

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

DREW W. PETERSON,)
)
 Plaintiff,)
)
 v.) Case No. 1:09-cv-06746
)
 JPMORGAN CHASE BANK, NA,)
 d/b/a "CHASE",)
)
 Defendant.)

COMPLAINT

NOW COMES the Plaintiff, DREW W. PETERSON ("PETERSON"), by his attorney, WALTER P. MAKSYM, JR., and complains of the Defendant, JPMORGAN CHASE BANK, NA d/b/a "CHASE" ("CHASE"), alleging as follows:

Nature of the Action

1. PETERSON brings these actions against the CHASE to recover damages, declaratory, equitable, and other relief under Regulation Z of the Truth in Lending Act ("TILA" or the "Act"), 15 U.S.C. § 1647, 12 C.F.R. § 226.5b ("Regulation 'Z'"), and Illinois statutory and common law.

Jurisdiction and Venue

2. This Court has subject matter jurisdiction over this case under 28 U.S.C. § 1332(d)(2). On information and belief, the aggregate of these claims exceeds the sum or value of \$75,000.00. The Court also has federal question subject matter jurisdiction under 28 U.S.C. § 1331 as this action arises in part under Regulation Z of TILA, 15 U.S.C. § 1647, 12 C.F.R. § 226.5b. The Court has supplemental subject matter jurisdiction over the pendent state law claims under 28 U.S.C. § 1367.

Venue

3. That venue in the Northern District of Illinois, Eastern Division is proper pursuant to 28 U.S.C. § 1391(a) in that PETERSON'S claims arose within this District and Division out of a wrongful conduct herein complained of that occurred in the County of Will, State of Illinois, as is hereinafter more particularly alleged he is a citizen of and resides in Will County, Illinois and the CHASE does business and maintains offices within this District.

4. On information and belief, CHASE is a national banking association whose main offices are in Ohio, and is considered a citizen of Ohio for the purposes of diversity jurisdiction under 28 U.S.C. § 1348 in *Wachovia Bank, N.A. v. Schmidt*, 546 U.S. 303 (2006).

5. Venue is also proper before this Court under 28 U.S.C. § 1391(b)(2) as a substantial part of the events, circumstances, and omissions giving rise to these claims occurred in this District. CHASE'S conducts significant lending and lending-related business in this District. Venue is also proper in this District under 28 U.S.C. § 1391(c).

Parties

6. That at all times relevant PETERSON was an active or retired Village of Bolingbrook Illinois sworn police officer, having attained the rank of Sergeant, who maintained his primary residence at 6 Pheasant Chase Court, Bolingbrook, County of Will, State of Illinois (the "subject property" - "residence"). 7.

That, on information and belief, at all times relevant, CHASE was a national banking association with its main office located at 1111 Polaris

Parkway, Columbus, Ohio, and a leading global financial services firm with assets of approximately two (2) trillion dollars and operations in more than sixty (60) countries. CHASE is a leader in investment banking, financial services for consumers, small business and commercial banking, financial transaction processing, asset management, and private equity. A component of the Dow Jones Industrial Average, CHASE (NYSE: JPM) serves millions of consumers in the United States and many of the world's largest corporate, institutional and government clients under its JPMorgan and CHASE brands.

Nature of the Claim

8. This case concerns CHASE'S illegal suspension and consequent reduction of credit limit on PETERSON'S home equity line of credit ("HELOC") by breaching its contractual promises to PETERSON as an HELOC account holder and borrower, by freezing his HELOC without first reasonably having a sound factual basis therefore in violation of Federal and State law.

9. PETERSON has instituted this cause so that this Court may, *inter alia*, determine, declare, adjudge, and decree:

(a) wheather PETERSON'S HELOC agreement terms imposed contractual obligations on CHASE to have a sound factual basis before lowering his HELOC limits due to a supposed significant and factually sound "material change" in his "financial condition";

(b) wheather CHASE'S suspension a total reduction of the PETERSON'S credit limit on his HELOC was unfair and unlawful;

(c) wheather CHASE gave lawful and fair notice to PETERSON that his HELOC was being lawfully suspended and reduced based on pre-textual or specific factually sound reason of an actual "material change" in his "financial condition";

(d) wheather CHASE'S conduct constitutes immoral,

unethical, or unscrupulous business practices under the Illinois Consumer Fraud and Deceptive Business Practices Act or constitutes common law fraud; and

(e) whether PETERSON is entitled to relief, and the nature of such relief.

Facts Common to All Counts

10. That PETERSON applied for, was approved by, and obtained a HELOC from CHASE on or about May 18, 2005 in the amount of Two Hundred Twenty Thousand (\$220,000.00) Dollars secured by a mortgage on the subject property that was duly recorded with the Will County Recorder of Deeds on June 6, 2005 as Document Number R2005094431 (the "HELOC" attached hereto as Exhibit "A".)

11. That PETERSON is currently being held and awaiting trial in a Will County Sheriff's Adult Detention Facility in Joliet, Illinois on and unable to make a Twenty Million Dollar (\$20,000,000.00) bail pursuant to an Arrest Warrant issued by the Circuit Court of the Nineteenth Judicial District Court of Illinois executed on May 7, 2009 entered in the pending and undetermined matter of People of the State of Illinois v. Drew Walter Peterson, Case No. 09 CF 1048 (the "Criminal Case"). PETERSON is currently awaiting trial in the criminal case on a Bill of Indictment charging two counts of First Degree Murder of his wife, Kathleen Savio (the "late wife"), alleged to have been committed on or about February 29, 2004 brought under 720 ILCS 5/9-1(a)(1) and 720 ILCS 5/9-1(a)(2)(the "Felony Charges") (See Exhibit "B" attached). PETERSON has pled not guilty to the felony charges, has not been found guilty, has not been sentenced, and must, therefore, for all intents and purposes, be presumed innocent until and unless convicted upon a verdict rendered by a jury of his peers and the exhaustions of any and

all appeal and remedies relating thereto.

12. That, thereafter, having his subject property so pledged and encumbered, PETERSON drew on the HELOC to help pay his home, family, personal, and legal expenses. Then, by a letter May 15, 2009 (the "Freeze Letter"), CHASE sent to PETERSON a freeze letter signed by "Sincerely, Chase Credit Line Review" notifying him, stating, *inter alia*, that it "suspended further advances against [his] line, effective immediately, because of a material change in [his] financial condition as noted below. Access to [his] account by check, card or other device [was] also suspended. ... The specific reason for this action is: imprisonment." (the "Suspension" - "Freeze"). (See Exhibit "C" attached) See also copies of the Affidavits of Orest Lechnowsky, CHASE'S Vice-President and Assistant General Counsel (Exhibit "D" attached), Christine Greigo, CHASE'S Investigative Specialist (Exhibit "E" attached), Michael Dunn, CHASE'S Vice-President and Branch Manager of the its Naperville Hobson Branch (Exhibit "F" attached), and Keith McLendon, CHASE'S Vice-President and Assistant General Counsel (Exhibit "G" attached). CHASE'S suspension followed and was based upon, as said freeze letter and affidavits show, PETERSON'S indictment and arrest on or about May 7, 2009 pursuant to a warrant issued on or about that date for the alleged said felony charges. PETERSON'S HELOC has remained frozen to date, thereby effectively having reduced his line of credit to \$0.00.

13. The CHASE freeze letter did not disclose the "material change in his "financial condition", summarily and immediately suspended PETERSON'S "access to [his] account by check, card or other device" due to, what it, CHASE, described the "specific reason(s) for ...[its] action ... [to have been] his "imprisonment". (the "Reason") (See Exhibit "C")

14. That, the material terms and conditions of PETERSON'S HELOC AGREEMENT, CHASE agreed, *inter alia*, to provide PETERSON a maximum \$220,000.00 HELOC for a period of twenty (20) years, provided that, *inter alia*, there was no unfavorable "material change" in his "financial condition". (See Exhibit "A")

15. That at all times relevant, PETERSON'S residence was free and clear of any first mortgage, debt, lien or encumbrance, save only the his HELOC recorded by CHASE as a "Deed of Trust/Mortgage" with the Will County Illinois Recorder of Deeds Office on June 8, 2005 as document number R2005094431. (See Exhibit "A")

16. That following PETERSON'S retirement in early November 2007 from the Bolingbrook Police Department, the Bolingbrook Police Pension Board voted on November 15, 2007 to allow him to collect his pension benefits in the amount of \$6,067.71 per month (the "Pension") since his retirement date, finding that by law his pension benefits could not be denied or limited in any way, as he had not been convicted of a crime. Accordingly, PETERSON has received, is receiving, and will be entitled to receive said pension payments, with increases, until his death.

17. That in addition his pension, PETERSON has received, and is receiving monthly Social Security benefits of approximate \$2,758.00 per month (the "Social Security Benefits").

18. That by reason of PETERSON'S having received being entitled to receive the foregoing pension and social security benefits in the combined monthly sum of approximately \$8,826.00, from which he could and would make timely payments of all sums that might come due under his HELOC and no unfavorable "material change" in his "financial condition" ever occurred.

19. That in May of 2009, at the time of CHASE'S suspension of PETERSON'S HELOC, he had a gross income of approximately

\$108,909.00 that exceeded his 2004 gross income of approximately \$80,384.00 and his 2005 gross income of approximately \$73,840.00. Therefore, the only "material change" in PETERSON'S "financial condition" that occurred since his application for and CASE'S issuance of his HELOC in 2005 was a favorable one, in that his gross income had actually *increased* by a factor of approximately One Hundred Thirty percent (130%).

20. PETERSON alleges, on information and belief, based upon, *inter alia*, inquiries and an investigation conducted by his attorney, JOEL BRODSKY, that, except as to those allegations pertaining to his and his said counsel personally, which are alleged upon personal knowledge, that despite being informed that his financial condition had not materially changed, but had improved, CHASE intentionally refused to lift the suspension on his HELCO and afford the credit he was qualified and legally entitled to receive.

