

2006

Ashton v. Learnframe : Brief of Appellee

Utah Court of Appeals

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IN THE UTAH COURT OF APPEALS

KIRT ASHTON, CLAIR BENNETT,
BRADLEY MITCHELL, TODD NIELSEN,
BRIAN PRATT, and PAUL RADVIN,

Plaintiffs/Appellees,

vs.

LEARNFRAME, INC., MICHAEL
MEMMOTT, SR., RALPH MASON,
GARY TOBIAN, and LEE PRICE,

Defendants.

AMERICAN PENSION SERVICES, INC.,

Third-Party Claimant/Appellant.

BRIEF OF APPELLEES

Case No. 20060943

**APPEAL FROM FINDINGS OF FACT AND CONCLUSIONS OF LAW OF THE
THIRD JUDICIAL DISTRICT COURT FOR SALT LAKE COUNTY
HONORABLE ROYAL I. HANSEN, DISTRICT JUDGE**

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STATEMENT OF LACK OF JURISDICTION

This Court lacks jurisdiction over this appeal. While the Court generally possesses appellate jurisdiction over cases transferred from the Supreme Court, see Utah Code Ann. § 78-2a-3(j) (2005), the Court lacks jurisdiction in this case and dismissal is appropriate because third-party appellant American Pension Services, Inc. (“APS”) has never intervened or otherwise been named as a party to this action. See Argument Point I, below (addressing lack of jurisdiction).

ISSUES PRESENTED FOR REVIEW

First Issue: Does the Court lack jurisdiction over this appeal when APS has never intervened or been named as a party in this action?

Standard of Review: Jurisdictional issues do not involve any review of the trial court’s rulings, but are questions of law within the exclusive province of the Court on appeal. See, e.g., Brigham Young Univ. v. Tremco Consultants, Inc., 2005 UT 19, ¶¶ 46-47, 110 P.3d 678 (dismissing appeal for lack of jurisdiction where appellant was not named as a party and motion to intervene filed before trial court had not been decided).

Second Issue: Even if APS had properly preserved a statute of limitations argument below, should the trial court have found the alleged fraudulent transfer from Learnframe to APS to be time-barred?

Standard of Review: The applicability of a statute of limitations and any corresponding discovery rule is a question of law reviewed for correctness. See Spears v. Warr, 2002 UT 24, ¶ 32, 44 P.3d 742. Statute of limitations was not preserved below.

Third Issue: Was there clear and convincing evidence to support the trial court's determination that Learnframe's attempt to transfer ownership of property in its possession was a fraudulent transfer?

Standard of Review: This issue presents a mixed question of law and fact. See State v. Hansen, 2002 UT 125, ¶ 26 n.3, 63 P.3d 650 (“A mixed question involves ‘the application of law to fact or, stated more fully, the determination of whether a given set of facts comes within the reach of a given rule of law.’”) (quoting State v. Pena, 869 P.2d 932, 936 (Utah 1994)). Construction of the fraudulent transfer statute is a question of law to be reviewed for correctness. See State v. Petersen, 810 P.2d 421, 424 (Utah 1991). The factual findings supporting a fraudulent transfer are reviewed under a clearly erroneous standard, giving deference to the trial court. See id. at 425. Moreover, “[t]he trial court's application of law to the facts is reviewed for abuse of discretion.” Platts v. Parents Helping Parents, 947 P.2d 658, 661 (Utah 1997); Clark v. Clark, 2001 UT 44, ¶ 14, 27 P.3d 538.

Fourth Issue: Did the trial court correctly apply Rule 64E and Utah Code Ann. § 25-6-8(2), and in doing so provide sufficient procedural due process to APS when, after an evidentiary hearing, the trial court authorized execution on property in Learnframe's possession?

Standard of Review: “The interpretation of a rule of procedure is a question of law that we review for correctness.” Oliphant v. Estate of Brunetti, 2002 UT App 375, ¶ 8, 64 P.3d 587, 590 (quoting Brown v. Glover, 2000 UT 89, ¶ 15, 16 P.3d 540). The trial court's application of law to facts presents a mixed question of law and fact. As

addressed with respect to the third issue, above, construction of statutory authority is a question of law to be reviewed for correctness, while factual findings are reviewed for clear error. Whether the trial court strictly complied with constitutional and procedural requirements, like due process, is a question of law reviewed for correctness. See Brigham Young University v. Tremco Consultants, Inc., 2007 UT 17, ¶ 25, 156 P.3d 782.

DETERMINATIVE PROVISIONS

Several provisions of Utah’s Fraudulent Transfer Act are of central importance, including the following: Utah Code Ann. §§ 25-6-2, -3, -5, -6, -8, -9 (2005). For convenience, the entire statute is attached as Addendum A. Additionally, Rule 64E of the Utah Rules of Civil Procedure, included as Addendum B, is in issue.

STATEMENT OF THE CASE

I. NATURE OF THE CASE, COURSE OF PROCEEDINGS, AND DISPOSITION BELOW

Kirt Ashton, Clair Bennett, Bradley Mitchell, Todd Nielsen, Brian Pratt, and Paul Radvin (the “Employees”) commenced this action against their former employer, Learnframe, Inc. (“Learnframe”) to recover unpaid wages and benefits, and ultimately obtained a judgment against Learnframe. [FOF¹ ¶ 1.] The judgment was not appealed and to date, has not been satisfied.

¹ References to the trial court record appear as [R.] References to the trial court Findings of Fact and Conclusions of Law, which are attached as Addendum F, appear as [FOF ¶] and [COL ¶] respectively. The Employees rely on both “findings of fact” and “conclusions of law” in this brief as the factual findings of the trial court. Mislabeling findings of fact and conclusions of law “does not change their inherent character.” Coronado Mining Corp. v. Marathon Oil Co., 577 P.2d 957, 960 (Utah 1978). Conclusions of law can serve as findings of fact if they contain factual analysis. See

After some supplemental post-judgment proceedings, the Employees obtained a writ of execution against personal property in the possession of Learnframe. [FOF ¶ 2.] Learnframe and one of its creditors, APS, objected to writ and the ensuing constable's sale. [FOF ¶ 7.] After receiving oral argument on the objections, the trial court scheduled an evidentiary hearing at which the parties could appear, call live witnesses, and introduce other evidence relating to whether the writ of execution and sale were appropriate. [FOF ¶ 8.]

The Employees, APS, and Learnframe each appeared and participated in the evidentiary hearing. [R.502.] After the hearing, the Employees and APS proposed their respective findings of fact and conclusions of law, and submitted their respective objections. [R.503-21, 541-74.] The trial court ultimately entered final findings of fact and conclusions of law, overruling Learnframe and APS's objections to the writ of execution and constable's sale, and authorizing the Employees to proceed with the sale. [R.526-40.] APS, but not Learnframe, appeals from those findings and conclusions.

II. STATEMENT OF FACTS

Filing of Suit and Entry of Judgment

1. Between July 2000 and January 2002, the Employees were employed by Learnframe. During this time period, Learnframe began failing to pay the Employees their wages and other benefits. [FOF ¶ 1.]

Leverentz v. Family Dev. Resources, Inc., 495 N.W.2d 103 (Wis. Ct. App. 1992) (unpublished opinion) (“While the trial court’s decision . . . is a conclusion of law, the factual analysis leading to such a conclusion consists of factual findings.”).

2. In December 2002, the Employees instituted a lawsuit against Learnframe for these back wages and benefits. [FOF ¶ 1.]

3. On March 25, 2003, the Employees obtained a judgment against Learnframe for the unpaid wages and benefits (the “Judgment”), which Learnframe has failed to satisfy. [FOF ¶ 1.] (A copy of the Judgment is attached as Addendum C.)

Supplemental Proceedings

4. After entry of the Judgment, the Employees instituted various supplemental proceedings, seeking to collect the Judgment. Among other things, the Employees conducted a debtor examination of Learnframe [Or. in Supp. Proc. Memmott, R.238-48; Or. in Supp. Proc. Learnframe, R.256-69] and subpoenaed a creditor of Learnframe, American Pension Services, Inc. (“APS”) [Subp. of APS, R.249-55].

5. In the course of these supplemental proceedings, the Employees discovered that one month after they had brought suit against Learnframe, Learnframe signed an agreement purporting to transfer ownership over all of its assets—but not possession—to another creditor, APS (the “APS Agreement”). [FOF ¶¶ 15, 17.] (A copy of the APS Agreement, with attachments, is provided as Addendum D.)

The Employees’ Writ of Execution

6. In July 2005, the Employees applied for and obtained from the trial court a writ of execution (the “Writ of Execution”) against all personal property in the possession of Learnframe based on the Employees’ argument that Learnframe’s attempted transfer of ownership was a fraudulent transfer that did not preclude execution on assets still in

Learnframe's possession. [FOF ¶ 2; R.272-80.] (A copy of the Writ of Execution is attached as Addendum E.)

7. Pursuant to Rule 64E of the Utah Rules of Civil Procedure, the memorandum supporting the Employees' motion for writ of execution included the amount of the Judgment [R.275]; the nature, location, and estimated value of the property [R.273-74, 276]; and the name and address of any person known to the Employees that might have an interest in the property, namely APS [R.276].

8. A constable served the Writ of Execution on Learnframe, together with notice of a constable's sale. [FOF ¶ 3.]

9. Before the scheduled sale, Learnframe objected to the Writ of Execution and requested a hearing. [FOF ¶ 4; Opp. to Mot. For Writ of Execution, R.338-43.]

10. The trial court scheduled a hearing on Learnframe's objection, but Learnframe failed to appear at the hearing. [FOF ¶ 5.]

11. The Employees served a proposed order overruling Learnframe's objections to the Writ of Execution and sale, but Learnframe failed to object to the proposed order and the Court proceeded to enter it on January 13, 2006. [FOF ¶ 5, R.374-77.]

Two Hearings on Objections to Writ of Execution

12. After the constable's sale was rescheduled and a notice of sale served on Learnframe, Learnframe, APS, and another creditor of Learnframe, Steve Patrick ("Patrick"), filed separate objections to the sale. [FOF ¶¶ 6-7; R.378-414 (APS); R.346-351 (Learnframe); R.477-86 (Patrick).]

13. After objections were briefed, notwithstanding the trial court's previous order overruling Learnframe's objections to the Writ of Execution and sale [R.374-77], the trial court scheduled oral argument. The Employees, Learnframe, APS, and Patrick each appeared, through counsel, and provided argument regarding the Writ of Execution and the scheduled constable sale. [Minutes Motion Hearing, Feb. 27, 2006, R.491.]

14. After oral argument concluded, the trial court scheduled an evidentiary hearing to determine whether the APS Agreement effected a fraudulent transfer, and directed the Employees to serve notice of the evidentiary hearing on all interested parties, including Learnframe, APS, Patrick, the Internal Revenue Service (the "IRS"), which had levied a tax lien against Learnframe's assets, and any known perfected secured creditor of Learnframe. [FOF ¶ 8.]

15. The Employees served notice of the evidentiary hearing on Learnframe, APS, Patrick, and the IRS. They also served notice on MPI Corp., an alleged perfected secured creditor of Learnframe. [FOF ¶ 9; R.497-501.]

16. Only the Employees, Learnframe, APS, and Patrick appeared at the evidentiary hearing. Neither the IRS nor MPI Corp. appeared or filed an objection to the Writ of Execution. [FOF ¶ 10.]

17. At the evidentiary hearing, the trial court received exhibits and witness testimony, together with oral argument, concerning the objections made to the Writ of Execution. All parties who appeared were entitled to introduce evidence, cross-examine witnesses, and make argument. Based on the evidence and arguments, the trial court found that Learnframe's attempt to transfer ownership of the property in its possession

was a fraudulent transfer under the Fraudulent Transfer Act, Utah Code Ann. §§ 25-6-5 and 25-6-6. [COL ¶ 8; Minutes of Evidentiary Hearing, June 30, 2006, R.502; Transcript of Evidentiary Hearing, June 30, 2006, R.672.]

18. Due to the fraudulent transfer, the trial court determined that the Employees were entitled to proceed with the execution on property in Learnframe's possession, with notice to purchasers of the IRS's tax levy. [COL ¶ 29.]

19. The trial court authorized all parties participating in the evidentiary hearing to submit proposed findings of fact and conclusions of law, and their respective objections to the other parties' similar filings. [Transcript of Evidentiary Hearing, R.672, at 167:13-15, 167:21-23, 168:2-5.] The Employees and APS proceeded to do so. [R.526-40 (Employees' proposed findings and conclusions); R.503-21 (APS's objections and proposed findings and conclusions); R.522-23 (Learnframe's joinder in APS's proposed findings and objections); R.541-74 (Employees' objections to APS's proposed findings and conclusions).]

20. The trial court ultimately entered the Employees' proposed findings of fact and conclusions of law. [R.526-40.]

Findings Regarding Learnframe's Financial Problems

21. The trial court made the following factual findings regarding the circumstances surrounding Learnframe's financial difficulties:

- a. In October 2001, APS loaned \$1,500,000 to Learnframe and received a security interest in one of Learnframe's accounts receivable—a \$1,500,000 receivable from Learn University. [FOF ¶ 11.]

b. Shortly after October 2001, Learnframe stopped paying its creditors as bills became due. Learnframe failed to make payments to the Employees, APS, and the IRS, among others. [FOF ¶ 12.]

c. On or about November 11, 2002, the IRS gave notice to Learnframe of a federal tax lien in the total amount of \$1,767,040.68. [FOF ¶ 13.]

d. In the tax year ending December 31, 2002, Learnframe reported to the IRS a \$6,882,037 net loss. Learnframe also reported on its tax return that the total value of its accounts receivable, inventory, buildings, equipment, intangibles, and other assets was \$3,376,316. [FOF ¶ 14.]

Findings Regarding the APS Agreement

22. The trial court made the following factual findings regarding the APS Agreement:

a. On or about January 8, 2003, about a month after the Employees obtained the Judgment against Learnframe for unpaid wages and benefits, Learnframe entered into the APS Agreement, under which Learnframe agreed to transfer “all of its rights[,] title and interest in all of its personal property to APS,” which “shall also include but not be limited to all of Learnframe rights in software it has developed as well as all names, copyrights, patents, and contract rights.” A list of Learnframe’s equipment was attached to the APS Agreement. [FOF ¶¶ 1, 15.]

b. The APS Agreement permitted Learnframe to purchase back from APS for one dollar all of the property transferred to APS after repayment of

Learnframe's debt. This option to repurchase property was to expire on January 8, 2006, three years after the date of the APS Agreement. [FOF ¶ 16.]

c. Learnframe maintained the right under the APS Agreement to continue to use the property it transferred to APS only under three express conditions: that Learnframe (1) pay all property taxes; (2) pay all insurance premiums; and (3) maintain all equipment in good working order. [FOF ¶ 17.]

d. APS had the right under the APS Agreement to take immediate possession of the assets transferred to APS in the event that Learnframe became insolvent. [FOF ¶ 18.]

Findings Regarding the Elements of Fraudulent Transfer

23. The trial court made the following factual findings regarding the elements of fraudulent transfer:

APS's Failure to Enforce Learnframe's Default Under the APS Agreement.

a. From the very time it entered into the APS Agreement, Learnframe failed to pay all property taxes and insurance premiums with respect to its assets, and failed to maintain all of its equipment in good working order. [FOF ¶ 17.]

b. Moreover, Learnframe was insolvent from the moment the APS Agreement was signed. [FOF ¶ 25.]

c. Notwithstanding Learnframe's failure to comply with the APS Agreement from January 2002 and up until the evidentiary hearing before the trial court in June 2006, and notwithstanding Learnframe's insolvency throughout this

time period, APS failed to take possession of the property transferred under the APS Agreement. [FOF ¶ 19.]

d. Through the APS Agreement, Learnframe retained possession and control of the property transferred, and continued to do so even when it defaulted. [FOF ¶ 26.]

Learnframe and APS's Concealment of the APS Agreement

e. Learnframe never circulated the APS Agreement to its other creditors. The APS Agreement was not filed with the Division of Corporations or otherwise reported on a UCC-1 filed with the Division. The APS Agreement was not supplied to the IRS, which had already levied on the very assets Learnframe was purporting to transfer. [FOF ¶ 27.]

Learnframe Was Insolvent When It Transferred Its Assets to APS

f. As Learnframe conceded at the evidentiary hearing, at the time it entered into the APS Agreement, Learnframe was not paying its debts as they became due. The sum of Learnframe's debts far exceeded the value of its assets. Learnframe was undergoing severe financial difficulties at the time, having been sued or threatened with suit by many creditors, including the Employees. [FOF ¶ 25; COL ¶ 18.]

g. In fact, Learnframe entered into the APS Agreement because Learnframe was not paying the debt that Learnframe owed to APS. [FOF ¶ 24.]

Learnframe Transferred Its Assets to APS with Intent to Hinder, Delay, or Defraud Its Creditors

h. After the “transfer” of ownership of assets to APS and up until the evidentiary hearing before the trial court, Learnframe maintained possession and control of all of its assets. [COL ¶ 22.]

i. APS still has refrained from removing assets from Learnframe’s possession, as the APS Agreement permits, even though Learnframe has defaulted under the Agreement by not paying taxes, maintaining insurance, and remaining solvent. [COL ¶ 22.]

j. APS and Learnframe failed to disclose the APS Agreement to Learnframe’s creditors, including the IRS, which had already levied against those same assets. [COL ¶ 22.]

k. Learnframe had been sued or threatened with suit before entering into the APS Agreement, including the Employees’ collection action filed the month before. [COL ¶ 22.]

l. Learnframe transferred all of its assets to APS. [COL ¶ 22.]

m. As detailed above, Learnframe was insolvent or became insolvent shortly after entering into the APS Agreement. [COL ¶ 22.]

The Value of the Assets Transferred Exceeded What Learnframe Received

n. Through the APS Agreement, APS purported to obtain title to all of Learnframe’s personal property, including equipment, accounts receivable, inventory, copyrights, software, and intellectual property. [FOF ¶ 23.]

o. The value of Learnframe's assets as of December 31, 2002, just eight days before signing the APS Agreement, was approximately \$3,376,316. Learnframe admitted this value in its 2002 tax returns. [FOF ¶ 20.]

p. Even if one were to ignore Learnframe's admission in its tax returns of the value of its assets, the testimony of Curtis DeYoung from APS demonstrated the great value in Learnframe's assets at the time of the APS Agreement. He estimated that the value of Learnframe's assets at the time of the APS Agreement was \$900,000 for its equipment and other tangible property, plus whatever Learnframe's intellectual property was worth. Mr. DeYoung conceded that Learnframe had "great potential" because its software, even as of the date of the evidentiary hearing, was one of the better software packages in its industry. [COL ¶ 12.]

q. Notwithstanding the significant value that APS received through the APS Agreement, Learnframe only received in return a forbearance from APS that APS would foreclose on the single Learnframe asset in which APS had received a security interest—an uncollected (and still uncollected today) receivable from Learn University. At that time, APS had no security interest in any other Learnframe asset, and would be able to do nothing more than bring suit against Learnframe, seek a judgment like the dozens of other creditors of Learnframe, and attempt to collect on that judgment as the Employees have done. Any such collection by Learnframe would be in second position to the IRS, which had already levied on all of Learnframe's assets. [COL ¶ 13.]

r. Even taking into account Mr. DeYoung’s assessment of the value of Learnframe’s assets, such a valuation would greatly exceed the value of APS’s forbearance from suing Learnframe and attempting—lined up with all of Learnframe’s other creditors—to collect on any judgment it may have received from Learnframe. [COL ¶ 15.]

The Purpose of the APS Agreement Was to Shield Learnframe’s Assets from the Employees and Other Creditors

s. Under the circumstances outlined above, the trial court found that the only reason that Learnframe would have transferred ownership of its assets to APS when APS had no perfected security interest in Learnframe’s assets as a whole (but only a single uncollected receivable) was because Learnframe wanted to make a preferential transfer to APS that would shield Learnframe’s assets from other creditors, including the Employees. [COL ¶ 14.]

t. Mr. DeYoung himself explained that in APS’s view, the APS Agreement was to assist Learnframe in “pretending to be in business” so that APS could obtain venture capital financing. [FOF ¶ 28.]

SUMMARY OF ARGUMENT

As an initial matter, the Court lacks jurisdiction over this appeal. APS was not a party to the proceedings below and failed to intervene, despite receiving notice and an opportunity to be heard. On this ground, the appeal should be dismissed.

Second, APS raises statute of limitations for the first time, but raises the wrong statute. Even if APS had preserved this claim, the trial court's factual findings would have supported a ruling by the trial court that the Employees raised fraudulent transfer within the applicable four-year statute of limitations.

Third, the trial court properly found sufficient clear and convincing evidence to undo, under a fraudulent transfer theory, Learnframe's attempted transfer of ownership of its assets to APS. APS has failed to marshal the evidence or otherwise properly challenge the trial court's findings. Thus, the Court can presume that the findings are supported by sufficient evidence.

Fourth, the trial court provided sufficient due process to APS. Applicable law authorized the trial court, after notice and an opportunity to be heard, to undo Learnframe's fraudulent transfer and permit execution on Learnframe's assets. It would make no sense to force a judgment creditor to file a new fraudulent transfer lawsuit before executing on assets in the possession of the judgment debtor simply because the judgment debtor purports to transfer ownership of those assets to another creditor.

The Court should affirm the trial court's rulings and award costs and attorney fees to the Employees.

ARGUMENT

I. THE COURT LACKS JURISDICTION OVER THIS APPEAL.

This Court lacks jurisdiction because APS was not a party to the proceedings below. When faced with a similar issue, the Utah Supreme Court dismissed an appeal by a third party to a supplemental order entered during the collection efforts of a judgment creditor. See Brigham Young Univ. v. Tremco Consultants, Inc., 2005 UT 19, ¶ 46, 110 P.3d 678 (“Tremco I”). The Utah Supreme Court held in Tremco I:

Although the Supplemental Order of July 10, 2002 provides that BYU’s judgment against SoftSolutions may be enforced against assets of [third parties], none of those individuals or entities were parties to the district court proceedings. As nonparties, they cannot appeal the supplemental order. Where an appeal is not properly taken, this court lacks jurisdiction and we must dismiss.

Id. (citations omitted). In that case, the third parties were not named, and their motion to intervene had not yet been ruled on. See id.

Likewise, APS never became a party to the district court proceedings. Although APS was provided the opportunity to appear and argue against the Writ of Execution, it never sought to intervene and was never named as a party. By failing to become a party, its appellate recourse was limited to bringing an extraordinary writ, see id. at ¶ 46 n.7, which it failed to do. Because APS is not a party to the proceedings below, this appeal should be dismissed for lack of jurisdiction.

II. EVEN IF APS HAD PROPERLY PRESERVED A STATUTE OF LIMITATIONS ARGUMENT, NO STATUTE PRECLUDED THE UNDOING OF LEARNFRAME’S FRAUDULENT TRANSFER.

The Court should reject APS’s statute of limitations defense on two alternative bases. First, APS failed to preserve below any statute of limitations argument and is

barred from presenting the argument for the first time now. Second, even if the statute of limitations were properly before the Court, no applicable statute of limitations precluded the trial court from undoing Learnframe’s transfer and authorizing the Employees to proceed with execution on assets in Learnframe’s possession.

A. APS Failed to Preserve the Statute of Limitations Issue Now Presented on Appeal.

APS cannot raise statute of limitations now when it never gave the trial court the opportunity to consider it. See Ellis v. Swensen, 2000 UT 101, ¶ 30, 16 P.3d 1233; State v. Mabe, 864 P.2d 890, 893 n.6 (Utah 1993). An issue is preserved if—before the trial court—it is (1) “raised in a timely fashion”; (2) “specifically raised”; and (3) supported with “evidence or relevant legal authority.” State v. Maguire, 1999 UT App 45, ¶ 6, 975 P.2d 476 (citations omitted). “Mere mention” of an issue to the trial court, without supporting evidence or legal authority, is insufficient. LeBaron & Assocs. v. Rebel Enters., 823 P.2d 479, 482–83 (Utah Ct. App. 1991).

