer

61-571-760-3  
No Area Code

Buyer

# EQUITY ASSURANCE & INVESTMENT

## FULL DISCLOSURE

I, JANET K. THOMAS, on this 14 day of JANUARY, 1982, do fully understand, acknowledge and agree that by signing this full disclosure we have:

- 1) AGREED TO SELL OUR HOME.
- 2) AGREED THAT AS OF THIS DATE WE NO LONGER OWN SAID PROPERTY.
- 3) AGREED THAT WE HAVE BEEN GIVEN THE OPTION TO REPURCHASE THIS RESIDENCE.
- 4) AGREED AND REALIZE THAT WE ARE NOT BORROWING CAPITAL FROM MARK JOHNSON AND/OR ASSOCIATES.
- 5) AGREED THAT SHOULD THE ENCUMBRANCES AS OF 14 JANUARY, 1982 BE IN EXCESS OF THE AMOUNT NOTED ON THE EQUITY PURCHASE AGREEMENT, THAT THE BUYER HAS THE OPTION TO DEED SAID PROPERTY BACK TO THE SELLER WITH NO COST OR OBLIGATION TO THE BUYER AND/OR REVOKE ANY REPURCHASE AGREEMENTS.
- 6) Agreed to pay all attorney and legal costs incurred due to incidents that may arise from our occupancy and/or vacating of said property.
- 7) Been made aware and understand traditional foreclosure procedures, consequences and alternatives.
  - a) Ninety (90) day reinstatement
  - b) Twenty-one (21) day advertising period
  - c) Auction at the sale date
- 8) Agreed that during our conversation with MARK JOHNSON and/or ASSOCIATES we have been informed of outside financing such as friends, relatives, banks and/or finance companies in order to reinstate our loan.
- 9) Agreed to receive due us, if any, at the time that MARK JOHNSON and/or Associates receives recorded Warranty Deed from the County Recorder of proper county.

Seller

Janet K. Thomas

Date

1-29-82

CS0210

Seller

Janet K. Thomas

Date

1-29-82

EXHIBIT "D"

EQUITY PURCHASE FORM

DATE 14 JANUARY 19 82

Address 3841 SO 6460 W. WEST VALLEY CITY, UTAH

In consideration of the sum of \$ 10<sup>00</sup> receipt of which is hereby acknowledged by SELLER. The SELLER agrees to sell and the BUYER agrees to purchase the the above described property for the sum of \$ 10<sup>00</sup> NET to SELLER and to take title subject only to existing encumbrances not in excess of \$ 14,100<sup>00</sup> payable \$ 179<sup>00</sup> per month, including taxes and insurance. Impounds if any, are to be assigned without charge to BUYER, in an amount satisfactory to lending institutions. Any impound shortage will be deducted from funds due SELLER. SELLER agrees to execute a Warranty Deed in favor of the BUYER immediately and authorizes the BUYER to record said deed. Title and Loans are to be checked in the name of the BUYER and it is agreed that in the event that Title or Loans fail to be in the agreed condition, that at the BUYER'S option, the BUYER may record Warranty Deed in favor of the SELLER herein without liability, and/or rescind this agreement. BUYER is to pay all escrow and title charges. Premises are to be left clean and in good repair by the SELLER, and no real property is to be removed by SELLER. Balance of the funds due the SELLER herein are to be paid after checking title and when premises are vacated. SELLER agrees to give possession of the above described property to BUYER on or before 25 JANUARY 1982. Property to be available, to be shown by the BUYER any-time prior to possession date.

SELLERS:

Janet Jones  
Janet K. Thomas Jones

DATE

1-22-82

DATE

1-22-82

BUYER:

M. L. Jones

DATE

1/14/82

( 1 of 2 )

EXHIBIT "E"

000141

EQUITY PURCHASE FORM CONTINUED

Buyer agrees to rent property to SELLER for amount of monthly Mortgage Payment including taxes and insurance. SELLER reserves the right to repurchase property for ~~\$21,700~~ <sup>(21,700)</sup> Twenty one Thousand Seven Hundred on or before 28 FEBRUARY 1983 Rent is to begin as of the date of closing. Any rents delinquent more than 32 days voids all buy back agreements. SELLER understands that BUYER intends to assign all rights etc. to a third party for investment purposes and agrees that date of repurchase may be extended to a period of 13 months from that time. SELLER also understands and agrees that should no investor be secured by approximately 14 days before advertised date of Trustee Sale. Then property will be returned to SELLER along with all rents collected to that date. SELLER agrees that the return of all rents and the voiding of all closing papers nullifies any and all agreements whether in writing or implied. SELLER agrees that should the transaction be cancelled BUYER is to be held Harmless.

