

1 Donald H. Landes
 2 Attorney at Law
 3 P.O. Box 966
 4 Coos Bay, OR 97420
 5 (503) 269-5767
 6 OSB # 74182

7 Attorney for Plaintiff,
 8 Michael A. Grassmueck, Inc.,
 9 Bankruptcy Trustee

U.S. BANKRUPTCY COURT
 DISTRICT OF OREGON
 FILED

JAN 22 1993

SERENCE H. DUNN, CLERK

10 UNITED STATES BANKRUPTCY COURT
 11 FOR THE DISTRICT OF OREGON

12 In Re

13 TIMOTHY JOE FARLEY
 14 DANITA ANN FARLEY,

15 Debtors.

Bankruptcy No. 690-63152-R07

Adversary No. 92-6105-R

16 MICHAEL A. GRASSMUECK, INC.,
 17 fka Michael A. Grassmueck,
 18 Bankruptcy Trustee,

19 Plaintiff,

20 vs.

21 UNITED STATES NATIONAL
 22 BANK OF OREGON,

23 Defendant.

STIPULATED JUDGMENT

24 This matter coming before the Court upon the Stipulation
 25 of the parties as indicated below and the Court thereby being
 26 fully advised in the premises; now, therefore:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the
 debtors' assignment of their buyers' interest in the McEachern/
 Farley Land Sale Contract dated June 25, 1976, to the United States

Ret:
 Donald H. Landes
 Attorney At Law
 P.O. Box 966
 Coos Bay, OR 97420
 269-5767
 OSB #74182

STIPULATED JUDGMENT - 1

(8)

1 National Bank of Oregon on or about August 30, 1990, a copy of
 2 which Assignment is attached hereto, is set aside as a voidable
 3 preference pursuant to 11 USC 547; and

4 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that
 5 the transfer so avoided is nevertheless preserved for the benefit
 6 of the estate pursuant to 11 USC 551.

7
 8 Robert E. Welliffe
 9 Bankruptcy Judge

10 IT IS SO STIPULATED:

11 Donald H. Landes
 12 Donald H. Landes OSB # 74182
 13 Attorney for Plaintiff

14 Wendell G. Kusnerus
 15 Wendell G. Kusnerus OSB # 79292
 16 Attorney for Defendant

Certified to be a true and correct
 copy of original filed in my office.

Dated 5-26-93

Terence H. Dunn, Clerk, U.S. Bankruptcy Court
 By [Signature] Deputy

18272

WHEN RECORDED BY COM'L TR.
UNITED STATES NATIONAL BANK OF OREGON
P. O. BOX 14430
302 STATE STREET
SALEM, OREGON 97309

Vol 199 Page 15218

Space above this line is reserved for recorder's use.

BUYER'S SECURITY ASSIGNMENT OF LAND-SALE CONTRACT

DATE: May 30, 1990

RECORDED
DATE JUN 21 1990

ASSIGNOR (hereinafter called "Buyer"): Timothy J. Farley and Danita A. Farley

DEBTOR: Buyer

(Insert "Buyer", name of other Debtor, or both, as appropriate.)

ASSIGNEE: United States National Bank of Oregon

Bank, Mid-Willamette Com'l Center Branch.

The Buyer is the purchaser of certain property described as follows:

Lot 15 in Block 302 DARROW ADDITION to the City
of Klamath Falls, Klamath County, Oregon.

(hereinafter called the "Property") under a land sale contract dated June 25, 1976 in which the sellers are Allan M. McEachern and Ruth M. McEachern (hereinafter called the "Sellers"), and which is recorded in Book H76 at Page 10310 Klamath County Records (hereinafter called the "Contract"). The Tax Account Number for the Property is:

1. Assignment. For value received, Buyer hereby assigns, mortgages, and conveys to United States National Bank of Oregon (hereinafter called "Bank") all of its right, title and interest in and to the Property, and in, to, and under the Contract. The Property and the assigned Contract are the "Security" referred to in this Assignment.

2. Indebtedness. The assignment, mortgage, and conveyance of the Security made to Bank by Buyer is to secure the performance of all duties owed to Bank under this Assignment and under other agreements securing or relating to the indebtedness described below, and the payment of the following obligations, all of which are hereinafter called the "indebtedness":

2.1 The principal and interest of a note of Debtor to Bank in the original principal amount of \$12,606.58 dated May 30, 1990 (hereinafter called the "Note"), on which the final payment is due on May 25, 1995, and all modifications and renewals thereof. The interest rate, payment terms and balance due under the terms of the Note may be indexed, adjusted, renewed or renegotiated in accordance with the terms of the Note and on account of any extensions and renewals of the Note.