Here, the trial court provided to the parties “an adequate opportunity to speak to all the issues” [Transcript of Evidentiary Hearing, R. 672, at 90:17-18, 152:21-24, 163:23-25, 167:8-12]—and thus preserve arguments—through a hearing on any objections to the execution [R.491], time for briefing objections [R.378-414], a subsequent evidentiary hearing [R.502], an opportunity to propose findings of fact and conclusions of law [R.503-21], and finally leave to submit written objections to proposed findings and conclusions. After all this, APS now attempts to raise new arguments on appeal, without setting forth any ground for reviewing unpreserved issues. See Utah R.

App. P. 24(a)(5)(B) (“The brief of the appellant shall contain . . . a statement of grounds for seeking review of an issue not preserved in the trial court.”). Thus, the unpreserved statute of limitations argument is waived and should not be considered.

B. Alternately, APS’s Statute of Limitations Argument Fails Because the Correct Statute of Limitations Had Not Yet Run.

Even if APS had preserved its statute of limitations argument, the applicable statute of limitations had not yet expired when fraudulent transfer was raised by the Employees in seeking the Writ of Execution. Learnframe seeks to impose the one-year statute of limitations in Utah Code Ann. § 25-6-10 (3) on the fraudulent transfer at issue here, but that statute only applies to a transfer to an insider under Utah Code Ann. § 25-6-6(2). See Utah Code Ann. § 25-6-10 (3) (2005) (providing one-year statute for fraudulent transfer claims “under Subsection 25-6-6(2)”). This statute was not at issue below.² Rather, the trial court found that Learnframe’s transfer of ownership of its assets was fraudulent under Utah Code Ann. § 25-6-5(1) and § 25-6-6(1), both of which are governed by a limitations period of at least four years. See Utah Code Ann. § 25-6-10(1) (providing minimal four-year statute of limitations plus one-year discovery rule for transfers “under Subsection 25-6-5(1)(a)”), id. § 25-6-10 (2) (providing four-year statute of limitations for transfers “under Subsection 25-6-5(1)(b) or 25-6-6(1)”).

² Paragraph 21 of the trial court’s conclusions of law contains a typographical error: After quoting language from Utah Code Ann. § 25-6-5(2), the paragraph mistakenly cites section 25-6-6(2), even though this provision governing transfers to insiders is never mentioned elsewhere in the findings or conclusions, or otherwise applied by the trial court.

Applying the four-year statutes of limitations that govern claims under sections 25-6-5(1) and 25-6-6(1), without respect to the one-year discovery rule, the earliest that any limitations period would run for Learnframe's January 2003 transfer of ownership would be January 2007, which was well after the Employees first alleged Learnframe's fraudulent transfer to APS. [FOF ¶ 2.] On this basis, APS's statute of limitations argument fails.

III. BASED ON THE TRIAL COURT'S UNCHALLENGED FINDINGS, THE ELEMENTS OF FRAUDULENT TRANSFER ARE MET.

The trial court found through clear and convincing evidence that Learnframe's attempt to convey to APS only ownership of its assets was fraudulent under Utah Code Ann. §§ 25-6-5 (1) and 25-6-6(1). The trial court's determination is supported by numerous factual findings, which APS has failed to challenge properly on appeal. Applying the relevant fraudulent transfer statutes to the trial court's factual findings, APS's challenge should be rejected.

A. Based on APS's Failure to Marshal, All Factual Findings Are Taken as True.

The Court should take as true all of the trial court's factual findings because APS has failed to marshal any evidence. An appellant's duty to marshal is no novel concept. See Utah R. Civ. P. 24(a)(9) ("A party challenging a fact finding must first marshal all record evidence that supports the challenged finding."). Mere "citation[] to the record . . . is not all that is required." Moon v. Moon, 1999 UT App 12, ¶ 24, 973 P.2d 431. Nor is it sufficient for an appellant to "re-argue" its own evidence. See id. Rather, the marshaling duty requires that "the challenger must present, in comprehensive and

fastidious order, every scrap of competent evidence introduced at trial which supports the very findings the appellant resists,” West Valley City v. Majestic Inv. Co., 818 P.2d 1311, 1315 (Utah Ct. App. 1991), and show that the trial court’s findings are “against the clear weight of the evidence,” Valcarce v. Fitzgerald, 961 P.2d 305, 312 (Utah 1998).

This Court has warned litigants, “[w]hen a party fails to marshal the evidence supporting a challenged fact finding, we reject the challenge as nothing more than an attempt to reargue the case before [the appellate] court.” Campbell v. Box Elder County, 962 P.2d 806, 808 (Utah Ct. App. 1998) (internal quotation and citation omitted). When the appellant fails to meet its marshaling duty, relevant findings are taken as true. See Keil, 2002 UT 32 at ¶ 15; Shinkoskey v. Shinkoskey, 2001 UT App 44, ¶ 10 n.5, 19 P.3d 1005; Moon, 1999 UT App 12 at ¶ 24; Utah Med. Prods., 958 P.2d at 230.

APS does not marshal. It fails to provide any list of the evidence supporting the trial court’s findings. Indeed, APS fails even to identify or acknowledge the factual findings that it is challenging, instead simply rearguing the evidence from its point of view, and even incorrectly positing on multiple occasions that “[n]o such findings of fact were made.” APS’s Brief at 21, 22, 24. APS also argues on page 27 of its brief that the trial court failed to require clear and convincing evidence, even though the trial court expressly recognized this evidentiary standard. See Evidentiary Hearing Transcript, R. 672, at 153:21. In any event, due to APS’s failure to marshal, APS cannot show that clear and convincing evidence was lacking. Based on APS’s failure to challenge the trial court’s findings in a proper fashion, the Court should presume that the trial court’s findings are supported by sufficient evidence. See Moon, 1999 UT App 12 at ¶ 24.

B. The Trial Court Properly Concluded That Learnframe’s Transfer of Ownership Was Fraudulent Under Section 25-6-6(1).

Considering the factual findings, the trial court properly held that a fraudulent transfer occurred pursuant to Section 25-6-6(1) when Learnframe purported to transfer ownership of its assets to APS in exchange for a forbearance of collection on Learnframe’s debt to APS. The three elements of a fraudulent transfer under Section 25-6-6(1) are that (1) the obligation to the complaining creditor must have arisen before the transfer was made; (2) the transfer was made without receiving a reasonably equivalent value in exchange; and (3) the debtor was insolvent at the time or became insolvent as a result of the transfer or obligation. See Utah Code Ann. §25-6-6(1). The trial court’s conclusion that a fraudulent transfer occurred under this section is supported by findings showing that all three elements were fulfilled.

1. Learnframe’s Obligation to the Employees Arose Prior to Learnframe Transferring Ownership of Its Assets to APS.

The trial court found that Learnframe’s obligation to the Employees arose before Learnframe transferred ownership of its assets to APS. [COL ¶ 9.] Learnframe’s obligation to the Employees arose not later than December 2002, when the Employees “brought this action for unpaid wages and benefits” [COL ¶ 1], while Learnframe entered into the APS Agreement approximately one month later in January 2003 [COL ¶ 15]. Thus, Learnframe’s obligation to the Employees arose before the ownership transfer.

2. Learnframe Did Not Receive Reasonably Equivalent Value for the Ownership Transfer to APS.

Notwithstanding APS's claim that no findings related to reasonable equivalence, see APS's Brief at 24, multiple factual findings reflect the trial court's determination that the ownership interest that Learnframe transferred grossly exceeded the value of the forbearance Learnframe received from enforcement of APS's security interest in a single account receivable.³ [COL ¶¶ 11-13, 15.]

3. Learnframe Was Insolvent at the Time of the Transfer of All of Its Assets to APS or Became Insolvent Shortly Thereafter.

APS does not dispute that Learnframe was insolvent when it transferred ownership of its assets to APS. The Court's findings reflect this.⁴ [COL ¶¶ 16-19.] Thus, all three elements of a fraudulent transfer under Section 25-6-6(1) were satisfied and the Court properly found Learnframe's asset ownership transfer to be fraudulent pursuant to that section.

³ Based on the trial court's finding that the transfer of ownership was not for reasonably equivalent value, APS's reliance on section 25-6-9(1) is misplaced. See APS's Brief at 28-29. That provision is applicable only when "a person took in good faith and for a reasonably equivalent value." Utah Code Ann. § 25-6-9(1).

⁴ Based on Learnframe's insolvency at the time it entered into the APS Agreement, APS's admission that it "had reasonable cause to believe" Learnframe was insolvent, APS's Brief at 20, and APS's inability to point to any evidence of its ignorance of Learnframe's insolvency, APS cannot avail itself of the good-faith transferee provision of section 25-6-9(4). See Utah Code Ann. § 25-6-9(4) ("[A] transferee does not act in good faith when he has sufficient knowledge to place him on inquiry notice of the debtor's possible insolvency."); In re M & L Business Machine Co., 84 F.3d 1330, 1335-36 (10th Cir. 1996) ("[T]he presence of any circumstance placing the transferee on inquiry as to the financial condition of the transferor may be a contributing factor in depriving the former of any claim to good faith unless investigation actually disclosed no reason to suspect financial embarrassment.").

C. The Trial Court Properly Concluded That Learnframe’s Transfer of Ownership Was Fraudulent Under Section 25-6-5(1)(a).

The trial court also properly concluded, in light of the findings, that Learnframe’s attempt to transfer ownership of its assets was done “with actual intent to hinder, delay, or defraud any creditor of the debtor,” as section 25-6-5(1)(a) requires. [COL ¶ 20.] “[F]raudulent intent . . . may be inferred from the presence of certain indicia of fraud or ‘badges of fraud,’” Bradford v. Bradford, 1999 UT App 373, ¶¶ 18, 20, 993 P.2d 887, found in Utah Code Ann. § 25-6-5(2).

The trial court considered the “badges of fraud”—namely those “various factors probative of actual intent, under Section 25-6-5(2)” —and concluded that “each of these factors is implicated here”:

Learnframe remained in possession and control of the property after the transfer. APS has never bothered to remove the assets from Learnframe’s possession, as the APS Agreement permits, even though Learnframe has defaulted under the Agreement by not paying taxes, maintaining insurance, and remaining solvent. APS and Learnframe failed to disclose the transfer to creditors, including the IRS, which had already levied. Learnframe had been sued or threatened with suit before the transfer. The transfer was of all of Learnframe’s assets. Finally, as detailed above in the analysis of section 25-6-6, Learnframe was insolvent or became insolvent shortly after the transfer was made.

[COL ¶¶ 21, 22.] In short, the trial court found, “the only credible reason for the APS Agreement was to shield Learnframe’s assets from creditors, preferentially favoring APS.” [COL ¶ 14, 21.] Since APS never properly challenges these findings, the Court should reject APS’s argument that Learnframe’s transfer was not for the purpose of “shielding assets.” APS’s Brief at 18. Based on its express findings, the trial court

properly concluded that the “APS Agreement effected a fraudulent transfer under Utah Code Ann. § 25-6-5.” Id.

D. APS’s Other Fraudulent Transfer Arguments Fail.

APS cites several additional provisions of Utah’s fraudulent transfer statute, each of which is inapposite. First, APS relies on sections 25-6-9(2) and (3), suggesting that these provisions “would have prevented the ruling below.” APS’s Brief at 30. However, these sections only apply to situations where the judgment creditor seeks a money judgment against a fraudulent transferee. See Utah Code Ann. § 25-6-9(2) (limiting its application to actions brought under Section 25-6-8(1)(a) “to recover judgment for the value of the asset transferred”). Here, the trial court has simply undone Learnframe’s attempted transfer of ownership to APS, a remedy under Utah Code Ann. § 25-6-8(2)—not section 25-6-8(1)(a). Thus, these sections are inapplicable and the trial court was correct not to consider them.

Second, APS suggests that it was entitled to some exception under Utah Code Ann. § 25-6-9(5), APS’s Brief at 30, but for this statute to apply, the transfer had to come as a result of APS’s “enforcement” of a security interest. See Utah Code Ann. § 25-6-9(5)(b). APS’s security interest was limited to one account receivable of Learnframe, and APS concedes that if it had “executed on its perfected security interest, that would have also killed Learnframe,” so APS never executed. APS’s Brief at 20. Since APS was not enforcing its security interest, section 25-6-9(5) does not apply.

Third, APS argues for Utah Code Ann. § 25-6-9(6)(c), but that section only governs transfers under section 25-6-6(2), which was not at issue here. See note 2, above.

IV. THE TRIAL COURT PROPERLY SET ASIDE LEARNFRAME'S PURPORTED OWNERSHIP TRANSFER AND PROVIDED ADEQUATE DUE PROCESS TO APS.

The trial court properly set aside Learnframe's purported ownership transfer without requiring the Employees, after obtaining the Judgment against Learnframe, to undertake the time and expense of bringing a separate suit against APS. Rule 64E does not require such a protracted procedure, instead authorizing execution on property in the possession of the judgment debtor. Nor does the Fraudulent Transfer Act require the filing of a new lawsuit; rather, it expressly allows execution on a fraudulently transferred asset, regardless even of who possesses the asset. Such procedures have been upheld in Utah and other jurisdictions. APS cannot mount a due process challenge because it received adequate notice and an opportunity to be heard. Under these circumstances, the trial court's rulings should be affirmed so that the Employees can proceed with their execution.

A. Rule 64E Authorizes Execution on Assets in the Judgment Debtor's Possession.

Utah's rules of civil procedure expressly allow the Employees to execute on property in the possession of Learnframe. Rule 64E provides:

(a) *Availability.* A writ of execution is available to seize property in the possession or under the control of the defendant following entry of a final judgment or order requiring the delivery of property or the payment of money.

Utah R. Civ. P. 64E(a). APS has entirely ignored this rule on which the Writ of Execution in this case is premised, and has failed to make any constitutional challenge to the rule. By following Rule 64E, the Employees ensured that APS had sufficient due process. See Brigham Young Univ. v. Tremco Consultants, Inc., 2007 UT 17, ¶ 28, 156 P.3d 782 (“Tremco II”) (“The Utah Rules of Civil Procedure owe their existence to the constitutional guarantee of due process of law. They ‘[are] designed to provide a pattern of regularity of procedure which the parties and the courts [can] follow and rely upon.’”) (quoting Gillett v. Price, 2006 UT 24, P 13, 135 P.3d 861)).

The Employees followed the requirements of Rule 64E in obtaining the Writ of Execution. As the trial court found, the property subject to the Writ of Execution is in the possession of Learnframe. See COL ¶ 22 (“Learnframe remained in possession and control of the property after the transfer.”). Moreover, the other procedural requirements of 64E were fulfilled: The writ included the amount of the judgment; the nature, location and estimated value of the property; and the name and address of APS as the only person known to the Employees that might have an interest in the Property. [R.273-76.] By following these procedures, APS received all the process due under the rules.

The history of Rule 64E demonstrates that it has been narrowly tailored to ensure due process. Prior to 2004, Rule 69(s) of the Utah Rules of Civil Procedure governed writs of execution. This former rule allowed a judgment creditor to execute on property “in the possession of the judgment debtor or any other person.” Utah R. Civ. P. 69(s) (2003) (repealed) (emphasis added). The repeal of Rule 69 and enactment of Rule 64E—which limits execution to property in the possession of the judgment debtor, ensures

identification of anyone that may claim an interest in the property, and permits objections and hearings—demonstrates an intent of the drafters to provide more due process than was allowed under the former Rule 69.

B. The Fraudulent Transfer Act Permits Execution on a Fraudulently Transferred Asset.

Like Rule 64E, the Fraudulent Transfer Act expressly allows a judgment creditor to execute on assets fraudulently transferred by the judgment debtor:

If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court orders, may levy execution on the asset transferred or its proceeds.

Utah Code Ann. § 25-6-8(2). APS completely ignores this statute in its brief, and fails to challenge its constitutionality.

As the Utah Supreme Court has held, “[a] judgment creditor may litigate the question of a fraudulent conveyance in a garnishment proceedings, in a creditor’s bill in equity, or in an execution proceeding,” without bringing suit against the third party. Jensen v. Eames, 519 P.2d 236, 239 (Utah 1974) (emphasis added). This Court has reached similar results. Applying Section 25-6-8(2), this Court has allowed a judgment creditor to execute on fraudulently transferred property without bringing suit against the third-party transferee, even when, unlike the instant case, the property was held by a the third party. See Johnson v. Rappleye, 2004 UT App 290, 99 P.3d 348.

In Johnson, the judgment debtor transferred his half interest in real property to a third party who then sold the property and placed the proceeds in investment accounts in her name. Id. at ¶ 9. When the judgment creditor discovered the transactions and moved

for a writ of execution on the third-party's investment accounts, the judgment debtor objected, claiming that he did not have an interest in the investment accounts. Id. at ¶¶ 11-12. After an evidentiary hearing, the trial court held that the judgment debtor's transfer was fraudulent, and allowed the judgment creditor to execute on the investment accounts held in the name of the third party. Id. at ¶ 12. This Court affirmed under Utah Code Ann. § 25-6-8(2), holding that the judgment creditor could execute on the investment accounts of the third party without filing suit against the third-party. Id. at ¶¶ 36, 44.

The same result is appropriate here. Just as in Johnson, the trial court found that a fraudulent transfer occurred, see Point III, above, and allowed execution on the fraudulently conveyed assets. Unlike Johnson, the execution is further supported by Rule 64E because the property has remained in Learnframe's possession. Just as in Johnson, this Court should affirm.

APS's argument that the Employees should be forced to file a lawsuit against APS to undo the fraudulent ownership transfer defies common sense and the realities of commercial litigation. The purpose of the Fraudulent Transfer Act is to "codif[y] the common law that provided a remedy against debtors who sought to conceal their assets from creditors." National Loan Investors, L.P. v. Givens, 952 P.2d 1067, 1069 (Utah 1998). APS's argument, if accepted, would permit a judgment debtor to conceal assets and postpone execution indefinitely, which is precisely what the Fraudulent Transfer Act is aimed at remedying. If the Employees were required to bring an action against APS before they could execute on assets in the possession of Learnframe, a judgment debtor

could forever stall a collection suit by simply making fraudulent transfers on the eve of execution, and forcing further protracted litigation with the transferee. At some point, the Employees need to be paid their wages and benefits, earned five years ago. APS's argument, which encourages judgment debtors to break the law, does not further sound policy and should be rejected.

C. APS Has Failed to Mount a Sufficient Constitutional Challenge to the Trial Court's Execution Proceedings.

APS's due process concerns should be rejected. APS received the due process protections inherent in Rule 64E and the Fraudulent Transfer Act, and completely fails to challenge the constitutionality of those provisions. Specifically, Learnframe received each of the "essentials of due process": "adequate notice and "an opportunity to be heard in a meaningful manner." Tremco II, 2007 UT 17 at ¶ 28; see also Utah County v. Ivie, 2006 UT 33, ¶ 22, 137 P.3d 797 ("The hallmarks of due process are notice and an opportunity to be heard, but not all proceedings demand the same level of process.").

Other jurisdictions, like this Court in Johnson and the Utah Supreme Court in Jensen, cited in Point IV(B), above, hold that due process can be provided to third parties through execution proceedings without naming them as parties in the underlying lawsuit. In Sackin v. Kesting, the Arizona Supreme Court overruled a challenge to a writ of execution by a third party transferee who argued that he was denied due process when the trial court allowed the judgment creditor to levy on the property fraudulently transferred. 468 P.2d 925, 926 (Ariz. 1970). The court noted that the third party "was afforded his day in court . . . on his motion to quash the executions, at which time he had the right to

raise all legal and equitable defenses personal to himself that would justify their dissolution.” Id.; see also Continental Bank v. Berman, 25 Phila. 80, 86-87, 1992 Phila City Rptr. LEXIS 122 (Pa. Phil. Cty. 1992) (holding that fraudulent conveyance hearing “commenced in response to the debtor’s petition to set aside execution” was adequate and the court “did not require the creditor to institute a separate fraudulent conveyance action”) (discussing Patterson v. Hopkins, 371 A.2d 1378 (Pa. Super. 1977)); In re Miller, 148 B.R.510, 523 (Bankr. D. Ill. 1992) (“[I]n cases where money or personal property of a debtor has been transferred by him for the purpose of defrauding creditors, the transferee may be held liable in a garnishment proceeding.”).

As in Sackin, the process provided to APS greatly exceeds the process given to the third parties in Tremco II where the Utah Supreme Court found due process lacking. In Tremco II, a judgment creditor sought to enforce a judgment against a dissolved corporation on the corporation’s shareholders. See 2007 UT 17 at ¶ 31. Before the shareholders could appear in the matter and defend against claims brought against them, the trial court found them liable for the corporation’s debts. Id. at ¶¶ 12, 22. Since these third-party shareholders did not participate and the judgment creditor’s motion to impose on them the corporation’s liability was unopposed, their liability was found “in an environment in which critical considerations—like burden of proof—were distorted to the advantage of [the judgment creditor].” Id. at ¶ 35. The trial court in Tremco II allowed the judgment creditor to execute on all of the shareholder’s assets, which were not in the possession of the judgment debtor. Id. at ¶¶ 11-12. The third-party shareholders, left with their liability already determined, could do nothing more than ask

the trial court to reconsider its previous rulings. The Supreme Court held in Tremco II that this procedure was insufficient due process. Id.

This case is different. APS received the central features of due process—notice and an opportunity to be heard. APS was not just aware of the litigation around it, but was an active participant. APS was subpoenaed to participate in a deposition,⁵ [R.249-55]; filed written objections to the constable’s sale a Sheriff’s Sale, [R.378-414]; attended oral argument on its objections, [R. 491]; participated in a full evidentiary hearing where the proper burden of proof was placed on the employees, [R.502]; submitted written objections to findings of fact and proposed findings of fact, [R.503-521]; and made objections to the Employees’ proposed findings of fact and conclusions of law. By APS’s own admission, “every point, and every argument asserted was addressed and contested.” APS’s Brief at 32. In short, APS was afforded its “day in court.” See Sackin, 486 P.2d at 926.

Unlike Tremco II, the trial court did not summarily impose liability on APS—it conducted two hearings where APS was allowed to appear, argue, and present evidence prior to the trial court undoing Learnframe’s fraudulent transfer of ownership. Moreover, unlike Tremco II, where the trial court imposed liability on the third party for the full amount of the debt owed by the original judgment debtor and permitted execution on assets in the hands of third parties, the Employees have not sought to impose liability on

⁵ The trial court also received evidence, which was never controverted in filings by Learnframe or APS, that Learnframe and APS shared legal counsel, Denver Snuffer. [R.426-31, 434-36.]

APS, but have only sought and obtained an order undoing Learnframe's fraudulent transfer of ownership of assets in Learnframe's possession. APS is not liable to the Employees and bears no responsibility for any deficiency in the Judgment once execution of Learnframe's assets is exhausted. Under Utah Code Ann. § 25-6-8(2) and Rule 64E and notwithstanding Tremco II, the trial court provided all the process due to APS.

Moreover, the due process concerns raised in Tremco II, are not implicated here because Tremco II was decided under the now-repealed Rule 69(s) of the Utah Rules of Civil Procedure, which as addressed in Point IV(A), above, has been replaced with the narrowly tailored Rule 64E, followed in this case.

APS's final due process argument is mere speculation that the trial court "had already made a determination of some, or all of the issues related to APS, before APS was even in the case." APS's Brief at 25. APS's only authority for this view is the transcript for the February 2006 hearing, which does not suggest any preconceived determination by the district court. See id. at 25 n.7. Moreover, APS's position is belied by the fact that the trial court, before making any ruling at the February 2006 hearing as to any facts, permitted APS to present live witness testimony and other evidence at a full evidentiary hearing, scheduled with several months' advance notice. Then, before any facts were found, the trial court permitted APS to propose findings of fact and conclusions of law, which APS took advantage of, and then submit objections to the Employees' proposed findings.

Based on the notice and opportunity to be heard afforded to APS and the fact that the execution at issue relates solely to assets that remain in Learnframe's possession, APS's due process argument fails.

