

U.S. COURTS

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66678

Attorneys for Case Credit Corporation

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO

In Re:)	Case No. 00-00914TLM
)	
KENNETH R. McRAE, dba McRAE)	Chapter 7
FARMS, and DEBRA McRAE,)	
)	MOTION FOR RELIEF FROM
)	AUTOMATIC STAY (11 U.S.C. § 362,
Debtors.)	RULE 4001(d))
)	

Case Credit Corporation, f/k/a J.I. Case Credit Corporation ("Case Credit"), by and through its attorneys of record, Hawley Troxell Ennis & Hawley LLP, hereby moves that Case Credit be granted relief from automatic stay as to the farm equipment more particularly described below:

1. On or about July 11, 1996, the Debtors herein, Kenneth R. McRae and Debra A. McRae and Burks Tractor Co., LLC ("Seller"), entered into a Retail Installment Sale Contract and Security Agreement ("Contract"), under which the Debtors purchased a used IH 1480 Combine with 20' Grain Head, Serial Number U05007; a White 6 Row Corn Head, Serial No. 70555; an Univerth Header Cart; and a Bean Pick Up (collectively, "Collateral").

2. Seller assigned the Contract to Case Credit. A true and correct copy of the Contract which contains the assignment is attached hereto as Exhibit A and incorporated by reference herein.

3. In the Contract, the Debtors agreed to pay the principal sum of \$23,015.00 at a fixed interest rate of 7.9% and granted a security interest in the Collateral. The Debtors agreed to make annual payments pursuant to such contract in the sum of \$6,541.24 commencing on the 1st day of October, 1996.

4. The Debtors granted to Case Credit a security interest in the Collateral and in all improvements thereon, all equipment and accessories belonging thereto, all substitutions and replacements and proceeds thereof, and all accessions to secure the Debtors' existing and future obligations under the Contract.

5. On or about August 7, 1996, a UCC-1 Financing Statement was recorded with the Idaho Secretary of State's Office listing Burks Tractor Co., LLC as a Secured Party for the Collateral and Case Credit as an assignee of the Secured Party. Attached hereto as Exhibit B is a true and correct copy of the UCC-1 Financing Statement for the Collateral.

6. The Contract and the UCC-1 Financing Statement grant Case Credit a valid and existing perfected security interest in and to the Collateral which is senior and superior in and to all other liens, and security interests of any other party or person in and to the Collateral.

7. The Debtors defaulted in making the agreed-upon installment payment due under the Contract in the sum of \$6,541.24.

8. The Debtors have also defaulted under the terms of the Contract by failing to provide proof of insurance for the Collateral.

9. Case Credit has performed all conditions precedent under the Contract.

10. It is believed the Debtors and/or bankruptcy estate have insubstantial equity in the Collateral. As of May 1, 2000, the Debtors owed Case Credit under the Contract approximately \$13,136.56, which continues to accrue interest and attorneys fees pursuant to 11 U.S.C. §506(b). Case Credit has not had an opportunity to inspect the Collateral, thus, based on that caveat, it is believed the average value of the Collateral, as estimated by a dealer and verified in the North Equipment Dealer's Association's Official Industrial Equipment Guide, is approximately \$15,000.

11. Absent the filing of said Chapter 7 proceeding, Case Credit would have foreclosed on its security interest for the Debtors' defaults under the Contract. Unless this Court permits Case Credit to proceed with an action to foreclose on the Collateral, Case Credit will suffer great and irreparable damage and injury by reason of the fact that it is not receiving any annual payments for the Collateral, no proof of insurance has been provided, and the Collateral is deteriorating in value. Case Credit is entitled to relief from automatic stay pursuant to 11 U.S.C. § 362(d)(1) and/or § 362(d)(2).

a. Case Credit is informed, believes, and thereon alleges that the Collateral is depreciating in value and that said depreciation will continue to the injury of Case Credit's interest in the Collateral.

b. Case Credit is informed, believes, and thereon alleges that the Collateral must be given regular maintenance to protect it against excessive wear due to use. Case Credit has no assurance that Debtors are maintaining the Collateral and has not been provided proof of insurance.

c. Further, the Collateral is not necessary to any reorganization of the estate, as this is a liquidation filing. As the requirements of 11 U.S.C. §362(d) are satisfied, the Court should lift the stay as to the Collateral.