2.2 All sums that Bank may expend in protecting its rights in the Security, all cost of collection, and attorneys' fees, including any incurred on appeal, with interest.

2.3 The principal and interest of all other indebtedness of Debtor to Bank, whether now existing or hereafter incurred, direct or indirect, absolute or contingent, due or to become due, joint or several, including without limitation obligations as guarantor, accommodation maker, or endorser, and future advances of all kinds.

3. Buyer's Covenants. Until the indebtedness is paid in full and this Assignment is fully satisfied, Buyer agrees that it shall be obligated and responsible for the following:

3.1 All payments and obligations of Buyer under the Contract shall be promptly and fully paid and performed, and all taxes, assessments, liens and encumbrances of all kinds in connection with, on, or affecting the Property and any other property subject to this Assignment shall be paid promptly when due; and if not so paid or performed, the Bank shall have the option of paying and/or performing the same, and may either add the cost to the principal of the Note or may treat the cost as a separate part of the indebtedness payable on demand and bearing interest at any rate specified by Bank that does not exceed any maximum rate set by applicable law. Buyer agrees that Buyer shall not abandon, or in any manner terminate Buyer's interest in the Property or in the Contract; any such abandonment or termination shall be void and of no force and effect.

3.2 The Property shall be kept covered with fire and extended coverage insurance and any other insurance required by the Bank, in an amount sufficient to pay the unpaid balance of the indebtedness or the value of the Security, with Bank's standard mortgagee endorsement if Bank requests. If not so covered, the Bank shall have the option of purchasing such coverage (at Bank's option naming Bank as the co insured or the only insured) and may either add the cost to the principal of the Note or may treat the cost as a separate part of the indebtedness payable on demand and bearing interest at any rate specified by Bank that does not exceed any maximum rate set by applicable law.

3.3 The Property shall be maintained in good order and repair. No waste thereof shall be committed or suffered, and none of the improvements be removed. Buyer shall do all things reasonably within Buyer's power that are necessary to prevent events or conditions that would adversely affect the value of the Security.

3.4 During the term of this Assignment, any additions or improvements to the Property shall be part of the Security included in this Assignment.

3.5 If any litigation is begun to foreclose this Assignment, or if there should be any appeal therefrom, or if Buyer or any of the Security should become the subject of any bankruptcy proceeding, then Buyer agrees to pay all court costs and disbursements allowed by law, and such sums as the court may adjudge reasonable as attorneys' fees. All such sums will draw interest at the same rate as the Note.

4. Hazardous Substances.

4.1 Except as previously disclosed to Bank in writing, Buyer represents and warrants to Bank as follows:

4.1.1 no hazardous substances are stored, located, used or produced on the Property;

4.1.2 to the best of Buyer's knowledge after due and diligent inquiry no hazardous substances are stored, located, used or produced on any adjacent property nor have any hazardous substances been stored, located, used, produced, or released on the Property or any adjacent property prior to Buyer's ownership, possession or control of the Property.

4.2 Buyer will not cause nor permit any activities on the Property which directly or indirectly could result in the release of any hazardous substance onto or under the Property or any other property. Buyer agrees to provide written notice to Bank immediately upon Buyer becoming aware that the Property or any adjacent property is being or has been subject to a release of any hazardous substance.

4.3 Bank and its representatives may enter the Property at any time for the purpose of conducting an environmental audit, committing only such injury to the Property as may be necessary to conduct the environmental audit. Bank shall not be required to remedy any such injury or compensate Buyer therefor. Buyer shall cooperate in all respects in the performance of the audit. Buyer shall pay the costs of any environmental audit if either a default exists under this Agreement at the time Bank arranges to have the audit performed or the audit reveals a default pertaining to hazardous substances. If Buyer refuses to permit Bank or its representatives to conduct an environmental audit on the Property, Bank may specifically enforce performance of this provision.

4.4 Buyer will indemnify and hold Bank harmless from and against any and all claims, demands, damages, clean up and other costs, expenses, losses, liens, liabilities, penalties, fines, lawsuits and other proceedings (including attorneys' fees) arising directly or indirectly from or out of, or in any way connected with (i) the breach of any representation, warranty, covenant or agreement concerning hazardous substances contained herein or in any other document executed by Buyer in connection with the loan evidenced by the note(s); (ii) any release onto or under the Property or other property of any hazardous substance which occurs as a direct or indirect result of the acts or omissions of Buyer, its directors, officers, employees, agents, and independent contractors; and (iii) any release onto or under the Property of any hazardous substance which occurs during Buyer's ownership, possession, or control of the Property.