21. PETERSON had a HELOC for which CHASE suspended the available credit in a manner and for a reason that was illegal, fraudulent, and unfair. As a result of CHASE'S wrongful and illegal actions, PETERSON brings this for actual damages and attorneys' fees under Regulation Z of the TILA (15 U.S.C. § 1640(a); 12 C.F.R. § 226.5b), damages for breach of contract, damages for breach of the implied covenant of good faith and fair dealing, damages, declaratory, injunctive and equitable relief under the Illinois Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505/1 *et seq.* (2000)[the "ICFDBPA"), and equitable relief under principles of common law.

22. CHASE purported reason for said suspension was pre-textual and lacked a sound factual basis for summarily and immediately suspended PETERSON'S HELOC. In so doing CHASE knowingly and intentionally and unreasonably, unlawfully, and

falsely pretextual reason trigger its freeze PETERSON'S HELCO. As a result, CHASE, in violation of federal law, suspended PETERSON HELOC, notwithstanding the fact that he then sufficient ongoing monthly income from the sources and in the amounts hereinafter specified to service his HELCO, and the further fact that, he had not then nor since been convicted of any crime nor been sentenced for anything, but rather had been indicted for said felony charges.

23. That CHASE'S intentional, arbitrary suspension and breach of PETERSON'S HELOC and absence of good and lawful reason for said action, as well as its intentional concealment of the its processes, standards, practices, real motives, and requirements for reducing limits, suspending accounts, and allowing reinstatement was and remains illegal. While federal law permits CHASE and other lenders to reduce credit limits if an individual borrower having secured a HELOC has had significant decline income, i.e., a significant change in financial condition, that had never occurred with respect to PETERSON or his HELOC as shown above, it violates federal law to reduce or suspend the credit limits of a HELOC account due to a material change in his financial condition without first determining and having a sound factual basis for reducing or freezing his HELOC credit limit.

24. CHASE'S post-reduction handling, management and administration of PETERSON'S complaints, inquiries, protests, objections, and attempted appeals that endeavored to inform CHASE that there had been no "material change" in his "financial condition" were likewise unfair and illegal. In response to PETERSON and his counsel's complaints, inquiries, protests, and attempted appeals, CHASE withheld and/or failed to provide, accurate, necessary and material information, including but not

limited to what it had stated in its freeze letter was a "material change" in his "financial condition" due to what they mischaracterized as his so called "imprisonment" so as to be required for reinstatement, and/or the method used to determine such income. This information is material and needed by PETERSON, as a borrower and customer, in order to determine whether to appeal.

25. CHASE'S HELOC suspension and reduction were not only fraudulent; they were patently unconscionable. On, on information and belief, October 3, 2008, Congress passed the Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343. As part of this law, CHASE obtained, on information and belief, approximately \$25 billion from an unprecedented seven hundred (700) billion "bailout" funded entirely by American taxpayers. The rationale advanced for the "bailout" by its proponents was that the banks needed the money to ensure liquidity in the face of the worsening subprime mortgage disaster. Discovery and production will needed because CHASE is in exclusive possession of documents, information, and data that will be needed to prepare and develop this case.

26. Despite CHASE'S statements to Congress to the contrary, they have intentionally failed to meet its obligations to its customers and have intentionally deprived those customers of crucial affordable consumer credit at a critical time, and in the case of PETERSON, at a time that he or anyone charged with a serious criminal offense or offenses would need to resort to its HOLOC in order to attempt bail (10% of the bond amount) or secure the services and representation of competent counsel of their choice to mount a credible defense to such charges.

27. In stark contrast, CHASE'S HELOC borrowers, like most American consumers, are struggling in a faltering economy, yet

they continue to, like PETERSON, meet their mortgage obligations. Customers such as PETERSON have incurred an increased price of credit, an inability to obtain desperately needed credit, and reduced credit scores, lost interest, cannibalization of their assets, and other damages such as, in the instant case, the inability to raise bail, maintain a credible defense and escape fines, life imprisonment, and the possible imposition of the death penalty.

28. In or about May 8, 2005 PETERSON obtained a HELOC on the subject matter property through CHASE in the amount of \$220,000.00. PETERSON consistently and at all times complied with all of the material terms of his HELOC.

29. That subsequently, CHASE summarily, arbitrarily, capriciously, and unilaterally reduced and suspended Peterson's HELOC by the aforementioned freeze letter dated May 15, 2009.

30. The CHASE'S freeze letter failed to detail any factual basis for any actual material change in PETERSON'S financial condition, and did not provide him a sound factual basis prior to suspending his credit privileges.

COUNT I

(Declaratory Relief Under TILA and Regulation Z)

31. PETERSON incorporates the foregoing paragraphs 1 through 30 by reference as if fully set forth herein.

32. The Truth-in-Lending Act ("TILA") and its implementing regulation (Regulation Z), that establishes rules for HELOC suspensions, reductions, and terminations, prohibited CHASE from changing any of the terms of a mortgage or HELOC – including the credit limit. 15 U.S.C. § 1647(c)(1); 12 C.F.R. § 226.5b(f)(3). There is an exception under TILA and Regulation Z for, *inter alia*, allows lenders, such as CHASE, to suspend or reduce HELOCs only in limited situations, such as where, (1) it reasonably

believes based on a sound factual basis ("reasonable belief"), and (2) that a consumer will be unable to fulfill the consumer's repayment obligations under the plan because of a material change in the consumer's financial circumstances ("inability") (the "Exception"). 15 U.S.C. § 1647(c)(2)(B); 12 C.F.R. § 226.5b(f)(3)(vi)(A).

33. That TILA and Regulation Z prohibited CHASE from suspending PETERSON'S account or reducing his credit limit on his HELOCs unless the exception, a reasonable belief and inability for purposes of § 226.5b(f)(3)(vi)(A) are both based on a sound factual basis. This exception requires both a material change in a borrower's financial situation and the creditor's reasonable belief that the borrower will not be able to repay the HELOC account as agreed. 12 C.F.R. pt. 226, Supp. I, commentary to paragraph 226.5b(f)(3)(vi), comment 7. Before reducing the limits of any of its customer's HELOCs, CHASE had an obligation to have a sound factual basis for a "material change" in his "financial condition". Regulation Z permits a lender to suspend or reduce a HELOC account only when the designated circumstances exist, and the regulatory commentary emphasizes that credit privileges must be timely reinstated when those circumstances cease. 12 C.F.R. pt. 226, Supp. I, commentary to paragraph 226.5b(f)(3)(vi), comment 2. When a consumer requests such reinstatement, the association must promptly determine whether the condition allowing the suspension remains in effect. 12 C.F.R. pt. 226, Supp. I, commentary to paragraph 226.5b(f)(3)(vi), comment 4.

34. PETERSON alleges on information and belief that, instead, CHASE knowingly and intentionally used his reported arrest as pretext in order to justify his HELOC account suspension. On information and belief, CASE'S reason was illegal

in that it failed to, among other acts or omissions:

(a) knowingly failed to have reasonably belief for the suspension based on a sound factual basis that PETERSON would, in fact, be unable to fulfill the consumer's repayment obligations under the plan because of a material change in the consumer's financial circumstances;

(b) knowingly failed and refused to properly investigate or document its assumptions and conclusions;

(c) knowingly failed and refused to timely reinstate PETERSON'S credit privileges when tit was informed by BRODSKY on his behalf, that those circumstances never existed and/or ceased;

(d) knowingly failed and refused, when by BRODSKY on his behalf, PETERSON requested reinstatement, to as they were required to do, promptly determine whether the condition they purported relied upon allowing the suspension ever existed or remained in effect, and, *inter alia*; and

(e) knowingly failed and refused take other necessary steps to reasonably verify the accuracy of its purported reason for and decision to suspend PETERSON'S HELOC when it knew or should have known that he was languishing in jail, attempting to access his HELOC in order to raise bond and pay for his defense while facing and needing to prepare for trial on said murder charges.

35. PETERSON has additionally been harmed because CHASE knowingly failed to disclose information that would permit him to fairly determine the actual factual basis or otherwise challenge its action, including but not limited to:

(a) how and why CHASE determined or defined the terms "material change" and "financial condition";

(b) how and why CHASE determined that they would not lift

the suspension, reinstate, or unfreeze his HELOC;

(c) the CHASE'S actual and specific reasons for the reduction of the HELOCs;

(d) the process, procedures, and guidelines pursuant to which CHASE implemented its suspension of his HELOC; and

(e) other necessary information.

36. Compounding CHASE'S failure to provide such basic information, and providing further disincentive for PETERSON, as a borrower, to challenge its decision, is was CHASE'S practice and policy of requiring him to perform the investigation into whether the purported condition permitting the suspension in the first place. TILA and Regulation Z provide that the burden of reinstating HELOC accounts and credit limits rests with the lender. See Commentary to 12 C.F.R. 226.5b(f)(3)(vi)(2). Although TILA and Regulation Z permit lenders such as CHASE to transfer the burden of seeking reimbursement onto HELOC borrowers, TILA and Regulation Z dictate that once a borrower requests reinstatement, the lender must then investigate the circumstances that purportedly warranted suspension or reduction. See Commentary to 12 C.F.R. 226.5b(f)(3)(vi)(4). Only after the lender investigates may the lender charge the borrower bona fide and reasonable costs. See Commentary to 12 C.F.R. 226.5b(f)(3)(vi)(3).

37. On information and belief, CHASE intentionally shifted onto PETERSON the burden of investigating the facts and having to do with the suspension and refusal to reinstate his HELOC. This was done in an effort to discourage customers, such as PETERSON, from seeking reinstatement of their original credit limits, and this illegal burden shift is particularly successful in discouraging customers from seeking reinstatement when combined with CHASE'S failure to provide specific information to

PETERSON that would have helped him assess what, if anything was required by CASE to seek and obtain reinstatement of his HELCO.

38. PETERSON and CHASE have adverse legal interests, and there is a substantial controversy between parties of sufficient immediacy and reality to warrant the issuance of a declaratory judgment as to whether CHASE'S reduction of his HELCO violated and continues to violate TILA and Regulation Z.

