

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

ORIGINAL

IN RE:

ESSENTIAL.COM, INC.,)	
Debtor)	
)	CHAPTER 11
TOYOTA MOTOR CREDIT)	
CORPORATION,)	
Plaintiff)	CASE NO. 01-15339 WCH
v.)	
)	JUDGE WILLIAM C. HILLMAN
ESSENTIAL.COM, INC.)	
Defendant)	

020000

MOTION FOR RELIEF FROM STAY BY
TOYOTA MOTOR CREDIT CORPORATION

1. An order for relief under 11 U.S.C. Chapter 11 entered in the above Case No. 01-15339 WCH on a petition filed by Essential.com, Inc. on June 29, 2001.
2. Plaintiff is a corporation duly organized under the laws of the State of California, is qualified to engage in business in the Commonwealth of Massachusetts and has a usual place of business in the Town of Westborough, County of Worcester within said District.
3. Defendant Essential.com, Inc. is a corporation with a principal place of business in the City of Burlington, County of Middlesex, in said District.
4. Plaintiff is holder by assignment of a Closed End Motor Vehicle Lease Agreement dated May 11, 1999 (hereinafter referred to as the "Lease Agreement"), entered into between defendant Essential.com, Inc. as Lessee and Akhil D. Garland as co-lessee and Coady Corp./495 Toyota, as Lessor for the lease of a new 1999 Toyota 4Runner, Vehicle Identification No. JT3HM84R0X0035392 (hereinafter referred to as " the motor vehicle"). Pursuant to the Lease Agreement, the lessee agreed, among other things, to pay a total of \$17,631.00 in thirty-six (36) monthly installments of \$489.75 each commencing on May 11, 1999, and due the same day of each month thereafter until paid. The motor vehicle has at all times been the property of the plaintiff as assignee. A copy of this Closed End Motor Vehicle Lease Agreement is attached hereto and marked as Exhibit "A".

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GCL _____
OPC _____
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DISTRIBUTION CENTER

DOCUMENT NUMBER - DATE

02133 FEB 22 08

FPSC-COMMISSION CLERK

5. The plaintiff's ownership interest in the motor vehicle is noted on Certificate of Title No. 8636747 issued by the State of New Hampshire Registry of Motor Vehicles. A copy of said Certificate of Title is attached hereto and marked as Exhibit "B."
6. The Lease Agreement has been in default since December 11, 2001, by the failure of lessee to make payments due on the motor vehicle. The post-petition arrears total \$1,399.29 (December 2001 through February 2002) and late charges of \$46.64 are due, for a total of \$1,495.93. The payoff price on the lease through March 10, 2002 is \$19,856.26 (exclusive of tax, title, license, and attorneys' fees). Remaining lease payments are \$2,378.58. The estimated lease residual is \$17,724.26. The Lease Agreement is also in default based on lessee's failure to provide proof of insurance on the motor vehicle.
7. By reason of said defaults, the plaintiff, pursuant to the terms of said lease agreement and applicable law, is entitled to immediate possession of the motor vehicle.
8. The motor vehicle is believed to have a fair market value of \$17,100.00 retail, and \$14,550.00 trade-in. Source: NADA Automated, 2/13/2002.
9. Defendant has failed to maintain post-petition payments on the Lease Agreement and the motor vehicle is depreciating in value.
10. Plaintiff submits that adequate protection has not been provided for plaintiff's ownership interest under Sec. 362(d)(1) in that: (1) post petition lease payments have not been made; (2) debtor has failed to keep the vehicle insured and (3) debtor has failed to assume the lease agreement.
11. Plaintiff also submits that there is no value or benefit which will inure to the estate, since this is a lease vehicle. Therefore, under Sec. 362(d)(2) debtor has no equity in the property, and it has not been shown to be necessary to an effective reorganization.
12. The vehicle is, on information and belief, in possession of Akhil Garland.