12. Case Credit additionally moves that the provision of Rule 4001(a)(3) should be waived and Case Credit allowed to immediately enforce any order entered granting Case Credit relief from automatic stay, based upon the insubstantial equity and it appears that the Collateral has no insurance.

13. Based on the foregoing, Case Credit moves that, pursuant to Section 362 of the Bankruptcy Code, the automatic stay be lifted. In the event that adequate protection is ordered, Case Credit requests that the Court award periodic, monthly cash payments at a minimum in an amount equal to the monthly depreciation of the Collateral. Said award would protect Case Credit against further impairment of its interest in the Collateral.

14. Case Credit does not have, and has not been offered, adequate protection for its interest in the Collateral.

15. Further, if said Debtors is permitted to retain and use the Collateral, this use should be conditioned on an Order requiring Debtors to provide regular maintenance to the Collateral and to insure said Collateral in an amount equal to the resale value of the Collateral. The insurance policy should note Case Credit as the loss payee.

16. Pursuant to Rule 4001.2 of the Local Bankruptcy Rules, any party in interest may oppose this motion by filing and serving on the moving party a written objection thereto at least five days prior to the preliminary hearing. The objection shall reasonably identify those matters contained in the motion which are to be at issue, and any other basis for opposition to the motion. Absent the filing of a timely response, the Court may grant the relief sought without a hearing. The written objection need not be filed if the moving party sets a preliminary hearing for less than 20 days after the filing of the motion. However, the opposing party must be prepared to present the information required by this rule at the preliminary hearing.

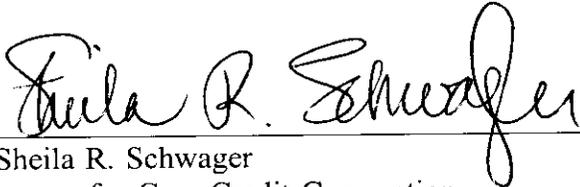
17. Pursuant to Rule 4001.2 of the Local Bankruptcy Rules and 11 U.S.C. § 362(e),

30 days after a request under subsection (d) of this section [362] for relief from the stay of any act against property of the estate under subsection (a) of this section, such stay is terminated with respect to the party in interest making such request, unless the Court, after notice and a hearing, orders such stay continued in effect pending the conclusion of, or as a result of, a final hearing and determination under subsection (d) of this section.

WHEREFORE Case Credit prays that Case Credit be granted relief from automatic stay as to the Collateral so that it may foreclose upon its security interest pursuant to state law, and that it have such other and further relief as is just.

DATED THIS 3rd day of May, 2000.

HAWLEY TROXELL ENNIS & HAWLEY LLP

By 
Sheila R. Schwager
Attorneys for Case Credit Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of May, 2000, I caused to be served a true copy of the foregoing MOTION FOR RELIEF FROM AUTOMATIC STAY (11 U.S.C. § 362, RULE 4001(d)) by the method indicated below, and addressed to each of the following:

Kenneth R. McRae
Debra A. McRae
Rt. 1, Box 1295
2000 River Road
Homedale, ID 83628

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy

Richard E. Crawforth, Trustee
2404 Bank Drive, #312
Boise, ID 83705

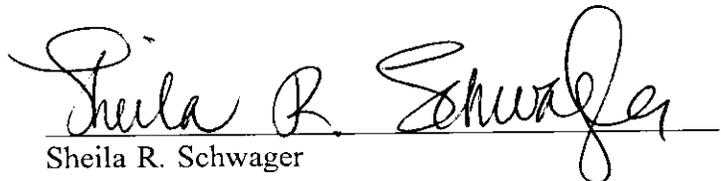
U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy

Alan J. Coffel, Esq.
703 10th Avenue South
Nampa, ID 83651

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy

U.S. Trustee
P.O. Box 110
Boise, ID 83701

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Telecopy



Sheila R. Schwager

CASE CREDIT

RETAIL INSTALLMENT SALE CONTRACT AND SECURITY AGREEMENT

CREDIT DEALER NO. 061474 LOCATION NO. 76433

Purchaser(s) Name (Type or Print) KENNETH R. AND DEBRA A. M'RAE Address (Address, State, Zip Code) Rt 1 Box 1295 HOMEDALE IDAHO County / Parish OWYHEE Social Security Number or Federal Tax I.D. Number 527-33-8370/527-55-0665

Seller (Dealer Name and Address) (Type or Print) BURKS TRACTOR CO. LLC 29190 Hwy 20/26 PARRA IDAHO 83660

The undersigned Purchaser (if more than one, collectively called "Purchaser") hereby purchases from Seller and Seller hereby sells to Purchaser the following good(s) (the "Equipment") at the Time Sale Price and upon the terms set forth herein:

Table with columns: New or Used, Description of Equipment Make Model Size, Serial Number, Cash Sale Price. Includes items like COMBINE, CORN HEAD, UNIVERFEET HEADER CART.

* New Equipment is situated equipment, a rental unit or demonstrator for which the manufacturer will supply all or a portion of new equipment warranty. Said equipment may have been manufactured in a year prior to the year of purchase.

Statement of Transaction table with rows for Cash Sale Price, Cash Down Payment, Net Trade-in Allowance, Total Down Payment, Unpaid Balance of Cash Sale Price, Other Charges, Unpaid Balance, Time Price Differential, Time Balance to be Paid, Total Sale Price.

The Trade-in Allowance is calculated as follows: Seller's valuation of Trade-in Equipment less outstanding secured debt owed to: Cash Credit, Other payoff good through.

Physical Damage (Property) Insurance. Physical damage insurance is required by Seller (not government) on motor vehicles and trailers. Seller may refuse insurance coverage for any equipment covered. If provided, the following shall apply.

Table with columns: Due Date, Amount, Due Date, Amount. Shows payment schedule from Oct 1, 96 to Oct 1, 97.

THIS AGREEMENT INCLUDES ALL THE PROVISIONS ON THE REVERSE SIDE. PURCHASER ACKNOWLEDGES RECEIPT OF AN EXACT COPY OF THIS AGREEMENT. DO NOT SIGN THIS AGREEMENT BEFORE YOU HAVE READ IT OR IF IT CONTAINS ANY BLANK SPACES.

PURCHASER REPRESENTS THAT THE EQUIPMENT IS BEING PURCHASED FOR COMMERCIAL PURPOSES, NOT FOR FAMILY, HOUSEHOLD OR PERSONAL USE. SIGNATURES of Kenneth R. M'RAE and Debra A. M'RAE dated 7/1/96.

AUTHORIZATION AGREEMENT FOR CASE CREDIT AUTOMATIC CASH TRANSFER. Name of financial institution, Address, City, State, Zip, Deduct payment amount from (select one): Checking account, Savings account.