39. That by reason of CHASE'S illegal actions and omissions PETERSON has and will continue to suffer damage in that without access to his HELOC the preparation time for and his ability to have a fair criminal trial will be seriously and irreparably impeded, thus prolonging the length of his confinement, and increasing the likelihood of a possible conviction, given the unlimited resources the State of Illinois and its prosecutors can marshal, and his criminal defense has not been and will continue to be unable, due to the lack of access to his said HELOC to, *inter alia*:

(a) seek out, obtain and employ the services of a "domestic relations" expert to testify at trial regarding the State's purported motive and contradict the states theory of "motive" in order to properly prepare, present, and conduct an effective defense at the criminal trial;

(b) seek out, obtain and employ the services of a biomechanical engineering expert to testify at trial regarding the position and circumstances that PETERSON'S late wife's body was discovered, in order to properly prepare, present, and conduct an effective defense at the criminal trial;

(c) seek out, obtain and employ the services of an independent pathologists, toxicologist, and coroners to testify at trial and verify the lack of drugs in Kathleen Saviors body,

in order to properly prepare, present, and conduct an effective defense at the criminal trial;

(d) seek out, obtain and employ the services of license private detectives and investigators to locate, interview, and obtain statements and other data and information from key witnesses in order to properly prepare, present, and conduct an effective defense at the criminal trial;

(e) seek out, obtain and employ the services of other various experts as will be needed to consult and testify at trial and verify the lack of drugs in PETERSON'S late wife's body in order to properly prepare, present, and conduct an effective defense at the criminal trial;

(f) seek out, obtain and employ the services of a data and document organization specialist to develop and/or utilize software and to organize the many tens of thousands of pages of evidence produced by the prosecution into an accessible form usable in order to properly prepare, present, and conduct an effective defense at the criminal trial;

(g) seek out, obtain and employ needed tests and analysis of testimony and evidence in order to properly prepare, present, and conduct an effective defense at the criminal trial;

(h) seek out, obtain and employ needed tests and analysis of testimony and evidence in order to properly prepare, present, and conduct an effective defense at the criminal trial;

(i) seek out, obtain and employ the services of such additional associate and consulting attorneys, paralegals, law clerks and other staff, assistants and jury consultants as may be necessary to help review the massive amount of evidence required to be organized, reviewed and otherwise properly prepare, present, and conduct an effective defense at the criminal trial;

(j) seek out, obtain the exhibits, models, diagram, and media devices and materials in order to properly prepare, present, and conduct an effective defense at the criminal trial;

(k) undertake and conduct such mock pre-trial hearings, *voir dices*, and trials as may be necessary in order to properly prepare, present, and conduct an effective defense at the criminal trial;

(l) marshal the necessary funds in an effort to meet the existing or a reduced bond; and

(m) seek out, obtain such other and additional resources as may be necessary and pay for the various other substantial expenses that must be undertaken and expended, in order to properly prepare, present, and conduct an effective defense at the criminal trial.

WHEREFORE PETERSON PRAYS that this Court expedite this cause by reason of his need to obtain prompt relief due to his ongoing incarceration and need to prepare his defense against said murder charges, enter a judgment against CHASE under 27 U.S.C. § 2201 declaring that its arbitrary freeze and reduction of his HELOC credit limit in connection with its letter violates TILA and Regulation Z and that should have been, and should be granted immediate access to and unfettered use of his HELOC, awarding attorneys' fees under 15 U.S.C. § 1640(a)(3), prejudgment interest, and costs in an amount to be determined at trial, and such other and further relief as may be just and proper in the premises

COUNT II

(Violation of TILA and Regulation Z)

40. PETERSON incorporates the foregoing paragraphs 1 through 39 by reference as if fully set forth herein.

41. CHASE knowingly lacked a sufficient factual basis for

suspending PETERSON'S HELOC or prohibiting additional extensions of credit. CHASE further lacked a sound factual basis for concluding that a "material change" in PETERSON'S "financial condition" so as to justify suspending his HELCO or prohibiting additional extensions of credit.

42. CHASE'S suspension of PETERSON'S HELOC secured by his primary residence violated TILA and Regulation Z damaged him. These damages occurred in the form of the increased price of credit, appraisal fees, adverse effects on his credit score, rating and reputation, loss of interest, and other damages including because CHASE knew or should have known of its suspension was not "material change" in his "financial condition" supported by a sound factual basis.

WHEREFORE PETERSON PRAYS that this Court enter a judgment in his favor and against CHASE for actual damages under 15 U.S.C. § 1640(a)(1), statutory damages under 15 U.S.C. § 1640(a)(2)(B), general, compensatory and punitive damages in great excess of \$75,000.00, reasonable attorneys' fees under 15 U.S.C. § 1640(a)(3), prejudgment interest and costs in an amount to be determined at trial, and such other and further relief as may be just and proper in the premises.

COUNT III

(Violation of TILA and Regulation Z)

43. PETERSON incorporates the foregoing paragraphs 1 through 42 by reference as if fully set forth herein.

44. Where a creditor prohibits additional extensions of credit or reduces the credit limit, "the creditor shall mail or deliver written notice of the action to each consumer who will be affected. The notice must be provided not later than three business days after the action is taken and shall contain specific reasons for the action." Regulation Z, 12 C.F.R. §

226.9(c)(3).

45. That, on information and belief, CHASE'S notice of its suspension and reduction of PETERSON'S HELOC provided to PETERSON were pre-textual, untimely and/or did not contain sufficiently specific and lawful reasons for said action in violation of 12 C.F.R. § 226.9(c)(3) and the terms of said HELOC.

46. The CHASE'S Notice fail to provide PETERSON, as a HELOC customer, with enough valid information to determine whether he should spend the time and resources to challenge the its decision. Despite the Notice's own recognition that the customers' HELOC agreements and federal law requires a factually sound "material change" in "financial condition" prior to any lender, such as CHASE, prohibiting additional extensions of credit or reducing the credit limit, the letter was devoid of any specific legally sufficient reason and a sound and sufficient factual basis. The freeze letter does not reveal how CHASE determined or defined "material change" in PETERSON'S "financial condition"; how it would compute the income, he, as a customer, needs so that it would reinstate or unfreeze his HELOC. CHASE and its customer service has been likewise unable and unwilling to provide this information to PETERSON, upon request, or provide inconsistent and incorrect information, thereby rendering any appeals process illusory and futile.

WHEREFORE PETERSON PRAYS that this Court enter a judgment in his favor and against CHASE for actual damages against CHASE under 15 U.S.C. § 1640(a)(1), statutory damages under 15 U.S.C. § 1640(a)(2)(B), general, compensatory and punitive damages in great excess of \$75,000.00, reasonable attorneys' fees under 15 U.S.C. § 1640(a)(3), prejudgment interest and costs in an amount to be determined at trial, and such other and further relief as

may be just and proper in the premises.

(PENDENT STATE COUNTS)

COUNT IV

(Breach of Contract)

47. PETERSON incorporates the foregoing paragraphs 1 through 46 by reference as if fully set forth herein.

48. PETERSON obtained a HELOC from CHASE as aforesaid. The terms of said HELOC constitute a contract between PETERSON and CHASE.

49. The HELOC contains a term that allows CHASE to suspend or reduce the credit limit. CHASE drafted the HELOC, and it any and all such terms should therefore be construed against it.

50. PETERSON timely made all payments due to CHASE under the HELCO and otherwise fully performed under his HELOC Agreement with CHASE.

51. The credit limit under PETERSON'S HELOC was a material term of the contract between him and CHASE.

52. CHASE materially breached the terms of the PETERSON'S HELOC by so suspending the credit line for his HELOC where no significant "material change" in his "financial condition" has first occurred.

53. As a result, PETERSON suffered damages in the form, the increased price of credit, lost interest, attorneys' fees, adverse effects on his credit worthiness, scores, and ratings, and other damages, including but not limited to pay for his defense in a criminal proceeding of which CASE was or should have been fully aware.

WHEREFORE, PETERSON PRAYS that this Court enter a judgment in his favor and against CHASE for general, compensatory and punitive damages in great excess of \$75,000.00, reasonable attorneys' fees, prejudgment interest pursuant to 735 ILCS 5/2-

1303, costs in an amount to be determined at trial, and such other and further relief as may be just and proper in the premises

COUNT V

(Breach of Implied Covenants of
Good Faith and Fair Dealing)

54. PETERSON incorporates the foregoing paragraphs 1 through 53 by reference as if fully set forth herein.

55. PETERSON obtained a HELOC from CHASE. The terms of said HELOC constituted a contract between PETERSON and CHASE.

56. Implicit in the HELOC agreement were contract provisions that prevented CHASE from engaging in conduct that frustrates the PETERSON'S rights to the benefits of the contract or that would injure his rights to receive the benefits of said HELOC. Likewise, if not explicitly stated, implicit in the HELOC agreement were contract terms that required CHASE to comply with TILA and Regulation Z.

57. The credit limit was a material term of PETERSON'S HELOC. CHASE breached the implied covenant of good faith and fair dealing in the HELOC by arbitrarily suspending the credit lines for PETERSON'S HELOC without first having a sound factual basis for claiming there was a factually sound "material change" in his "financial condition".

58. CHASE further breached the implied covenant of good faith and fair dealing as to PETERSON contained in the HELOC by failing to provide sufficiently specific notice and by failing to provide him, as a customer, with material information used to justify the aforesaid summary suspension. In so doing, CHASE intentional withholding of crucial information, constituted violations of both TILA and Regulation Z.

59. CHASE also breached the covenant of good faith and fair dealing implied in said HELOC by placing the burden of

obtaining on PETERSON, rather than requiring a request for reinstatement from the borrower, then performing their own investigation and only charging those *bona fide* fees so incurred. Upon information and belief, CHASE'S shifting of the investigation burden onto PETERSON, as a borrower, and deprivation of critical information, was an intentional contravention of TILA and Regulation Z specifically designed to discourage him, as a borrower, from seeking reinstatement. CHASE'S actions in this regard constituted a breach of the covenant of good faith and fair dealing, as they were designed to frustrate the PETERSON'S rights to receive the full benefits of his HELOC agreement.

60. CHASE'S breach of the implied covenant of good faith and fair dealing and its violations of TILA and Regulation Z caused PETERSON to incur damages in the form price of credit, adverse effects on his credit scores, rating, reputation and the other damages herein set forth.