V. THE EMPLOYEES ARE ENTITLED TO ATTORNEY FEES INCURRED ON APPEAL.

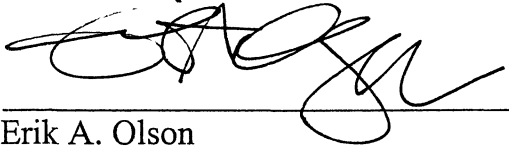
The Employees should be awarded the attorney fees they incur in connection with this appeal. Under Utah Code Ann. § 34-27-1 (2005), "whenever a[n] . . . employee shall have cause to bring suit for wages earned and due . . . and shall establish by the decision of the court that the amount he has brought suit for is justly due, then it shall be the duty of the court to allow the plaintiff a reasonable attorneys' fee in addition to the amount found due for wages, to be taxed as costs of suit." The Judgment is premised on this statute. By prevailing on appeal, the Employees should be awarded the attorney fees and costs incurred on appeal.

CONCLUSION

Based on the foregoing, the Employees respectfully request that this Court affirm the trial court's Order entered on August 30, 2006, award to the Employees their reasonable attorney fees, and provide such additional and further relief as it deems appropriate.

DATED this 25th day of July, 2007.

DURHAM JONES & PINEGAR, P.C.

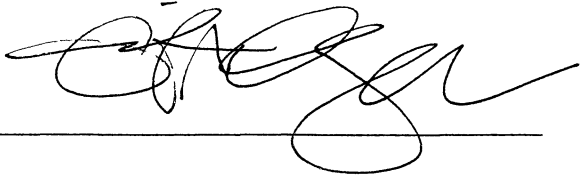
By: 
Erik A. Olson
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Radvin

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of July, 2007, I caused two copies of the foregoing **APPELLEE'S BRIEF** to be mailed to the following:

Timothy M. Willardson
3165 South 300 West
Salt Lake City, Utah 84115



A handwritten signature in black ink, appearing to read 'Timothy M. Willardson', is written over a horizontal line. The signature is stylized and cursive.

INDEX OF ADDENDA

<u>ADDENDUM A:</u>	Utah Fraudulent Transfer Statute, Utah Code Ann. § 25-6-1 to § 25-6-14 (2005).
<u>ADDENDUM B:</u>	Utah R. Civ. P. 64E
<u>ADDENDUM C:</u>	Judgment against Learnframe
<u>ADDENDUM D:</u>	APS Agreement
<u>ADDENDUM E:</u>	Writ of Execution
<u>ADDENDUM F:</u>	Findings of Fact and Conclusions of Law

Tab A

UTAH CODE ANNOTATED
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*** STATUTES CURRENT THROUGH THE 2007 GENERAL SESSION. ***
*** ANNOTATIONS CURRENT THROUGH 2007 UT 34 (4/19/2007); 2007 UT APP 119 (4/19/2007) AND APRIL
15, 2007 (FEDERAL CASES). ***

TITLE 25. FRAUD
CHAPTER 6. UNIFORM FRAUDULENT TRANSFER ACT

§ 25-6-1. Short title

This chapter is known as the "Uniform Fraudulent Transfer Act."

HISTORY: C. 1953, 25A-1-1, enacted by L. 1988, ch. 59, § 1; recompiled as C. 1953, 25-6-1.

§ 25-6-2. Definitions

In this chapter:

(1) "Affiliate" means:

(a) a person who directly or indirectly owns, controls, or holds with power to vote, 20% or more of the outstanding voting securities of the debtor, other than a person who holds the securities:

- (i) as a fiduciary or agent without sole discretionary power to vote the securities; or
- (ii) solely to secure a debt, if the person has not exercised the power to vote;

(b) a corporation 20% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds, with power to vote, 20% or more of the outstanding voting securities of the debtor, other than a person who holds the securities:

- (i) as a fiduciary or agent without sole power to vote the securities; or
- (ii) solely to secure a debt, if the person has not exercised the power to vote;

(c) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

(d) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

(2) "Asset" means property of a debtor, but does not include:

- (a) property to the extent it is encumbered by a valid lien;
- (b) property to the extent it is generally exempt under nonbankruptcy law; or

(c) an interest in property held in tenancy by the entireties to the extent it is not subject to process by a creditor holding a claim against only one tenant.

(3) "Claim" means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(4) "Creditor" means a person who has a claim

(5) "Debt" means liability on a claim

(6) "Debtor" means a person who is liable on a claim

(7) "Insider" includes

(a) if the debtor is an individual

(i) a relative of the debtor or of a general partner of the debtor,

(ii) a partnership in which the debtor is a general partner,

(iii) a general partner in a partnership described in Subsection (7)(a)(ii),

(iv) a corporation of which the debtor is a director, officer, or person in control, or

(v) a limited liability company of which the debtor is a member or manager,

(b) if the debtor is a corporation

(i) a director of the debtor,

(ii) an officer of the debtor,

(iii) a person in control of the debtor,

(iv) a partnership in which the debtor is a general partner,

(v) a general partner in a partnership described in Subsection (7)(b)(iv),

(vi) a limited liability company of which the debtor is a member or manager, or

(vii) a relative of a general partner, director, officer, or person in control of the debtor,

(c) if the debtor is a partnership

(i) a general partner in the debtor,

(ii) a relative of a general partner in, a general partner of, or a person in control of the debtor,

(iii) another partnership in which the debtor is a general partner,

(iv) a general partner in a partnership described in Subsection (7)(c)(iii),

(v) a limited liability company of which the debtor is a member or manager, or

(vi) a person in control of the debtor,

(d) if the debtor is a limited liability company

(i) a member or manager of the debtor,

(ii) another limited liability company in which the debtor is a member or manager,

(iii) a partnership in which the debtor is a general partner,

(iv) a general partner in a partnership described in Subsection (7)(d)(iii),

(v) a person in control of the debtor, or

(vi) a relative of a general partner, member, manager, or person in control of the debtor,

(e) an affiliate, or an insider of an affiliate as if the affiliate were the debtor, and

(f) a managing agent of the debtor

(8) "Lien" means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien, or a statutory lien

(9) "Person" means an individual, partnership, limited liability company, corporation, association, organization, government or governmental subdivision or agency, business trust, estate, trust, or any other legal or commercial entity

(10) "Property" means anything that may be the subject of ownership

(11) "Relative" means an individual or an individual related to a spouse, related by consanguinity within the third degree as determined by the common law, or a spouse, and includes an individual in an adoptive relationship within the third degree

(12) "Transfer" means every mode, direct or indirect, absolute or conditional, or voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance

(13) "Valid lien" means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings

HISTORY: C 1953, 25A-1-2, enacted by L 1988, ch 59, § 2, recompiled as C 1953, 25-6-2, 1992, ch 168, § 1

§ 25-6-3. Insolvency

(1) A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation

(2) A debtor who is generally not paying his debts as they become due is presumed to be insolvent

(3) A partnership is insolvent under Subsection (1) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts

(4) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this chapter

(5) Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset

HISTORY: C 1953, 25A-1-3, enacted by L 1988, ch 59, § 3, recompiled as C 1953, 25-6-3

§ 25-6-4. Value -- Transfer

(1) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied. However, value does not include an unperformed promise made other than in the ordinary course of the promisor's business to furnish support to the debtor or another person

(2) Under Subsection 25-6-5(1)(b) and Section 25-6-6, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement

(3) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous

HISTORY: C 1953, 25A-1-4, enacted by L 1988, ch 59, § 4, recompiled as C 1953, 25-6-4

§ 25-6-5. Fraudulent transfer -- Claim arising before or after transfer

(1) A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation

(a) with actual intent to hinder, delay, or defraud any creditor of the debtor, or

(b) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor

(1) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction, or

(ii) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due

(2) To determine "actual intent" under Subsection (1)(a), consideration may be given, among other factors, to whether

(a) the transfer or obligation was to an insider,

(b) the debtor retained possession or control of the property transferred after the transfer,

(c) the transfer or obligation was disclosed or concealed,

(d) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit,

(e) the transfer was of substantially all the debtor's assets,

(f) the debtor absconded,

(g) the debtor removed or concealed assets,

(h) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred,

(i) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred,

(j) the transfer occurred shortly before or shortly after a substantial debt was incurred, and

(k) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor

HISTORY: C 1953, 25A-1-5, enacted by L 1988, ch 59, § 5, recomplied as C 1953, 25-6-5

§ 25-6-6. Fraudulent transfer -- Claim arising before transfer

(1) A transfer made or obligation incurred by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made or the obligation was incurred if

(a) the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation, and

(b) the debtor was insolvent at the time or became insolvent as a result of the transfer or obligation

(2) A transfer made by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at the time, and the insider had reasonable cause to believe that the debtor was insolvent

HISTORY: C 1953, 25A-1-6, enacted by L 1988, ch 59, § 6, recomplied as C 1953, 25-6-6, L 1989, ch 61, § 1

§ 25-6-7. Transfer -- When made

In this chapter

(1) A transfer is made

(a) with respect to an asset that is real property other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee, and

(b) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire a judicial lien other than under this chapter that is superior to the interest of the transferee

(2) If applicable law permits the transfer to be perfected as provided in Subsection (1) and the transfer is not so perfected before the commencement of an action for relief under this chapter, the transfer is deemed made immediately before the commencement of the action

(3) If applicable law does not permit the transfer to be perfected as provided in Subsection (1), the transfer is made when it becomes effective between the debtor and the transferee

(4) A transfer is not made until the debtor has acquired rights in the asset transferred

(5) An obligation is incurred

(a) if oral, when it becomes effective between the parties, or

(b) if evidenced by a writing, when the writing executed by the obligor is delivered to or for the benefit of the obligee

HISTORY: C 1953, 25A-1-7, enacted by L 1988, ch 59, § 7, recompiled as C 1953, 25-6-7

§ 25-6-8. Remedies of creditors

(1) In an action for relief against a transfer or obligation under this chapter, a creditor, subject to the limitations in Section 25-6-9, may obtain

(a) avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim,

(b) an attachment or other provisional remedy against the asset transferred or other property of the transferee in accordance with the procedure prescribed by the Utah Rules of Civil Procedure,

(c) subject to applicable principles of equity and in accordance with applicable rules of civil procedure

(i) an injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property,

(ii) appointment of a receiver to take charge of the asset transferred or of other property of the transferee, or

(iii) any other relief the circumstances may require

(2) If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court orders, may levy execution on the asset transferred or its proceeds

HISTORY: C 1953, 25A-1-8, enacted by L 1988, ch 59, § 8, recompiled as C 1953, 25-6-8

§ 25-6-9. Good faith transfer

(1) A transfer or obligation is not voidable under Subsection 25-6-5(1)(a) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee

(2) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by a creditor under Subsection 25-6-8(1)(a), the creditor may recover judgment for the value of the asset transferred, as adjusted under Subsection (3), or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against

(a) the first transferee of the asset or the person for whose benefit the transfer was made, or

(b) any subsequent transferee other than a good faith transferee who took for value or from any subsequent transferee

(3) If the judgment under Subsection (2) is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to an adjustment as equities may require

(4) Notwithstanding voidability of a transfer or an obligation under this chapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to

(a) a lien on or a right to retain any interest in the asset transferred,

(b) enforcement of any obligation incurred, or

(c) a reduction in the amount of the liability on the judgment

(5) A transfer is not voidable under Subsection 25-6-5(1)(b) or Section 25-6-6 if the transfer results from

(a) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law, or

(b) enforcement of a security interest in compliance with Title 70A, Chapter 9a, Uniform Commercial Code -- Secured Transactions

(6) A transfer is not voidable under Subsection 25-6-6(2)

(a) to the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien,

(b) if made in the ordinary course of business or financial affairs of the debtor and the insider, or

(c) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose as well as an antecedent debt of the debtor

HISTORY: C 1953, 25A-1-9, enacted by L 1988, ch 59, § 9, recompiled as C 1953, 25-6-9, 2000, ch 252, § 2

§ 25-6-10. Claim for relief -- Time limits

A claim for relief or cause of action regarding a fraudulent transfer or obligation under this chapter is extinguished unless action is brought

(1) under Subsection 25-6-5(1)(a), within four years after the transfer was made or the obligation was incurred or, if later, within one year after the transfer or obligation was or could reasonably have been discovered by the claimant,

(2) under Subsection 25-6-5(1)(b) or 25-6-6(1), within four years after the transfer was made or the obligation was incurred, or

(3) under Subsection 25-6-6(2), within one year after the transfer was made or the obligation was incurred

HISTORY: C 1953, 25A-1-10, enacted by L 1988, ch 59, § 10, recompiled as C 1953, 25-6-10

§ 25-6-11. Legal principles applicable to chapter

Unless displaced by this chapter, the principles of law and equity, including merchant law and the law relating to principal and agent, equitable subordination, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement this chapter's provisions

HISTORY: C 1953, 25A-1-11, enacted by L 1988, ch 59, § 11, recompiled as C 1953, 25-6-11

§ 25-6-12. Construction of chapter

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it

HISTORY: C 1953, 25A-1-12, enacted by L 1988, ch 59, § 12, recompiled as C 1953, 25-6-12

§ 25-6-13. Applicability of chapter

This act applies when any transfer occurs after the effective date of this act

HISTORY: C 1953, 25A-1-13, enacted by L 1988, ch 59, § 13, recompiled as C 1953, 25-6-13

§ 25-6-14. Restricting transfers of trust interests

(1) (a) For trusts created on or after December 31, 2003, a settlor who in writing irrevocably transfers property in trust to a trust having as trustee a company defined in Subsection 7-5-1(1)(d) who holds some or all of the trust assets in this state in a savings account described in Subsection 7-1-103(29), a certificate of deposit, a brokerage account, a trust company fiduciary account, or account or deposit located in this state that is similar to such an account may provide that the income or principal interest of the settlor as beneficiary of the trust may not be either voluntarily or involuntarily transferred before payment or delivery to the settlor as beneficiary by the trustee. The provision shall be considered to be a restriction on the transfer of the settlor's beneficial interest in the trust that is enforceable under applicable non-bankruptcy law within the meaning of Section 541(c)(2) of the Bankruptcy Code or successor provision.

(b) This Subsection (1) applies to

(i) any form of transfer into trust including

(A) conveyance, or

(B) assignment, and

(ii) transfers of

(A) personal property,

(B) interests in personal property,

(C) real property, or

(D) interests in real property.

(2) (a) Except as provided in Subsection (2)(c), if a trust has a restriction as provided in Subsection (1)(a), a creditor or other claimant of the settlor may not satisfy a claim, or liability on it, in either law or equity, out of the settlor's transfer or settlor's beneficial interest in the trust.

(b) For the purposes of Subsection (2)(a), a creditor includes one holding or seeking to enforce a judgment entered by a court or other body having adjudicative authority as well as one with a right to payment, whether or not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(c) A restriction provided under Subsection (1) does not prevent a creditor or person described in Subsection (2)(a) from satisfying a claim or liability out of the settlor's beneficial interest in or transfer into trust if

(i) the claim is a judgment, order, decree, or other legally enforceable decision or ruling resulting from a judicial, arbitration, mediation, or administrative proceeding commenced prior to or within three years after the trust is created,

(ii) the settlor's transfer into trust is made with actual intent to hinder, delay, or defraud that creditor,

(iii) the trust provides that the settlor may revoke or terminate all or part of the trust without the consent of a person who has a substantial beneficial interest in the trust and the interest would be adversely affected by the exercise of the settlor's power to revoke or terminate all or part of the trust,

(iv) the trust requires that all or a part of the trust's income or principal, or both must be distributed to the settlor as beneficiary,

(v) the claim is for a payment owed by a settlor under a child support judgment or order,

(vi) the transfer is made when the settlor is insolvent or the transfer renders the settlor insolvent,

(vii) the claim is for recovery of public assistance received by the settlor allowed under Title 26, Chapter 19, Medical Benefits Recovery Act,

(viii) the claim is a tax or other amount owed by the settlor to any governmental entity,

(ix) the claim is by a spouse or former spouse of the settlor on account of an agreement or order for the payment of support or alimony or for a division or distribution of property,

(x) (A) the settlor transferred assets into the trust that

(I) were listed in a written representation of the settlor's assets given to a claimant to induce the claimant to enter into a transaction or agreement with the settlor, or

(II) were transferred from the settlor's control in breach of any written agreement, covenant, or security interest between the settlor and the claimant, or

(B) without limiting the claimant's right to pursue assets not held by the trust, a claimant described in Subsection (2)(c)(x)(A) may only foreclose or execute upon an asset in the trust listed in the written representation described in Subsection (2)(c)(x)(A)(I) or transferred in breach of a written agreement, covenant, or security interest as provided in Subsection (2)(c)(x)(A)(II) to the extent of the settlor's interest in that asset when it was transferred to the trust or the equivalent value of that asset at the time of foreclosure or execution if the original asset was sold or traded by the trust, or

(xi) the claim is a judgment, award, order, sentence, fine, penalty, or other determination of liability of the settlor for conduct of the settlor constituting fraud, intentional infliction of harm, or a crime

(d) The statute of limitations for actions to satisfy a claim or liability out of the settlor's beneficial interest in or transfer into trust under Subsections (2)(c)(ii), (v), (vii), (viii), (ix), (x), and (xi) is the statute of limitations applicable to the underlying action

(e) For the purposes of Subsection (2)(c) "revoke or terminate" does not include

(i) a power to veto a distribution from the trust,

(ii) a testamentary special power of appointment or similar power,

(iii) the right to receive a distribution of income, principal, or both in the discretion of another, including a trustee other than the settlor, an interest in a charitable remainder unitrust or charitable remainder annuity trust as defined in Internal Revenue Code Section 664 or successor provision, or a right to receive principal subject to an ascertainable standard set forth in the trust, or

(iv) the power to appoint nonsubordinate advisers or trust protectors who can remove and appoint trustees, who can direct, consent to or disapprove distributions, or is the power to serve as an investment director or appoint an investment director under Section 75-7-906

(3) The satisfaction of a claim under Subsection (2)(c) is limited to that part of the trust or transfer to which it applies

(4) (a) If a trust has a restriction as provided under Subsection (1), the restriction prevents anyone, including a person listed in Subsection (2)(a), from asserting any cause of action or claim for relief against a trustee or anyone involved in the counseling, drafting, preparation, execution, or funding of the trust for

(i) conspiracy to commit a fraudulent conveyance,

(ii) aiding and abetting a fraudulent conveyance, or

(iii) participating in the trust transaction

(b) A person prevented from asserting a cause of action or claim for relief under this Subsection (4) may assert a cause of action only against

(i) the trust assets, or

(ii) the settlor or beneficiary to the extent allowed under Subsection 25-6-5(1)(a)

(5) In any action brought under Subsection (2)(c), the burden to prove the matter by clear and convincing evidence shall be upon the creditor

(6) For purposes of this section, the transfer shall be considered to have been made on the date the property was originally transferred in trust

(7) The courts of this state shall have exclusive jurisdiction over any action brought under this section

(8) If a trust or a property transfer to a trust is voided or set aside under Subsection (2)(c), the trust or property transfer shall be voided or set aside only to the extent necessary to satisfy

(a) the settlor's debt to the creditor or other person at whose instance the trust or property transfer is voided or set aside, and

(b) the costs and attorney fees allowed by the court

(9) If a trust or a property transfer to a trust is voided or set aside under Subsection (2)(c) and the court is satisfied that the trustee did not act in bad faith in accepting or administering the property that is the subject of the trust

(a) the trustee has a first and paramount lien against the property that is the subject of the trust in an amount equal to the entire cost properly incurred by the trustee in a defense of the action or proceedings to void or set aside the trust or the property transfer, including attorney fees,

(b) the trust or property transfer that is voided or set aside is subject to the proper fees, costs, preexisting rights, claims, and interest of the trustee and any predecessor trustee if the trustee and predecessor trustee did not act in bad faith, and

(c) any beneficiary, including the settlor, may retain a distribution made by exercising a trust power or discretion vested in the trustee of the trust, if the power or discretion was properly exercised before the commencement of the action or proceeding to void or set aside the trust or property transfer

(10) If at least one trustee is a trust company as defined in Subsection 7-5-1(1)(d), then individuals may also serve as cotrustees

HISTORY: C 1953, 25-6-14, enacted by L 2003, ch 301, § 2, 2003 (2nd S S), ch 3, § 1, 2004, ch 89, § 4

Tab B

UTAH COURT RULES ANNOTATED
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STATE RULES
UTAH RULES OF CIVIL PROCEDURE
PART VIII PROVISIONAL AND FINAL REMEDIES AND SPECIAL PROCEEDINGS

Rule 64E. Writ of execution.

(a) Availability A writ of execution is available to seize property in the possession or under the control of the defendant following entry of a final judgment or order requiring the delivery of property or the payment of money

(b) Application To obtain a writ of execution, the plaintiff shall file an application stating

(1) the amount of the judgment or order and the amount due on the judgment or order,

(2) the nature, location and estimated value of the property, and

(3) the name and address of any person known to the plaintiff to claim an interest in the property

(c) Death of plaintiff If the plaintiff dies, a writ of execution may be issued upon the affidavit of an authorized executor or administrator or successor in interest

(d) Reply to writ, request for hearing

(1) The defendant may reply to the writ and request a hearing. The reply shall be filed and served within 10 days after service of the writ and accompanying papers upon the defendant

(2) The court shall set the matter for an evidentiary hearing. If the court determines that the writ was wrongfully obtained, or that property is exempt from seizure, the court shall enter an order directing the officer to release the property. If the court determines that the writ was properly issued and the property is not exempt, the court shall enter an order directing the officer to sell or deliver the property. If the date of sale has passed, notice of the rescheduled sale shall be given. No sale may be held until the court has decided upon the issues presented at the hearing.

(3) If a reply is not filed, the officer shall proceed to sell or deliver the property.

(e) Mortgage foreclosure governed by statute. Utah Code Title 78, Chapter 37, Mortgage Foreclosure, governs mortgage foreclosure proceedings notwithstanding contrary provisions of these rules.

HISTORY: Repealed and reenacted effective November 1, 2004

Tab C

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IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY

SANDY DEPARTMENT, STATE OF UTAH

KIRT ASHTON, CLAIR BENNETT,
BRADLEY MITCHELL, TODD NIELSEN,
BRIAN PRATT, and PAUL RADVIN,

Plaintiffs,

vs.

LEARNFRAME, INC., MICHAEL
MEMMOTT, SR., RALPH MASON,
GARY TOBIAN, and LEE PRICE.

Defendants.

DEFAULT JUDGMENT

Case No. 020414271

Judge: Lindberg

The Court having reviewed Plaintiffs Motion for Entry of Default Judgment and finding good cause appearing therefore, enters Default Judgment as follows:

IT IS HEREBY ORDERED AND ADJUDGED that judgment be entered against Defendants and in favor of Plaintiffs as follows:

1. On Plaintiffs' First Cause of Action (Violation of Utah Code § 34-28-5, non-payment of accrued wages) judgment against Defendant Learnframe in favor of Plaintiffs Ashton, Bennett, Mitchell, Nielsen, Pratt and Radvin in the amounts of \$11,699.22, \$13,565.34, \$29,952.49, \$10,540.23, \$4,009.00 and \$13,449.60, respectively.

2. On Plaintiffs' Second Cause of Action (Breach of Contract), judgment against Defendant Learnframe in favor of Plaintiffs Ashton, Bennett, Mitchell, Nielsen, Pratt and Radvin in the amounts of \$13,356.44, \$13,717.20, \$29,952.49, \$10,540.23, \$8,446.50 and \$14,249.60, respectively.

3. On Plaintiffs' Third Cause of Action (Fraud – 401K Plan and 125K Plan Payroll Deductions), judgment against Defendants Learnframe, Memmott, Mason, Tobian, and Price, both jointly and severally, in favor of Plaintiffs Ashton, Bennett, Pratt and Radvin the amounts of \$900.00, \$151.86, \$1,312.50 and \$800, respectively.