SELLER:

Janet Jones DATE 1-22-82  
Janet K Thomas Jones DATE \_\_\_\_\_

BUYER:

M. L. G. K. DATE 1/14/82

**STEWART TITLE  
OF UTAH**

☐ 261 EAST THIRD SOUTH  
SALT LAKE CITY, UTAH 84111

☐ 5288 SOUTH 320 WEST  
BUILDING 148B  
MURRAY, UTAH 84107

RECORD AT REQUEST OF

STEWART TITLE OF UTAH

WHEN RECORDED RETURN TO

Name Stewart Title of Utah

Address 261 East 300 South

City, State, Zip Salt Lake City, Utah 84111

Stewart #8512

THIS SPACE PROVIDED FOR RECORDER'S USE:

KATIE L. GILSON  
RECORDER  
SALT LAKE COUNTY,  
UTAH

FEB 4 4 33 PM '82

STEWART TITLE CO.

REF

DEP

**Warranty Deed**

**3645712**

JANET K. THOMAS AKA JANET K. JONES grantor  
of West Valley City, County of Salt Lake, State of Utah, hereby  
CONVEY and WARRANT to

MARK T. JOHNSON, a man grantee  
of 3841 South 6460 West, West Valley City, County of Salt Lake, State of Utah--- for the sum of  
TEN AND NO/100 and other good and valuable considerations----- DOLLARS  
the following tract of land in Salt Lake County, State of Utah:

All of Lot 13, COPPER HILL HEIGHTS NO. 7, according to the official plat thereof.

SUBJECT TO: COUNTY and/or CITY TAXES NOT DELINQUENT: BONDS and/or SPECIAL ASSESSMENTS  
not delinquent and COVENANTS, CONDITIONS, RESTRICTIONS RIGHTS OF WAY, EASEMENTS, and  
RESERVATIONS NOW OF RECORD.

SUBJECT TO: Deed of Trust dated October 13, 1970 executed by JAMES G. THOMAS &  
JANET K. THOMAS, husband and wife as Trustors, to secure payment of a note bearing  
even date thereof in the sum of \$16,000.00 with interest thereon, payable as therein  
provided to MCGHIE LAND TITLE COMPANY, as Trustee, in favor of WESTERN MORTGAGE CORPORA  
as Beneficiary, recorded November 9, 1970 as Entry No. 2357602 in Book 2914, Page 734  
of Official Records, which Deed of Trust the Grantees hereby assume and agree to pay  
and agree to be bound by all of the provisions of the said Deed of Trust and agree to  
pay and agree to be bound by all of the provisions of the said Deed of Trust to the same  
effect that the signers of the said document as Trustors are bound.

Beneficial interest in said Deed of Trust assigned to FIRST FEDERAL SAVINGS & LOAN  
ASSOCIATION OF CHICAGO. Recorded December 24, 1970 as Entry No. 2364641 in Book 2924  
Page 813 of Official Records.

000113

Dated February 2, 19 82

Janet K. Thomas  
JANET K. THOMAS

Janet K. Jones  
JANET K. JONES

STATE OF UTAH  
COUNTY OF SALT LAKE } ss.

On the 2nd day of February, 19 82, personally appeared before me

JANET K. THOMAS AKA JANET K. JONES

the signer of the within instrument, who duly acknowledged to me that he executed the same.

Sally A. [Signature]  
Notary Public

My commission expires 7-9-84

Residing in Sandy, Utah

Form No. U-800

EXHIBIT "F"

LEASE

This indenture, made this 2nd day of February, 1982,  
between MARK T. JOHNSON of                       
Salt Lake City, Utah lessor, and JANET K. JONES  
as lessees:

WITNESSETH, that the said lessor, for and in consideration of  
the covenants and agreements hereinafter mentioned, to be kept and  
performed by the said lessee, their heirs and personal representatives,  
has demised and leased to the said lessee, all those premises situate  
and lying, and being in the County of Salt Lake, State of Utah, to-wit:

All of Lot 13, COPPER HILL HEIGHTS NO. 7, according to the official  
plat thereof.

commonly known as: 3841 South 6460 West

TO HAVE AND TO HOLD the above described premises, with the  
appurtenances, unto the said lessee, his heirs and personal representatives  
or assigns from the 1st day of February, 1982 until the 28th  
day of February, 1983 at midnight.

AND the said lessee, in consideration of the leasing of the premises  
aforesaid, by the said lessor, does covenant and agree with the said lessor  
his heirs, personal representatives and assigns, to pay the said lessor,  
as monthly rent the sum of \$179.00 \* in lawful money of the United States  
at the address of the lessor. Payments to begin on the 1st day of  
February, 1982, and continuing on the 1st day of each and  
every month thereafter. A late charge of 5% of the total payment to be  
added to any payments received more than five days after date due.  
Said payments to increase as taxes and/or insurance increase.

IT IS FURTHER COVENANTED AND AGREED by the said lessee, that they  
will pay or cause to be paid all water, rates, electric bills, sewer charges  
garbage charges, etc., and all taxes and assessments that may be laid,  
charged or assessed on the demised premises, pending the existence of this  
lease, or if at any time after any tax, assessment, or such service charge  
shall become due or payable, the lessee, or their legal successors, shall  
neglect to pay such taxes, assessments or charges, it may be lawful for the  
lessor to pay the same at any time thereafter, and the amount of any and all  
such payments so made by the said lessor shall be deemed and taken, and are  
hereby declared to be so much additional and further rent for the above  
demised premises due from and payable by the lessee; and may be collected  
in the same manner, by distress or otherwise, as is hereinafter provided  
for the collection of other rents to accrue herein.