WHEREFORE, the plaintiff prays:

1. For an order relieving it from the debtor and non-debtor stays, and authorizing plaintiff to proceed to take immediate possession said 1999 Toyota 4Runner,

Vehicle Identification No. JT3HM84R0X0035392, in accordance with the subject lease agreement and applicable law, and TMCC prays that said order not be subject to stay under B.R.P. Rule 4001(a)(3);

2. In the event this Court declines to vacate or modify the stay, for an order requiring that defendant's use of the motor vehicle be prohibited or conditioned upon payment of all installments and verification of hazard insurance due or the provision of some other adequate protection of plaintiff's interest in the property;
3. For order stating that "should TMCC exercise its rights to repossess and sell or otherwise liquidate the subject vehicle pursuant to this Order or any subsequent Order for Relief from Stay, TMCC shall have the right to file an amended Proof of Claim (within 90 days of) after the sale of any deficiency balance remaining and such balance is to be paid and treated as an unsecured claim under the petition or existing Confirmed Plan, if any. TMCC maintains this right in the event that this case should convert to a subsequent chapter;"
4. If the Court is unwilling to grant relief from stay, for a conditional order granting plaintiff relief from stay in the event of any future default under the lease by the filing and serving of an affidavit of default by counsel, without necessity of further hearing, and whether or not the debtor dismisses this case and refiles or converts to a different chapter.
5. For an order requiring debtor to make all post petition payments under said lease for all periods of its possession of the subject vehicle;
6. For plaintiff's attorneys' fees; and
7. Such other relief as may seem proper.

TOYOTA MOTOR CREDIT CORPORATION
By its attorney,


John Monterisi, Jr., Esq.
1330 Beacon Street, Suite 311
Brookline, MA 02446
617-739-4224
BBO# 352120

Dated: February 19, 2002



TOYOTA MOTOR CREDIT CORPORATION
CLOSED END MOTOR VEHICLE LEASE AGREEMENT

05/11/99

LEASOR (LESSOR) NAME AND ADDRESS: CODY CORP. 7495 TOYOTA
LESSEE AND CO-LESSEE NAME AND ADDRESS: ESSENTIAL CORP, INC.
VEHICLE CAPTIONED ADDRESS, IF DIFFERENT THAN LESSEE'S BILLING ADDRESS: N/A

EXHIBIT "A"

This is a lease for the vehicle described below. The words "you", "your" and "yours" refer to the Lessee and any Co-Lessee. The words "we", "us" and "our" refer to the Lessor and after assignment, Toyota Motor Credit Corporation (TMCC) and any subsequent assignee. By signing this Lease, you are leasing the Vehicle according to all of the terms of this Lease.

Table with columns: Year, Make, Model, Body Style, Vehicle Identification No, Dealer Message, Primary Use. Includes details for a 1999 Toyota 4Runner.

FEDERAL CONSUMER LEASING ACT SEGREGATED DISCLOSURES. Section 2: Amount Due at Lease Signing or Delivery: \$2919.75. Section 3: Monthly Payments: \$489.75. Section 4: Total of Payments: \$2061.00.

Section 7: Amount Due at Lease Signing or Delivery. Detailed breakdown of costs including capitalized cost reduction, taxes, and fees, totaling \$2919.75.

Section 9: Your monthly payment is determined as follows. Breakdown of Gross Capitalized Cost, Depreciation, Residual Value, and Monthly Payments, totaling \$489.75.

10. Excessive Wear and Use. You may be charged for excessive wear based on our standards for normal use and for mileage in excess of 15,000 miles per year at the rate of ten (10) cents per mile.

11. Purchase Option at End of Lease Term. You have an option to purchase the Vehicle at the end of the Lease Term for \$17,724.26.

12. Estimated Monthly Payments. You will pay for the following items over the Lease Term, as part of your Monthly Payment: \$2919.77.

13. Scheduled Monthly Payments. The total number of Monthly Payments is 36, and the Scheduled Monthly Date of the Lease is 05/11/02.

14. Required Insurance. You must provide the following insurance during the Lease Term. No other types of insurance are required. a) primary automobile liability insurance with coverage limits for bodily injury at death of \$1,000,000 for any one person, and \$400,000 for any one accident, and \$500,000 for property damage, and b) physical damage insurance for the full value of the Vehicle, with a maximum deductible of \$1,000.

15. Estimated Original Fees and Taxes. This is an estimate of the total amount you will pay over the Lease Term for sales and license fees, registration, title, and taxes (including personal property taxes), whether included in your Total Monthly Payment (Section 2) or billed separately. This estimate is based on your current address and any increases if you move or if tax rates change. You are responsible for paying any increases. See Section 27 for additional information.