WHEREFORE, PETERSON PRAYS that this Court enter a judgment in his favor and against CHASE for general, compensatory and punitive damages in great excess of \$75,000.00, reasonable attorneys' fees, prejudgment interest there on pursuant to 735 ILCS 5/2-1303, and costs in an amount to be determined at trial, and such other and further relief as may be just and proper in the premises

COUNT VI

(Violation of the Illinois Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2])

61. PETERSON incorporates the foregoing paragraphs 1 through 60 by reference as if fully set forth herein.

62. CHASE'S wrongful acts, as set forth throughout this Complaint, constitute unfair methods of competition, deceptive business practices, misrepresentation, and concealment,

suppression or omission of material facts with the intent that consumers will rely on the concealment, and suppression or omission of the material facts in violation of the Illinois Consumer Fraud and Deceptive Business Practices Act. 815 ILCS 505/2 *et. seq.* ("Consumer Fraud Act").

63. That under the Illinois Consumer Fraud and Deceptive Business Practice Act (hereinafter referred to as "ICFA"), 815 ILCS 505/2, a person or corporation can be held liable for "unfair ... practices" used "in the conduct of any trade or commerce." According to the statute, "[t]he terms 'trade' and 'commerce' mean... offering for sale, sale, or distribution of any services...." 815 ILCS 505/1(f).

64. That CHASE'S unlawful conduct and actions and omissions as alleged above constituted and unfair practice and occurred in commerce and have caused serious and irreparable injury to PETERSON, unless restrained by the Court, will continue to cause further serious injury and irreparable to harmful to consumers like him and unfair and illegal competition.

65. CHASE'S statements regarding the availability of credit through the HELOC were false and likely to deceive a reasonable consumer. Further, CHASE'S statements as to its potential bases for reducing credit limits were false and likely to deceive a reasonable consumer.

66. CHASE'S conduct was deceptive and untrue, were without a sound factual basis, and were inaccurate and unsubstantiated so as to make its use unfair, deceptive, and readily subject to manipulation. Upon information and belief, CHASE intentionally utilized its pretextual excuse for suspending PETERSON'S HELOC as part of a broad policy to, whenever possible, deprive its customers credit by a pattern of providing false and misleading

basis for suspending or reducing credit limits. These unfair, immoral and unscrupulous acts and practices constitute deceptive and unfair business practices in violation of the Illinois Consumer Fraud Act.

67. CHASE'S conduct was also deceptive and unfair because it deprived PETERSON, as a borrower, critical information needed to determine whether or how to effectively seek reinstatement of his HELOC, including that that might be required for such reinstatement. CHASE'S conduct was further unfair, immoral and unscrupulous because it shifted the burden of seeking investigation to PETERSON, as a borrower, in contravention of TILA and Regulation Z. Upon information and belief, CHASE'S shifting of the investigation burden onto Peterson, as a borrower, deprived him critical information, was an intentional contravention of TILA and Regulation Z specifically designed to discourage borrowers from seeking reinstatement or otherwise challenging CHASE'S decisions.

68. As a direct and proximate result of CHASE'S deceptive, unfair, unscrupulous and unconscionable practices set forth above, PETERSON is entitled to actual and compensatory damages, penalties, attorneys' fees, and costs as set forth in §10(a) of the Illinois Consumer Fraud Act, 815 ILCS 505/10(a), in an amount to be determined at trial.

WHEREFORE, PETERSON PRAYS that this Court expedite this cause by reason of his need to obtain prompt relief due to his ongoing incarceration and need to prepare his defense against said murder charges and enter judgment:

A. declaring that the unfair practice in connection with said contracts as alleged herein be adjudged and decreed to be in violation of ICFA;

B. ordering that all payments heretofore made by or on behalf of PETERSON be accounted for, disgorged and refunded to him with prejudgment interest there on pursuant to 735 ILCS 5/2-1303; and

C. awarding him general, compensatory and punitive damages in great excess of \$75,000.00, reasonable attorneys' fees, and costs against CHASE in such amount as may be determined at trial, together with such other and further relief as may be just and proper in the premises.

COUNT VII

(Common Law Fraud - Deceit)

69. PETERSON incorporates the foregoing paragraphs 1 through 68 by reference as if fully set forth herein.

70. That on or about May 15, 2009, CHASE mailed or otherwise caused the freeze letter referencing his aforementioned HELOC account Number to be sent to PETERSON as aforesaid.

71. The above representations were intentionally false, and the CHASE knew them to be false when made.

72. The statement that there was a "material change" in PETERSON'S "financial condition" was untrue and pretextual.

73. That at the time the above-identified false statements were made by CHASE'S freeze letter, it knew the above-identified statements were false.

74. CHASE made such false statements in order to create a false pretext to enable it to suspend or terminate its HELOC obligations to PETERSON. CHASE intended that PETERSON rely upon the false statements so that it would not be contractually obligated to provide any further credit to PETERSON.

75. Reliance was unilaterally imposed upon PETERSON by CHASE. When CHASE unilaterally suspended or terminated its HELOC

obligations through the making of the false representations identified above, it changed the terms and obligations they owed to PETERSON pursuant to the HELOC it had negotiated with him.

76. PETERSON was given no opportunity or choice not to rely upon the CHASE'S action, because of its unilaterally changed terms and obligations of his HELOC.

77. The changes in the terms and obligations under the HELOC imposed by CHASE'S fraudulent actions resulted in a loss of credit that PETERSON had previously bargained for and that it had committed to provide based upon the security provided by the valuation of his home. The loss of credit resulted in real and significant monetary and other damage to PETERSON.

78. That the false statements made by CHASE to PETERSON were known by it to be false when they were made.

79. In each case, CHASE intended that PETERSON, to whom the false statements were made, would rely on the false statements as a pretext to enable it to suspend or terminate his HELOC.

80. CHASE imposed reliance upon PETERSON when it unilaterally suspended or terminated its HELOC obligations to him through the making of the false representations identified above. CHASE changed the terms and obligations they owed to PETERSON pursuant to the HELOC it had negotiated with him.

81. PETERSON was never given an opportunity or choice not to rely upon the CHASE'S actions, because it unilaterally changed the terms and obligations owed to him pursuant to the HELOC and applicable law.

82. The changes in the terms and obligations owed by CHASE to PETERSON under his HELOC resulted in a loss of credit that he had previously bargained for and that CHASE had committed to provide based upon the security provided by the valuation of his

home. The loss of credit resulted in real and significant monetary damage and great emotional distress to PETERSON.

83. In addition, PETERSON reasonably and justifiably relied on CHASE'S false representations to his detriment by being treated arbitrarily and capriciously so as to justify the its freezing of his HELOC thereby reducing his credit limit.

84. As an actual, direct, and proximate result of this justifiable reliance on CHASE'S misrepresentations, acts and omissions, PETERSON has sustained direct and consequential monetary damages in the form of attorneys' and other fees and costs.

WHEREFORE, PETERSON PRAYS that this Court enter judgment in his favor and against CHASE for general, compensatory and punitive damages in great excess of \$75,000.00, reasonable attorneys' fees, and costs in such amount as may be determined at trial, together with such other and further relief as may be just and proper in the premises.

COUNT VIII

(Unjust Enrichment - Restitution)

85. PETERSON incorporates the foregoing paragraphs 1 through 84 by reference as if fully set forth herein.

86. In the alternative, and in the event the Court finds that no contract provision expressly governs the issues raised herein, or that CHASE has not breached the terms of its HELOC contract, it has knowingly received and retained benefits from PETERSON under circumstances that would render it unjust to allow it to retain such benefits.

87. That by reason of the foregoing, CHASE knowingly received and has been unjustly enriched by retaining and profiting from the use of money that should otherwise have been provided to PETERSON as part of his HELOC. In so doing, CHASE

unlawfully, arbitrarily, and inappropriately reduced, suspend, or froze PETERSON'S HELOC, thus allowing it to utilize monies for its own purposes rather than for extending credit to PETERSON as previously promised. It is unjust to allow CHASE to keep such a benefit and profits in light of its actions in violation of TILA and Regulation Z and in light of the significant harm its action caused PETERSON.

88. Additionally, PETERSON has conferred a benefit upon CHASE by paying annual fees to them for his HELOC. CHASE'S receipt and retention, in full, of the annual fees is unfair and unjust in light of its unjust and illegal reduction or freezing of the HELOC accounts of PETERSON denying him the full bargained-for use of his HELOC account.

89. CHASE have been unjustly enriched by failing to refund, and continuing to assess, an annual fee despite illegally reducing and/or suspending his HELOC account of PETERSON thereby preventing his full and expected use thereof.

90. As an actual and proximate result of its actions, CHASE has received and retained a benefit at the expense and to the detriment of PETERSON in the form of the value of the credit unlawfully not extended to him, and collected annual fees.

91. PETERSON seeks damages and disgorgement of all revenue and profit gained through CHASE'S unjust enrichment, plus interest and attorneys' fees, in an amount to be determined at trial. PETERSON also seeks punitive damages, as CHASE'S actions were willful, deceptive, and made in bad faith.

92. That by reason of the foregoing CHASE'S conduct constituted unjust enrichment.

WHEREFORE, PETERSON PRAYS that this Court enter a judgment in his favor ordering all monies paid to CHASE by or on behalf of him be disgorged and refunded to him with prejudgment

interest there on pursuant to 735 ILCS 5/2-1303, that he be awarded reasonable attorneys' fees, and costs as may be determined at trial, together with such other and further relief as may be just and proper in the premises.

COUNT IX

(Declaratory Judgment - 735 ILCS 5/2-701)

93. PETERSON incorporates the foregoing paragraphs 1 through 92 by reference as if fully set forth herein.

94. That by reason of the foregoing PETERSON is entitled to a judicial declaration of his rights pursuant to 735 ILCS 5/2-701 and declaratory relief in connection therewith.