C00114

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED by the said lessee hereto,  
for their heirs, personal representatives and legal successors, that the  
whole amount of rent reserved, and agreed to be paid for the said above  
demised premises, and each and every installment thereof, shall be and is  
hereby declared to be a valid and first lien upon any and all buildings  
and improvements on said premises, or that may at any time be erected,  
placed or put on them by said lessee, their heirs, personal  
representatives and legal successors, and upon their interests in this  
lease, and the premises hereby demised; and that whenever, and as often  
as any installment of rent, or any other amount above declared to be  
deemed and taken as rent, shall become due and remain unpaid for 32 days  
from the first day of each month when the said rents shall become due, shall  
terminate this lease forthwith and thereafter the lessee shall become and  
thereafter be tenant at will of the lessor.

\*Monthly payment to increase or decrease as underlying mortgage payments  
increase or decrease.

LESSEE AGREES TO BE RESPONSIBLE FOR ALL MAINTENANCE AND REPAIRS REQUIRED  
TO MAINTAIN PROPERTY BEING LEASED BY LESSEE IN IT'S PRESENT CONDITION

EXHIBIT "G"

AND the lessee further covenants with the lessor, that they will keep said demised premises in a clean and wholesome conditions, in accordance with the ordinances of any city or county, and that at the expiration of the time in this lease mentioned, they will yield up the premises to the lessor in as good conditions as when the same were entered upon by the lessee, loss by fire, or inevitable accident, and ordinary wear excepted.

IT IS EXPRESSLY UNDERSTOOD AND AGREED by and between the parties aforesaid, that if the rent above reserved, or any part thereof, shall be behind or unpaid, on the day of payment, wherein it ought to be paid, as aforesaid, or if default shall be made in any of the covenants herein contained to be kept by the lessee, their heirs, personal representatives and legal successors, it shall be lawful for the lessor, his heirs, personal representatives, and assigns, and legal representatives, at his option to declare said term ended, and into the demised premises, or any part thereof, either with or without process of law, to re-enter, and the lessee, or any other person or persons occupying, in or upon the same, to expel, remove and put out, using such force as may be necessary in so doing, and the said premises again to repossess and enjoy, as in his first and former estate; and to distrain for any rent that may be due thereon, upon any property belonging to the lessee, whether the same is exempt from execution and distress by law or not; and the lessee, in that case hereby waives all such legal rights which he now has or may have, to hold or retain any such property under any exemption laws now in force, meaning to give the lessor a valid and first lien upon any and all such personal property of the lessee. In the event that the lessee shall remain one day beyond the end term of this lease or beyond the day set for any default, the lessee shall be deemed to be guilty of a forcible detainer of the premises herein leased, and be subject to eviction and removal, forcibly or otherwise, with or without process of law.


AND IT IS FURTHER UNDERSTOOD AND AGREED by the said lessee, that neither the right given in this lease to said lessor, to collect the rent that may be due under the terms of this lease by sale, or any proceedings under the same shall in any way affect the right of the lessor to declare this lease at an end and declare this lease void and the term hereby created ended, as above provided upon default made by the lessee.

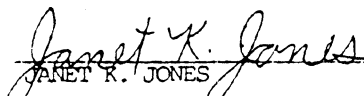
AND the said lessee waives their right to any notice from lessor of his election to declare this lease at an end, except for a single notice of default mailed at the address of the premises herein described, and his election to declare this lease at an end, under any of the provisions or any demand for the payment of rent, or the possession of premises leased herein; but the simple fact of the non-payment of the rent reserved shall constitute a forcible detainer as aforesaid.

THE said lessee agrees not to remove any buildings or other improvements from the said premises, without the written consent of the lessor, and the said lessee shall pay and discharge all costs and attorney fees and expenses that shall arise from enforcing the covenants of this indenture by the lessor.

ANY provision that is found to be in violation of any law or statute will not invalidate any other portion of this lease.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals the day and year first above written.