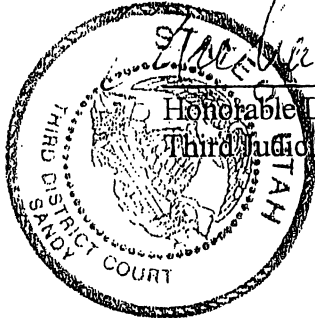
4. On Plaintiffs' Fourth Cause of Action (Wrongful Conversion – 401K Plan and 125K Plan Payroll Deductions), judgment against Defendants Learnframe, Memmott, Mason, Tobian, and Price, both jointly and severally, in favor of Plaintiffs Ashton, Bennett, Pratt and Radvin the amounts of \$900.00, \$151.86, \$1,312.50 and \$800, respectively,

5. For an award against Defendant Learnframe and in favor of Plaintiffs of the amount of \$6,700 representing Plaintiffs' reasonable attorneys fees and costs incurred herein as provided for under Utah Code § 34-27-1 pertaining to actions seeking to recover earned but unpaid wages, as supported by the Affidavit of Attorney's Fees filed herewith.

6. For interest to accrue on each of the foregoing from and after the date of judgment at the rate established for judgments, until paid in full.

DONE AND ORDERED this 25 day of March, 2003.

Denise P. Lindberg
Honorable Denise P. Lindberg
Third Judicial District Court Judge



Tab D

Because Learnframe, Inc. (Learnframe) a Delaware Corporation, located at 12637 South 265 West Draper, Utah has been unable to repay its debt to American Pension Services (APS), located at 11027 South State Street Sandy, Utah, the parties agree as follows:

Learnframe hereby transfers all of its rights title and interest in all of its personal property to APS. See attached list of personal property. This shall also include but not be limited to all of Learnframe rights in software it has developed as well as all names, copyrights, patents, and contract rights. Learnframe shall have the right for three years from this date to purchase back from APS all personal property transferred in this agreement once the total debt with interest is repaid for One Dollar.

Learnframe will be allowed to continue to use the equipment for the above referenced three-year period under the following conditions:

1. Learnframe will be responsible to pay all personal property taxes (for this purpose Learnframe will be allowed to carry the equipment on its books).
2. Learnframe will be responsible to pay all personal property insurance and to name APS as a coinsured party.
2. Learnframe will maintain all equipment to assure that it is in good working order.

APS shall have the right to inspect its personal property during normal business hours by giving Learnframe a one-hour notice.

If Learnframe files for Bankruptcy, becomes insolvent, or the control of the company changes, meaning the existing CEO is replaced, then in that event APS shall have the right to take immediate possession of all its Personal Property.

Wear and tear due to use in the normal course of business is acknowledged and approved.

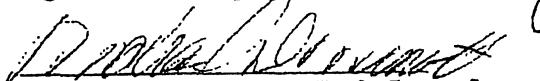
There is an existing IRS Lien that may take president to the APS ownership position.

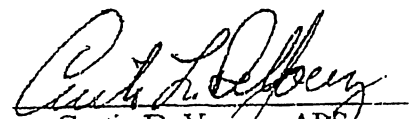
Learnframe will notify APS at least annually of any substantial change in the personal property due to missing, discarded, or inoperable property.

If APS sells any or all of the Personal Property due to a default by Learnframe, the balance owing to APS will be reduced by the amount of money received from the sale.

The laws of the State of Utah shall govern this agreement.

Agreed and accepted this 8 day of January 2003


Michael D. Memmott CEO, Learnframe


Curtis DeYoung APS



February 18, 2004

Mr. Curtis DeYoung
American Pension Services
11027 South State Street
Sandy, Utah 84070

Dear Mr. DeYoung,

Per our agreement dated January 8, 2003, please find attached the current personal property list.

Sincerely Yours,

Michael D. Memmott
CEO, Learnframe, Inc.

000293

Asset Tag #	Description	State	Location	Class	PP Class	GL Expense Dept	Custodian	Acq Date	Cost	Life
45	1 GB hard drive	UT	Bone yard	CC	150	11	Bone yard	1/20/1995	\$ 700.00	3
373	NT Server - Pentium II Millennium Xku	UT	R&D	CC	150	11	Dan Glade	6/5/1998	\$ 2,548.13	3
403	Dell Dimension V350 desktop computer	UT	R&D	CC	150	11	Evan Eastley	2/17/1999	\$ 1,677.18	3
419	3 user license for PVC'S Tracker	UT	Development	CC	155	11	Alan Brown	1/5/1995	\$ 1,214.00	3
444	Winbook XL2	UT	R&D	CC	150	11	Alan Brown	1/14/2000	\$ 1,265.51	3
454	Dual PIII 450 w/19" monitor	UT	Nabo	CC	150	11	Lon Clark	9/30/1999	\$ 2,551.34	3
455	Pentium III 450 Desktop Computer	UT	R&D	CC	150	11	Curtis Kanahale	1/21/2000	\$ 2,551.34	3
456	Project 2000	UT	R&D	CC	155	11	Curtis Kanahale	1/21/2000	\$ 429.04	3
468	Pentium III 450 Desktop Computer	UT	R&D	CC	150	11	Steve Rider	1/07/8/1999	\$ 2,551.34	3
488	Mahogany desk	UT	R&D	FF	010	11	Dan Glade	8/2/1999	\$ 515.80	5
492	Ram Software	UT	R&D	CC	155	11	Dan Glade	1/08/2000	\$ (570.24)	3
499	Pill 459 mhz	UT	R&D	CC	150	11	Dan Glade	9/22/1999	\$ 2,221.12	3
506	Smart & Friendly CD-R 2000	UT	Warehouse - Draper	CC	150	11	Unknown	1/26/1995	\$ 2,800.00	3
507	Pill 256 mb Desktop computer	UT	R&D	CC	150	11	David Carpenter	1/12/2/1999	\$ 2,678.96	3
508	Pill 256 mb Desktop computer	UT	R&D	CC	150	11	Derek Jones	1/12/2/1999	\$ 2,678.94	3
509	Pill 256 mb Desktop computer	UT	Nabo	CC	150	11	Lon Clark	1/12/2/1999	\$ 2,678.96	3
515	Pentium III 450 Desktop Computer	UT	R&D	CC	150	11	Mike Heath	1/12/2/1999	\$ 2,678.96	3
515	Upgrade Competitive Jbuilder/4.0 Prolxeval A License	UT	R&D	CC	155	11	John Telford	1/05/1999	\$ 2,551.34	3
520	Pentium II 450Mhz	UT	R&D	CC	150	11	John Telford	1/29/2001	\$ 331.05	3
531	Dual P III 500 13.5 GB HD 256 MB Ram	UT	R & D	CC	150	11	Lance Heaton	8/24/1999	\$ 2,088.71	3
539	Upgrade Competitive Jbuilder/4.0 Prolxeval A License	UT	R&D	CC	155	11	Curt Kanahale	1/12/2000	\$ 2,756.59	3
544	Dual 550 Mhz Pal III 256 MB Ram 19" monitor	UT	R & D	CC	150	11	Curt Kanahale	1/29/2001	\$ 331.05	3
547	Desktop computer, Pill 256 mb	UT	R&D	CC	150	11	Matt Wright	2/4/2000	\$ 2,738.00	3
551	256 Mb 32 mb Video 19" Monitor	UT	R & D	CC	150	11	Harold Wair	1/21/4/1999	\$ 2,678.96	3
552	Chair	UT	R&D	FF	010	11	Jerry Hayward	2/4/2000	\$ 2,678.96	3
554	Chair	UT	R&D	FF	010	11	Alan Brown	8/31/1999	\$ 211.64	5
557	Chair	UT	R&D	FF	010	11	Wood	8/31/1999	\$ 211.64	5
558	Chair	UT	R&D	FF	010	11	Jason Cox	8/31/1999	\$ 211.63	5
560	Chair	UT	R&D	FF	010	11	Daepa Matte	8/31/1999	\$ 211.63	5
561	Chair	UT	R&D	FF	010	11	Scott Reynolds	8/31/1999	\$ 211.63	5
567	Chair	UT	R&D	FF	010	11	Adelle Higgins	8/31/1999	\$ 211.63	5
568	Cubical Furniture in Nabo Area	UT	R&D	FF	010	11	Nathan Bayles	8/31/1999	\$ 211.63	5
569	Electrical work for Asset No 568	UT	R&D	FF	158	11	John Telford	8/31/1999	\$ 211.64	5
570	Phone Wiring for Asset No 568	UT	R&D	FF	158	11	Dan Glade	8/31/1999	\$ 211.64	5
572	Chair	UT	R&D	FF	010	11	Lon Clark	8/31/1999	\$ 211.64	5
576	Cubical Furniture in R & D Area	UT	R&D	FF	010	11	Derek Jones	8/31/1999	\$ 211.64	5
578	Chair	UT	R&D	FF	010	11	Alan Brown	8/28/1999	\$ 211.64	5
594	Hub for Asset 383	UT	R&D	CC	010	11	Stewart	8/31/1999	\$ 211.64	5
597	Chair	UT	R&D	CC	010	11	Dan Glade	9/8/1999	\$ 225.00	3
610	Back up system	UT	R&D	FF	010	11	Curt Kanahale	9/30/1999	\$ 211.64	5
619	MKS SI	UT	R&D	DD	158	11	Curt Kanahale	12/8/1999	\$ 1,679.46	5
622	PV20 connect	UT	R&D	CC	150	11	Alan Brown	10/29/1999	\$ 20,980.00	3
624	GD Pro NT	UT	R&D	CC	158	11	Alan Brown	12/9/1999	\$ 2,836.01	3
624	GD Pro NT	UT	R&D	CC	155	11	Alan Brown	12/13/1999	\$ 6,386.86	3
636	Chair	UT	R&D	FF	010	11	Alan Brown	1/21/3/1999	\$ (6,386.86)	3
637	Chair	UT	R&D	FF	010	11	Mark Keale	1/1/2000	\$ 211.64	5
639	Chair	UT	R&D	FF	010	11	Uhi Albert	1/1/2000	\$ 211.64	5
646	Chair	UT	R&D	FF	010	11	Justin Filley	1/1/2000	\$ 211.64	5
649	Chair	UT	R&D	FF	010	11	Bret Landon	1/1/2000	\$ 211.64	5
650	Chair	UT	R&D	FF	010	11	Fred Doddridge	1/1/2000	\$ 211.64	5
651	Chair	UT	R&D	FF	010	11	Al Willd	1/1/2000	\$ 211.64	5
652	Chair	UT	R&D	FF	010	11	Garratt Pease	1/1/2000	\$ 211.64	5
654	Chair	UT	R&D	FF	010	11	Kurtis Jones	1/1/2000	\$ 211.63	5
667	Chair	UT	R&D	FF	010	11	Curt Kanahale/Robert Cardon	1/1/2000	\$ 211.63	5
686	Dual P III 550 13.5 GB HD 256 MB Ram	UT	R & D	CC	150	11	Jerry Hayward	1/1/2000	\$ 2,678.96	3
							Justin Filley	2/25/2000	\$ 2,678.96	3

000204

Asset Tag #	Description	State	Location	Class	PP Class	GL Expense		Custodian	Acq Date	Cost	Life
						Dept					
686	Adobe Illustrator 9.0 Software	UT	R&D	CC	155	11		Justin Filley	1/8/2001	\$ 410.28	3
686	Adobe Photoshop 6.0 Software	UT	R&D	CC	155	11		Justin Filley	1/8/2001	\$ 599.58	3
688	HP Laser Jet Printer	UT	R & D	DD	150	11		System Admin	2/24/2000	\$ 1,527.19	5
702	Developer Desktop Computer	UT	R&D	CC	150	11		Robert Moultrie	6/27/2000	\$ 2,297.60	3
703	Pentium III 650	UT	R&D	CC	150	11		Garrett Pease	6/1/2000	\$ -	
707	Crystal Reports	UT	R & D	CC	155	11		Evan Eastley	4/1/2000	\$ 868.16	3
722	ODBC Express Software	UT	R&D	CC	155	11		Alan Brown	7/15/1999	\$ 722.17	3
729	Web Board 4.0	UT	R & D	CC	158	11		Alan Brown	1/14/2000	\$ 1,280.14	3
730	Asta Unlimited Lic (electronic license)	UT	R & D	CC	155	11		Lon Clark	1/14/2000	\$ 4,094.48	3
748	PIII 600 128 MB 20.5 GB	UT	R&D	CC	150	11		Marc Chrusch	3/31/2000	\$ 1,727.13	3
753	Furniture for build out	UT	R & D	FF	010	11		R & D	2/29/2000	\$ 41,389.29	5
766	2 Microsoft Windows 2000	UT	R&D	CC	155	11		Curt Kanahela	6/15/2000	\$ 1,705.19	3
774	600 Mhz PIII 256mb 17"	UT	R & D	CC	150	11		Curt Kanahela/Robert Cardon	3/3/2000	\$ 2,680.22	3
775	600 Mhz PIII 256mb 17"	UT	R & D	CC	150	11		Tyler Wilcox	3/3/2000	\$ 2,680.22	3
779	Mahogany desk	UT	R & D	FF	010	11		Randy Bliss	4/14/2000	\$ 381.36	5
780	Mahogany desk	UT	R & D	FF	010	11		Curt Kanahela	4/14/2000	\$ 381.36	5
788	Dual Developer Com	UT	R & D	CC	150	11		Brat Landon	5/12/2000	\$ 2,435.42	3
797	Dual Developer Com	UT	R & D	CC	150	11		Jamie Mascherino	4/24/2000	\$ 1,002.35	3
798	Developer Test Computer	UT	R & D (Server Room)	CC	180	11		Paul Ahn	4/24/2000	\$ 1,002.35	3
840	Dual Developer P3 600 mhz	UT	R & D	CC	150	11		Mark Keele	5/4/2000	\$ 2,242.92	3
854	HON106846-NN-30x66 Mahogany desk	UT	R&D	FF	010	11		Justin Filley	6/12/2000	\$ 341.38	5
858	MSDN Universal Subscription-Provantage	UT	R&D	CC	155	11		Alan Brown	7/27/2000	\$ 2,384.87	3
859	Upgrade Competitive Jbuilder/4.0 ProLevel A License	UT	R&D	CC	155	11		Jerry Hayward	1/29/2001	\$ 331.05	3
868	Upgrade Competitive Jbuilder/4.0 ProLevel A License	UT	R&D	CC	155	11		Tyler Wilcox	1/29/2001	\$ 331.05	3
873	Developer Workstation-Hewitt Rand	UT	R&D	CC	150	11		Nathan Bayles	7/13/2000	\$ 1,994.06	3
873	Upgrade Competitive Jbuilder/4.0 ProLevel A License	UT	R&D	CC	155	11		Nathan Bayles	1/29/2001	\$ 331.05	3
874	Adobe Illustrator 9.0 Software	UT	R&D	CC	155	11		Todd Manookin	1/8/2001	\$ 410.30	3
874	Adobe Photoshop 6.0 Software	UT	R&D	CC	155	11		Todd Manookin	1/8/2001	\$ 599.60	3
878	Developer Workstation-Hewitt Rand	UT	R & D	CC	150	11		Michael Youngstrom	8/14/2000	\$ 2,121.68	3
879	Upgrade Competitive Jbuilder/4.0 ProLevel A License	UT	R&D	CC	155	11		Evan Eastley-On loan to Ford	1/29/2001	\$ 331.05	3
880	Developer Workstation-Hewitt Rand	UT	Nebo	CC	150	11		Chad Elzinga	8/14/2000	\$ 2,121.68	3
881	Developer Workstation-Hewitt Rand	UT	Quality	CC	150	11		Bradford Williams	8/14/2000	\$ 2,121.68	3
882	Developer Workstation-Hewitt Rand	UT	R & D	CC	150	11		Prabhakar Krishnaswami	8/14/2000	\$ 2,121.69	3
883	Developer Workstation-Hewitt Rand	UT	R & D	CC	150	11		Chris Preece	8/14/2000	\$ 2,121.69	3
884	Developer Workstation-Hewitt Rand	UT	R&D	CC	150	11		Dan Glade	7/10/2000	\$ 2,286.53	3
884	128 MB Ram	UT	R&D	CC	155	11		Dan Glade	8/14/2000	\$ 336.07	3
884	Standard Workstation-Hewitt Rand	UT	R&D	CC	150	11		Dan Glade	8/14/2000	\$ 1,431.47	3
884	Upgrade Competitive Jbuilder/4.0 ProLevel A License	UT	R&D	CC	155	11		Dan Glade	1/29/2001	\$ 331.05	3
912	Developer Workstation-Hewitt Rand	UT	R & D	CC	150	11		Alex Juchelka	8/14/2000	\$ 2,121.68	3
913	Developer Workstation-Hewitt Rand	UT	R & D	CC	150	11		Curt Kanahela	8/14/2000	\$ 2,121.68	3
914	Developer Workstation-Hewitt Rand	UT	R&D	CC	150	11		Brian Cauley	8/14/2000	\$ 2,121.68	3
914	Upgrade Competitive Jbuilder/4.0 ProLevel A License	UT	R&D	CC	155	11		Brian Cauley	1/29/2001	\$ 331.05	3
915	Developer Workstation-Hewitt Rand	UT	R & D	CC	150	11		Deepa Matta	8/14/2000	\$ 2,121.69	3
916	Developer Workstation-Hewitt Rand	UT	R&D	CC	150	11		Al Wild	8/14/2000	\$ 2,121.69	3
920	Standard Desktop Computer	UT	Quality-Inventory 6/7/01	CC	150	11		Inventory	6/27/2000	\$ 1,431.47	3
920	Standard Workstation-Hewitt Rand	UT	QA	CC	150	11		Niclas Gothberg	8/17/2000	\$ 1,431.47	3
928	Developer Workstation-Hewitt Rand	UT	R & D	CC	150	11		Jens Steadman	8/25/2000	\$ 2,121.74	3
936	Standard Workstation-Hewitt Rand	UT	R & D	CC	150	11		Chris Bryant	8/25/2000	\$ 1,431.47	3
948	Task Chair	UT	R & D	FF	010	11		Mike Youngstrom	10/2/2000	\$ 388.71	5
973	Task Chair	UT	R&D	FF	010	11		Bradford Williams/Mitchell	8/30/2000	\$ 211.64	5
1026	Standard Workstation - Hewitt Rand	UT	R&D	CC	150	11		Calvin Smith	9/19/2000	\$ 1,431.47	3
1026	Upgrade Competitive Jbuilder/4.0 ProLevel A License	UT	R&D	CC	155	11		Calvin Smith	1/29/2001	\$ 331.05	3
1034	Developer Workstation - Hewitt Rand	UT	R&D	CC	150	11		Phil Clark	9/19/2000	\$ 2,121.69	3
1034	Upgrade Competitive Jbuilder/4.0 ProLevel A License	UT	R&D	CC	155	11		Phil Clark	1/29/2001	\$ 331.05	3
1035	Developer Workstation - Hewitt Rand	UT	R&D	CC	150	11		Lance Heaton	9/19/2000	\$ 2,121.68	3
1035	Upgrade Competitive Jbuilder/4.0 ProLevel A License	UT	R&D	CC	155	11		Lance Heaton	1/29/2001	\$ 331.05	3
1036	Fujitsu Laptop Model E-6570	UT	R&D	CC	150	11		Lori Clark	9/25/2000	\$ 4,698.81	3
1060	(1) NT-FL GDP Pro Win-NT Floating Network License	UT	R&D	CC	155	11		Lon Clark	10/8/2000	\$ 13,597.39	3
1063	Developer Workstation	UT	R&D	CC	150	11		Chris Sapp	10/4/2000	\$ 2,121.68	3

56200

000296

Asset Tag #	Description	State	Location	Class	PP Class	GL Expense		Custodian	Acq Date	Cost	Life
						Dept					
1063	Delphi 5 Professional	UT	R&D	CC	150	11		Chris Sapp	12/11/2000	\$ 527.93	3
1063	Upgrade Competitive Jbuilder/4.0 ProLevel A License	UT	R&D	CC	155	11		Chris Sapp	1/29/2001	\$ 331.05	3
1074	2 user concurrent ER/Studio - Upgrading ER/Studio License	UT	R&D	CC	155	11		Alan Brown	10/9/2000	\$ 17,009.41	3
1083	Developer Workstation	UT	R&D	CC	150	11		Alan LeBaron	10/4/2000	\$ 2,121.69	3
1091	Installshield Professional 2000 Upgrade	UT	R&D	CC	155	11		Garrett Pease	7/14/2000	\$ 512.86	3
1092	(7) MS Source Safe V6.0 Win Comp Single	UT	R&D	CC	155	11		Curt Kanahela	7/14/2000	\$ 1,583.47	3
1103	(3) Microsoft Visual Source Upgrade	UT	R&D	CC	155	11		Curtis Kanahela	10/31/2000	\$ 730.46	3
1104	(2) Microsoft Visio 2000	UT	R&D	CC	155	11		Alan Brown	10/31/2000	\$ 795.00	3
1111	MSDN Universal Subscription	UT	R&D	CC	155	11		Curtis Kanahela	10/26/2000	\$ 2,242.25	3
1124	Borland Jbuilder Professional V4.0	UT	R&D	CC	150	11		Brian Pratt	10/31/2000	\$ 839.59	3
1125	Borland Jbuilder Professional V4.0	UT	R&D	CC	150	11		Alan LeBaron	10/31/2000	\$ 839.59	3
1127	Borland Delphi 5 Professional	UT	R&D	CC	150	11		Chris Sapp	10/31/2000	\$ 525.47	3
1158	Task Chair	UT	R&D	FF	010	11		Tim Schralber	11/10/2000	\$ 211.64	5
1160	Task Chair	UT	R&D	FF	010	11		Joshua Miner	11/10/2000	\$ 211.64	5
1161	Task Chair	UT	R&D	FF	010	11		Van Phillips	11/10/2000	\$ 211.64	5
1162	Task Chair	UT	R&D	FF	010	11		Tim Stewart	11/10/2000	\$ 211.64	5
1163	Task Chair	UT	R&D	FF	010	11		unassigned	11/10/2000	\$ 211.63	5
1164	Task Chair	UT	R&D	FF	010	11		Alan LeBaron	11/10/2000	\$ 211.63	5
1165	Task Chair	UT	R&D	FF	010	11		unassigned	11/10/2000	\$ 211.63	5
1167	Delphi 5 Professional	UT	R&D	CC	150	11		Daniel Spotten	12/11/2000	\$ 527.93	3
1167	Upgrade Competitive Jbuilder/4.0 ProLevel A License	UT	R&D	CC	155	11		Daniel Spotten	1/29/2001	\$ 331.05	3
1168	Developer Workstation	UT	R&D	CC	150	11		Logan Allred	11/2/2000	\$ 2,100.44	3
1168	Delphi 5 Professional	UT	R&D	CC	150	11		Logan Allred	12/11/2000	\$ 527.93	3
1168	Upgrade Competitive Jbuilder/4.0 ProLevel A License	UT	R&D	CC	155	11		Logan Allred	1/29/2001	\$ 331.05	3
1169	Developer Workstation	UT	R&D	CC	150	11		Mark Nelson	11/2/2000	\$ 2,100.44	3
1170	Delphi 5 Enterprise	UT	Quality	CC	150	11		Niclas Gothberg	11/24/2000	\$ 2,295.62	3
1170	Delphi 5 Professional	UT	Quality	CC	150	11		Niclas Gothberg	12/11/2000	\$ 527.93	3
1170	Upgrade Competitive Jbuilder/4.0 ProLevel A License	UT	Quality	CC	155	11		Niclas Gothberg	1/29/2001	\$ 331.05	3
1171	Developer Workstation	UT	R&D	CC	150	11		Fred Doddridge	11/2/2000	\$ 2,100.44	3
1172	Developer Workstation	UT	R&D	CC	150	11		Timothy Schreiber	11/2/2000	\$ 2,100.44	3
1174	(15) Visual Café Enterprise License	UT	R&D	CC	155	11		Alan Brown	11/6/2000	\$ 47,060.57	3
1193	Install anywhere enterprise edition software	UT	R&D	CC	155	11		Lori Clark	12/15/2000	\$ 1,995.00	3
1220	Toad Developer-xpert edition e store pack	UT	R&D	CC	155	11		Jerry Hayward	6/12/2001	\$ 2,020.07	3
1222	18 Task lights - HON70930	UT	R&D	FF	010	11		Lori Clark	6/1/2001	\$ 2,049.36	5
1227	Laptop C600, 1GHz, Pentium III	TX	R&D	CC	150	11		Randy Bliss	7/31/2001	\$ 3,791.74	3
1229	Memory upgrades for Nebo developers	UT	R & D	CC	155	11		Alan Brown	8/15/2001	\$ 1,083.70	3
488(a)	RAM and Harddrive for Asset # 488	UT	R&D	CC	155	11		Dan Glade	10/31/1999	\$ 3,443.45	3
SW001	MKS Source Integrity 2, 5-user lic	UT	R&D	CC	155	11		Alan Brown(dev)	3/19/1999	\$ 3,977.85	3
SW002	Robohelp	UT	R&D	CC	155	11		Alan Brown(dev)	3/24/1999	\$ 647.00	3
SW003	Framemaker 5.5 Software	UT	R&D	CC	155	11		Pease (dev)	4/15/1999	\$ 769.35	3
SW004	MKS Source Integrity 5-user lic	UT	R&D	CC	155	11		Alan Brown(dev)	3/24/1999	\$ 1,433.01	3
										<u>\$ 353,418.71</u>	
365	External CD Recorder Sony	UT	QA Lab	CC	150	15		Scott Salomonson	8/27/1998	\$ 454.56	3
380	Pentium III 450 Desktop Computer	UT	R&D	CC	150	15		Lynette Bean	10/18/1999	\$ 1,705.85	3
536	Dual Processor test Machine	UT	QA Lab	CC	150	15		Scott Salomonson	3/7/2000	\$ 2,049.36	3
537	Dual Processor test Machine	UT	QA Lab	CC	150	15		Scott Salomonson	3/7/2000	\$ 2,049.36	3
541	Dual Processor test Machine	UT	QA Lab	CC	150	15		Scott Salomonson	3/7/2000	\$ 2,049.36	3
542	Dual Processor test Machine	UT	QA Lab	CC	150	15		Scott Salomonson	3/7/2000	\$ 2,049.36	3
545	500 MHz Pent III 128 MB 17" Monitor	UT	R & D	CC	150	15		Tony Berrett	1/4/2000	\$ 1,773.92	3
546	Dual Processor test Machine	UT	QA Lab	CC	150	15		Scott Salomonson	3/7/2000	\$ 2,049.38	3
549	Chair	UT	R&D	FF	010	15		Tony Berrett	8/31/1999	\$ 211.64	5
555	Chair	UT	Quality	FF	010	15		Stephen Owen	8/31/1999	\$ 211.63	5
563	Chair	UT	R&D	FF	010	15		Susan Ford	8/31/1999	\$ 211.64	5
564	Chair	UT	Quality	FF	010	15		Richard Chatfield	8/31/1999	\$ 211.64	5
565	Chair	UT	R&D	FF	010	15		Nelson	8/31/1999	\$ 211.64	5
643	Chair	UT	R & D	FF	010	15		Scott Salomonson	1/11/2000	\$ 211.64	5
675	550 MHz pIII 19" Monitor	UT	QA Lab	CC	150	15		Scott Salomonson	2/4/2000	\$ 2,678.96	3