WHEREFORE, PETERSON PRAYS that this Court expedite this cause by reason of his need to obtain prompt relief due to his ongoing incarceration and need to prepare his defense against said murder charges, and a declaratory judgment be entered in his favor and against CHASE pursuant to 735 ILCS 5/2-701, as follows:

A. declaring that CHASE'S illegal activity alleged herein be adjudged and decreed to be in violation PETERSON'S rights under the aforementioned statutes and regulation in such cases made and provided;

B. declaring that CHASE has a duty to immediately honor, comply with and immediately fund PETERSON the \$220,000.00 that he was entitled to draw under his HELOC;

C. awarding PETERSON attorneys' fees, interest and costs in an amount to be determined at trial;

D. granting PETERSON such other and further declaratory, equitable, and injunctive relief, including restitution of property gained by the unfair competition alleged herein, that the freeze letter be declared illegal, against public policy, that all payments heretofore made by the pursuant to said

contracts and illegal conduct be accounted for, disgorged and refunded to him with prejudgment interest there on pursuant to 735 ILCS 5/2-1303; and an order for accounting of such property, as may be appropriate;

E. awarding PETERSON such other and further relief, as may be appropriate, necessary, just and proper in the premises.

COUNT X

(Specific Performance)

95. PETERSON incorporates the foregoing paragraphs 1 through 94 by reference as if fully set forth herein.

96. That CHASE knew or should have known that actions as alleged above would or might deprive PETERSON the ability to defend himself and oppose a capital offense charge brought by him by the State of Illinois, as he could have, had it not illegally suspended his HELOC, so that he might be unable to utilize such funds to prepare and mount a vigorous and zealous defense, and that if convicted on the felony charges he could well suffer a maximum penalty of a fine in addition to imprisonment for twenty (20) years to life or the death penalty.

97. That by reason of the foregoing, unless specific performance of the HELOC is ordered, PETERSON will thus suffer irreparable and continuing harm by having been an being illegally denied access and use of his HELCO.

98. That it was reasonably foreseeable, and a trier fact could find, that the CHASE'S breach would cause PETERSON great and irreparable harm by adversely hindering or denying him not only the ability to obtain another HELOC, but the ability to prepare and mount such defense and maintain his choice of private criminal defense counsel and other associated needed resources in connection with his criminal defense.

WHEREFORE, PETERSON prays, that this Court expedite this cause by reason of his need to obtain prompt relief due to his ongoing incarceration and need to prepare his defense against said murder charges, and enter judgment, in the alternative, as follows:

A. declaring that the unfair practice in connection with the contract alleged herein be adjudged and decreed to be in violation of ICFA;

B. declaring that CHASE has a duty to immediately honor, comply with and fund PETERSON the \$220,000.00 that he was and is entitled to immediately draw funds under his HELOC,

C. awarding PETERSON general, compensatory and punitive damages against CHASE in a sum in great excess of Seventy Five Thousand (\$75,000.00) dollars,

D. ordering hat all payments heretofore made by or on behalf of PETERSON be accounted for, disgorged and refunded to him with prejudgment interest there on pursuant to 735 ILCS 5/2-1303;

E. awarding PETERSON civil penalties pursuant to ICFA;

F. awarding PETERSON costs, disbursements and reasonable attorneys' fees pursuant to ICFA; and

G. awarded PETERSON such other and further relief, as may be appropriate, necessary, just and proper in the premises.

COUNT XI

(Slander of Credit)

99. PETERSON incorporates the foregoing paragraphs 1 through 98 by reference as if fully set forth herein.

100. That, on information and belief, by reason of the CHASE'S foregoing conduct and in connection therewith its wrongful and illegal suspension of his HELOC was communicated to and made a part of his credit information thereby aversely

affecting what had been and would otherwise continue to be PETERSON'S good credit rating and reputation, creditworthiness, and ability to obtain credit.

WHEREFORE, PETERSON PRAYS that this Court enter judgment in his favor and against CHASE for general, compensatory and punitive damages in great excess of \$75,000.00, plus reasonable attorneys' fees, costs in such amount as may be determined at trial, and such other and further relief as may be just and proper in the premises.

COUNT XII

(Intentional Infliction of Emotional Distress)

101. PETERSON incorporates the foregoing paragraphs 1 through 100 by reference as if fully set forth herein.

102. That, on information and belief, CHASE, knowing that PETERSON was criminally charged and confined as above stated and that he would and could suffer the damages and harm above stated by reason of CHASE'S foregoing conduct and as a result its intentional, wrongful and illegal suspension of his HELOC and the damage it would cause him, knowingly, willfully and intentionally caused him to suffer and to continue suffer great, foreseeable, and severe emotional distress.

103. That CHASE'S conduct of was intentional, extreme and outrageous conduct that exceeded all permissible bounds of decency of a civilized community.

104. That CHASE knew or should have known and its aforementioned extreme and outrageous conduct exceeded all permissible bounds of decency of a civilized community and could or would cause PETERSON severe emotional distress.

WHEREFORE, PETERSON PRAYS that this Court enter judgment in his favor against CHASE for general, compensatory and punitive damages in great excess of \$75,000.00, plus reasonable

attorneys' fees, costs in such amount as may be determined at trial, and such other and further relief as may be just and proper in the premises.

JURY TRIAL DEMANDED

PETERSON hereby requests a trial by jury of all issues so triable.

Dated and filed electronically using the United States District Court for Northern District of Illinois' "CM/ECF System" this 26th day of October 2009.

Respectfully submitted,
DREW W. PETERSON, Plaintiff,

By /s/ Walter P. Maksym, Jr.
WALTER P. MAKSYM, JR., his attorney

ATTORNEY'S RULE 11 CERTIFICATION

The undersigned attorney certifies that he has read the foregoing complaint, that to the best of his knowledge, information, and belief, formed after reasonable inquiry it is well grounded in fact the same is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

/s/ Walter P. Maksym, Jr.
WALTER P. MAKSYM, JR., Plaintiff's attorney

PLAINTIFF'S RULE 11 CERTIFICATION

The undersigned certifies that he is the Plaintiff in that above-captioned cause, that he has read the foregoing complaint, that to the best of his knowledge, information, and belief, formed after reasonable inquiry it is well grounded in fact the same is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation and that the exhibits attached, if any are true and correct copies of the documents they purport to be.

/s/ Drew W. Peterson
DREW W. PETERSON, Plaintiff

Walter P. Maksym, Jr.
Attorney for Plaintiff
2056 N. Lincoln Avenue
Chicago, IL 60614-4525
Telephone: 312-218-4475
e-mail: wmaksym@gmail.com

EXHIBIT "A"

WHEN RECORDED MAIL TO:
 JPMorgan Chase Bank, N.A.
 Retail Loan Servicing
 KY2-1606
 P.O. Box 11606
 Lexington, KY 40576-1606



4041570+1 00414511620160
 PETERSON, DREW
 DEED OF TRUST / MORTGAGE

Laurie McPhillips 13P R 2005094431
 Will County Recorder Page 1 of 13



LAK Date 06/08/2005 Time 11:23:10
 Recording Fees: 27.00

FOR RECORDER'S USE ONLY

This Mortgage prepared by:

VERNESSA SMITH, PROCESSOR
 111 E. WISCONSIN AVENUE
 MILWAUKEE, WI 53202

MORTGAGE

MAXIMUM LIEN. At no time shall the principal amount of Indebtedness secured by the Mortgage, not including sums advanced to protect the security of the Mortgage, exceed \$220,000.00.

THIS MORTGAGE dated May 18, 2005, is made and executed between DREW W PETERSON, whose address is 6 PHEASANT CHASE CT, BOLINGBROOK, IL 60490-4513 and STACY A PETERSON, whose address is 6 PHEASANT CHASE CT, BOLINGBROOK, IL 60490-4513; HUSBAND AND WIFE, AS TENANTS BY THE ENTIRETY (referred to below as "Grantor") and JPMorgan Chase Bank, N.A., whose address is 1111 Polaris Parkway, Columbus, OH 43240 (referred to below as "Lender").

GRANT OF MORTGAGE. For valuable consideration, Grantor mortgages, warrants, and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in WILL County, State of Illinois:

TAX ID#: 12-02-18-401-037-0000

LOT 118 IN PHEASANT CHASE UNIT 3, BEING A SUBDIVISION OF PART OF THE SOUTH HALF OF SECTION 18, TOWNSHIP 37 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 15, 1996 AS DOCUMENT R96-92632, IN WILL COUNTY, ILLINOIS.

The Real Property or its address is commonly known as 6 PHEASANT CHASE CT, BOLINGBROOK, IL 60490-4513. The Real Property tax identification number is 12-02-18-401-037-0000.

REVOLVING LINE OF CREDIT. Specifically, in addition to the amounts specified in the Indebtedness definition,

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and without limitation, this Mortgage secures a revolving line of credit and shall secure not only the amount which Lender has presently advanced to Grantor under the Credit Agreement, but also any future amounts which Lender may advance to Grantor under the Credit Agreement within twenty (20) years from the date of this Mortgage to the same extent as if such future advance were made as of the date of the execution of this Mortgage. The revolving line of credit obligates Lender to make advances to Grantor so long as Grantor complies with all the terms of the Credit Agreement and Related Documents. Such advances may be made, repaid, and remade from time to time, subject to the limitation that the total outstanding balance owing at any one time, not including finance charges on such balance at a fixed or variable rate or sum as provided in the Credit Agreement, any temporary overages, other charges, and any amounts expended or advanced as provided in either the Indebtedness paragraph or this paragraph, shall not exceed the Credit Limit as provided in the Credit Agreement. It is the intention of Grantor and Lender that this Mortgage secures the balance outstanding under the Credit Agreement from time to time from zero up to the Credit Limit as provided in this Mortgage and any intermediate balance.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF EACH OF GRANTOR'S AGREEMENTS AND OBLIGATIONS UNDER THE CREDIT AGREEMENT, THE RELATED DOCUMENTS, AND THIS MORTGAGE. THIS MORTGAGE IS INTENDED TO AND SHALL BE VALID AND HAVE PRIORITY OVER ALL SUBSEQUENT LIENS AND ENCUMBRANCES, INCLUDING STATUTORY LIENS, EXCEPTING SOLELY TAXES AND ASSESSMENTS LEVIED ON THE REAL PROPERTY, TO THE EXTENT OF THE MAXIMUM AMOUNT SECURED HEREBY. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due and shall strictly perform all of Grantor's obligations under this Mortgage.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

Duty to Maintain. Grantor shall maintain the Property in good condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Compliance With Environmental Laws. Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only

MORTGAGE
(Continued)

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and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

Removal of Improvements. Grantor shall not demolish or remove any Improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

Lender's Right to Enter. Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

Compliance with Governmental Requirements. Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

Duty to Protect. Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

DUE ON SALE - CONSENT BY LENDER. Lender may, at Lender's option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Illinois law.