4.5 If Bank shall at any time, through the exercise of any of its remedies under this Agreement, or by taking a deed in lieu of foreclosure, hold title to or own the Property in Bank's own right and Bank discovers that any hazardous substance has been stored, located, used, produced or released onto or under the Property, Bank may, at its option, convey the Property to Buyer. Buyer covenants and agrees that it shall accept delivery of any instrument of conveyance and resume ownership of the Property in the event Bank exercises its option hereunder to convey the Property to Buyer. Bank, at Bank's sole discretion, shall have the right to record any instrument conveying the Property to Buyer and such recordation shall be deemed acceptance of the instrument and conveyance by Buyer.

4.6 All Buyer's representations, warranties, covenants and agreements contained herein regarding hazardous substances, including but not limited to Buyer's agreement to accept conveyance of the Property from Bank and resume ownership shall survive foreclosure of this Agreement or acceptance

JUL 31 AM 10 33

For purposes of this Agreement, the term "hazardous substances" means any substance or material defined by any applicable federal, state or local statute, regulation or ordinance now in effect or in effect at any time during either the term of this Agreement or during the period in which Buyer or any purchaser remains in possession, custody, or control of the Property following either foreclosure of this Agreement or acceptance by Bank of a deed in lieu of foreclosure.

8. Condemnation. Unless the Contract expressly provides otherwise, Buyer shall be responsible to defend any condemnation action affecting any part of the Security. The net proceeds of any award, after deducting actual and reasonable costs, expenses and attorneys' fees incurred by Buyer in the action and any amounts paid to Seller or used to repair the Property pursuant to an express requirement of the Contract, shall be paid to Bank for application to the Indebtedness.

9. Release. After full payment of the Indebtedness by Buyer, Bank shall release this Assignment and, upon written demand of Buyer, will terminate its financing statements affecting the Security.

7. Events of Default. The following are Events of Default:

7.1 Any payment of principal or interest due on the Note, or on any other part of the Indebtedness, is not paid when due.

7.2 Buyer's or Debtor's failure to pay debts as they become due; appointment of a receiver for any part of Buyer's or Debtor's assets; assignment by Buyer or Debtor for the benefit of creditors; or the commencement of any proceedings under any bankruptcy or insolvency law by or against Buyer or Debtor.

7.3 Death of any Buyer or Debtor who is a natural person, or dissolution or termination of existence of any Buyer or Debtor which is not a natural person.

7.4 Any default under the Contract, or any event or condition not cured within 10 days which, with the lapse of time or the giving of notice, would constitute a default under the Contract, or would justify a declaration of default under the Contract, whether or not waived by the Sellers under the Contract, or any failure of Buyer to notify Bank of such a default, event, or condition.

7.5 Default by Sellers, or any predecessors in title of Sellers, as vendee under any contract of sale, grantor of any Trust Deed, or mortgagor of any mortgage, on the Property, unless the vendor, beneficiary, or mortgagee has, prior to the default, delivered to Bank an agreement acceptable to Bank subordinating his lien or interest to Bank's.

7.6 Failure of the Buyer to perform any other covenant of this Assignment or cure any condition prohibited by this Assignment within 15 days after Bank mails or, at Bank's option, delivers written notice specifying the covenant or condition.

7.7 Buyer breaches any representation, warranty or covenant contained in this Agreement regarding hazardous substances.

7.8 Default by Buyer or Debtor under any other Note or loan agreement to which Buyer or Debtor is a party or by which Buyer or Debtor is bound.

8. Rights Upon Default. After the occurrence of any Event of Default, the Bank may at Bank's option exercise any one or more of the following rights and remedies:

8.1 The right, without notice, presentment, or demand to declare the entire Indebtedness immediately due and payable

8.2 With respect to all or part of the Security, the right to foreclose by judicial proceedings with applicable law.

8.3 With respect to any personal property Security, the rights and remedies of a secured party under the Uniform Commercial Code, as well as those stated herein. The Bank may without notice take possession of all personal property Security not already in its possession and/or require Buyer to assemble it and turn it over to Bank at a reasonably convenient place designated by the Bank, and Buyer will do so. Although the Bank may in its discretion and without liability do so, the Bank shall have no duty to take any action to preserve rights against any party to the Contract, in instruments, either before or after default; and Bank shall have no duty whatsoever with respect to personal property Security in its possession beyond the use of ordinary reasonable care in its physical custody and preservation. The Bank may retain personal property Security in satisfaction of the Indebtedness, or may sell or otherwise dispose of such personal property at either public or private sale, first giving Buyer 10 days' notice of the date and place of public sale or of the date after which private sale may be made. The Buyer agrees that 10 days' notice is reasonable notice. The Buyer shall be liable for any deficiency and the Bank shall account for any surplus.