16200297

Asset Tag #	Description	State	Location	Class	PP Class	GL Expense		Custodian	Acq Date	Cost	Life
						Dept					
678	600 Mhz P III 15" Monitor	UT	QA Lab	CC	150	15		Scott Salomonson	2/25/2000	\$ 1,581 42	3
679	600 Mhz P III 15" Monitor	UT	QA Lab	CC	150	15		Scott Salomonson	2/25/2000	\$ 1,581 42	3
680	600 Mhz P III 15" Monitor	UT	QA Lab	CC	150	15		Scott Salomonson	2/25/2000	\$ 1,581 42	3
681	600 Mhz P III 15" Monitor	UT	QA Lab	CC	150	15		Scott Salomonson	2/25/2000	\$ 1,581 43	3
682	600 Mhz P III 15" Monitor	UT	QA Lab	CC	150	15		Scott Salomonson	2/25/2000	\$ 1,581 43	3
685	450 Mhz P4 64 MB 17 Monitor	UT	R & D	CC	150	15		Russell Sias	3/1/2000	\$ 1,702 66	3
749	P III 600 128 MB 20 5 GB	UT	R & D	CC	150	15		David Wilcox	4/7/2000	\$ 2,541 77	3
759	P III 600 256 MB 20 5 GB	UT	Quality	CC	150	15		Susan Ford	3/31/2000	\$ 2,678 96	3
765	Windows NT Server 4.0 w/NT Option	UT	R&D	CC	155	15		Scott Salomonson	6/15/2000	\$ 775 70	3
784	Mahogany desk	UT	R & D	FF	010	15		Steve Rapallo	4/24/2000	\$ 484 67	5
785	Mahogany desk	UT	R & D	FF	010	15		Paul Radvin	4/24/2000	\$ 484 67	5
805	Mahogany desk	UT	R & D	FF	010	15		Mike Dobson	3/31/2000	\$ 1,141 14	5
807	Compaq Storage Rack	UT	R & D	FF	010	15		Scott Salomonson	5/30/2000	\$ 500 00	3
807	Compaq Storage Rack	UT	R & D	FF	010	15		Scott Salomonson	5/30/2000	\$ (500 00)	3
809	Powerware 9125 Flexduct 10	UT	Implementation	CC	158	15		Scott Salomonson	4/1/2000	\$ 3,432 98	3
812	project 2000	UT	R & D	CC	155	15		Scott Salomonson	5/15/2000	\$ 1,701 01	3
824	Mahogany desk	UT	Quality	FF	010	15		Greg Mayberry	5/30/2000	\$ 682 44	5
825	Mahogany desk	UT	QA	FF	010	15		Stephen Owen	5/30/2000	\$ 341 38	5
828	J Test for Windows NT	UT	R&D	CC	155	15		Scott Salomonson	6/16/2000	\$ 3,727 57	3
844	30"66 Mahogany desk	UT	QA	FF	010	15		Shuchen Sun	7/31/2000	\$ 341 38	5
845	Task chair	UT	QA	FF	010	15		Shuchen Sun	7/31/2000	\$ 211 64	5
857	Standard Workstation-Hewitt Rand	UT	QA-Corporate Quality	CC	150	15		Clay Hight	7/25/2000	\$ 1,480 39	3
861	Standard Workstation - Hewitt Rand	UT	QA	CC	150	15		Bob Eckery	7/27/2000	\$ 1,431 47	3
862	MSDN Universal Subscription-Provantage	UT	R&D	CC	155	15		Scott Salomonson	7/27/2000	\$ 2,384 86	3
862	(MSDN Universal Subscription-Provantage)	UT	R&D	CC	155	15		Scott Salomonson	10/4/2000	\$ (200 00)	3
863	MSDN Universal Subscription-Provantage	UT	Corporate quality	CC	155	15		Scott Salomonson	7/27/2000	\$ 2,384 87	3
864	MSDN Universal Subscription-Provantage	UT	QA	CC	155	15		Scott Salomonson	7/27/2000	\$ 2,384 87	3
865	MSDN Universal Subscription -Provantage	UT	QS	CC	155	15		Scott Salomonson	7/13/2000	\$ 1,932 82	3
868	Delphi 5 Professional	UT	QA	CC	150	15		Scott Salomonson	12/11/2000	\$ 527 93	3
876	J Test License for Windows NT	UT	QA	CC	155	15		Scott Salomonson	8/10/2000	\$ 3,721 93	3
877	J Test License for Windows NT	UT	QA	CC	155	15		Scott Salomonson	8/10/2000	\$ 3,721 94	3
900	Standard Workstation-Hewitt Rand	UT	QA	CC	150	15		Richard Chatfield	8/21/2000	\$ 1,431 47	3
911	Developer Workstation-Hewitt Rand	UT	QA	CC	150	15		Guy Bergeson	8/14/2000	\$ 2,121 68	3
917	Standard Workstation-Hewitt Rand	UT	QA	CC	150	15		Steve Rapallo	8/17/2000	\$ 1,431 47	3
919	Standard Workstation-Hewitt Rand	UT	QA	CC	150	15		Larry Howard	8/17/2000	\$ 1,431 47	3
926	3-User Oracle Standard Edition License	UT	R&D	CC	155	15		Scott Salomonson	7/27/2000	\$ 510 48	3
926	2-User Oracle Standard Edition License	UT	R&D	CC	155	15		Scott Salomonson	8/11/2000	\$ 340 32	3
937	Rational Visual Test	UT	R & D	CC	155	15		Mike Dobson	12/15/2000	\$ 744 96	3
938	30x66 Mahogany Desk w/return	UT	QA	FF	010	15		Brad Mitchell	8/25/2000	\$ 578 28	5
956	Task Chair	UT	QA	FF	010	15		Bob Eckery	8/30/2000	\$ 211 63	5
960	Task Chair	UT	R&D	FF	010	15		Steve Rapella	8/30/2000	\$ 211 64	5
971	Task Chair	UT	QA Nebo	FF	010	15		David Wilcox	8/30/2000	\$ 211 64	5
976	Task Chair	UT	QA	FF	010	15		Angela Hill	8/30/2000	\$ 211 64	5
979	Task Chair	UT	R&D	FF	010	15		Kurt Ashton	8/30/2000	\$ 211 64	5
990	V-Test for Windows NT	UT	QA	CC	155	15		Scott Salomonson	9/5/2000	\$ 3,726 93	3
994	Standard Workstation - Hewitt Rand	UT	R&D (Brad Mitchell)	CC	150	15		Ronaldo Barltzar	9/11/2000	\$ 1,431 48	3
994	Rational Visual Test	UT	R&D	CC	155	15		Ronaldo Barltzar	12/15/2000	\$ 744 96	3
996	Standard Workstation - Hewitt Rand	UT	R&D	CC	150	15		Melinda Wexler	9/11/2000	\$ 1,431 47	3
997	J Test - Win NT	UT	R&D	CC	155	15		Edwin Goble	12/13/2000	\$ 3,721 93	3
997	Rational Visual Test	UT	R&D	CC	155	15		Edwin Goble	12/15/2000	\$ 744 96	3
999	Rational Visual Test	UT	R&D	CC	155	15		Greg Mayberry	12/15/2000	\$ 744 96	3
1000	Rational Visual Test	UT	R&D	CC	155	15		Paul Radvin	12/15/2000	\$ 744 96	3
1001	Standard Workstation - Hewitt Rand	UT	QA	CC	150	15		Scott Salomonson	9/11/2000	\$ 1,431 47	3
1002	Standard Workstation - Hewitt Rand	UT	R&D	CC	150	15		Tony Berratt	9/11/2000	\$ 1,431 47	3
1004	30x66 Mahogany Desk w/pedestal	UT	QA	FF	010	15		Melinda Wexler	9/15/2000	\$ 341 38	5
1005	15-Oracle Database Standard Edition Licenses	UT	R&D	CC	155	15		Scott Salomonson	9/5/2000	\$ 2,552 40	3
1010	(3) Rational Visual Test	UT	QA	CC	155	15		Scott Salomonson	9/15/2000	\$ 2,235 16	3
1011	5-Oracle Database Standard Edition w/2 cd pks	UT	QA	CC	155	15		Scott Salomonson	9/8/2000	\$ 945 87	3
1012	36x60 Mahogany Desk (dbl pedestal)	UT	QA	FF	010	15		Russell Aycock	9/20/2000	\$ 381 80	5

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Asset Tag #	Description	State	Location	Class	PP Class	GL Expense Dept	Custodian	Acq Date	Cost	Life
1013	36x60 Mahogany Desk (dbl pedestal)	UT	QA	FF	010	15	Ronaldo Barltzar	9/20/2000	\$ 381.79	5
1015	Task Chair	UT	QA	FF	010	15	Greg Mayberry	10/2/2000	\$ 388.71	5
1016	Task Chair	UT	QA	FF	010	15	Lynette Bean	10/2/2000	\$ 388.71	5
1018	Task Chair	UT	QA	FF	010	15	Ron Baltazar	10/2/2000	\$ 388.71	5
1021	Task Chair	UT	QA	FF	010	15	Kirt Ashton	10/2/2000	\$ 388.70	5
1022	J Test - Win NT	UT	R&D	CC	155	15	Glenn Sobel	12/13/2000	\$ 3,721.94	3
1022	Rational Visual Test	UT	R&D	CC	155	15	Glenn Sobel	12/15/2000	\$ 744.96	3
1023	Standard Workstation - Hewitt Rand	UT	QA	CC	150	15	Rafer Burnham	9/19/2000	\$ 1,431.47	3
1023	Rational Visual Test	UT	QA	CC	155	15	Rafer Burnham	12/15/2000	\$ 744.96	3
1025	Standard Workstation - Hewitt Rand	UT	QA	CC	150	15	Cheryl Assay	9/19/2000	\$ 1,431.47	3
1028	Standard Workstation - Hewitt Rand	UT	R&D	CC	150	15	Todd Mammott	9/19/2000	\$ 1,431.47	3
1048	3120-09396 Rational Visual Test	UT	QA	CC	155	15	Scott Salomonson	10/2/2000	\$ 4,463.93	3
1048	3120-09396 Rational Visual Test	UT	QA	CC	155	15	Scott Salomonson	9/12/2001	\$ (4,463.93)	3
1049	Cisco 2912 12 Port Switch	UT	QA	CC	158	15	Scott Salomonson	10/3/2000	\$ 1,255.34	3
1067	Dual Processor Rock Mount	UT	QA	FF	010	15	Scott Salomonson	10/3/2000	\$ 3,415.91	3
1068	Dual Processor Rock Mount	UT	QA	FF	010	15	Scott Salomonson	10/3/2000	\$ 3,415.92	3
1069	Dual Processor Rock Mount	UT	QA	FF	010	15	Scott Salomonson	10/3/2000	\$ 3,415.91	3
1070	Dual Processor Rock Mount	UT	QA	FF	010	15	Scott Salomonson	10/3/2000	\$ 3,415.91	3
1085	Developer Workstation	UT	R&D	CC	150	15	Clay Hight	10/4/2000	\$ 2,121.68	3
1088	3121-09395 Rational Loadtest Base License	UT	QA	CC	155	15	Scott Salomonson	7/6/2000	\$ 13,643.82	3
1119	30/66 Mahogany Desk w/pedestal	UT	R&D	FF	010	15	Mike Nelson	11/10/2000	\$ 341.38	5
1177	(35) Oracle Database Standard Edition	UT	QA	CC	155	15	Scott Salomonson	11/2/2000	\$ 5,752.90	3
1180	Sun E250R	UT	QA	CC	150	15	Scott Salomonson	11/10/2000	\$ 12,602.49	3
1180	Sun E250R-Peripherals	UT	QA	CC	150	15	Scott Salomonson	11/10/2000	\$ 1,802.64	3
	Server Rack	UT	IT	FF	010	15	Scott Salomonson	10/3/2000	\$ 2,002.57	3
									<u>\$ 162,944.99</u>	
446	desk, chair	UT	Neal's office	FF	010	17	Neal Westwood	3/29/1996	\$ 1,227.87	5
661	Chair	UT	R & D	FF	010	17	Darin Mills	1/11/2000	\$ 211.63	5
793	600 Mhz P III 15" Monitor	UT	R & D	CC	150	17	Mike Vanderwilt	3/9/2000	\$ 2,678.96	3
946	Task Chair	UT	Tech Office	FF	010	17	Darin Mills	10/2/2000	\$ 388.71	5
1055	Fujitsu E-6556 Laptop w/accessories	UT	R&D	CC	150	17	Mike Vanderwilt	10/9/2000	\$ 3,222.56	3
									<u>\$ 7,729.73</u>	
471	AX-720 Autoloader Diskette Duplicator	UT	OPS	CC	158	20	Warehouse	7/19/1999	\$ 3,135.00	3
499	Shelving for warehouse	UT	Warehouse - Draper	FF	010	20	Warehouse	9/2/1996	\$ 1,029.55	5
									<u>\$ 4,164.55</u>	
363	Laptop computer - Compaq Presario	UT	Marketing	CC	150	32	Mike Mammott Jr	5/20/1998	\$ 1,627.50	3
521	Winbook XL2	UT	Prod Mgmt	CC	150	32	Ron Sanders	8/24/1999	\$ 2,088.72	3
640	Chair	UT	Prod Mgmt	FF	010	32	Scott Wheelhouse	1/11/2000	\$ 211.64	5
662	Chair	UT	Prod Mgmt	FF	010	32	Mike Mammott Jr	1/11/2000	\$ 211.63	5
689	Chair	UT	Prod Mgmt	FF	010	32	Ron Sanders	2/29/2000	\$ 212.49	5
693	Mahogany Desk	UT	Prod Mgmt	FF	010	32	Ron Sanders	4/1/2000	\$ 520.05	5
694	Mahogany Bookshelf	UT	Prod Mgmt	FF	010	32	Ron Sanders	4/17/2000	\$ 211.63	5
695	Mahogany Desk	UT	Prod Mgmt	FF	010	32	Scott Wheelhouse	4/1/2000	\$ 520.05	5
696	Mahogany Bookshelf	UT	Prod Mgmt	FF	010	32	Troy Wilde	4/17/2000	\$ 211.64	5
701	Mahogany Bookshelf	UT	Prod Mgmt	FF	010	32	Troy Wilde	4/17/2000	\$ 211.64	5
709	600 Mhz P III 256mb 17"	UT	Prod Mgmt	CC	150	32	Troy Wilde/Scott Wheelhouse	4/11/2000	\$ 1,784.55	3
724	P III 600 128 MB 20.5 GB	UT	Prod Mgmt	CC	150	32	Mike Mammott Jr	3/31/2000	\$ 1,642.04	3
755	Web Server For Arrowhead	UT	Prod Mgmt	CC	155	32	Mike Mammott Jr	2/1/2000	\$ 14,440.20	3
853	30x66 Mahogany Desk	UT	Prod Mgmt	FF	010	32	Ron Sanders????	6/20/2000	\$ 201.00	5
867	Task Chair	UT	Prod Mgmt	FF	010	32	Troy Wilde	8/10/2000	\$ 211.64	5
871	TR200B 3672 Mahogany Desk/Articulating Keyboard	UT	Prod Mgmt	FF	010	32	Trey Mooney	7/19/2000	\$ 508.35	5
885	Standard Workstation-Hewitt Rand	UT	Prod Mgmt	CC	150	32	Shane Hansen	8/14/2000	\$ 1,431.47	3
906	30x66 Mahogany Desk	UT	Prod Mgmt	FF	010	32	Troy Wilde	8/19/2000	\$ 381.80	5

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Asset Tag #	Description	State	Location	Class	PP Class	GL Expense		Custodian	Acq Date	Cost	Life
						Dept					
929	Developer Workstation-Hewitt Rand	Ut	Prod Mgmt	CC	150	32		Mike Mammott Jr	8/25/2000	\$ 2,121.73	3
929	Developer Workstation-Hewitt Rand	Ut	Prod Mgmt	CC	150	32		Mike Mammott Jr	8/25/2000	\$ (49.98)	3
939	Task Chair	UT	Marketing	FF	010	32		Curtis Carroll	8/30/2000	\$ 211.63	5
957	Task Chair	UT	Prod Mgmt	FF	010	32		Trey Mooney	8/30/2000	\$ 211.64	5
965	Task Chair	UT	Prod Mgmt	FF	010	32		Shane Hansen	8/30/2000	\$ 211.63	5
988	Dell Power APP Web 100	UT	Marketing	CC	158	32		Curtis Carroll	8/29/2000	\$ 3,573.35	3
1017	Task Chair	UT	Prod Mgmt	FF	010	32		Ron Wilson	10/2/2000	\$ 388.71	5
1027	Standard Workstation - Hewitt Rand	UT	Prod Mgmt	CC	150	32		Mike Mammott Sr	9/19/2000	\$ 1,431.47	3
1101	Casio - E115 Pocket PC	UT	Prod Mgmt	CC	158	32		Mike Mammott Jr	9/30/2000	\$ 637.04	3
	Winbook XL2 laptop computer	UT	Prod Mgmt	CC	150	32		Ron Sanders	11/22/1999	\$ 2,161.98	3
									\$	37,527.24	
106	Used Flatbed Scanner and software	UT	Shane's Office	CC	150	33		Shane Reed	5/5/1995	\$ 500.00	3
375	Laptop computer - Compaq Presario	UT	Server Room	CC	150	33		Shane Reed	5/20/1998	\$ 1,627.49	3
402	Upgrade Competitive Jbuilder4.0 ProLevel A License	UT	IT	CC	155	33		unassigned	1/29/2001	\$ 330.99	3
458	Intel Celeron 366 64mb Ram	UT	Implementations	CC	150	33		Adam Zamora	9/10/1999	\$ 1,418.71	3
505	PIII 256 mb Desktop computer	UT	IT	CC	150	33		IT	11/22/1999	\$ 2,678.96	3
513	400 mhz 32 mb Desktop Computer	UT	Implementations	CC	150	33		Kip Denning	10/27/1999	\$ 1,125.18	3
517	Winbook X12	UT	Implementation	CC	150	33		Paul Crawford	2/15/2000	\$ 2,878.15	3
522	Pentium III 450 mhz	UT	Inventory	CC	150	33		Inventory	8/23/1999	\$ 2,040.86	3
531	Project 2000	UT	Implementations	CC	155	33		Paul Ahn	12/11/2000	\$ 429.03	3
600	Polycorn speaker phone w/satellite mics	UT	New lobby conference roomq	CC	158	33			7/12/2000	\$ 1,509.97	3
600	Clearcom 12 Button Phone	UT	Implementations	CC	158	33		Troy Baxter	12/21/2000	\$ 7,614.66	5
600	(2) Harris HDLU2 Card	UT	Server Room	CC	158	33		Troy Baxter	12/21/2000	\$ 4,594.26	5
600	Harris Signal Scan Unit	UT	Server Room	CC	158	33		Troy Baxter	12/21/2000	\$ 2,020.69	5
600	Harris Time Switch Unit	UT	Server Room	CC	158	33		Troy Baxter	12/21/2000	\$ 2,020.68	5
609	Switch	UT	Implementation	DD	158	33		Shane Reed	11/17/1999	\$ 1,600.20	5
638	Chair	UT	Implementation	FF	010	33		Troy Quigley	1/11/2000	\$ 211.64	5
676	600 Mhz P III 15" Monitor	UT	Implementation	CC	150	33		Jim Hall	2/25/2000	\$ 1,581.43	3
677	600 Mhz P III 15" Monitor	UT	Implementation (Lab)	CC	150	33		Shane Reed	2/25/2000	\$ 1,581.42	3
684	450 MHz Pent III 64 MB 17 Monitor	UT	Implementation	CC	150	33		Marc Walker	3/1/2000	\$ 1,702.67	3
687	HP Laser Jet Printer	UT	2nd Floor - Middle	DD	150	33		System Admin	2/24/2000	\$ 1,527.18	5
691	Mahogany Desk	UT	R & D	FF	010	33		Blair Thomas	4/1/2000	\$ 520.05	5
692	Mahogany Bookshelf	UT	R & D	FF	010	33		Blair Thomas	4/1/2000	\$ 211.63	5
700	Chair	UT	R & D	FF	010	33		Blair Thomas	4/15/2000	\$ 364.78	5
706	Winbook xl3	UT	Implementation	CC	150	33		Implementation	5/15/2000	\$ 2,219.77	3
711	Labor on Firewall	UT	Implementation	CC	010	33		System Admin	1/6/2000	\$ 276.51	3
714	2) 24 port Cisco routers	UT	Implementation	CC	158	33		System Admin	3/3/2000	\$ 3,509.55	3
715	Rack mounts power Tap	UT	Implementation	CC	158	33		System Admin	3/30/2000	\$ 2,912.93	3
728	Racks for server room/ Fire wall	UT	Implementation	FF	010	33		System Admin	1/11/2000	\$ 545.73	5
731	SG 3.0 EnKit	UT	Implementation	CC	150	33		Shane Reed	2/15/2000	\$ 525.94	3
732	Cisco Switches	UT	Implementation	CC	158	33		System Admin	1/14/2000	\$ 1,754.78	3
733	Novel Netware 5.0 Lic (5 User)	UT	Implementation	CC	155	33		System Admin	1/28/2000	\$ 1,164.53	3
735	2- Cisco Switches	UT	Implementation	CC	158	33		System Admin	1/31/2000	\$ 3,509.55	3
742	2- cat2924 Switches (Cisco)	UT	Implementation	CC	158	33		System Admin	4/1/2000	\$ 3,069.12	3
743	Harris HDLU2 Card	UT	Implementation	CC	158	33		System Admin	3/7/2000	\$ 2,552.40	3
761	PIII 600 256 MB 20.5 GB	UT	Inventory	CC	150	33		Inventory	3/31/2000	\$ 2,678.96	3
764	Cabinets	UT	Implementation	DD	010	33		System Admin	2/29/2000	\$ 2,269.72	5
767	Cisco 2620 Router	UT	Server Room	CC	158	33		Shane Reed	6/8/2000	\$ 3,906.23	3
768	F5-Big IP -	UT	Data Center	CC	150	33		Gary Young	6/15/2000	\$ 19,770.46	3
768	Freight for Asset 768-F5-Big IP	UT	Data Center	CC	150	33		Gary Young	7/7/2000	\$ 131.68	3
769	F5-Big IP -	UT	Data Center	CC	150	33		Gary Young	6/15/2000	\$ 19,770.47	3
770	Cisco Pix Firewall 520	UT	Data Center	CC	158	33		Gary Young	6/7/2000	\$ 18,185.85	3
771	Cisco Pix 520 Chassis and Software Prep	UT	Data Center	CC	158	33		Gary Young	6/7/2000	\$ 4,114.68	3
772	Cisco Catalyst 3500 Switch	UT	Data Center	CC	158	33		Gary Young	6/7/2000	\$ 2,322.68	3
773	Cisco Catalyst 3500 Switch	UT	Data Center	CC	158	33		Gary Young	6/7/2000	\$ 2,322.69	3
781	LAN Wire System (Cable)	UT	Implementation	FF	158	33		System Admin	4/14/2000	\$ 329.66	5
782	LAN Wire System (Cable)	UT	Implementation	FF	158	33		System Admin	4/14/2000	\$ 329.67	5