TAXES AND LIENS. The following provisions relating to the taxes and liens on the Property are part of this Mortgage:

Payment. Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the

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(Continued)

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interest of Lender under this Mortgage, except for those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph.

Right to Contest. Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and permissible fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

Evidence of Payment. Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

Notice of Construction. Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

PROPERTY DAMAGE INSURANCE. The following provisions relating to insuring the Property are a part of this Mortgage:

Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of ten (10) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Property. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the

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principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

LENDER'S EXPENDITURES. If Grantor fails (A) to keep the Property free of all taxes, liens, security interests, encumbrances, and other claims (B) to provide any required insurance on the Property, or (C) to make repairs to the Property then Lender may do so. If any action or proceeding is commenced that would materially affect Lender's interests in the Property, then Lender on Grantor's behalf may, but is not required to, take any action that Lender believes to be appropriate to protect Lender's interests. All expenses incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Credit Agreement from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Credit Agreement and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Credit Agreement; or (C) be treated as a balloon payment which will be due and payable at the Credit Agreement's maturity. The Property also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of any default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

WARRANTY; DEFENSE OF TITLE. The following provisions relating to ownership of the Property are a part of this Mortgage:

Title. Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

Defense of Title. Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

Compliance With Laws. Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

Survival of Promises. All promises, agreements, and statements Grantor has made in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature and shall remain in full force and effect until such time as Grantor's Indebtedness is paid in full.

CONDEMNATION. The following provisions relating to condemnation proceedings are a part of this Mortgage:

Proceedings. If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

Application of Net Proceeds. If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

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IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES. The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage:

Current Taxes, Fees and Charges. Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

Taxes. The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (3) a tax on this type of Mortgage chargeable against the Lender or the holder of the Credit Agreement; and (4) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

SECURITY AGREEMENT; FINANCING STATEMENTS. The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage:

Security Agreement. This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

Security Interest. Upon request by Lender, Grantor shall execute financing statements and take whatever other action is requested by Lender to perfect and continue Lender's security interest in the Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

Addresses. The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Mortgage.

FURTHER ASSURANCES; ATTORNEY-IN-FACT. The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage:

Further Assurances. At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Credit Agreement, this Mortgage, and the Related Documents, and (2) the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

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Attorney-in-Fact. If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

FULL PERFORMANCE. If Grantor pays all the Indebtedness when due, terminates the credit line account, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

REINSTATEMENT OF SECURITY INTEREST. If payment is made by Grantor, whether voluntarily or otherwise, or by guarantor or by any third party, on the Indebtedness and thereafter Lender is forced to remit the amount of that payment (A) to Grantor's trustee in bankruptcy or to any similar person under any federal or state bankruptcy law or law for the relief of debtors, (B) by reason of any judgment, decree or order of any court or administrative body having jurisdiction over Lender or any of Lender's property, or (C) by reason of any settlement or compromise of any claim made by Lender with any claimant (including without limitation Grantor), the Indebtedness shall be considered unpaid for the purpose of enforcement of this Mortgage and this Mortgage shall continue to be effective or shall be reinstated, as the case may be, notwithstanding any cancellation of this Mortgage or of any note or other instrument or agreement evidencing the Indebtedness and the Property will continue to secure the amount repaid or recovered to the same extent as if that amount never had been originally received by Lender, and Grantor shall be bound by any judgment, decree, order, settlement or compromise relating to the Indebtedness or to this Mortgage.

EVENTS OF DEFAULT. Grantor will be in default under this Mortgage if any of the following happen:

(A) Grantor commits fraud or makes a material misrepresentation at any time in connection with the Credit Agreement. This can include, for example, a false statement about Grantor's income, assets, liabilities, or any other aspects of Grantor's financial condition.

(B) Grantor does not meet the repayment terms of the Credit Agreement.

(3) Grantor's action or inaction adversely affects the collateral or Lender's rights in the collateral. This can include, for example, failure to maintain required insurance, waste or destructive use of the dwelling, failure to pay taxes, death of all persons liable on the account, transfer of title or sale of the dwelling, creation of a senior lien on the dwelling without our permission, foreclosure by the holder of another lien, or the use of funds or the dwelling for prohibited purposes.

RIGHTS AND REMEDIES ON DEFAULT. Upon the occurrence of an Event of Default and at any time thereafter, Lender, at Lender's option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

Accelerate Indebtedness. Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay.

UCC Remedies. With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

Collect Rents. Lender shall have the right, without notice to Grantor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the

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obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

Mortgagee in Possession. Lender shall have the right to be placed as mortgagee in possession or to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The mortgagee in possession or receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

Judicial Foreclosure. Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

Deficiency Judgment. If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the Indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

Other Remedies. Lender shall have all other rights and remedies provided in this Mortgage or the Credit Agreement or available at law or in equity.

Sale of the Property. To the extent permitted by applicable law, Grantor hereby waives any and all right to have the Property marshalled. In exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

Notice of Sale. Lender will give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition.

Election of Remedies. All of Lender's rights and remedies will be cumulative and may be exercised alone or together. An election by Lender to choose any one remedy will not bar Lender from using any other remedy. If Lender decides to spend money or to perform any of Grantor's obligations under this Mortgage, after Grantor's failure to do so, that decision by Lender will not affect Lender's right to declare Grantor in default and to exercise Lender's remedies.

Expenses. To the extent not prohibited by applicable law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights, shall become a part of the loan payable on demand, and shall bear interest at the Note rate from the date of expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's expenses for bankruptcy proceedings (including efforts to modify or vacate the automatic stay or injunction) and appeals, to the extent permitted by applicable law.

NOTICES. Any notice required to be given under this Mortgage, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Mortgage. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. Any person may change his or her address for notices under this Mortgage by giving formal written notice to the other person or persons, specifying that the purpose of the notice is to change the person's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors. It will be Grantor's responsibility to tell the others of the notice from Lender. Notwithstanding the foregoing, the address for notice for Lender is: JPMorgan Chase Bank, N.A., P.O. Box

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901008, Fort Worth, TX 76101-2008.

IDENTITY OF LENDER. Lender is JPMorgan Chase Bank, N.A., a national banking association organized and existing under the laws of the United States of America, with its main offices located in Columbus, Ohio.

NON-WAIVER. A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision.

SUPPLEMENT TO PERSONAL PROPERTY DEFINITION. It is the intention of Lender only to take a security interest in and retain a lien on that personal property considered fixtures under the Uniform Commercial Code as adopted in the jurisdiction where this Mortgage is filed of record as same may be amended from time to time or such other statute of such jurisdiction that defines property affixed to real estate and no other personal property.

DUE ON SALE - CONSENT BY LENDER. Lender may, at Lender's option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. However, this option shall not be exercised by Lender if such exercise is prohibited by applicable federal or state law.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Mortgage:

Amendments. What is written in this Mortgage and in the Related Documents is Grantor's entire agreement with Lender concerning the matters covered by this Mortgage. To be effective, any change or amendment to this Mortgage must be in writing and must be signed by whoever will be bound or obligated by the change or amendment.

Caption Headings. Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

Governing Law. This agreement will be governed by and interpreted in accordance with federal law and the laws of the State of Illinois except for matters related to: (1) interest and the exportation of interest, which will be governed by and interpreted in accordance with federal law (including, but not limited to, statutes, regulations, interpretations, and opinions) and the laws of the State of Ohio; and (2) the validity and enforcement of Lender's security interest in the Property, which will be governed by the laws of the State where the Property is located. However, if there ever is a question about whether any provision of the agreement is valid or enforceable, the provision that is questioned will be governed by whichever of the governing state or federal laws that would find the provision to be valid and enforceable. The loan transaction which is evidenced by this and other related documents has been approved, made and funded, and all necessary documents have been accepted by Lender in the State of Ohio.

Joint and Several Liability. All obligations of Grantor under this Mortgage shall be joint and several, and all references to Grantor shall mean each and every Grantor. This means that each Grantor signing below is responsible for all obligations in this Mortgage.

No Waiver by Lender. Grantor understands Lender will not give up any of Lender's rights under this Mortgage unless Lender does so in writing. The fact that Lender delays or omits to exercise any right will not mean that Lender has given up that right. If Lender does agree in writing to give up one of Lender's rights, that does not mean Grantor will not have to comply with the other provisions of this Mortgage. Grantor also understands that if Lender does consent to a request, that does not mean that Grantor will not have to get Lender's consent again if the situation happens again. Grantor further understands that just because Lender consents to one or more of Grantor's requests, that does not mean Lender will be required to consent to any of Grantor's future requests. Grantor waives presentment, demand for payment, protest,

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and notice of dishonor.

Severability. If a court finds that any provision of this Mortgage is not valid or should not be enforced, that fact by itself will not mean that the rest of this Mortgage will not be valid or enforced. Therefore, a court will enforce the rest of the provisions of this Mortgage even if a provision of this Mortgage may be found to be invalid or unenforceable.

Merger. There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

Successors and Assigns. Subject to any limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Mortgage and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Mortgage or liability under the Indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Mortgage.

Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Illinois as to all Indebtedness secured by this Mortgage.

DEFINITIONS. The following words shall have the following meanings when used in this Mortgage:

Borrower. The word "Borrower" means DREW W PETERSON and STACY A PETERSON, and all other persons and entities signing the Credit Agreement.

Credit Agreement. The words "Credit Agreement" mean the credit agreement dated May 18, 2005, in the original principal amount of \$220,000.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The interest rate on the Credit Agreement is a variable interest rate based upon an index. The index currently is 6.000% per annum. If the index increases, the payments tied to the index, and therefore the total amount secured hereunder, will increase. Any variable interest rate tied to the index shall be calculated as of, and shall begin on, the commencement date indicated for the applicable payment stream. Notwithstanding the foregoing, the variable interest rate or rates provided for in this Mortgage shall be subject to the following maximum rate. **NOTICE:** Under no circumstances shall the interest rate on this Mortgage be more than the lesser of 25.000% per annum or the maximum rate allowed by applicable law. The maturity date of this Mortgage is May 18, 2025.

Environmental Laws. The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

Event of Default. The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

Grantor. The word "Grantor" means DREW W PETERSON and STACY A PETERSON.