16. Complete Agreement or Modification. By your initial, you acknowledge that this Lease contains the entire agreement for the Lease of the Vehicle. There are no other agreements. Any changes to this Lease must be in writing, and signed by you and by us.

PLEASE READ THE BACK SIDE FOR ADDITIONAL TERMS AND CONDITIONS. NOTICE TO LESSEE AND CO-LESSEE: (1) DO NOT SIGN THIS LEASE BEFORE YOU READ BOTH SIDES OF IT OR IF IT CONTAINS ANY BLANK SPACES; (2) YOU ARE ENTITLED TO A COMPLETELY FILLED IN COPY OF THIS LEASE WHEN YOU SIGN IT.

By signing below, you acknowledge that: (1) You have read the entire Lease, including the back side; (2) You agree to all of the provisions of this Lease; (3) You have received a copy of this Lease; (4) This is a lease; you have no ownership interest in the Vehicle unless and until you receive a written notice from the Lessor. Lessor Signature: [Signature] Co-Lessee Signature: [Signature] Date: 05/11/99

YOUR OBLIGATIONS DURING THIS LEASE

- Prohibited Uses of the Vehicle. You agree that you will not at any time:
a. use the Vehicle in any illegal manner or in violation of your insurance policy;
b. alter the Vehicle without our written consent;
c. subject the Vehicle to any lien, seizure or other involuntary transfer;
d. use the Vehicle to transport goods or people for hire;
e. remove the Vehicle from the same state where it was first titled, for more than 30 days without our written consent;
f. title the Vehicle outside the United States (except to Canada or Mexico for less than 30 days); if you have our consent and have provided us with proof of insurance and you are responsible for any damage to the Vehicle, you must immediately notify us if any of these events happen, and cooperate with our insurance company. You must maintain the Vehicle in compliance with any legal safety requirements.

Assignment of Subleasing by you of the Vehicle or Lease is strictly prohibited.

- 21. Vehicle Maintenance and Damage. You are responsible for all maintenance, repair, service and non-usage expenses of the Vehicle. You agree to follow the owner's manual and maintenance schedule and to provide us with written proof of such maintenance. You are responsible for all damage to the Vehicle and for its loss, seizure or theft. You must tell us immediately if any of these events happen, and cooperate with our insurance company. You must maintain the Vehicle in compliance with any legal safety requirements.

- 22. Title and Registration. Legal title to the Vehicle will be in our name and the Vehicle will be registered as we direct. You must promptly pay all title registration and license fees.

- 23. Required Insurance. We have the right to change the amounts of required insurance shown in Section 15. The limits we require may not be sufficient for your needs. See your insurance provider for more information. You may obtain the required coverage through any insurance company agent or broker you choose. The insurance policy must be acceptable to us. Toyota Motor Credit Corporation as additional insured and loss payee and give us at least 10 days' written notice before any cancellation or reduction in coverage. You must maintain the Vehicle in compliance with any legal safety requirements. You must provide us with written proof of the insurance.

- 24. Charges for Late Payments. If we do not receive a full Monthly Payment within 10 days after it is due, you must pay a late payment charge of 2% of the unpaid amount or \$10, whichever is greater. If the Lease is signed in Kansas, and if we do not receive a full Monthly Payment within 10 days after it is due, the late charge will be 3% of the unpaid amount or \$20, whichever is greater. If the Lease is signed in Maine, and if we do not receive a full Monthly Payment within 15 days after it is due, the late charge will be 5% of the unpaid amount or \$10, whichever is greater.

- 25. Payment Obligations. You may not change or stop your Monthly Payments for any reason, even if the Vehicle is stolen, destroyed, seized by the government, non-repairable, experiences any mechanical problem, or does not perform satisfactorily. If you do not return the Vehicle by the Scheduled Maturity Date, you must continue to pay the Monthly Payments. However, continued payment does not mean you have the permission to lease the Vehicle.

- 26. Change in Address. You must notify us in writing within 30 days of any change in your address.