Asset Tag #	Description	State	Location	Class	PP Class	GL Expense Dept	Custodian	Acq Date	Cost	Life
794	Dual Developer Com	UT	R&D	CC	150	33	Kip Denning	5/29/2000	2,376.92	3
799	Poweredge 2450	UT	Implementation	CC	158	33	Jason Fortbush	4/26/2000	9,617.27	3
802	6) Harris phones	UT	Implementation	CC	158	33	Phone Admin	4/30/2000	2,544.43	3
803	Ment Desktop Pill 600 mb (Comcast)	UT	Implementation	CC	150	33	Shane Reed	5/15/2000	1,929.19	3
804	25 user Novell 5.0 Add	UT	Implementation	CC	155	33	System Admin	4/21/2000	2,761.65	3
815	Cisco 1750 Router	UT	Data Center	CC	158	33	Gary Young	6/12/2000	1,211.33	3
816	Cisco 1750 Router	UT	Server Room	CC	158	33	Shane Reed	6/12/2000	1,211.33	3
818	Dell 2450	UT	Data Center	CC	150	33	Gary Young	6/12/2000	8,898.36	3
819	Dell 2450	UT	Data Center	CC	158	33	Gary Young	6/12/2000	2,322.68	3
820	Cisco 3524 Switch	UT	Data Center	CC	158	33	Gary Young	6/13/2000	4,180.62	3
821	Rockmount Merit Server with 150 mag storage	UT	Data Center	CC	150	33	Gary Young	6/15/2000	3,329.29	3
822	Ment Server-Hewitt Rand	UT	Data Center	CC	150	33	Gary Young	5/15/2000	3,341.38	3
823	Mahogany desk	UT	Inventory	FF	010	33	Inventory	5/22/2000	341.38	5
830	Cisco 2924 Catalyst Switch	UT	Server Room	CC	158	33	Shane Reed	6/20/2000	1,566.53	3
831	Cisco 2924 Catalyst Switch	UT	Inventory	CC	158	33	Gary Young	6/20/2000	1,566.53	3
834	3056 Mahogany Desk	UT	Data Center	FF	010	33	Ken Plante	6/21/2000	341.38	5
835	3056 Mahogany Desk	UT	Implementations	FF	010	33	Inventory	6/21/2000	341.39	5
837	Fujitsu Laptop	UT	Inventory	CC	150	33	Scott Kinnersley	7/5/2000	3,003.33	3
842	Fujitsu Laptop	UT	Implementation	CC	150	33	Wojciec Tilbury/Andre	8/15/2000	3,106.74	3
848	Winbook S12 Laptop	Canada	Marcom	CC	150	33	Jim Hall	8/15/2000	3,106.75	3
849	Winbook S12 Laptop	Canada	Implementations	CC	150	33	Inventory	8/4/2000	1,437.32	3
860	Standard Workstation - Hewitt Rand	UT	Inventory	CC	150	33	Shane Reed	7/18/2000	6,884.46	3
870	2-Oracle Developer Licenses	UT	Implementations	CC	155	33	Shane Reed	7/18/2000	9,199.28	3
872	100 UPS Power Series 3, 300 VA	UT	Implementation	CC	158	33	Distributed to 100 employees	7/31/2000	3,240.48	3
875	3 1 KVA 120/120/Rack w/batteries (UPS)	UT	Server room	CC	158	33	Shane Reed	7/25/2000	1,431.47	3
886	Standard Workstation Hewitt Rand	UT	Centra Server	CC	150	33	Centra Server	8/14/2000	1,431.47	3
887	Standard Workstation-Hewitt Rand	UT	Inventory	CC	150	33	Inventory	8/14/2000	1,431.47	3
896	Developer Workstation-Hewitt Rand	UT	Inventory	CC	150	33	Inventory	8/21/2000	2,121.68	3
902	Standard Workstation-Hewitt Rand	UT	Implementation	CC	150	33	Shane Reed	8/21/2000	1,431.47	3
910	COK-4201-01 Orblt CD Duplicate	UT	R&D	CC	158	33	Kip Denning	7/21/2000	2,120.73	3
918	Standard Workstation-Hewitt Rand	UT	Inventory	CC	150	33	Inventory	8/17/2000	1,431.47	3
921	UPS for server room	UT	Implementation	CC	158	33	Shane Reed	11/17/1999	776.36	3
922	Learnframe Outside Sign	UT	Tech Services	FF	220	33	Shane Reed	4/19/2000	1,320.80	5
924	Provanlega	UT	Implementation	CC	150	33	Shane Reed	5/15/2000	548.62	3
925	Software	UT	Implementation	CC	155	33	Shane Reed	5/18/2000	3,789.52	3
930	Standard Workstation-Hewitt Rand	UT	Implementation	CC	150	33	Shane Reed	8/25/2000	1,431.47	3
932	Standard Workstation Hewitt Rand	UT	Inventory	CC	150	33	Inventory	8/25/2000	1,431.47	3
935	Standard Workstation-Hewitt Rand	UT	Inventory	CC	150	33	Inventory	8/25/2000	1,431.47	3
937	Standard Workstation Hewitt Rand	UT	Implementation	CC	150	33	Shane Reed	8/25/2000	1,431.48	3
964	Task Chair	UT	Inventory	FF	010	33	Shane Reed	8/30/2000	211.64	5
980	Rackmount UPS Line Cord (L5-30P)	UT	Server Room	CC	158	33	Inventory	8/14/2000	2,956.53	3
982	Microsoft SQL Server Internet Connector	UT	Implementation	CC	158	33	Shane Reed	8/24/2000	5,381.31	3
983	10 Workstations -UPS - PW-3115-300	UT	Implementation	CC	150	33	Shane Reed	8/22/2000	985.00	3
984	20 Workstations -UPS - PW-3115-300	UT	Implementation	CC	150	33	Shane Reed	8/22/2000	2,095.10	3
989	Dell Power APP Web 100	UT	Data Center-First World	CC	158	33	Gary Young	8/29/2000	3,573.35	3
991	Telephone Headset Adapters	UT	Implementation	CC	158	33	Troy Baxter	9/15/2000	1,980.50	3
992	200 Sony 4mm Cartridges-CDW	UT	Implementation	CC	158	33	Paul Ahn	8/15/2000	3,756.28	3
993	Cisco 24 Port Switch	UT	Data Center	CC	158	33	Gary Young	9/6/2000	2,322.68	3
995	Standard Workstation - Hewitt Rand	UT	IT	CC	150	33	Shane Reed	9/11/2000	1,431.47	3
995	Rational Visual Test	UT	IT	CC	155	33	Shane Reed	12/15/2000	744.96	3
997	Standard Workstation - Hewitt Rand	UT	Inventory	CC	150	33	Inventory	9/11/2000	1,431.47	3
1000	Standard Workstation - Hewitt Rand	UT	Inventory	CC	150	33	Inventory	9/11/2000	1,431.47	3
1003	Standard Workstation - Hewitt Rand	UT	Implementation	CC	150	33	Inventory	9/11/2000	1,431.47	3
1005	(20) Powerware 3115 Workstation UPS	UT	IT	CC	155	33	Jim Hall	9/11/2000	2,095.10	3
1009	PW9125 UPS	UT	Server Room	CC	158	33	Shane Reed	8/31/2000	2,531.13	3
1022	Standard Workstation - Hewitt Rand	UT	Inventory	CC	150	33	Inventory	9/15/2000	1,431.48	3
1050	(15) Harris Clear 12 Button Phones	UT	Implementations	CC	158	33	Troy Baxter	9/25/2000	6,397.82	3
1051	Dell Powerapp Webb 100	UT	Implementation	CC	158	33	Jim Hall	10/22/2000	3,669.06	3
1052	Dell Powerapp Webb 100	UT	Server Room	CC	158	33	Jim Hall	10/22/2000	3,669.06	3

000300

000301

Asset Tag #	Description	State	Location	Class	PP Class	GL Expense		Custodian	Acq Date	Cost	Life
						Dept					
1053	Dell Powerapp Webb 100	UT	Server Room	CC	158	33		Jim Hall	10/2/2000	\$ 3,669 07	3
1056	Compaq Rack	UT	Data Center	FF	010	33		Gary Young	10/5/2000	\$ 1,669 69	3
1057	Compaq Rack	UT	Data Center	CC	010	33		Gary Young	10/5/2000	\$ 1,669 69	3
1058	Compaq Rack	UT	Data Center	CC	010	33		Gary Young	10/5/2000	\$ 1,669 70	3
1059	Compaq Rack	UT	Data Center	CC	010	33		Gary Young	10/5/2000	\$ 1,669 70	3
1061	Developer Workstation	UT	Data Center - PeopleSoft	CC	150	33		Data Center	10/4/2000	\$ 2,121 69	3
1064	(6) License Library for Microsoft	UT	IT	CC	155	33		Shane Reed	10/3/2000	\$ 11,214 39	3
1065	Microsoft License Library	UT	IT	CC	155	33		Shane Reed	10/3/2000	\$ 21,989 82	3
1066	(10) Powerware 300VA UPS - PW3115-300	UT	IT	CC	158	33		Distributed to 10 employees	9/22/2000	\$ 985 00	3
1073	(2) Netware5-25 User License	UT	IT	CC	155	33		Shane Reed	10/6/2000	\$ 5,304 39	3
1076	10 Rack mountable power dist unit	UT	Data Center	CC	158	33		Gary Young	10/5/2000	\$ 4,109 36	3
1076	(14) Network Surgearrest Rackmountaccs	UT	Data Center	CC	158	33		Gary Young	10/5/2000	\$ 2,590 69	3
1076	(14) Network Surgearrest Rackmountaccs	UT	Data Center	CC	158	33		Gary Young	10/5/2000	\$ (1,479 00)	3
1076	(14) Network Surgearrest Rackmountaccs	UT	Data Center	CC	158	33		Gary Young	10/5/2000	\$ (739 50)	3
1076	(14) Network Surgearrest Rackmountaccs	UT	Data Center	CC	158	33		Gary Young	10/5/2000	\$ (1,890 96)	3
1077	Cisco 2924 XL Switch	UT	Server Room	cc	158	33		Shane Reed	10/1/2000	\$ 1,956 81	3
1078	Cisco 2924 XL Switch	UT	Server Room	cc	158	33		Shane Reed	10/1/2000	\$ 1,956 81	3
1079	Cisco 2924 XL Switch	UT	Server Room	cc	158	33		Shane Reed	10/1/2000	\$ 1,956 80	3
1080	Cisco 2924 XL Switch	UT	Server Room	CC	158	33		Shane Reed	10/1/2000	\$ 1,956 80	3
1082	(10) Harris Clear Com 12 Button Phones	UT	Implementations	CC	158	33		Troy Baxter	10/1/2000	\$ 3,835 01	3
1086	(25) MSDN Universal Subscription	UT	Tech Services	CC	155	33		Shane Reed	10/17/2000	\$ 32,732 13	3
1087	Application Manager Media Kit	UT	Implementation	CC	155	33		Jason Forbush	6/12/2000	\$ 18,110 34	3
1096	(2) Netware 5.0 Additive License	UT	Alpha Server	CC	155	33		Shane Reed	6/7/2000	\$ 2,749 15	3
1097	(2) Netware 5.0 Additive License	UT	Implementation	CC	155	33		Shane Reed	6/7/2000	\$ 2,749 15	3
1102	Cubicles (50% deposit)	UT	Tech Services	FF	010	33		Shane Reed	8/4/2000	\$ 45,000 00	5
1102	Workstations	UT	Tech Services	CC	150	33		Shane Reed	9/1/2000	\$ 43,580 51	5
1105	(3) Microsoft Project 2000	UT	IT	CC	155	33		Shane Reed	10/31/2000	\$ 1,285 61	3
1110	(10) Power 3115 Work Station UPS	UT	Tech Services	CC	158	33		Shane Reed	11/1/2000	\$ 1,169 85	3
1113	Dell Power Vault 700N, 300 GB of storage	UT	Data Center	CC	158	33		Gary Young	7/14/2000	\$ 21,766 15	3
1114	Dell Power Vault 720N, Network Access Server	UT	Data Center	CC	158	33		Gary Young	7/14/2000	\$ 32,736 18	3
1115	Cisco 3600 Router	UT	Data Center	CC	158	33		Gary Young	6/9/2000	\$ 818 90	3
1117	(2) Netware 25-user license	UT	IT	CC	155	33		Shane Reed	11/1/2000	\$ 5,289 85	3
1118	Cisco 2900XL 24 Port Switch	UT	Server Room	CC	158	33		Shane Reed	6/15/2000	\$ 1,589 98	3
1138	Compaq 128 MB SDRAM	UT	Data Center	CC	150	33		Jim Hall	11/9/2000	\$ 368 95	3
1175	Blinds for Nabo Area	UT	Implementations	FF	010	33		Shane Reed	10/3/2000	\$ 828 00	3
1176	Rackmount Monitor	UT	Data Center	CC	150	33		Gary Young	11/8/2000	\$ 2,611 56	3
1181	24 Port Switch-Cisco 2924XL	UT	Server Room	CC	158	33		Shane Reed	12/1/2000	\$ 1,780 47	3
1182	24 Port Switch-Cisco 2924XL	UT	Server Room	CC	158	33		Shane Reed	12/1/2000	\$ 1,780 47	3
1183	(10) Workstation UPS	UT	IT	CC	150	33		Shane Reed	12/5/2000	\$ 1,169 85	3
1187	Laptop and accessories	UT	R&D	CC	150	33		Blair Thomas	12/6/2000	\$ 2,796.49	3
1187	Upgrade Competitive Jbuilder/4.0 ProLevel A License	UT	R&D	CC	155	33		Blair Thomas	1/29/2001	\$ 331 05	3
1187	Laptop and accessories	UT	R&D	CC	150	33		Blair Thomas	12/6/2000	\$ (2,796.49)	3
1188	Materials for electric work	UT	IT	LH	450	33		Shane Reed	12/6/2000	\$ 3,331 65	5
1195	Rackmount	UT	IT	FF	010	33		Shane Reed	12/12/2000	\$ 2,956 53	3
1196	Router Network Card	UT	Data Center	CC	155	33		Gary Young	1/26/2001	\$ 2,011 64	3
1197	Webboard for windows/MSDE ISQL Server	UT	Data Center	CC	150	33		Gary Young	1/22/2001	\$ 1,933 24	3
1198	Tape Back up	UT	IT	CC	150	33		Shane Reed	2/28/2001	\$ 2,440 68	3
1198	Tape Back-up	UT	IT	CC	150	33		Shane Reed	3/31/2001	\$ 684 69	3
1199	Fujitsu E-6595	CA	unassigned	CC	150	33		unassigned	4/15/2001	\$ 2,579 34	3
1228	Gateway 600 mhz ram swap	UT	G & A	CC	150	33		Jim Hall	6/30/2001	\$ 586 30	3
1228	Dell 600 mhz DVD	UT	G & A	CC	150	33		Jim Hall	6/30/2001	\$ 639 60	3
???	Cisco Pix Four Port 10/100	UT	IT	CC	158	33			6/9/2000	\$ 827 41	3
no tag	Computer Repair	UT	Implementations	CC	150	33		Implementation	3/23/2000	\$ 595 33	3
	Intraware equipment	UT	Implementations	CC	150	33		Jim Hall	6/30/2001	\$ 149,104 24	3
	Intraware equipment	UT	Implementations	CC	150	33		Jim Hall	6/30/2001	\$ 2,044 80	3
	Compaq equipment	UT	Implementations	CC	150	33		Jim Hall	11/1/2001	\$ 52,111 86	3

\$ 799,827 70

000302

Asset Tag #	Description	State	Location	Class	PP Class	GL Expense Dept	Custodian	Acq Date	Cost	Life
361	Proxima DP5800 Projector	UT	Arches Conference room	DD	150	36	Jim Linton	8/6/1998	\$ 4,506.30	5
392	Booth	UT	Warehouse/Tradeshows	FF	010	36	Cathy Allred	5/20/1996	\$ 15,762.75	5
412	Laptop computer - Winbook XLI PII266	Canada	Marcom	CC	150	36	Wojtek Tilbury	10/13/1998	\$ 3,032.04	3
412	Winbook XL2 laptop computer PII 333	Canada	Marcom	CC	150	36	Wojtec Tilbury	3/9/1999	\$ 2,316.83	3
415	Lifebook B112 PII -233 Fujitsu notebook computer	UT	Marketing	CC	150	36	Jim Linton	4/23/1999	\$ 1,931.09	3
495	(3) Bookcases	UT	Marcom	FF	010	36		11/30/1996	\$ 477.40	5
501	External CD player for laptop computer	UT	Marketing	CC	158	36	Jim Linton	4/27/1999	\$ 284.02	3
598	Furniture in Training Room	UT	Marcom	FF	010	36	Marketing	8/17/1999	\$ 4,900.61	5
621	Chair, recliner	UT	Marketing	FF	010	36	Jim Linton	7/19/1999	\$ 904.51	5
683	450 MHz Pent III 64 MB 17 Monitor	UT	Marketing	CC	150	36	Heather Hughes	3/3/2000	\$ 1,702.66	3
740	Windows CE Handheld	UT	Marketing	CC	150	36	Jim Linton	4/1/2000	\$	3
786	Printer	UT	2nd Floor - Middle	DD	150	36	Carrie Smith	4/1/2000	\$ 6,876.75	5
789	Computer equipment	UT	Marcom	CC	150	36	Cathy Allred	5/4/2000	\$ 1,596.85	3
790	Computer equipment	UT	Marcom	CC	150	36	Cathy Allred	5/4/2000	\$ 1,596.85	3
827	Trade Show Booth	UT	Marcom	FF	010	36	Cathy Allred	4/19/2000	\$ 64,408.00	5
827	OCU Services/Trade show booth	UT	Marcom	FF	010	36	Cathy Allred	6/19/2000	\$ 2,680.00	3
827	Back Wall-trade show booth	UT	Marcom	FF	010	36	Cathy Allred	6/13/2000	\$ 1,485.00	5
827	Learnframe sign for 10x10 Booth	UT	Marcom	FF	010	36	Cathy Allred	6/20/2000	\$ 491.00	5
827	Canopy of conference/Trade show booth	UT	Marcom	FF	010	36	Cathy Allred	8/2/2000	\$ 1,520.00	5
827	Podium for Trade show booth	UT	Marcom	FF	010	36	Cathy Allred	8/2/2000	\$ 2,955.00	5
827	Trade Show Booth	UT	Marcom	FF	010	36	Cathy Allred	8/18/2000	\$ 9,210.83	5
827	Trade Show Booth	UT	Marcom	FF	010	36	Cathy Allred	8/28/2000	\$ 3,456.47	5
850	30x60 Mahogany Desk	UT	Marketing	FF	010	36	Carrie Smith	7/25/2000	\$ 466.88	5
851	30*66 Mahogany Desk	UT	Marcom	FF	010	36	Ron Sanders	6/23/2000	\$ 341.38	5
852	Mahogany Bookcase	UT	Marketing	FF	010	36	Carrie Smith	6/20/2000	\$ 201.00	5
866	30*66 Mahogany Desk	UT	Marcom	FF	010	36	??	8/10/2000	\$ 341.38	5
895	Developer Workstation-Hewitt Rand	UT	Marcom	CC	150	36	Cathy Allred	8/21/2000	\$ 2,121.68	3
899	Standard Workstation-Hewitt Rand	UT	Marketing	CC	150	36	John McCarthy	8/21/2000	\$ 1,431.47	3
901	Standard Workstation-Hewitt Rand	UT	Marketing	CC	150	36		8/21/2000	\$ 1,431.47	3
933	Standard Workstation-Hewitt Rand	UT	Marketing	CC	150	36	Bobby Brandi	8/25/2000	\$ 1,431.47	3
1014	Task Chair	UT	Marketing	FF	010	36	Heather Hughes	10/2/2000	\$ 388.71	5
1090	NEC Monitor	Canada	Marcom	CC	150	36	Wojtec Tilbury	9/15/2000	\$ 1,008.49	3
1159	Task Chair	UT	Marcom	FF	010	36	??	11/10/2000	\$ 211.64	5
1189	Adobe Photoshop 6.0 Software	UT	Marcom	CC	155	36	Wojtek Tilbury	12/31/2000	\$ 612.52	3
1190	Adobe Illustrator 9.0 Software	UT	Marcom	CC	155	36	Wojtek Tilbury	12/31/2000	\$ 425.35	3
1207	Dell Dimension 4100-Intel Pentium III	Canada	Marcom	CC	150	36	Wojtek Tilbury	6/15/2001	\$ 1,907.95	3
									\$ 144,215.35	
376	Laptop computer - Lifebook Fujitsu	Canada	Sales	CC	150	40	Wojtec Tilbury-Wendy's	11/26/1998	\$ 2,193.91	3
377	Canon laser printer	Canada	Sales	DD	150	40	Wojtec Tilbury-Wendy's	9/16/1998	\$ 694.26	5
382	Laptop Computer-Compaq Presario	GA	Sales - Georgia	CC	150	40	Sharon Cheatham	5/13/1998	\$ 1,665.15	3
393	HP Printer/Fax/Copier/scanner #600	IL	Sales - Illinois	CC	150	40	George Guido	12/17/1998	\$ 426.99	3
394	HP Office Jet Model 500	GA	Sales - Georgia	CC	150	40	Sharon Cheatham	5/13/1998	\$ 349.99	3
405	Winbook XL K62300 laptop computer	TX	Sales - Texas	CC	150	40	J. Nicoll	2/12/1999	\$ 1,622.53	3
408	Winbook XL K62300 laptop computer	GA	Sales - Georgia	CC	150	40	Sharon Cheatham	2/12/1999	\$ 1,622.53	3
409	Printer, Brother MFC7150C	CA	Maybe in storage?	DD	150	40		2/12/1999	\$ 543.80	5
410	Desk Jet Printer	TX	Sales - Texas	DD	150	40	Anderson	2/28/1999	\$ 432.99	5
418	Gold Mine 4.0 Standard 10-users	UT	Sales	CC	155	40	Draper	12/16/1998	\$ 5,402.81	3
419	HR CD Rom	UT	Sales	CC	150	40	Garrett Pease	12/2/1998	\$ 959.95	3
466	Winbook XL K62399	UT	Sales	CC	150	40	Tilbury/Turner	8/10/1999	\$ 1,928.79	3
524	Winbook XL3	UT	Sales	CC	150	40	Jeannine Melville	4/14/2000	\$ 2,806.95	3
559	Chair	UT	Sales	FF	010	40	Jeff Place	8/31/1999	\$ 211.63	5
573	Chair	UT	Sales	FF	010	40	Tamara McNatt	8/31/1999	\$ 211.64	5
575	Cubical Furniture in Sales Area	UT	Sales	FF	010	40	Mike Keough	8/28/1999	\$ 12,043.08	5
581	Chair	UT	Sales	FF	010	40	Nathaniel Dunlap	9/30/1999	\$ 211.63	5
599	Chair	UT	Sales	FF	010	40	Brent Podosek	9/30/1999	\$ 211.64	5
601	Printer/copier	Canada	Sales	DD	150	40	Sylvia Turner	8/19/1999	\$ 635.02	5
705	Winbook x13	UT	Sales	CC	150	40	Ron Lackey	5/15/2000	\$ 2,219.78	3