Hazardous Substances. The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous

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Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

Improvements. The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

Indebtedness. The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Credit Agreement or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Credit Agreement or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Mortgage, together with interest on such amounts as provided in this Mortgage. **In addition, and without limitation, the term "Indebtedness" includes all amounts identified in the Revolving Line of Credit paragraph of this Mortgage. However, the term "Indebtedness" is subject to the limitations identified in the Maximum Lien section of this Mortgage.**

Lender. The word "Lender" means JPMorgan Chase Bank, N.A., its successors and assigns. The words "successors or assigns" mean any person or company that acquires any interest in the Credit Agreement.

Mortgage. The word "Mortgage" means this Mortgage between Grantor and Lender.

Personal Property. The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

Property. The word "Property" means collectively the Real Property and the Personal Property.

Real Property. The words "Real Property" mean the real property, interests and rights, as further described in this Mortgage.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

Rents. The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

EACH GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND EACH GRANTOR AGREES TO ITS TERMS.

GRANTOR:

x 
DREW W PETERSON, Individually

x 
STACY A PETERSON, Individually

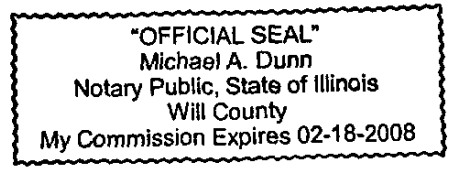
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MORTGAGE
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INDIVIDUAL ACKNOWLEDGMENT

STATE OF Illinois)
) SS
COUNTY OF Will)



On this day before me, the undersigned Notary Public, personally appeared **DREW W PETERSON**, to me known to be the individual described in and who executed the Mortgage, and acknowledged that he or she signed the Mortgage as his or her free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 18th day of May, 2005.

By [Signature] Residing at _____

Notary Public in and for the State of IL

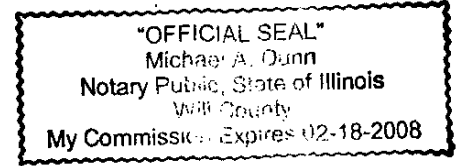
My commission expires 2-18-08

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(Continued)

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INDIVIDUAL ACKNOWLEDGMENT

STATE OF Illinois)
) SS
COUNTY OF Will)



On this day before me, the undersigned Notary Public, personally appeared **STACY A PETERSON**, to me known to be the individual described in and who executed the Mortgage, and acknowledged that he or she signed the Mortgage as his or her free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 18 day of May, 2005.

By [Signature] Residing at _____

Notary Public in and for the State of ILL

My commission expires 2-18-08

EXHIBIT "B"

STATE OF ILLINOIS)
) SS.
COUNTY OF WILL)

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS)

vs.)

Drew Walter Peterson)

NO. 09 CF 1048


BILL OF INDICTMENT

COUNT I

On or about February 29, 2004, at and within the County of Will, Illinois, Drew Walter Peterson, a male person, committed the offense of:

FIRST DEGREE MURDER

in that said defendant, without lawful justification and with the intent to kill Kathleen Savio, caused Kathleen Savio to inhale fluid, thereby causing the death of Kathleen Savio, in violation of Chapter 720, Section 5/9-1(a)(1) of the Illinois Compiled Statutes, 2004, contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois, AOIC Code 0735000.




Foreman of the Grand Jury

COUNT II

On or about February 29, 2004, at and within the County of Will, Illinois, Drew Walter Peterson, a male person, committed the offense of:

FIRST DEGREE MURDER

in that said defendant, without lawful justification, caused Kathleen Savio to inhale fluid, knowing that such an act created a strong probability of death or great bodily harm to Kathleen Savio, thereby causing the death of Kathleen Savio, in violation of Chapter 720, Section 5/9-1(a)(2) of the Illinois Compiled Statutes, 2004, contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois, AOIC Code 0735000.



Foreman of the Grand Jury

CASE NO. 09 CF 1048

WARRANT OF ARREST

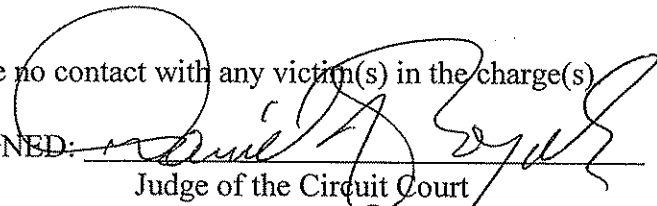
To all Peace Officers in the State, GREETING:

Whereas, a complaint in writing was presented to the Court charging that the offense of **FIRST DEGREE MURDER** has been committed, and it appears that **DREW WALTER PETERSON** committed the offense,

YOU ARE COMMANDED to arrest **DREW WALTER PETERSON** and bring said defendant without unnecessary delay before this Court, located at Courthouse, 14 West Jefferson Street, Joliet, Will County, Illinois or, if I am absent or unable to act, before the nearest or most accessible Court in this County.

BAIL is specified in the amount of \$ 20,000,000.⁰⁰ (Twenty Million) 10% ISSUED at Joliet, Will County, Illinois, this 7th day MAY A.D. 2009 returnable in Courtroom 305 at 1:30 p.m.

*As a condition of Bond, the defendant shall have no contact with any victim(s) in the charge(s)

SIGNED:  (SEAL)
Judge of the Circuit Court
of the 12th Judicial District

SEX/RACE: MALE/WHITE
D.O.B.: 01/05/54
HEIGHT/WEIGHT: 5'10, 185lbs.
HAIR/EYES: Gray/Blue
SSN:
DLN: P362-1795-4005
FBI:
SID:
LKA: @
PD NAME/C.R. #: ISP, #04-119521LP

EXHIBIT "C"



JPMorgan Chase Bank, N.A
Credit Line Review
Mailcode: AZ1-1113
201 North Central Avenue
Phoenix, AZ 85004

May 15, 2009

Account Number:
Ending in 0160

DREW W PETERSON
STACY A PETERSON
6 PHEASANT CHASE CT
BOLINGBROOK IL 60480-4513

Dear Customers:

Important information about your Chase Home Equity Line of Credit

After careful consideration, and under the terms and conditions of your Chase Line of Credit agreement, we have:

- decreased the amount of your line to: _____
- suspended further advances against your line, effective immediately, because of information we received from the reporting agency indicated below, or due to your failure to provide the information we requested. Access to your account by check, card or other device is also suspended.
- suspended further advances against your line, effective immediately, due to a request from one or more borrowers. Access to your account by check, card or other device is also suspended.
- suspended further advances against your line, effective immediately, because of a material change in your financial condition as noted below. Access to your account by check, card or other device is also suspended.

Our decision may have been based upon your entire credit activity; not necessarily on your Chase credit account history.
The specific reason(s) for this action is:

Imprisonment

Any outstanding balance on your credit line must continue to be repaid according to the current terms and conditions. You will continue to receive a monthly bill which will include your payment due information. If you have automatic monthly payment on this credit line, this service will continue. Be assured that this action will not affect any other accounts you may have with Chase. If this is an equity-secured account and the reason for this change ceases to exist, you may contact us at 1-888-847-4964 to request that your former access be reinstated.

A reporting agency marked below may have provided information used for our decision but is unable to supply specific reasons for this action. You have the right under the Fair Credit Reporting Act to know the information contained in your credit file at the consumer reporting agency. You also have the right to a free copy of your report from the reporting agency, if you request it no later than 60 days after you receive this notice. In addition, if you find that any information contained in the report you receive is inaccurate or incomplete, you have the right to dispute the matter with the reporting agency. If you have questions or would like to receive a free copy of your credit report, please send a copy of this letter along with your request and Social Security Number to:

- Experian, P.O. Box 949, 701 Experian Parkway, Allen, TX, 75002, tel. (1-888-397-3742).
- Equifax Inc., P.O. Box 105873, Atlanta, GA, 30348, (1-800-685-1111).
- TransUnion Corp, P.O. Box 1000, Chester, PA, 19022 (1-800-916-8800).

If conditions relevant to the action we have taken cease to exist, please contact us toll free at 1-888-847-4964 about reinstatement of your credit privileges.

Sincerely,

Chase Credit Line Review

NOTICE: The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is Office of the Comptroller of the Currency, Customer Assistance Unit, 1301 McKinney Ave., Suite 3710, Houston, TX. 77010



EXHIBIT "D"

COUNTY OF MARICOPA)
STATE OF ARIZONA)

AFFIDAVIT

Orest Lechnowsky, being first duly sworn and on oath, states that if called as a witness, I could competently testify as follows:

2009 SEP 29 PM 2:16
Orest Lechnowsky
JPMorgan Chase Bank, N.A.

1. That I am employed by JPMorgan Chase Bank, N.A. as a Vice President and Assistant General Counsel.

2. That shortly after Mr. Drew Peterson's highly publicized arrest in Will County, Illinois, Charles "Keith" McLendon informed me that he was contacted by a bank employee in the fraud unit who informed him that Mr. Peterson was a Home Equity Line of Credit customer of the Bank.

3. That after consultation Mr. McLendon and after review and consideration of Federal Reserve Regulation Z 12 CFR Section 226.5b(f)(3)(vi)(B) and the Official Commentary thereto, it was determined that there had been a material change in this customer's financial condition. Due to the circumstances of his incarceration we believed that Mr. Peterson would be unable to pay his account if we allowed it to be substantially drawn down.

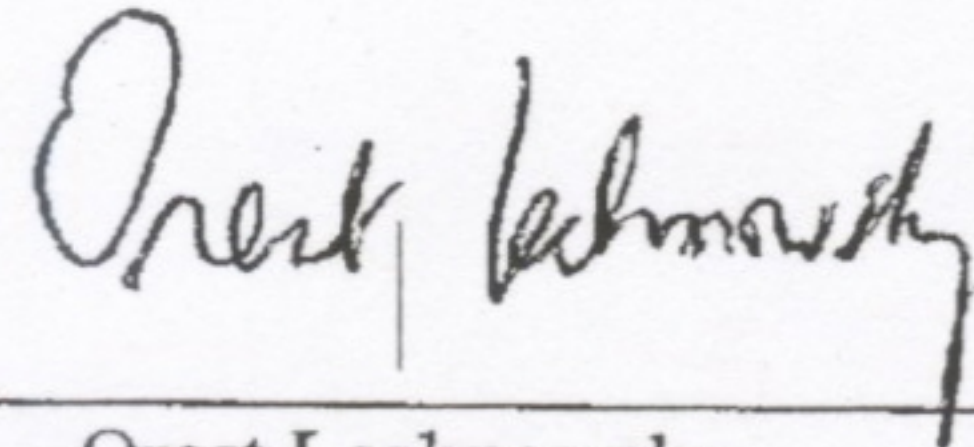
4. That as a result of that determination a decision was made to not provide any additional extension of credit to Mr. Peterson under his existing Home Equity Line of Credit.