  
MARK T. JOHNSON

  
JANET K. JONES

OPTION

On this 2nd day of February, 1982, that I, JANET K. JONES  
\_\_\_\_\_, do by these presents hereby grant an option to \_\_\_\_\_  
MARK T. JOHNSON, to purchase the following described real  
property situate in the County of Salt Lake, State of Utah:

All of Lot 13, COPPER HILL HEIGHTS NO. 7, according to the official  
plat thereof.


commonly known as: 3841 South 6460 West, West Valley City, Utah for the  
purchase price of \$ 21,700.00, on the following terms and conditions thereof:

1. The term of said option shall run from the date hereof until February 28, 1983 upon payment of \$ 21,700.00 cash and/or other jointly acceptable financing to the optioner, less all costs and expenses.
2. The optionee shall give notice to the optioner at the address below, at least 10 days prior to the intended date of closing, which date must be prior to the said February 28, 1983.
3. Any closing of the sale shall take place prior to the termination of the option rights granted herein.
4. All costs shall be borne by the optionee herein.
5. This option shall terminate in the event that during its term at any time that the optionee shall not pay the payment due under the terms of the lease between the parties for a period of 32 days after the date due, excluding grace periods if any that may be granted.
6. Optioner agrees to convey by a good and sufficient Warranty Deed, reciting a consideration of \$ 21,700.00, free and clear of all liens or encumbrances whatsoever, excepting any or all liens accepted by optionee and also as to taxes, assessments, or impositions levied, assessed or imposed upon said real estate.
7. The options shall be binding upon the assigns of the optionor.
8. At any time during the period of the option, the optionee may exercise the rights under the option.

The rights under this option shall be binding upon the heirs, and personal representatives of the parties herein.

IN WITNESS WHEREOF, the undersigned has signed his name and affixed his seal on the day first written.

  
\_\_\_\_\_  
MARK T. JOHNSON

  
\_\_\_\_\_  
JANET K. JONES

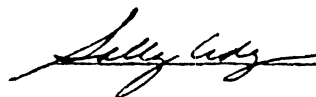
000115

Address:

EXHIBIT "H"



On this 2nd day of February, 1982, personally appeared  
before me, MARK T. JOHNSON and JANET K. JONES  
who upon being duly sworn and upon oath did  
say that they executed and acknowledged the same as their free and voluntary act.



Notary Public

My Commission expires: 7-9-84  
Residing at: Sandy, Utah

STEWART TITLE  
OF UTAH

261 EAST THIRD SOUTH  
SUITE 100  
SALT LAKE CITY, UTAH 84111  
355-4783 & 532-6600

5288 SOUTH 320 WEST  
BUILDING 148B  
MURRAY, UTAH 84107  
263-3002

SELLER'S ESCROW INSTRUCTIONS

escrow No. 8512 Property Address: 3841 South 6460 West  
date: February 2, 1982 West Valley City, Utah 84120  
buyer: MARK T. JOHNSON Seller: JANET K. JONES

SESCROW HOLDER

☒ I/We hand you herewith: ☐ I/We will hand you:

- ☐ Uniform Real Estate Contract ☐ Request for Notice of Default  
☒ Warranty Deed from JANET K. THOMAS AKA JANET K. JONES, a woman  
to MARK T. JOHNSON  
☐ Purchaser's Quit-Claim Deed and Assignment of Contract  
☒ Assignment of Reserve Account  
☒ Lease and Option  
☐  
☐

Delivering the property described above) upon request from Mark T. Johnson  
which you may deliver and/or record when you have collected for the undersigned Sellers the sum of \$  
~~SALE PRICE OF \$140,000.00 LESS \$10,000.00 CASH DOWN PAYMENT = \$130,000.00~~

- ☐ Uniform Real Estate Contract dated \_\_\_\_\_ by and between  
\_\_\_\_\_ as Seller, and  
\_\_\_\_\_ as Buyer, the terms  
of which have been read and approved by the undersigned.  
☐ Deed of Trust securing a Note in the amount of \$ \_\_\_\_\_;  
repayable at \$ \_\_\_\_\_ per \_\_\_\_\_ including/plus interest at the rate of \_\_\_\_\_ % per  
annum, the terms of which have been read and approved by the undersigned.  
☐ Balance of existing Deed of Trust  
☐ Pay demand of \_\_\_\_\_  
☐ Pay demand of \_\_\_\_\_  
☐ Real Estate Commission of \$ \_\_\_\_\_ to \_\_\_\_\_  
☐ Title Insurance Premium, escrow fee and usual recording fees:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SELLER IS AWARE OF THE TERMS AND CONDITIONS OF THE SALE OF THE ABOVE REFERENCED PROPERTY  
AND FURTHER REALIZE THAT THEY WILL NOT BE RECEIVING ANY PROCEEDS FROM THE SALE AND  
AGREE TO HOLD STEWART TITLE HARMLESS FOR THE SAME.

- PRO-RATE THE FOLLOWING AS of ☐ Recording date ☐ NONE  
☐ Real Property Taxes (Based on the latest available tax information), which will be re-adjusted between buyers and sellers  
when the actual tax statement becomes available.  
☐ Fire Insurance Premiums  
☐ Interest on existing loan  
☐ Rents (based on statements provided by seller)  
\_\_\_\_\_  
\_\_\_\_\_  
☐ Credit to seller existing loan trust fund

080146

It is understood that any unpaid utility charges including service, installation, or connection charges for sewer, water or electricity  
will be adjusted between the Seller and Buyer outside of this escrow. The undersigned has been given an opportunity to review and  
approve a copy of the commitment for title insurance on the above referenced property. These instructions are effective for 30  
days or until revoked by written demand on you by the undersigned or any one of them. If you are the prevailing party in any ac-  
tion or proceeding between you and some or all of the parties to this escrow, you shall be entitled to all costs, expenses, and reason-  
able attorney's fees expended or incurred in connection therewith. If you are required to respond to any legal summons or proceed-  
ings not involving a breach or fault upon your part, the parties to this escrow jointly and severally agree to pay all costs, expenses,  
and reasonable attorney's fees expended or incurred by you, and the parties hereto further agree to indemnify you against all loss  
and expense in said action or proceeding.