000003

Asset Tag #	Description	State	Location	Class	PP Class	GL Expense		Custodian	Acq Date	Cost	Life
						Depl					
734	PV20 Connect Lic	UT	Sales	CC	155	40		Mike Keough	1/31/2000	\$ 5,670.99	3
739	H/P Printer / Toner /Cable	NJ	Sales	DD	150	40		Charles Berdan	2/29/2000	\$ 327.74	5
829	Hewitt Rand -Fujitsu Laptop	UT	Sales	CC	150	40		Mike Keough	6/22/2000	\$ 2,667.26	3
841	Fujitsen Laptop	IL	Sales	CC	150	40		George Guldo	7/5/2000	\$ 3,003.32	3
841	Fujitsen Laptop	IL	Sales	CC	150	40		George Guldo	7/5/2000	\$ (183.43)	3
853	30"66 Mahogany Desk	UT	Sales	FF	010	40		Freston Barton	6/23/2000	\$ 341.39	5
931	Standard Workstation-Hewitt Rand	UT	Sales	CC	150	40		Tamara McNatt	8/25/2000	\$ 1,431.47	3
1007	Fujitsu E-6556	GB	Sales	CC	150	40		Mike Kelleher	9/22/2000	\$ 3,204.69	3
1007	Fujitsu E-6556	GB	Sales	CC	150	40		Mike Kelleher	9/22/2000	\$ (3,304.59)	3
1102	82" High Divider Panels (4)	UT	Sales	FF	010	40		Barton/Simmons	6/13/2000	\$ 1,341.07	5
1178	Fujitsu Laptop 5670	UT	Sales	CC	150	40		Jeff Place	11/22/2000	\$ 2,698.49	3
1184	30x72 Mahogany Rounded Corner desk	UT	Sales	FF	010	40		Ralph Mason	12/6/2000	\$ 869.94	5
1185	Task Chair	UT	Sales	FF	010	40		Ralph Mason	12/13/2000	\$ 362.44	5
1200	Fujitsu E-6595	CA	Sales	CC	150	40		Mike Sutton	4/15/2001	\$ 2,579.33	3
1200	Fujitsu E-6595	CA	Sales	CC	150	40		Mike Sutton	4/15/2001	\$ (2,579.33)	3
1221	Dell Pentium II	CA	Sales	cc	150	40		Joan Fraser-Sente	7/17/2001	\$ 3,202.83	3
1223	Laptop L400, 700 MHz, PIII	MA	Sales	CC	150	40		Janice Mariano	6/30/2001	\$ 3,347.40	3
1223	Laptop L400, 700 MHz, PIII	MA	Sales	CC	150	40		Janice Mariano	6/30/2001	\$ (3,347.40)	3
1225	Dell Lexmark Optra E312L	UT	Sales	CC	150	40		Ron Lackey	7/24/2001	\$ -	3
1231	L400, 700 MHz, PIII Laptop	IL	Sales	CC	150	40		George Guldo	7/18/2001	\$ 3,051.50	3
1231	L400, 700 MHz, PIII Laptop	IL	Sales	CC	150	40		George Guldo	7/18/2001	\$ (3,051.50)	3
	Compaq Proliant DL360/for ISL	UT			150	40		Joel Thomas	7/19/2001	\$ 16,361.84	3
										\$ 74,390.42	
359	Laptop Computer-Compaq Presario 1215	CA	G&A	CC	150	50		Luke Daly	7/17/1998	\$ 1,355.67	3
391	Omega Zip Drive	UT		CC	150	50			5/19/1995	\$ 285.63	3
401	desk, chair	UT	Gary's office	FF	010	50		Gary Toblan	2/20/1996	\$ 1,268.19	5
411	Pentium II 400 mhz	UT	G&A	CC	150	50		Jennifer Johanson	7/29/1999	\$ 1,928.12	3
475	Mahogany desk	UT	G&A	FF	010	50		Jeff Sansing	8/11/1999	\$ 515.80	5
482	HP Office Jet	UT	Mattson Home - Alpine	DD	150	50			5/9/1995	\$ 847.94	5
510	HP LaserJet 1100 Printer	UT	G&A	DD	150	50		Marcie Bush	10/7/1999	\$ 425.33	5
511	HP LaserJet 1100 Printer	UT	G&A	DD	150	50		Lori Sessions	10/7/1999	\$ 425.32	5
530	Desktop computer, Celeron 500 64 mb	UT	Marketing	CC	150	50		Joanne Power	12/21/1999	\$ 1,445.29	3
550	Chair	UT	G & A	FF	010	50		Marcie Bush	8/31/1999	\$ 211.64	5
571	Chair	UT	G & A	FF	010	50		Receptionist	9/30/1999	\$ 211.63	5
580	Chair	UT	G & A	FF	010	50		Misty Pendleton	9/30/1999	\$ 211.64	5
593	Fire Proof Filing Cabinet	UT	G & A	FF	010	50		Jeff Sansing	8/31/1999	\$ 898.66	5
690	Digital Camera	UT	Human Resources	DD	158	50		Marcie Bush	4/14/2000	\$ 587.30	5
697	Mahogany Desk	UT	G & A	FF	010	50		Lee Price	4/1/2000	\$ 520.06	5
698	Mahogany Bookshelf	UT	G & A	FF	010	50		Lee Price	4/17/2000	\$ 211.64	5
744	Reception Desk	UT	G & A	FF	010	50		Receptionist	3/27/2000	\$ 4,670.00	5
776	600 Mhz PIII 256mb 17"	UT	Human Resources	CC	150	50		Sharilyn Anderson	3/3/2000	\$ 2,680.22	3
777	Mahogany desk	UT	G & A	FF	010	50		Lori Sessions	4/14/2000	\$ 467.29	5
778	Mahogany desk	UT	G & A	FF	010	50		Debbie Pruet	4/14/2000	\$ 467.29	5
783	Furniture for new entry, conference tables,etc	UT	G & A	FF	010	50		Receptionist	3/1/2000	\$ 6,690.57	5
783	Furniture for new entry, conference tables,etc	UT	G & A	FF	010	50		Receptionist	5/15/2000	\$ 6,703.15	5
839	Standard Desktop Computer	UT	G&A	CC	150	50		Lori Sessions	6/27/2000	\$ 1,431.47	3
903	Aspen Sofa and pillows	UT	G & A	FF	010	50		Receptionist	4/5/2000	\$ 1,722.88	5
904	Aspen Chair	UT	G & A	FF	010	50		Receptionist	4/5/2000	\$ 860.37	5
905	Rug	UT	G & A	FF	010	50		Receptionist	4/5/2000	\$ 2,125.93	5
930	Standard Workstation-Hewitt Rand	UT	G & A	CC	150	50		Marcie Bush	8/25/2000	\$ 1,431.47	3
1030	Fujitsu E-6556	UT	G&A	CC	150	50		Bret Reich	9/22/2000	\$ 3,204.86	3
1032	Fujitsu E-6556	UT	G&A	CC	150	50		Gary Toblan	9/22/2000	\$ 3,204.86	3
1032	Xii 128 MB SD Ram Module	UT	G&A	CC	150	50		Gary Toblan	9/15/2000	\$ 567.50	3
1081	3 user business work license	UT	R&D	CC	155	50		Steve Rider	10/9/2000	\$ 642.32	3
1094	Mahogany Desk I3672	UT	G&A	FF	010	50		Bret Reich	7/7/2000	\$ 526.43	5
1112	Fire proof 4 drawer file cabinet	UT	G&A	FF	010	50		Bret Reich	10/16/2000	\$ 638.09	5
1206	Bridge 2 Java Commercial Object License	UT	G & A	CC	155	50		Bret Reich	6/15/2001	\$ 1,000.00	3

Asset Tag #	Description	State	Location	Class	PP Class	GL Expense Dept	Custodian	Acq Date	Cost	Life
276,278	(5) Green Guest Chairs	UT	Office	FF	010	50	Gary Tobian	4/1/1995	578.38	5
164	Barnoulli 230 meg	UT	Server Room	CC	150	allocate	Garrett Pease	1/20/1995	599.63	3
223	Barnoulli 230 meg	UT	Server room	CC	150	allocate	Garrett Pease	1/20/1995	599.63	3
271	Conference Table	UT	Conf. Room upstairs	FF	010	allocate	Admin	2/23/1996	879.78	5
370	Hewlett Packard LaserJet 5000N	UT	Mall Room	DD	150	allocate	Mall Room	9/30/1998	2,240.16	5
372	Copier	UT	2nd Floor - Middle	DD	153	allocate		12/11/1998	957.13	5
383	Dall Pll 6400 desktop computer	UT	Server Room - Implement	CC	150	allocate	System Admin	2/21/1999	3,088.45	3
416	Computer server,	UT	Server Room- Implementations	CC	150	allocate	System Admin	5/4/1999	2,660.02	3
423	ISDN Office Router	UT	Implementations	DD	158	allocate	Gary Young	6/17/1998	1,002.69	3
430	Server System / backup	UT	Server Room - Implement	CC	150	allocate	System Admin	6/8/1999	11,630.46	3
431	Conference Room Phone	UT	Conference Room	DD	158	allocate	Troy Baxter	9/9/1999	239.77	5
439	Dual 500 Pent III 18 GB HD	UT	Server Room	CC	150	allocate	System Admin	9/8/1999	2,701.29	3
440	Xerox Copier	UT	Downstairs	CC	153	allocate	G & A	7/14/1999	2,759.79	3
443	Conference Room Phone	UT	Byrca Canyon	DD	158	allocate	Troy Baxter	9/9/1999	499.57	5
443	Conference Room Phone	UT	Byrca Canyon	DD	158	allocate	Troy Baxter	9/9/1999	125.00	5
449	Network Equip For T1	UT	Server Room - Implement	CC	158	allocate	System Admin	6/3/1999	3,376.66	3
459	Conference Room Phone	UT	Arches Conference room	DD	158	allocate	Troy Baxter	9/9/1999	899.16	5
464	Catalyst Switch 2924xl	UT	Server Room - Implement	CC	158	allocate	System Admin	8/6/1999	1,812.95	3
488	Dual 500 Pent III 18 GB HD	UT	Server Room	CC	150	allocate	System Admin	9/8/1999	3,076.11	3
494	Phone system	UT	Draper	DD	158	allocate	Garrett Pease	3/1/1998	11,676.00	5
514	Fridge	UT	G & A	FF	010	allocate	Break room	8/23/1999	425.39	5
532	Uninterruptible Power Source	UT	SVR Room	FF	158	allocate	Shane Reed	2/1/2000	2,817.77	5
533	Uninterruptible Power Source	UT	SVR Room	FF	158	allocate	Shane Reed	2/1/2000	2,817.78	5
534	Sever Hardware (QA Learframe)	UT	Implementation	CC	150	allocate	System Admin	2/1/2000	8,502.68	3
548	8-Port KVM (Internal)	UT	Implementation	CC	158	allocate	Shane Reed	2/9/2000	577.48	3
562	Tru Call Acct Software	UT	G & A	DD	155	allocate	Shane Reed	9/30/1999	2,815.09	5
591	Alarm System	UT	Implementation.	DD	158	allocate	System Admin	7/29/1999	16,265.00	5
592	Software for phone system	UT	Implementation	DD	155	allocate	System Admin	9/13/1999	3,887.25	5
596	Wiring of phone system	UT	Implementation	DD	158	allocate	System Admin	8/12/1999	14,633.39	5
600	Phone System	UT	Implementation	DD	158	allocate	System Admin	7/31/1999	73,670.84	5
600	Harris HDLUZ Card	UT	Tech services	CC	158	allocate	Troy Baxter	6/26/2000	2,552.40	3
800	40 Clear com 24 button phones	UT	Implementation	CC	158	Allocate	Troy Baxter	8/21/2000	7,986.49	3
600	3 HPU12 Circuit Board for Harris Phone Switch	UT	Implementation	CC	158	Allocate	Troy Baxter	11/21/2000	1,286.84	5
600	Upgrade from 100 to 250 users-phone system	UT	Implementations	CC	158	Allocate	Troy Baxter	11/21/2000	4,207.48	5
604	T-1 Card for Harris Switch & Tech Labor	UT	Implementations	DD	158	allocate	System Admin	10/22/1999	4,466.70	5
607	Phones (12)	UT	Implementation	DD	158	allocate	System Admin	10/12/1999	3,880.72	5
608	Switch, 24 port	UT	Implementation	DD	158	allocate	System Admin	11/15/1999	395.00	5
611	Alarm System addition (see # 591)	UT	Implementation	DD	158	allocate	System Admin	10/26/1999	12,732.23	3
612	Cisco router	UT	Implementation	CC	158	allocate	System Admin	11/19/1999	1,180.49	3
613	Cisco switch, 12 port	UT	Implementation	CC	158	allocate	System Admin	11/19/1999	1,754.78	3
615	Cisco switch	UT	Implementation	CC	158	allocate	System Admin	11/19/1999	1,927.60	3
617	Firewall	UT	Implementation	CC	010	allocate	System Admin	12/23/1999	1,223.50	3
620	Cyrix Mainframe	UT	Implementation	CC	150	allocate	System Admin	5/19/1999	1,341.25	3
620	Printer, HP 40	UT	Implementation	DD	150	allocate	System Admin	10/7/1999	1,510.16	5
623	Back up tapes	UT	Implementation	DD	158	allocate	System Admin	12/10/1999	2,328.62	5
625	Rack for server room	UT	Server Room	FF	010	allocate	System Admin	10/22/1999	670.01	5
627	Backup software	UT	Implementation	DD	155	allocate	System Admin	12/17/1999	425.07	5
628	50 user Network license	UT	Server Room	CC	155	allocate	System Admin	11/29/1999	8,829.71	3
630	Internal Backup Hardware for Network	UT	Server Room	CC	158	allocate	System Admin	12/31/999	417.11	3
631	Internal Backup System	UT	Server Room	CC	158	allocate	System Admin	12/6/1999	1,923.99	3
713	Compaq 221 Single Channel Arrau	UT	Implementation	CC	150	allocate	System Admin	2/1/2000	903.98	3
719	Cable Kit for server room	UT	Implementation	CC	150	allocate	System Admin	9/14/1999	464.29	3
720	Mother board for server	UT	Implementation	CC	158	allocate	System Admin	9/14/1999	838.71	3
736	Harris Clear Com phones (12)	UT	Implementation	CC	158	allocate	Phone Admin	2/17/2000	5,040.99	3
737	Tape Back-up	UT	Implementation	CC	158	allocate	System Admin	2/23/2000	733.82	3
738	Pix Software/ Memory upgrade	UT	Implementation	CC	155	allocate	System Admin	2/1/2000	5,721.64	3

\$ 50,962.94

Asset Tag #	Description	State	Location	Class	PP Class	GL Expense Dept	Custodian	Acq Date	Cost	Life
745	Software (MS Office)	UT	Implementation	CC	155	allocate	System Admin	3/8/2000	\$ 11,999.55	3
746	On-Line UPS	UT	Implementation	CC	155	allocate	System Admin	2/29/2000	\$ 776.36	3
758	Alarm System for Addition	UT	Implementation	DD	158	allocate	System Admin	5/10/2000	\$ 10,642.00	5
762	Electrical work on build out	UT	Implementations	FF	158	allocate	Shane Reed	3/15/2000	\$ 9,923.83	5
763	Seagate Software (Crystal Reports)	UT	Implementations	CC	155	allocate	System Admin	3/9/2000	\$ 995.00	3
801	Windows 2000 Server w/5 Cals	UT	Implementation	CC	150	allocate	Jason Forbush	5/9/2000	\$ 1,063.49	3
806	Sony 8 cassette backup Seagate	UT	Implementation	CC	158	allocate	System Admin	3/7/2000	\$ 3,075.00	3
814	SQL Server 7.0 (5 client) (P-2-n56614	UT	Hall (Compaq Rock)	CC	150	allocate		6/15/2000	\$ 1,287.03	3
1008	15-Harris Clear Com 12 Button Phones	UT	Implementation	CC	158	Allocate	Troy Baxter	8/31/2000	\$ 6,349.10	3
1037	Installation of Alarm System	UT	New Area/Whse	CC	158	Allocate	Shane Reed	9/14/2000	\$ 3,954.00	3
1037	Installation of Alarm System	UT	New Area/Whse	CC	158	Allocate	Shane Reed	10/1/2000	\$ 2,659.00	3
1093	Tables and Trees	UT	Front Entry Way	FF	010	Allocate		6/15/2000	\$ 828.72	5
1095	Picture for Large Conference Room/H-417294	UT	Large Conf room	FF	010	Allocate		7/2/2000	\$ 1,366.80	3
1102	Panel to wall mount kit (2)	UT	Conf Room #1	FF	010	Allocate		6/15/2000	\$ 810.39	5
1102	Panel to wall mount kit (2)	UT	Conf Room #1	FF	010	Allocate		6/15/2000	\$ (300.00)	5
1107	(7) SQL Server Open License	UT	Tech Services	CC	155	allocate		6/20/2000	\$ 5,106.92	3
1108	(2) SQL Server per proc licenses	UT	Tech Services	CC	155	allocate		6/20/2000	\$ 5,423.85	3
1109	(50) SQL CAL (user license)	UT	Tech Services	CC	155	allocate	Shane Reed	6/20/2000	\$ 6,327.83	3
1116	(150) WinZip Std Edition License	UT	IT	CC	155	Allocate	Shane Reed	10/1/2000	\$ 1,116.68	3
1120	(56) Upgrade Product Windows 2000 Pro	UT	IT	CC	155	Allocate	Paul Ahn	10/9/2000	\$ 9,331.23	3
1121	Video Cards	UT	Implementation	CC	155	Allocate	Paul Ahn	8/4/2000	\$ 414.77	3
									<u>\$ 341,595.45</u>	
1191	Leasehold-Architectural fees/permit fees/profit	UT	New building	CC	450	Allocate	Shane Reed	12/11/2000	\$ 4,169.00	5
LH 005	Leasehold Improvements to Draper building	UT	Draper Office Building	LH	450	allocate	Shane Reed	3/7/2000	\$ 98,960.40	5
LH 005	Leasehold Improvements to Draper building	UT	Draper Office Building	LH	450	allocate	Shane Reed	4/21/2000	\$ 10,940.00	5
LH 006	Sound Wall (Draper)	UT		LH	010	allocate		6/5/2000	\$ 1,590.00	5
LH001	Leasehold Improvements	UT	Draper office building	LH	450	allocate	Admin	2/15/1996	\$ 45,000.00	5
LH003	Remodel of mezzanine, warehouse area to office space	UT	Sales, R&D	LH	450	allocate	Facilities	10/1/1999	\$ 79,130.00	5
LH004	Floors by Design, Remodel south expansion	UT	Draper office bldg	LH	450	allocate			\$ 24,350.00	5
LH-1089	Remodel of New Area	UT	Draper Office Bldg	LH	450	Allocate	Shane Reed	8/21/2000	\$ 46,146.00	5
									<u>\$ 310,285.40</u>	
Sold - Write off										
364	Laptop computer - Winbook XL P233	UT	Sold to Linton-\$200.00	CC	150	33	Paul Ahn	9/14/1998	\$ 1,933.44	3
364	Laptop computer - Winbook XL P233	UT	Sold to Linton-\$200.00	CC	150	33	Paul Ahn	9/14/1998	\$ (1,933.44)	3
366	Laptop computer - Winbook XLI P11266	UT	Sold to Kip-\$225.00	CC	150	33	Shane Reed	9/28/1998	\$ 3,146.23	3
366	Laptop computer - Winbook XLI P11266	UT	Sold to Kip-\$225.00	CC	150	33	Shane Reed	9/28/1998	\$ (3,146.23)	3
371	Laptop computer - Winbook XL	UT	w/o 4/30/02	CC	150	33	Paul Ahn	5/5/1998	\$ 3,034.87	3
371	Laptop computer - Winbook XL	UT	w/o 4/30/02	CC	150	33	Paul Ahn	5/5/1998	\$ (3,034.87)	3
424	Winbook XL Amd K6 2 400	UT	w/o 4/30/02	CC	150	36	Paul Ahn	7/31/1999	\$ 1,777.43	3
424	Winbook XL Amd K6 2 400	UT	w/o 4/30/02	CC	150	36	Paul Ahn	7/31/1999	\$ (1,777.43)	3
425	Winbook XL Amd K6 2 400	UT	Sold to Eastley-\$210.00	CC	150	36	Cameron Balagna	7/31/1999	\$ 1,777.43	3
425	Winbook XL Amd K6 2 400	UT	Sold to Eastley-\$210.00	CC	150	36	Cameron Balagna	7/31/1999	\$ (1,777.43)	3
441	Winbook x12	UT	w/o 4/30/02	CC	150	32	Mike Memmott Jr	9/9/1999	\$ 2,646.24	3
441	Winbook x12	UT	w/o 4/30/02	CC	150	32	Mike Memmott Jr	9/9/1999	\$ (2,646.24)	3
463	Winbook XJ AMD K6-200	UT	Sold to Bergeson-\$225.00	CC	150	33	Paul Ahn	8/9/1999	\$ 1,777.43	3
463	Winbook XJ AMD K6-200	UT	Sold to Bergeson-\$225.00	CC	150	33	Paul Ahn	8/9/1999	\$ (1,777.43)	3
467	Winbook XL K62400	UT	Sold to Spotten-\$180.00	CC	150	33	Paul Ahn	8/10/1999	\$ 1,928.79	3
467	Winbook XL K62400	UT	Sold to Spotten-\$180.00	CC	150	33	Paul Ahn	8/10/1999	\$ (1,928.79)	3
496	NEC Laptop	UT	Office/home	CC	150	40	Preston Barton	5/5/1995	\$ (1,438.00)	3
496	NEC Laptop	UT	Office/home	CC	150	40	Preston Barton	5/5/1995	\$ (1,886.93)	3
496	NEC Laptop	UT	Office/home	CC	150	40	Preston Barton	5/5/1995	\$ (187.51)	3
496	NEC Laptop	UT	Office/home	CC	150	40	Preston Barton	5/5/1995	\$ 3,511.47	3
497	Winbook XL T12-1 P233	UT	Sold to Todd Memmott-\$190	CC	150	40	Jeff Simmons	12/8/1998	\$ 1,696.00	3
497	Winbook XL T12-1 P233	UT	Sold to Todd Memmott-\$190	CC	150	40	Jeff Simmons	12/8/1998	\$ (1,696.00)	3
498	Winbook XL T12-1 P233	UT	Sold to Brockbank-\$175.00	CC	150	36	Ron Sanders	12/23/1998	\$ 1,696.00	3
498	Winbook XL T12-1 P233	UT	Sold to Brockbank-\$175.00	CC	150	36	Ron Sanders	12/23/1998	\$ (1,696.00)	3