8.4 In exercising its rights and remedies, the Bank shall be free to sell all or any part of the Security, separately or at once. The Bank shall be entitled to purchase all or any portion of the Security at any public sale, or at any judicial or sheriff's sale.

8.5 Any other rights and remedies Bank may have under law or other agreements.

9. General. Time is of the essence of Buyer's and Debtor's obligations under this Assignment. A waiver by Bank of a breach of any provision of this Assignment shall not constitute a waiver of, or prejudice the Bank's right to demand strict compliance with that provision or any other provision. Buyer waives presentment, demand, notice and protest with regard to any part of the Indebtedness. Bank may exchange or release the Security, or other collateral granted by any person with respect to the Indebtedness, or may realize upon and apply any of the Security or other collateral it may have with respect to the Indebtedness in any manner and in any order, without affecting Bank's rights to realize upon and apply the proceeds of the Security.

10. Bank Not Liable. The Bank, by accepting this Assignment, or in its discretion performing any of Buyer's obligations under the Contract or under this Assignment, does not assume any liability or responsibility to continue performance of those obligations or to perform any of Buyer's other obligations under the Contract.

11. Debtor's Signature. If Buyer and Debtor are not the same, Debtor's signature is Debtor's agreement to those provisions that may affect Debtor. This Assignment does not confer upon Debtor any interest in the Property or in the Contract.

12. Special Provisions. The terms of the attached Seller's Consent to Contract Assignment are hereby incorporated by reference.

Executed and delivered to Bank effective on the date stated above.

Signature of Buyer: Timothy J. Farley
Signature of Debtor: Danita A. Farley

Signature of Debtor (if Buyer and Debtor are not the same)
CORPORATE ACKNOWLEDGMENT

STATE OF Oregon } ss.
COUNTY OF Lincoln }
On this 30 day of July, 19 90,
personally appeared _____
to me known to be the _____ of
the corporation that executed the foregoing instrument, and acknowledged
said instrument to be the free and voluntary act and deed of said corporation,
for the uses and purposes therein mentioned, and on oath stated that
he/she is authorized to execute the said instrument and that the seal affixed
is the corporate seal of said corporation.

In Witness Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC in and for the State of _____
residing at: _____
My commission expires: _____



INDIVIDUAL ACKNOWLEDGMENT

STATE OF Oregon } ss.
COUNTY OF Lincoln }
On this day personally appeared before me Timothy J. Farley,
to me known to be the individual(s) described in and who executed the foregoing instrument,
and acknowledged to me that they signed the said instrument as their free and voluntary act and
deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 30 day of July, 19 90

NOTARY PUBLIC in and for the State of Oregon
residing at: Portland
My commission expires: 11-6-93

PARTNERSHIP ACKNOWLEDGMENT

STATE OF _____ } ss.
COUNTY OF _____ }
On this day personally appeared before me _____
STATE OF OREGON: COUNTY OF KLAMATH: } ss.

Filed for record at request of U. S. National Bank the 31st day
of July, A.D., 19 90 at 10:33 o'clock A.M., and duly recorded in Vol. H90
of Deeds on Page 15218

FEE \$33.00

Evelyn Biehn - County Clerk

By Pauline M. Biehn
INDEXED
D.V.L.V.

Donald H. Landes
Attorney at Law
200 S. 4th Street
Coos Bay, Oregon 97420

14527

(503) 269-5767

P.O. Box 966

January 13, 1993

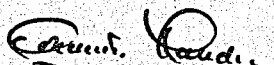
Bankruptcy Clerk
P.O. Box 1335
Eugene, OR 97440

Re: Grassmueck v. U.S. Bank
Adversary No. 92-6105-R

Dear Bankruptcy Clerk:

Enclosed in regards to the above matter is the original and two copies of the proposed STIPULATED JUDGMENT. If this meets the Court's approval, then please return conformed copies to both Attorney Kusnerus and myself in the stamped, self-addressed envelopes provided. Your assistance on this will be appreciated.

Sincerely,



Donald H. Landes

DHL: eo
Enclosures

cc: Michael A. Grassmueck, Inc.
Wendell G. Kusnerus

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Donald H. Landes the 18th day
of June A.D., 19 93 at 3:47 o'clock P M., and duly recorded in Vol. M93
of deeds on Page 14523
Evelyn Blehn County Clerk
By Pauline J. Williams

FEE \$25.00