Received February 2, 19 82 Time \_\_\_\_\_ Sellers Janet K. Jones  
JANET K. JONES

STEWART TITLE OF UTAH

By [Signature]

AFTER RECORDING RETURN TO:  
PAUL M. HALLIDAY  
455 East 400 South #400  
Salt Lake City, Utah 84111

42  
FEB 9 7 34 AM '82  
SALT LAKE COUNTY  
RECORDING  
UTAH

3647150

CANCELLATION OF NOTICE OF DEFAULT

Paul M. Halliday, Successor Trustee, having received payment of the amount required to reinstate in full, does hereby cancel the Notice of Default recorded in the office of the County Recorder of Salt Lake County, State of Utah, on October 27, 1981, as Entry No. 3617741, in Book 5306, at page 695, of Official Records.

Said Notice of Default refers to the Trust Deed executed by JAMES G. THOMAS and JANET K. THOMAS, husband and wife, in favor of WESTERN MORTGAGE LOAN CORPORATION, a Utah Corporation as Beneficiary, but FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF CHICAGO being the present Beneficiary, which Trust Deed was recorded in the same county recorders office on November 9, 1970, as Entry No. 2357602, in Book 2914, at page 734, of said Official Records, describing and relating to the real property situated in Salt Lake County, State of Utah, particularly described as follows:

All of Lot 13, COPPER HILL HEIGHTS  
NO. 7, according to the official  
plat thereof.

Dated this 8th day of February, 1982.

*Paul M. Halliday*

Paul M. Halliday  
Successor Trustee  
455 East 400 South #400  
Salt Lake City, Utah 84111  
Telephone: 355-2886

STATE OF UTAH )  
                  : ss.  
County of Salt Lake )

On the 8th day of February, 1982, personally appeared before me PAUL M. HALLIDAY, the Successor Trustee, a member of the Utah State Bar and who being first duly sworn did say, that he is the Successor Trustee and the signer of the foregoing Cancellation of Notice of Default.

NOTARY PUBLIC  
My Commission Expires:  
2-14-82

*[Signature]*  
Notary Public  
Residing in Salt Lake City, Utah

BOOK 5339 PAGE 1423

EXHIBIT "K"

000147

# Residential Rental Agreement

This Residential Rental Agreement entered into this 3<sup>rd</sup> day of AUGUST 1982  
between MARK T. JOHNSON  
of DARBY County of SALT LAKE  
State of UTAH hereinafter called Lessor, and  
JANET K. JONES  
of WEST VALLEY CITY County of SALT LAKE  
State of UTAH hereinafter called Lessee.

## WITNESSETH

Lessor does hereby lease and rent unto Lessee, and Lessee does hereby take as tenant under Lessor, the dwelling accommodations known as 3841 So 64th W.

situated at WEST VALLEY CITY, County of SALT LAKE  
State of UTAH to be used by Lessee as a lawful private dwelling from the  
1<sup>st</sup> day of AUGUST 1982 to the 28 day of FEBRUARY 1983  
Termination Before Date to be Done  
inclusive, a term of SEVEN MONTHS EITHER PARTY WITH 30 DAYS ADVANCE NOTICE.  
Said accommodations are rented for occupancy of 2 Adults and 1 Children.

IN CONSIDERATION WHEREOF, and of the covenants hereinafter expressed, it is covenanted and agreed as follows:

1. Lessee agrees to pay to Lessor, or Lessor's agent, in advance, at the office of Lessor or said agent, in  
Lawful US currency or certified check  
on the first day of each month of said term, as rent for said premises, the sum of Two Hundred Eighty TWO Dollars (\$280.00) per month; the time of payment of each monthly installment is made the essence of this agreement.

2. Lessee shall not permit any unlawful and immoral practice to be committed on the premises; nor shall he permit them to be used as a boarding or lodging house, for rooming or school purposes, nor for any purpose which will increase the insurance rate; nor shall he permit to be kept or used on the premises inflammable fluids or explosives without the consent of Lessor; nor permit them to be used for any purpose which will injure the reputation of the building or which will disturb the tenants of the building or the inhabitants of the neighborhood.

3. Lessee has examined the premises and is satisfied with the physical condition and his taking possession is conclusive evidence of receipt of them in good order and repair, and the Lessee agrees to keep said premises in a clean and satisfactory condition, and, upon termination of this tenancy, will leave said premises, equipment and furnishings in as good condition as when entered upon, except for reasonable wear and tear or damage by the elements or by fire; and in the event of damage or injury to said premises, except as otherwise provided herein, said Lessee shall pay for all such damages.