Printed in U.S.A. Form No. 5140 Rev. 11/9/95

EXHIBIT A

ADDITIONAL PROVISIONS

1. Assignment. Seller has assigned the Agreement to CASE CREDIT CORPORATION ("Case Credit") or Case Corporation, as designated by Case Credit, or their successors or assigns ("Assignee"). Purchaser acknowledges that all rights and benefits but no obligations (if any) hereunder are vested in and may not be exercised by any Assignee of the Agreement in receipt of notice from Assignee with instructions. Purchaser shall make all payments due under this Agreement directly to Assignee.
2. Waiver of Defense. Against Assignee. Purchaser will not assert against Assignee any claim or defense which Purchaser may have against Seller.
3. Purchaser's Covenants. Purchaser shall: (i) keep the Collateral in the county of Purchaser's address set forth on the front side of this Agreement and not remove the Collateral from such address, except temporarily in connection with its ordinary use, unless Seller consents in writing; (ii) maintain the Collateral in good condition and repair and not permit its value to be impaired; (iii) keep the Collateral free of all liens, encumbrances and security interests of persons other than Seller; (iv) defend the Collateral against all claims and legal proceedings by persons other than Seller; (v) pay and discharge when due all taxes, fees, levies and other charges upon the Collateral; (vi) pay when due all taxes arising from the purchase of the Collateral hereunder, excluding any taxes based upon Seller's net income; (vii) not sell, lease or otherwise dispose of the Collateral or permit the Collateral to become an accession to other goods or a fixture, and (viii) not permit the Collateral to be used in violation of any law, regulation or policy of insurance. Loss of or damage to the Collateral shall not release Purchaser from any of the Obligations.
4. Insurance. Purchaser shall keep the Collateral and Seller's interest therein insured against fire, theft, physical damage and other hazards under policies with such amounts (but not less than the unpaid balance outstanding under this Agreement) and by such insurers as shall be satisfactory to Seller from time to time, and shall furnish evidence of such insurance satisfactory to Seller. Such insurance shall provide at least 10 days written notice of cancellation, lapse or expiration to Seller. Purchaser assigns (and directs any insurer to pay) to Seller the proceeds of all such insurance and any premiums unpaid and, Seller may, at its option, apply such proceeds and refunds to any unpaid balance of the Obligations, whether or not due, and/or to repair or restoration of the Collateral, retaining any excess to Purchaser. Seller is authorized, in the name of Purchaser or otherwise, to make, adjust and/or settle claims under any insurance on the Collateral, or cancel the same; and the occurrence of an event of default.
5. Inspection of Collateral. Seller is authorized to examine the Collateral wherever located at any reasonable time or times.
6. Delivery of Agreement upon Payment in Full. After Purchaser has paid in full the Unpaid Balance and the accrued True Price Differential, Seller or Assignee, upon written request by Purchaser, will mail to Purchaser this Agreement marked "Paid in Full".
7. Maintenance of Security Interest. Upon request, Purchaser shall take any action reasonably deemed necessary by Seller to protect and enforce Seller's interest in the Collateral or rights under this Agreement.
8. Authority of Seller to Perform for Purchaser. If Purchaser fails to perform any of Purchaser's duties set forth in this Agreement (including specifically the purchase of insurance) Seller is authorized, at Seller's option, in Purchaser's name or otherwise, to take any such action, including without limitation signing Purchaser's name or paying any amount so required, and all costs and expenses incurred by Seller in connection therewith shall form part of the Obligations and shall be payable by Purchaser upon demand with interest from the date of payment by Seller at the rate set under "Delinquency Charges" on the front of this Agreement.
9. Default. Purchaser shall be in default under this Agreement upon the occurrence of any one of the following events of default: (i) Purchaser fails to pay when due any of the Obligations, or to perform any other obligation of Purchaser in this Agreement or in any renewal or refinancing of this Agreement or any other agreement between Purchaser and Seller or Assignee; (ii) a Purchaser dies, ceases to exist, becomes insolvent or the subject of bankruptcy, insolvency or liquidation proceedings, or makes an assignment for the benefit of creditors; (iii) any warranty or representation made by Purchaser to induce Seller or Assignee to extend credit to Purchaser, under this Agreement, or otherwise, is false in any material respect when made or (iv) any other event occurs which causes Seller or Assignee, in good faith, to consider that payment or performance of the Obligations is impaired or that the Collateral is at risk.
10. Remedies upon Default. Upon the occurrence of any event of default, Seller shall have all rights and remedies provided by the Uniform Commercial Code or any other applicable law and Seller may, at its option:
 - (i) declare all Obligations immediately due and payable (excluding the unearned True Price Differential) without notice or demand, which includes, but is not limited to, a waiver of intent to accelerate and notice of acceleration;
 - (ii) take possession of the Collateral, without notice or hearing, and, where permitted by law, Purchaser expressly waives any right to notice or a prior hearing;
 - (iii) render the Collateral unusable;
 - (iv) require Purchaser to assemble the Collateral and make it available to Seller at any convenient place designated by Seller; or
 - (v) sell or otherwise dispose of the Collateral at public or private sale for cash or on credit terms, without notice unless required by law. If notice is required by law, ten (10) days notice to Purchaser shall be deemed reasonable notice.