Asset Tag #	Description	State	Location	Class	PP Class	GL Expense Dept	Custodian	Acq Date	Cost	Life
516	Winbook X12	UT	w/o 4/30/02	CC	150	23	Shane Reed (TC)	2/15/2000	\$ 2,878.15	3
516	Winbook X12	UT	w/o 4/30/02	CC	150	23	Shane Reed (TC)	2/15/2000	\$ (2,878.15)	3
526	Winbook X12	UT	w/o 4/30/02	CC	150	11	Curt Kanabele	4/1/2000	\$ 1,750.93	3
526	Winbook X12	UT	w/o 4/30/02	CC	150	11	Curt Kanabele	4/1/2000	\$ (1,750.93)	3
616	Winbook	UT	Sold to Callis - \$210.00	CC	150	40	Paul Ahn	5/24/1999	\$ 2,340.02	3
616	Winbook	UT	Sold to Callis - \$210.00	CC	150	40	Paul Ahn	5/24/1999	\$ (2,340.02)	3
795	Winbook x13	UT	w/o 4/30/02	CC	150	11	Philip Clark	5/16/2000	\$ 3,905.50	3
795	Winbook x13	UT	w/o 4/30/02	CC	150	11	Philip Clark	5/16/2000	\$ (3,905.50)	3
891	Winbook Laptop S1	NH	Sales	CC	150	40	Nathaniel Dunlap	7/1/2000		3
1204	Compaq Presario 12XL518	GA	Sales	CC	150	40	Jonathan Wiburn	6/31/2001	\$ 2,504.97	3
1204	Compaq Presario 12XL518	GA	Sales	CC	150	40	Jonathan Wiburn	6/31/2001	\$ (1,336.95)	3
1204	Compaq Presario 12XL510	GA	Sales	CC	150	40	Jonathan Wiburn	6/31/2001	\$ (668.52)	3
1137	Compaq 256 MB 133 MHz SDRAM	UT	Sold to PeopleSoft	CC	150	33	Jim Hall	11/18/2000	\$ 808.73	3
1137	Compaq 256 MB 133 MHz SDRAM	UT	Sold to PeopleSoft	CC	150	33	Jim Hall	11/18/2000	\$ (645.07)	3
1137	Compaq 256 MB 133 MHz SDRAM	UT	Sold to PeopleSoft	CC	150	33	Jim Hall	11/18/2000	\$ (2,509.00)	3
1228	Gateway 700 mhz DVD	TX	Sales	CC	150	40	Tom Burnett	6/30/2001	\$ 692.90	3
1228	Gateway 700 mhz DVD	TX	Sales	CC	150	40	Tom Burnett	6/30/2001	\$ (481.18)	3
1228	Gateway 700 mhz DVD	TX	Sales	CC	150	40	Tom Burnett	6/30/2001	\$ (2,117.2)	3
1233	Lap Top L400, 700 MHz, PIII	MA	Sales	CC	150	40	Glen Trindade	7/31/2001	\$ 3,314.65	3
1233	Lap Top L400, 700 MHz, PIII	MA	Sales	CC	150	40	Glen Trindade	7/31/2001	\$ (3,314.65)	3
1202	Laptop L400, 700 MHz, PIII	CT	Sales	CC	150	40	Jim Sullivan	4/15/2001	\$ 3,020.99	3
1202	Laptop L400, 700 MHz, PIII	CT	Sales	CC	150	40	Jim Sullivan	4/15/2001	\$ (3,020.99)	3
1232	1800 Pentium III 1 GHz	MA	Sales	CC	150	40	David Hawkins	7/28/2001	\$ 3,501.75	3
1232	1800 Pentium III 1 GHz	MA	Sales	CC	150	40	David Hawkins	7/28/2001	\$ (3,501.75)	3
1232	1800 Pentium III 1 GHz	MA	Sales	CC	150	40	David Hawkins	7/28/2001		3

	\$ 2,287,062.49
Less Leasehold Improvements	\$ (310,285.40)
Cost of Pers Prop per Learnframe	\$ 1,976,777.09
Cost per SL Co Pers Prop Report	\$ 1,932,526.00
Difference as of 2/19/04	\$ 44,251.09

Ending Balance 12/31/00

Tab E

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Attorneys for Plaintiffs

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

KIRT ASHTON, CLAIR BENNETT,
BRADLEY MITCHELL, TODD NIELSEN,
BRIAN PRATT, and PAUL RADVIN,

Plaintiffs,

vs.

LEARNFRAME, INC., MICHAEL
MEMMOTT, SR., RALPH MASON, GARY
TOBIAN, and LEE PRICE,

Defendants.

WRIT OF EXECUTION

Case No. 020414271

Judge Lindberg

WHEREAS, Judgment was entered against defendant Learnframe, Inc. ("Learnframe") in the Third District Court of Salt Lake County, State of Utah, on March 27, 2003, for the principal amount of \$96,962.46, plus interest thereon at the rate of 3.41% per annum from the date of Judgment until paid. The current balance of the Judgment is \$101,447.46, and bears interest in the per diem amount of \$8.76.

THEREFORE, you are commanded to collect the aforesaid Judgment, together with the costs of this execution, and levy on and sell enough of Learnframe's personal property to satisfy the same, and this shall be your sufficient warrant for so doing. Please return this writ within sixty (60) days with your doings in the premises hereon endorsed.

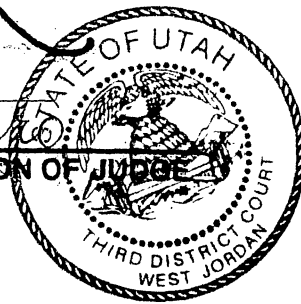
WITNESS MY HAND with the seal of this Court affixed at my office in Salt Lake City, Utah on the 27th day of July, 2005.

BY THE COURT



Honorable Denise P. Lyndberg

~~This stamp is used at direction of Judge~~



Tab F

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FILED
THIRD DISTRICT COURT
SEP - 1 2006
WEST JORDAN DEPT.

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Attorneys for Plaintiffs

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

KIRT ASHTON, CLAIR BENNETT,
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Plaintiffs,

vs.

LEARNFRAME, INC., MICHAEL
MEMMOTT, SR., RALPH MASON, GARY
TOBLAN, and LEE PRICE,

Defendants.

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

Case No. 020414271

Judge Royal L. Hansen

This matter came before the Honorable Royal J. Hansen for oral argument and evidentiary hearing on October 27, 2005, February 27, 2006, and June 30, 2006, pursuant to objections made by defendant Learnframe, Inc. (“Learnframe”), and by two nonparties, American Pension Services, Inc. (“APS”), and Steve Patrick (“Patrick”), to the Writ of Execution issued by the Court on July 27, 2005, and the Constable’s Sale scheduled pursuant to the Writ of Execution. Erik A. Olson appeared for plaintiffs. Denver Snuffer appeared for Learnframe. Timothy Miguel Willardson appeared for APS. Hollis S. Hunt appeared for Patrick. Based on the evidence and arguments of counsel and good cause appearing, the Court hereby enters its findings of fact and conclusions of law.

FINDINGS OF FACT

Procedural Background

1. Plaintiffs Kirt Ashton, Clair Bennett, Bradley Mitchell, Todd Nielsen, Brian Pratt, and Paul Radvin are former employees of Learnframe. In December 2002, plaintiffs brought this action against Learnframe for unpaid wages and benefits, and received a Judgment against Learnframe on March 25, 2003. Learnframe has failed to satisfy the Judgment.

2. On July 27, 2005, plaintiffs applied for, and the Court issued, a Writ of Execution against all personal property in the possession of Learnframe. [Writ of Execution.]

3. On July 29, 2005, a Salt Lake County Constable served the Writ of Execution and Notice of Constable’s Sale on Learnframe, scheduling the sale for August 18, 2005. [Order Overruling Learnframe’s Objections to Writ of Execution and Sheriff’s Sale at 2.]

4. Learnframe served an opposition to the Writ of Execution on August 15, 2005, and requested a hearing on September 15, 2005. [Order Overruling Learnframe's Objections to Writ of Execution and Sheriff's Sale at 2.]

5. The Court scheduled a hearing on October 27, 2005, on Learnframe's objections to the Writ of Execution. Learnframe failed to appear at the hearing. Later that day, plaintiffs served Learnframe with an Order overruling Learnframe's objections to the writ of execution and sale. Learnframe failed to object to the proposed Order, which the Court proceeded to enter on January 13, 2006.

6. A new Constable's Sale was scheduled for February 7, 2006.

7. APS, Patrick, and Learnframe filed objections to the Constable's Sale.

8. Plaintiffs, Learnframe, APS, and Patrick appeared at oral argument on February 27, 2006. After oral argument, the Court scheduled an evidentiary hearing on June 30, 2006, and directed plaintiffs to serve notice of the evidentiary hearing on Learnframe, APS, and Patrick, as well as the Internal Revenue Service ("IRS") and any perfected secured creditor of Learnframe. [Order Regarding Evidentiary Hearing on Objections to Writ of Execution and Sheriff's Sale.]

9. Plaintiffs served notice of the evidentiary hearing on Learnframe, APS, Patrick, and the IRS. They also served notice on MPI Corp., an alleged perfected secured creditor of Learnframe. [Certificate of Service of Order Regarding Evidentiary Hearing on Objections to Writ of Execution and Sheriff's Sale.]

10. At the evidentiary hearing on June 30, 2006, only plaintiffs, Learnframe, APS, and Patrick appeared. Neither the IRS nor MPI Corp. appeared, and neither filed an objection to the Writ of Execution.

APS's Default in Payments to Creditors

11. In or about October 2001, APS loaned approximately \$1,500,000 to Learnframe. APS received from Learnframe and filed with the Utah Division of Corporations and Commercial Code (the "Division") a UCC-1 financing statement that perfected a security interest in a certain receivable from Learn University in the amount of \$1,500,000. [Def. Ex. 8.]

12. Not long thereafter, APS stopped paying its creditors as bills became due. Among others, Learnframe failed to make payments to APS, plaintiffs, and the IRS.

13. On or about November 11, 2002, the IRS gave notice to Learnframe of a federal tax lien in the total amount of \$1,767,040.68. [Def. Ex. 4.]

14. Learnframe reported to the IRS a \$6,882,037 net loss for the tax year ending December 31, 2002. Learnframe also reported on its tax return that the total value of its accounts receivable, inventory, buildings, equipment, intangibles, and other assets was \$3,376,316. [Pl. Ex. 14.]

The APS Agreement

15. On or about January 8, 2003, Learnframe entered into an agreement with APS (the "APS Agreement") under which Learnframe agreed to transfer "all of its rights[,] title and interest in all of its personal property to APS." A list of transferred assets was attached to the APS Agreement, but the APS Agreement also specified that "[t]his shall also include but not be

limited to all of Learnframe[’s] rights in software it has developed as well as all names, copyrights, patents, and contract rights.” [Pl. Ex. 6.]

16. The APS Agreement permitted Learnframe to purchase back from APS for one dollar all of the property transferred to APS after repayment of Learnframe’s debt. This option to repurchase its property expired three years after the date of the APS Agreement, on January 8, 2006. [Pl. Ex. 6.]

17. Learnframe maintained the right under the APS Agreement to continue to use the property it transferred to APS only under three express conditions: that Learnframe (1) pay all property taxes; (2) pay all insurance premiums; and (3) maintain all equipment in good working order. From the outset, Learnframe failed to satisfy these conditions. [Pl. Ex. 6; Curtis DeYoung; Michael Memmott.]

18. APS had the right under the APS Agreement to take immediate possession of the assets transferred to APS in the event that Learnframe became insolvent. [Pl. Ex. 6.]

19. Notwithstanding the provisions of the APS Agreement, APS has failed to take possession from Learnframe of the property transferred under the APS Agreement. [Michael Memmott.]

Findings Regarding the Value of Learnframe’s Assets

20. The Court finds, based on Learnframe’s own admission in its 2002 tax returns, that the value of Learnframe’s assets as of December 31, 2002, eight days before the signing of the APS Agreement, was approximately \$3,376,316. [Pl. Ex. 14.]

21. Learnframe has failed to present any credible evidence to refute the year-end-2002 valuation of its property that it admittedly reported to the IRS.

22. For two primary reasons, Defendant's Exhibit 12—a February 20, 2006, tax assessment from the Salt Lake County Assessor—does not establish the value of Learnframe's property as of the end of 2002:

a. First, this document is effective as of January 1, 2006, exactly three years and a day after the effective date of the valuation set forth on Learnframe's tax returns.

[Def. Ex. 12.]

b. Second, Learnframe's President, Michael Memmott, was unable to lay foundation for any of the figures set forth on the document. He did not know what "SHRT LIFE," "EQP SHRTL," or other abbreviations meant. He admitted that he had no knowledge of whether the document included Learnframe's intellectual property, copyrights, and computer software. Lee Price, Learnframe's CFO, is the only one, according to Mr. Memmott, who would have this knowledge.

Additional Findings Regarding Elements of Fraudulent Transfer

23. Through the APS Agreement, APS obtained title to all of Learnframe's personal property, including equipment, accounts receivable, inventory, copyrights, software, intellectual property. [Michael Memmott.]

24. Learnframe entered into the APS Agreement because Learnframe was not paying the debt that Learnframe owed to APS. [Michael Memmott.]

25. At the time it entered into the APS Agreement, Learnframe was not paying its debts as they became due. The sum of Learnframe's debts far exceeded the value of its assets. Learnframe was undergoing severe financial difficulties at the time, having been sued or threatened with suit by many creditors. [Michael Memmott.]

26. Through the APS Agreement, Learnframe retained possession and control of the property transferred, and continued to do so even when it breached conditions of the APS Agreement. [Michael Memmott.]

27. Learnframe never circulated the APS Agreement to its other creditors. The APS Agreement was not filed with the Division or otherwise reported on a UCC-1 filed with the Division. The APS Agreement was not supplied to the IRS. [Michael Memmott.]

28. Curtis DeYoung, APS's principal, indicated that the APS Agreement was intended to assist Learnframe in "pretending to be in business" so that APS could obtain venture capital financing. [Curtis DeYoung.]

Additional Findings Regarding Creditors

29. Patrick is an unperfected, unsecured creditor of Learnframe. While Patrick has a judgment against Learnframe, Patrick has never levied on the judgment.

30. Learnframe failed to present evidence of any perfected, secured creditor other than the IRS, which failed to appear at the hearing, and APS, which has a perfected, secured interest in the \$1,500,000 Learn University receivable only.

CONCLUSIONS OF LAW

Issuance of the Writ of Execution

1. Plaintiffs' application for a Writ of Execution satisfied the requirements of Rule 64E. [Order Overruling Learnframe's Objections to Writ of Execution and Sheriff's Sale at 2.]

2. By failing to make a timely request for hearing in accordance with Rule 64E, failing to appear at the hearing on October 27, 2005, and failing to submit a timely objection in accordance with Rule 7 to the Court's January 13, 2006, Order during the two-and-a-half-month period before the Court entered it, Learnframe has waived any objections to the Writ of Execution and the Constable's Sale. [Order Overruling Learnframe's Objections to Writ of Execution and Sheriff's Sale at 2.]

3. Moreover, even considering Learnframe's objections to the Writ of Execution on the merits, Learnframe has still failed to present sufficient evidence to support its objection to the Writ of Execution. Patrick and APS have also failed to present a sufficient evidentiary basis for objecting to the Writ of Execution.

Unsecured Creditors, Including Patrick, Have No Valid Objection

4. Based on Patrick's status as an unsecured, unperfected judgment creditor, Patrick has no priority interest in Learnframe's property.

5. No other unsecured creditors have objected to the Writ of Execution, but even if they had objected, such objections would be overruled because there is no evidence of any unsecured creditor who levied against Learnframe's property prior to plaintiffs.

The APS Agreement Effected a Fraudulent Transfer

6. A writ of execution is the proper vehicle for executing on property in the possession of the judgment debtor. See Utah R. Civ. P. 64E(a) (“A writ of execution is available to seize property in the possession or under the control of the defendant following entry of a final judgment.”).

7. A judgment creditor is permitted to execute on assets fraudulently transferred without bringing an action under the Uniform Fraudulent Transfer Act, Utah Code Ann. § 25-6-1 to -14 (the “Act”). See Utah Code Ann § 25-6-8 (“If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court orders, may levy execution on the asset [fraudulently] transferred or its proceeds.”); see also Jensen v. Eames, 30 Utah 2d 423, 519 P.2d 236, 239 (1974) (“A judgment creditor may litigate the question of a fraudulent conveyance in a garnishment proceeding, in a creditor’s bill in equity, or in an execution proceeding, provided that once contested the burden is upon the one alleging the fraudulent conveyance to prove by clear and convincing evidence that the transfer was in fact fraudulent.”).

8. In the instant case, Learnframe and APS’s attempt to transfer ownership of Learnframe’s assets was a fraudulent transfer under either Section 25-6-5 or Section 25-6-6 of the Act.

Fraudulent Transfer Under Section 25-6-6

9. Section 25-6-6 governs claims of creditors that arise before the fraudulent transfer. This section applies to the instant case because plaintiffs’ claims against Learnframe arose in or before December 2002 when this action was brought against Learnframe.

10. Under Section 25-6-6, a creditor must show:

(a) the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer; and (b) the debtor was insolvent at the time or became insolvent as a result of the transfer or obligation.

Utah Code Ann. § 25-6-6. Here, both of these elements are satisfied.

The Transfer Was Not for Reasonably Equivalent Value

11. First, the value of consideration received by Learnframe was not even remotely equivalent to the value of its property. The only documentary evidence in the record of the value of Learnframe's property at or about the time of the APS Agreement is the admission by Learnframe in its tax returns to the IRS that its property was worth \$3,376,316. [Pl. Ex. 14.]

12. Even if the Court were to ignore Learnframe's admission in its tax returns of the value of its assets, the Court is still persuaded that there was great value in Learnframe's assets at the time of the APS Agreement. This conclusion is supported by the testimony of Mr. DeYoung, who indicated that by his estimation, the value of Learnframe's assets at the time of the APS Agreement was \$900,000 for the equipment and other tangible property, plus whatever Learnframe's intellectual property was worth. Mr. DeYoung conceded that Learnframe had "great potential" because its software, even today, is one of the better software packages in its industry.

13. Notwithstanding the great value that APS received through the APS Agreement, Learnframe only received a forbearance from APS that APS would foreclose on the single Learnframe asset in which APS had received a security interest—an uncollected (and still uncollected today) receivable from Learn University. At that time, APS had no security interest

in any other Learnframe asset, and would be able to do nothing more than bring suit against Learnframe, seek a judgment like the dozens of other creditors of Learnframe, and attempt to collect on that judgment as plaintiffs have done. Moreover, APS and Learnframe's own argument to this Court is that a judgment creditor would not be able to execute on Learnframe's assets anyway due to the IRS's levy.

14. Under these circumstances, the Court is persuaded that the only reason that Learnframe would have transferred ownership of its assets to APS when APS had no perfected security interest in Learnframe's assets as a whole (but only a single uncollected receivable) was because Learnframe wanted to make a preferential transfer to APS that would shield Learnframe's assets from other creditors, including plaintiffs.

15. Even taking into account Mr. DeYoung's assessment of the value of Learnframe's assets, such a valuation would greatly exceed the value of APS's forbearance from suing Learnframe and attempting—with all of Learnframe's other creditors—to collect on any judgment it may have received from Learnframe.

Learnframe Was Insolvent or Became Insolvent

16. Second, the evidence shows that Learnframe was insolvent, or at minimum became insolvent as a result of the APS Agreement.

17. Under Utah Code Ann. § 25-6-3(1), “[a] debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation.” Moreover, under subsection (2), “[a] debtor who is generally not paying his debts as they become due is presumed to be insolvent.” Utah Code Ann. § 25-6-3(2).

18. Here, Learnframe does not deny that it was insolvent at the time it entered into the APS Agreement. Learnframe concedes that it was not paying its debts as they became due; that the sum of its debts far exceeded the value of its assets; and that it was undergoing severe financial difficulties at the time, having been sued or threatened with suit by many creditors.

[Michael Memmott.]

19. In sum, based on evidence before the Court, the Court concludes that the APS Agreement effected a fraudulent transfer under Utah Code Ann. § 25-6-6.

Fraudulent Transfer Under Section 25-6-5

20. Alternatively, plaintiffs have also established that a fraudulent transfer occurred under Section 25-6-5, which governs claims of creditors that arise before or after the fraudulent transfer. This statute is satisfied simply by a showing that a transfer is made “with actual intent to hinder, delay, or defraud any creditor of the debtor.” *Id.* § 25-6-5(1).

21. Based on the foregoing analysis of Section 25-6-6, this requirement is satisfied because the Court concludes that the only credible reason for the APS Agreement was to shield Learnframe’s assets from creditors, preferentially favoring APS. This conclusion is supported by a consideration of the various factors that are probative of actual intent, under Section 25-6-5(2), including whether:

- (1) “the debtor retained possession or control of the property transferred after the transfer”;
- (2) “the transfer or obligation was disclosed or concealed”;
- (3) “before the transfer was made . . . , the debtor had been sued or threatened with suit”;
- (4) “the transfer was of substantially all the debtor’s assets”;

(5) “the value of the consideration **received** by the debtor was reasonably equivalent to the value of the asset **transferred**”; and

(6) “the debtor was insolvent or became insolvent shortly after the transfer was made.”

Utah Code Ann. § 25-6-6(2).

22. Each of these factors is implicated here. Learnframe remained in possession and control of the property after the transfer. APS has never bothered to remove the assets from Learnframe’s possession, as the APS Agreement permits, even though Learnframe has defaulted under the Agreement by not paying taxes, maintaining insurance, and remaining solvent. APS and Learnframe failed to disclose the transfer to creditors, including the IRS, which had already levied. Learnframe had been sued or threatened with suit before the transfer. The transfer was of all of Learnframe’s assets. Finally, as detailed above in the analysis of Section 25-6-6, Learnframe was insolvent or became insolvent shortly after the transfer was made. In sum, based on a consideration of these various factors, the Court concludes that the APS Agreement effected a fraudulent transfer under Utah Code Ann. § 25-6-5.

23. Under either Section 25-6-6 or 25-6-5, plaintiffs are not precluded from executing on the property in Learnframe’s possession that was allegedly transferred. Utah Code Ann. § 25-6-8(2).

Execution May Proceed Subject to the IRS’s Priority Interest

24. The IRS’s priority interest in Learnframe’s property does not preclude plaintiffs from proceeding to an execution sale.

25. Under the Utah UCC, junior secured creditors may sell collateral subject to senior liens. See Utah Code Ann. § 70A-9a-617 (providing that “[a] secured party’s disposition of collateral after default transfers to a transferee for value all of the debtor’s rights in the collateral” and “discharges any subordinate security interest or other subordinate lien,” but that the transferee takes the collateral subject to “any other security interest or other lien”).

26. The same is true in the context of real property, where a junior lien holder’s foreclosure may proceed subject to the senior lien, even though the foreclosure is insufficient to eliminate the senior lien against the property.

27. Nothing in Rule 64E prohibits execution on encumbered property. See Utah R. Civ. P. 64E (“A writ of execution is available to seize property in the possession or under the control of the defendant following entry of a final judgment or order requiring the delivery of property or the payment of money.”).

28. The Court is unaware of any authority that would prevent execution under these circumstances.

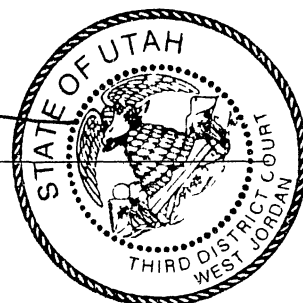
29. Plaintiffs are entitled to proceed with the execution. However, plaintiffs shall give notice of the IRS’s tax levy to any person who purchases Learnframe’s property at the execution sale because the IRS’s interest shall remain attached to the property after the sale.

DATED this 28 day of August, 2006.

BY THE COURT



Royal I. Hansen
Third District Judge



CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of July, 2006, a true and correct copy of the foregoing **PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW** were filed with the Court and served by hand-delivery to the following not later than 5:00 p.m.:

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