4. Lessee agrees to pay all electric power and light, gas and telephone charges; and for laundering of linens, curtains, and blankets and cleaning of drapes, during tenancy and when vacating said dwelling, if such are furnished. The Lessee also agrees to pay for cleaning said premises at the rate of \$ 15.00 per day.

4a. Security Deposit of \$179.00 required THIS IS TO BE RETURNED IF HOUSE AND YARD IS LEFT CLEAN AND IN GOOD CONDITION

EXHIBIT "L"

MTJ J.J.

5. Lessee shall not have the right or power to sublet the premises or any part thereof, or to transfer or assign this lease without the written consent of Lessor; nor shall he offer any portion of the premises for a sublease by placing on the same any "to rent," "furnished room," "rooms to let" or similar sign or notice or by advertising the same in any newspaper or place or manner whatsoever without the consent in writing of Lessor.

6. It is expressly agreed and understood by the Lessor and Lessee that the Lessor shall not be liable for any damage or injury by water which may be sustained by the Lessee or other person or for any damage or injury resulting from carelessness, negligence or improper conduct on the part of any other tenant or agents or employees.  
*PERSONAL POSSESSIONS OF LESSEES ARE NOT INSURED BY LESSOR*

7. Should Lessee fail to pay the rent, or any part thereof, as the same becomes due, or violate any other term or condition of this lease, Lessor shall then have the right, at his option, to re-enter the leased premises and terminate the lease; such re-entry shall not bar the right of recovery of rent or damage for breach of covenants, nor shall the receipt of rent after conditions broken be deemed a waiver of forfeiture. *LATE RENT CHARGE. WHEN RENT IS NOT PAID ON TIME WILL BE A LATE CHARGE OF \$20 OR \$14.00 FOR EACH DAY PAYMENT IS LATE.*

8. Should the Lessor be compelled to commence or sustain an action at law to collect said rents or part thereof, or for damages, or to dispossess the Lessee or to recover possession of said premises, the Lessee shall pay all costs in connection therewith, including reasonable attorney's fees.

9. It is mutually understood and agreed that the Lessor and his agents shall have access to the leased premises at all reasonable times to inspect and protect the same, to show the same to a prospective purchaser, tenant or mortgagee, and to make any repairs thereto. *LESSOR WILL NOTIFY LESSOR OF ANY REPAIRS THAT MAY BE REQUIRED AS QUICKLY AS POSSIBLE.*

10. Lessee agrees not to keep or maintain a dog, cat or any other animal or pet on the leased premises without the written consent of the Lessor.

11. Lessee shall comply with all the reasonable rules and regulations now in force by Lessor, and posted in or about the premises, or otherwise brought to the notice of Lessee, both in regard to the building as a whole and as to the premises herein leased.

12. In the event the leased premises are furnished with furniture of the Lessor an inventory of the furniture shall be attached hereto and made a part hereof, and it is hereby agreed that all furnishings are received in good condition, unless otherwise expressly stated, and the Lessee further agrees to return the same at the expiration hereof in like condition, reasonable wear and tear excepted.

13. It is expressly stipulated that there are no terms of this agreement different from any of the preceding numbered paragraphs or in addition thereto, except the following *#1 PAYMENTS TO BE MADE AT 12553 SE FERT ST., DEARBORN, MICH. ON DATE DUE BY 6:00 P.M. AND A*

14. All covenants and representations herein are binding upon and inure to the benefit of the heirs, executors, administrators and assigns of Lessor and Lessee.

IN WITNESS WHEREOF, the parties hereto have hereunto set their signatures and seals, the day and year first above written.

*Janet K Jones*

(Lessee)

*M. L. Jones*

(Lessor)

\* AUGUST PAYMENT TO BE MADE \$140.00 DUE ON AUGUST 5, 1982  
AND BALANCE - \$140.00 - TO BE MADE BY AUGUST 15, 1982

# 10 DOG CURRENTLY OWNED IS ACCEPTABLE.

*M. L. Jones*

TURNER, PERKINS & SCHWOBE  
Richard W. Perkins  
Attorney for Owner  
343 South 400 East  
Salt Lake City, Utah 84111  
Telephone (801) 532-6808

\* \* \* \* \*

MARK T. JOHNSON,

Owner,

vs.

JANET K. JONES,

Tenant in  
Possession.