All rights and remedies may be exercised by Seller either separately or in combination and any action taken by Seller to recover payment from Purchaser or the Obligations shall not limit Seller's rights with respect to the Collateral. Seller may apply all proceeds of realization of the Collateral to such part or parts of the Obligations as Seller may decide.
11. Expenses; Attorneys' Fees. To the extent not prohibited by law, Purchaser shall reimburse Seller for any expense incurred by Seller in protecting or enforcing its rights under this Agreement, including, without limitation, reasonable attorneys' fees and legal expenses and all expenses of taking possession, holding, preparing for disposition and disposing of the Collateral, and all such expenses shall form part of the Obligations.
12. Modifications and Waivers. This Agreement sets forth the entire understanding between Seller and Purchaser. No modification, amendment or extension of this Agreement and no waiver of any provision of this Agreement shall be valid unless in writing, and a waiver of any default hereunder by Seller shall not constitute a waiver of any other prior or subsequent default.
13. Conflict with Law. Any provision of this Agreement prohibited by applicable law shall be ineffective to the extent of the prohibition without invalidating the remaining portions of this Agreement.
14. Insertion of Serial and/or Model Numbers and Correction of Information. Purchaser authorizes Seller to insert in this Agreement the serial and/or model numbers of the Equipment if unknown at the time this Agreement is executed or to correct any errors in such numbers or any other patent errors in the description of the Equipment.
15. WARRANTY. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND WHATSOEVER MADE WITH RESPECT TO THE EQUIPMENT, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ARISING BY OPERATION OF LAW OR OTHERWISE. IF ANY WARRANTIES ARE PROVIDED WITH REGARD TO THE EQUIPMENT, SUCH WARRANTIES SHALL BE PROVIDED UNDER A SEPARATE WRITTEN AGREEMENT. IN NO EVENT SHALL SELLER OR THE MANUFACTURER OF THE EQUIPMENT BE LIABLE FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES.
16. Purchaser's Obligations to Assignee Unconditional. Purchaser agrees that it will not make any claim against Assignee for breach of any representation, warranty or condition with respect to the Equipment and that its obligation to pay Assignee all amounts hereunder is absolute and unconditional without abatement, reduction, set-off, counterclaim or interruption for any reason whatsoever and notwithstanding any breach or alleged breach of any representation, warranty or condition with respect to the Equipment or any dispute which now or hereafter arises between Purchaser and Seller or any other person.
17. Agent to Execute Financing Statements. Purchaser appoints Seller as Purchaser's agent for the purpose of executing financing statements and amendments thereto on behalf of Purchaser which evidence Seller's security interest in the Collateral. In addition, Purchaser in Indiana and New York and in any other state which so permits, authorizes Seller to prepare and file financing statements executed only by the Seller.
18. Successors or Assigns. This Agreement shall be binding on and inure to the benefit of Purchaser and Seller and their respective heirs, personal representatives, successors or assigns; provided, however, that Purchaser may not assign its obligations under this Agreement to any person without Seller's prior written consent.
19. Interpretation. The validity, construction and enforcement of this Agreement are governed by the laws of the state in which the Collateral is located. All terms not otherwise defined have the meanings assigned to them by the Uniform Commercial Code.
20. Louisiana Security Clause. Purchaser hereby confesses judgment in favor of Seller for the full amount due hereunder in principal, interest, attorneys' fees and any other advances, charges and expenses herein provided and, on the occurrence of or without default, it shall be binding on and Purchaser specifically authorizes Seller, without making a demand or putting Purchaser in default, to cause all and singular the Collateral to be seized and sold under excoercive process of the Louisiana Code of Civil Procedure being specifically waived, to cause all and singular the Collateral to be seized and sold under excoercive process of any other legal process, at the option of Seller and on such terms as the Seller may direct. Purchaser hereby specifically waives the benefit of any and all laws or parts of laws relative to the appointment of property seized or sold under excoercive or other legal process as required by Article 2723 of the Louisiana Code of Civil Procedure, any exemptions from seizure which may apply to the Collateral and all pleas of division and discussion. Purchaser further agrees that in the event any proceedings are initiated under excoercive process or otherwise, in addition to such evidence deemed authentic as a matter of law, any and all declarations of the facts made by authentic act before a Notary Public and in the presence of two witnesses by a person declaring that such facts lie within his knowledge, shall constitute authentic evidence of such facts.