5. That the decision to not provide any additional extension of credit to Mr. Peterson was entirely the result of the bank's determination that there had been a material change in Mr. Peterson's financial condition.

6. That at no time have I ever been contacted by any member or agent of the Illinois State Police, the Bolingbrook Police Department, the Will County State's Attorney's Office or

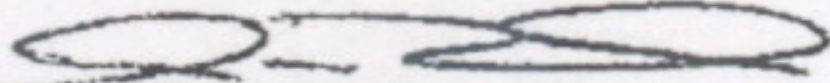
any other law enforcement agency nor am I aware of any contact by any of the above agencies with any employee or agent of JPMorgan Chase Bank, N.A..

Further, Affiant sayeth not.



Orest Lechnowsky

Subscribed and sworn to before me this
13TH day of August, 2009.



Notary Public



EXHIBIT "E"

COUNTY OF MARICOPA)
STATE OF ARIZONA)

AFFIDAVIT

Christina Griego, being first duly sworn and on oath, states that if called as a witness, I could competently testify as follows:

2009 SEP 29 PM 2:46
Notary Public
Oscar Perales

1. That I am an Investigative Specialist and am employed by JPMorgan Chase Bank, N.A.
2. That I have been employed by the Bank for 11 years and have been an Investigative Specialist in excess of 9 years.
3. That on May 8, 2009, while at home on a Friday evening, I saw on MSNBC that Mr. Drew Peterson had been arrested and incarcerated. I was aware that Mr. Peterson was a customer of the Bank.
4. On the following Monday I sent a message to the Bank's Corporate Counsel regarding Mr. Peterson's arrest and incarceration.
5. That sometime shortly thereafter I received directions from Corporate Counsel to "block" Mr. Peterson's Home Equity Line of Credit and to not allow additional extensions of credit.
6. That at no time have I ever been contacted by any member or agent of the Illinois State Police, the Bolingbrook Police Department, the Will County State's Attorney's Office or any other law enforcement agency, nor am I aware of any contact by any of the above agencies with any employee or agent of JPMorgan Chase Bank, N.A.

Further, Affiant sayeth not.

Christina Griego
Christina Griego

Subscribed and sworn to before me this
13TH day of August, 2009.

[Signature]
Notary Public



EXHIBIT "F"

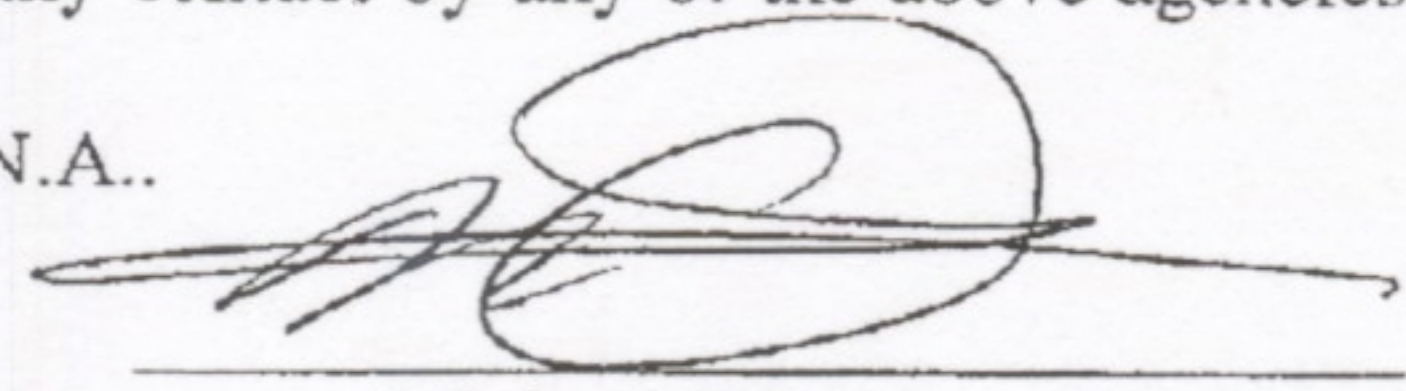
COUNTY OF DUPAGE)
STATE OF ILLINOIS)

AFFIDAVIT

Michael Dunn, being first duly sworn and on oath, states that if called as a witness, I could competently testify s follows:

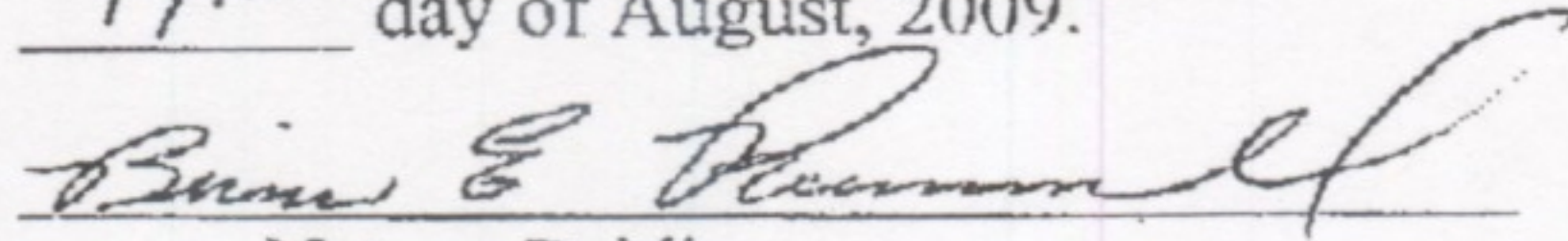
2009 SEP 29 PM 2:16

1. That I am employed by JPMorgan Chase Bank, N.A. as a Vice President and Branch Manager of the Naperville Hobson Branch.
2. That shortly after the arrest and incarceration of Mr. Drew Peterson I was contacted by his son, Steven, who advised me that he had a Power of Attorney executed by his father and that Steven wanted to access funds through Drew Peterson's Home Equity Line of Credit.
3. That thereafter I spoke to Mr. Orest Lechnowsky, Assistant General Counsel for the Bank, and was advised that the Bank had made a determination not to make additional funds available on the Peterson Home Equity Line of Credit.
4. That the decision to not advance additional funds on the Peterson Home Equity Line of Credit was made by persons other than myself and I was not involved in that determination.
5. That at no time have I ever been contacted by any member or agent of the Illinois State Police, the Bolingbrook Police Department, the Will County State's Attorney's Office or any other law enforcement agency, nor am I aware of any contact by any of the above agencies with any employee or agent of JPMorgan Chase Bank, N.A..



Michael Dunn

Subscribed and sworn to before me this
17th day of August, 2009.


Notary Public

"OFFICIAL SEAL"
Brian E. Rummel
Notary Public, State of Illinois
DuPage County
My Commission Expires April 24, 2012

EXHIBIT "G"

COUNTY OF MARICOPA)
STATE OF ARIZONA)

AFFIDAVIT

Charles Keith McLendon, being first duly sworn and on oath, states that if called as a witness, I could competently testify as follows:

1. That I am employed by JPMorgan Chase Bank, N.A. as a Vice President and Assistant General Counsel.

2. That I was advised by Ms. Christina Griego, in May 2009 that, Mr. Drew Peterson, a customer of the Bank had been arrested and was incarcerated.

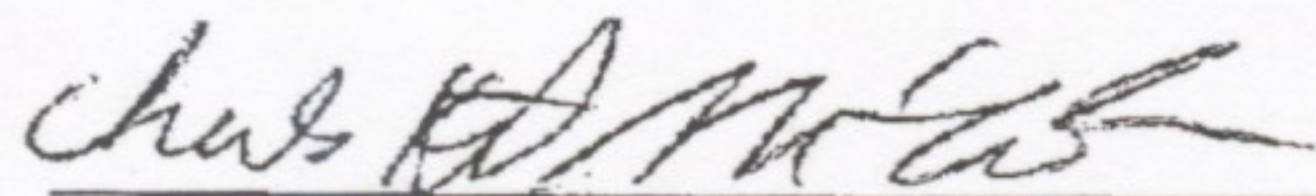
3. That after consultation with Mr. Orest Lechnowsky and after review and consideration of Federal Reserve Regulation Z 12 CFR Section 226.5b(f)(3)(vi)(B) and the Official Commentary thereto, it was determined that there had been a material change in this customer's financial condition due to his incarceration.

4. That as a result of that determination a decision was made to not provide any additional extension of credit to Mr. Peterson under his existing Home Equity Line of Credit.

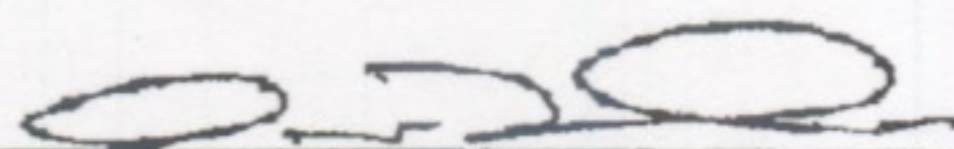
5. That the decision to not provide any additional extension of credit to Mr. Peterson was entirely the result of a pure banking decision that there had been a material change in Mr. Peterson's financial condition.

6. That at no time have I ever been contacted by any member or agent of the Illinois State Police, the Bolingbrook Police Department, the Will County State's Attorney's Office or any other law enforcement agency, nor am I aware of any contact by any of the above agencies with any employee or agent of JPMorgan Chase Bank, N.A.

Further, Affiant sayeth not.


Charles Keith McLendon

Subscribed and sworn to before me this
13TH day of August, 2009.


Notary Public



SEP 29 PM 2:16