:

:

:

:

:

:

NOTICE TO PAY RENT  
OR TO  
QUIT THE PREMISES

DATE SERVED 12-4-82

AT RESIDENCE Yes

UPON Person

SINDT, Constable Murray Precinct  
Salt Lake County, State of Utah

\* \* \* \* \*

*[Signature]* Deputy

TO: THE ABOVE-NAMED TENANT IN POSSESSION:

NOTICE TO PAY RENT OR TO QUIT THE PREMISES

You will please take notice that you are now in arrears in the amount of Five Hundred Sixty Dollars (\$560.00) for rent on the premises hereinafter described, said rent being due and owing as follows: November, 1982, \$280.00; and December, 1982, \$280.00. Said rent being due on the first day of each respective month. You are further given notice that if you fail to pay said Five Hundred Sixty Dollars (\$560.00), or to deliver up possession of the premises hereinafter described to Owner or to Richard W. Perkins, Attorney for Owner, 343 South 400 East, Salt Lake City, Utah, within three (3) days of service of this Notice upon you, you will be guilty of unlawful detainer under the laws of the State of Utah, which laws will, among other things, allow Owner to recover Judgment against you for three (3) times the amount of rent accruing after said three-day period. 000000

You are given further notice that should you fail to comply with this Notice, an unlawful detainer action will be brought against you immediately, in which Owner will seek a Court Order removing you from the premises, for Judgment for rent due,

EXHIBIT "M"


three (3) times the damages sustained, and for all costs of the lawsuit.

Said premises are situated in the City of West Valley, County of Salt Lake, State of Utah, and are described as follows:

3841 South 6460 West, West Valley City, Utah.

TURNER, PERKINS & SCHWOBE

DATED December 3, 1982

  
Richard W. Perkins  
Attorney for Owner  
343 South 4th East  
Salt Lake City, Utah 84111

000171

## CONSTABLE'S RETURN

I am a duly appointed Deputy Constable of the Murray Precinct County of Salt Lake State of Utah, a citizen of the United States over the age of 21 years at the time of service herein, and not a party to or interested in the within action.

~~within named defendant~~ personally known to me to be the defendant/s mentioned in said

I further certify that at the time of such service of the NOTICE  
endorsed the date and place of service and added my name and official title thereto.

**JOHN A. SINDT**  
Constable Murray Precinct

Deputy

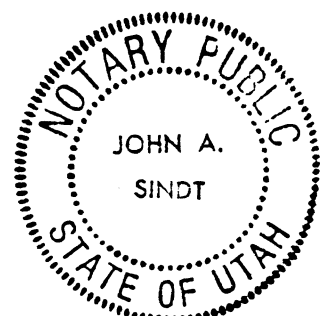
ee's"

Service:	\$	<u>3.75</u>
Mileage:	\$	<u>11.25</u>
:	\$	<u>          </u>
TOTAL:	\$	<u>15.00</u>

Notary Public

State of Utah

County of Salt Lake



000452



41694

TURNER, PERKINS & SCHWOBE  
 Richard W. Perkins  
 Attorney for Owner  
 343 South 4th East  
 Salt Lake City, Utah 84111  
 Telephone: (801) 532-6808

DATE SERVED March 83  
 AT RESIDENCE yes  
 POSTED UPON DOOR  
 SINDT, Constable Murray Precinct  
 Salt Lake County, State of Utah  
[Signature] Deputy

\* \* \* \* \*

MARK T. JOHNSON,	:	NOTICE TO PAY RENT OR TO
	:	QUIT THE PREMISES
Owner,	:	
	:	NOTICE OF TERMINATION
vs.	:	OF TENANCY
JANET K. JONES,	:	
	:	
Tenant in	:	
Possession.	:	

\* \* \* \* \*

TO: THE ABOVE-NAMED TENANT IN POSSESSION:

NOTICE TO PAY RENT OR TO QUIT THE PREMISES

You will please take notice that you are now in arrears in the amount of Two Hundred Eighty Dollars (\$280.00) for rent on the premises hereinafter described, said rent being due and owing for the month of March, 1983. Said rent being due on the first day of March, 1983. You are further given notice that if you fail to pay the said \$280.00, or to deliver up possession of the premises hereinafter described to the Owner or to his Attorney, Richard W. Perkins, at 343 South 400 East, Salt Lake City, Utah, within three (3) days of service of this notice upon you, you will be guilty of unlawful detainer under the laws of the State of Utah, which laws

41694

EXHIBIT "N"

will, among other things, allow the Owner to recover Judgment against you for three (3) times the amount of rent accruing after said three-day period.

You are given further notice that should you fail to comply with this notice, an unlawful detainer action will be brought against you immediately, in which the Owner will seek a Court Order removing you from the premises, for Judgment for rent due, three (3) times the damages sustained, and for costs of the lawsuit.

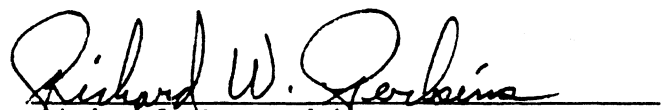
NOTICE OF TERMINATION OF TENANCY

You are further given notice that irrespective of your payment of the rent now due and owing as specified above, to-wit: Two Hundred Eighty Dollars (\$280.00), within three (3) days of the service of this notice upon you, your tenancy in the premises hereinafter described is terminated as of March 31, 1983, and you will not be permitted to rent said premises after the said March 31 1983. Should you fail to vacate and remove yourself from said premises on or before March 31, 1983, an unlawful detainer action will be brought against you pursuant to the laws of the State of Utah in which the above-named Owner will seek a Court Order removing you from the premises, for Judgment for rent due, three (3) times the damage sustained, and costs of suit.