Pursuant to the authority of Louisiana Revised Statutes 9:5136 et seq., Purchaser hereby appoints Seller or its designee to be keeper or receiver of the Collateral for the benefit of Seller, all at the option of the Seller, to take effect immediately upon any seizure which may arise as a result of any legal action which may be brought by Seller.
21. Assignment Codes: L - Limited; F - Full Recourse; R - Repurchase; N - Nonrecourse; O - Other.

PLEASE TYPE THIS FORM IN BLOCK
 a. With financing of Idaho. Finance for unpaid account assets, and use filing fee of \$6.00 if form is typed, or \$10.00 if
 typewritten. For attachments, add \$1.00 per attached page. Print full account name (except Credit Number) as
 "Firm Office Use" back to right.
 b. Finance filing with county recorder. Notice regarding fee of \$3.00 per page.
 c. Only use original. Make copies for your file. This original will be returned as your acknowledgment.
 d. Only use debtor's name or assumed name per Section 306 of the UCC. If more than four names, use an attached
 list. Enter individual's full name. Last First Middle Initial, e.g. Smith, Joan Ann M.
 e. If the obligor has been deceased, complete the Termination Statement and return the original to the filing officer.

Form approved by Kate T. Conaway, Secretary of State, UCC Division, Statehouse, Boise, ID 83720. Ph: 208-334-3191

Debtor #1 (Last name, first, middle, title & mailing address)		Debtor #3
M CRAE, KENNETH R RT 1 BOX 1295 HOMEDALE IDAHO 83628 SS # / TAX I.D. # 527-35-8510		SS # / TAX I.D. #
Debtor #2		Debtor #4
SS # / TAX I.D. #		SS # / TAX I.D. #

Secured Party and Address	SS # / TAX I.D. #
BURKS TRACTOR CO., LLC P. O. BOX 366 NAMPA, ID 83653 (208) 466-7875	

Assignee and Address
Case Credit Corporation ID# 76-0394710 Case Corporation ID# 78-0433811 P. O. Box 292 Racine, WI 53401-0292

Mailing Address for acknowledgment, if not Secured Party
--

Check if Covered	<input type="checkbox"/> Products of collateral are also covered
If one of the following boxes is checked, the secured party may sign the financing statement. The collateral described herein is:	
<input type="checkbox"/>	Brought into this state already subject to a security interest in another jurisdiction.
<input type="checkbox"/>	Subject to a security interest in another jurisdiction, and the debtor's location has changed to this state.
<input type="checkbox"/>	Proceeds of the original collateral described above in which a security interest was perfected.
<input type="checkbox"/>	The subject of a financing statement which has expired.
<input type="checkbox"/>	Subject to a security interest perfected under a prior name of the debtor.

This financing statement covers the following types or items of property:
 (If this is a fixture, timber or mineral filing to be recorded with the County Recorder, include legal description and name of record owner, if required.)

I H 1480 COMBINE SERIAL NO# U05007
 6 Row WHITE CORN HEAD SERIAL NO# 70555
 UNVERFERHT HENDER CART SERIAL NO# N/A
 BEANPICKUP SERIAL NO# N/A

All net proceeds derived from the collateral described above Ref. # DLR # 061474 APP # 76433

Signature of Debtor(s)
 Signature of Secured Party
 Signature of Assignee of Record

TERMINATION STATEMENT-The Secured Party no longer claims a security interest under this financing statement.

Signature of Secured Party or Assignee of Record Date

IDAHO SECRETARY OF STATE
 DATE 08/07/1996 0900 16634
 Revised 7/91
 CK #: 3116 CUST# 44485
 UCC1 FILE
 1@ 6.00= 6.00
 SURCHS 1@ 4.00= 4.00
 #: B 717646