

ORIGINAL

Ramona S. Neal  
GIVENS PURSLEY & HUNTLEY LLP  
277 North Sixth Street, Suite 200  
P.O. Box 2720  
Boise, Idaho 83701  
(208) 388-1200  
(208) 388-1201 (fax)  
342618:TREATMEN.REV

U.S. COURTS  
97 APR 17 PM 2:46  
REC'D FILED  
CAMERON S. BURKE  
CLERK IDAHO

Attorneys for The Travelers Insurance Company

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF IDAHO

In Re:

TERRY HIPWELL,

Debtor.

Case NO. 96-02095

STIPULATION AMENDING  
DEBTOR'S AMENDED PLAN RE:  
TRAVELERS INSURANCE  
COMPANY

**IT IS HEREBY STIPULATED**, by virtue of agreement between the Travelers Insurance Company and the Debtor, Terry Hipwell, that the treatment of The Travelers Insurance Company claim contained in the Debtor's Amended Chapter 12 Plan, filed on or about April 2, 1997, shall be deleted in its entirety, and replaced with the following.

4. The Travelers Insurance Company

The Travelers Insurance Company ("Travelers") holds a first position mortgage against the Debtor's real property acreage in Payette County and Canyon County (the "Real Property Security"). Travelers also holds a first position perfected security interest in the Debtor's irrigation equipment as collateral for the obligations owed to it by the Debtor (the "Irrigation Equipment"). Travelers' lien and security interests secure the payment and

102

performance of a promissory note in the stipulated and allowed secured claim amount of \$480,030.45. Interest at the rate of 9.625% and attorneys' fees and costs have accrued and will continue to accrue. Travelers is entitled to recover such post-petition fees, costs and interest under the terms of its Loan Documents and as an over-secured creditor under Section 506(b) of the Bankruptcy Code. The Debtor has made no payments since April, 1995, and has failed to pay semi-annual installments of \$23,876.00 due in October 1995, April 1996 and October 1996. The Debtor acknowledges and agrees that Travelers' claim currently approximates and exceeds \$517,783.00 ("Travelers' Claim"), and that additional interest, fees and costs may accrue under 11 USC § 506(b) and the Loan Documents.

The above-referenced claim and security interests are evidenced by the following:

- a. Promissory Note dated December 20, 1994, in the original principal amount of \$375,000.00.
- b. Mortgage dated December 20, 1994, recorded on 12/20/94 in the real property records for Canyon County as Instrument No 9437580 and 12/20/94 in the real property records of Payette County as Instrument No. 253366.
- c. Security Agreement dated December 20, 1994.
- d. UCC-1 Financing Statement recorded as a fixture filing on 12/20/94 in Payette County as Instrument No. 253367 and on 12/29/94 in Canyon County as Instrument No. 9437581.

These documents are collectively referred to herein as the "Loan Documents."

Travelers' Claim shall be amortized over 20 years at 9.625% with a semi-annual installment due February 1, 1998 in the amount of \$29,405.00, and semi-annual installments due on August 1, 1998 and February 1, 1999 and like installments during each year of the plan. The loan will continue on this amortization schedule after the expiration of the plan term for an

additional five years (for a loan term of 10 years). At the end of the loan, the Debtor will have a balloon payment due.

In the event of any default of the Debtor to pay any of the installment payments due to Travelers, the Debtor will be provided with written notice of same and will have 10 days, commencing with the date of the notice, to cure the default. If the Debtor does not cure the default with the above-prescribed period, the Real Property and the Irrigation Equipment shall vest in the Trustee and shall be sold by the Trustee, without further notice or hearing, as soon as is practicable, free and clear of all liens, with liens to attach to the proceeds of sale. Such sale shall be subject to the prior approval of Travelers, which approval shall not be unreasonably withheld. Should the sale be made by virtue of public auction or sheriff's sale, Travelers reserves the right to credit bid the then outstanding balance of its debt.

The proceeds shall be distributed immediately upon the closure of the sale to Travelers in payment of, and to the extent necessary to pay, the sums due and owing to it. Travelers shall retain its first position lien in the Real Property and Irrigation Equipment, and/or the sale proceeds therefrom, until paid in full.

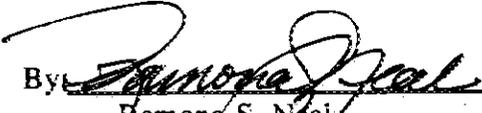
The terms, conditions, warranties and promises contained in the Loan Documents (including but not limited to provisions relating to insurance upon the Real Property and Irrigation Equipment, the payment of real property taxes and maintenance of the Collateral) between Travelers and Hipwell shall remain unaffected and in full force and effect except to the extent specifically modified here.

Debtor and Travelers acknowledge that a foreclosure proceeding against the Real Property and Irrigation Equipment has been commenced in Payette County District Court, as Case No. CV-OC-96-03490\*D. The parties agree that such action shall remain undismissed until such

time as the Debtor shall make its first payment to Travelers according to the terms of these paragraphs. After that time, Travelers shall dismiss its foreclosure proceeding, without prejudice.

Debtor hereby ratifies the terms, conditions, promises and warranties contained in the Loan Documents. Debtor acknowledges and agrees that it has no claims against Travelers as of the date of confirmation of this Plan. Debtor also affirms and represents that Travelers is not in breach or default under either the Promissory Note, the Deed of Trust or any of the Loan Documents, and there is no condition or occurrence known to Debtor which, upon the giving of notice or passage of time or both, would constitute any such breach or default by Travelers.

DATED: 4-15-97

By:   
Ramona S. Neal  
Givens Pursley & Huntley, LLP  
Counsel for The Travelers Insurance Company

DATED: 4-15-97

By:   
Howard Foley  
Foley & Freeman  
Counsel for Terry L. Hipwell