Said premises are situated in the City of West Valley,  
County of Salt Lake, State of Utah, and are described as follows:

3841 South 6460 West, West Valley City, Utah.

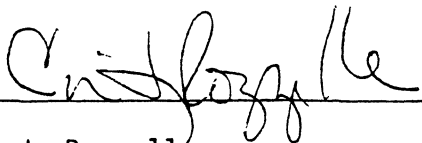
TURNER, PERKINS & SCHWOBE

A handwritten signature in cursive script, reading "Richard W. Perkins", written over a horizontal line.

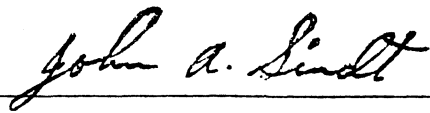
Richard W. Perkins  
Attorney for Owner  
343 South 4th East  
Salt Lake City, Utah 84111

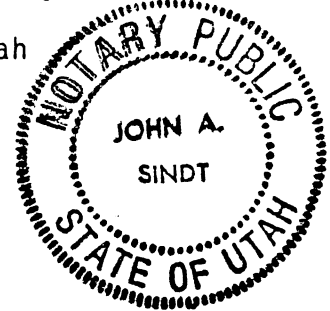
CERTIFICATE OF MAILING

This is to certify that on the 9th day of March, 1983  
I personally mailed a copy of the foregoing NOTICE, postage prepaid, to  
Janet K. Jones at 3841 South 6460 West, Salt Lake City, UT 84120.

  
Cindy Rozzelle

Subscribed and sworn to before me this 9th day of March, 1983.  
My Commission Expires: April 1, 1984

  
Notary Public County of Salt Lake  
State of Utah



000156

STATE OF UTAH )  
 ) ss.  
COUNTY OF SALT LAKE )

CONSTABLE'S RETURN

I, B. Gray , being first duly sworn on oath deposes and says:

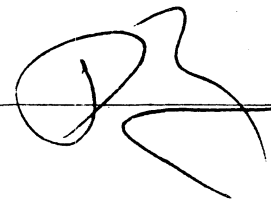
I am a duly appointed Deputy Constable of the Murray Precinct County of Salt Lake State of Utah, a citizen of the United States over the age of 21 years at the time of service herein, and not a party to or interested in the within action.

I received the within and hereto annexed, NOTICE , on the 7 d  
March , 19 83 , and served the same upon, Janet K. Jones  
the within named defendant, ~~also served,~~  
~~XXXXXX~~  
~~XXXXXX~~ personally known to me to be the defendant/s mentioned in said  
NOTICE , by delivering to and leaving a true copy of said NOTICE  
for the defendant ~~XXXX~~ posted upon door , ~~XXXXXX~~  
~~XXXXXX~~ at the usual place of residence of said defendant/s, personally  
this 8 day of March , 19 83 , at 3841 So. 6460 W.  
County of Salt Lake, State of Utah.

I further certify that at the time of such service of the NOTICE  
I endorsed the date and place of service and added my name and official title thereto.

Dated this 8 day of March , 19 83

JOHN A. SINDT  
Constable Murray Precinct

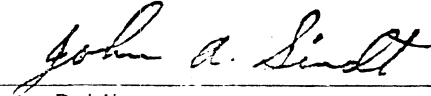
Deputy  19 83

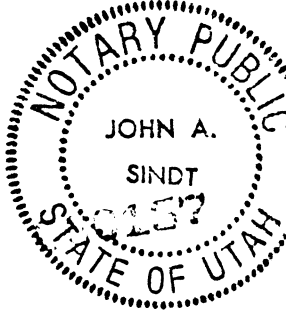
Subscribed and sworn to before me this 8 day of March

My Commission Expires: April 1, 1984

Fee's

Service: \$ 3.75  
Mileage: \$ 11.25  
ge & Handling: \$ .50  
TOTAL: \$ 15.50

  
Notary Public State of Utah County of Salt I



JOHN A. ROKICH  
ATTORNEY AT LAW  
3617 SOUTH 8400 WEST PHONE 250 5869  
MAGNA UTAH 84044

March 17, 1983


Richard W. Perkins, Esq.  
TURNER, PERKINS & SCHWOBE  
Attorneys at Law  
343 South 4th East  
Salt Lake City, Utah 84111

RE: MARK T. JOHNSON vs.  
JANET K. JONES

Dear Dick:

Pursuant to Notice to Pay Rent or to  
Quit the Premises mailed to Janet K. Jones, I  
am enclosing my Trust Check No. 1512 in the amount  
of \$280.00 which represents the rent due for the  
month of March, 1983.

Yours very truly,

  
JOHN A. ROKICH

JAR/pcr  
Encl.

EXHIBIT "O"