- 27. Official Fees, Taxes and Fees. You must promptly pay all official fees and taxes related to the Vehicle and the Lease, including title, license and registration fees, and sales, use, excise and personal property taxes. You must also promptly pay any fines incurred on the Vehicle such as traffic or parking tickets. Some bills for official fees and taxes may be sent to you by payment. Other bills may be paid by us on your behalf and we will charge you the amount paid. You must pay all fees incurred during the Lease Term, even if they are assessed and billed after the Lease has ended. We may charge you an assessed amount for the amounting late and taxes at the time the Lease ends. You are responsible for any shortage in the settlement, and we will refund you any excess. We may pay any title, registration, license fee tax or fee which you fail to pay and charge you the amount paid. You are responsible for any fines or penalties if you fail to pay the bill when due.

- 28. Default and Loss of the Vehicle. You will be in default if:
a. you fail to make any payment when it is due; or
b. you fail to keep any other agreement in the Lease; or
c. you provided false or misleading information when applying for the Lease; or
d. you become the subject of a bankruptcy or insolvency proceeding; or
e. the Vehicle is lost, stolen, seized, or damaged beyond reasonable repair.

- If you are in default, we may do any of the following after giving any legally required notice and after expiration of any legally required cure or reinstatement periods:
1. terminate the Lease and your right to use the Vehicle;
2. take possession of the Vehicle from your property or elsewhere, in any manner not prohibited by law;
3. require you to pay the amounts set forth in Section 30, plus any other remedy allowed by law; and
4. require you to pay all of our expenses for taking these actions, including, but not limited to, expenses for repossession, transportation, storage, collection, and legal costs, including reasonable attorney's fees paid to an attorney who is not our salaried employee, as allowed by applicable law.
If the Lease is signed in Colorado, Kansas, North Carolina, Oklahoma or South Carolina, the attorney's fees will be limited to 10% of the amount you owe under Section 30, unless a court awards a higher amount. If the Lease is signed in Maine or Ohio, no collection costs, legal costs or attorney's fees will be charged to you, unless a court awards them to us.

ENDING YOUR LEASE

- 29. Early Termination by Us. We may terminate this Lease at any time if you are in default. See Section 28 and you must pay us the amounts set forth in Section 28(b) and Section 30.

- 30. Early Termination by You. If you are not in default, you may terminate this Lease at any time. To do so you must return the Vehicle to us, at a location we specify and pay us the following amounts:

- a. any Monthly Payments or other amounts due under the Lease, except charges for Excessive Wear and Tear and excess mileage (Sections 10 and 33), plus
b. any official fees or taxes charged in connection with the Lease termination, plus
c. any out of pocket costs paid by us for the sale of the Vehicle including costs for transporting, storing, preparing for sale, and auctioning the Vehicle, plus
d. an Early Termination Charge equal to the difference, if any, between the "Adjusted Lease Balance" and the "Fair Market Value" (as defined below), plus
e. any Refundable Security Deposit (Section 34), or refund we receive of Optional Insurance or Other Products (Section 38).

The "Adjusted Lease Balance" is calculated by adding the remaining Basic Monthly Payments not yet due and the Residual Value, then subtracting the unearned portion of the Rent Charge. The unearned portion of the Rent Charge is calculated according to the "Terminal Profit" method.

The "Fair Market Value" is equal to the price we receive when we dispose of the Vehicle at wholesale. The Fair Market Value may also be determined by an appraisal of the wholesale value of the Vehicle, which you may obtain, at your own expense, from a professional independent appraiser agreed to by us. If you obtain such an appraisal the appraisal value will be used as the Fair Market Value. The appraisal must be obtained by you within 10 days after the Vehicle is returned to us.

If the Vehicle is subject to a total loss or theft resulting in a total loss, the Fair Market Value will equal the amount of any insurance proceeds we receive from your Required Insurance. If there are no insurance proceeds, the Fair Market Value will be zero.

If you have purchased and received Guaranteed Automobile Protection in connection with the Lease, and the Vehicle is subject to a total loss or a theft resulting in a total loss, and if you have read the conditions set forth in the Guaranteed Automobile Protection agreement, the Early Termination Charge set forth in Section 30d will be waived.

- 31. Your Option to Purchase the Vehicle. You may purchase the Vehicle at any time during the Lease at the Scheduled Maturity Date. The price to purchase the Vehicle at the Scheduled Maturity Date is the Purchase Option Price shown in Section 11 plus 3% and 3% below. The price to purchase the Vehicle during the Lease is:

- a. any Monthly Payments or other amounts due under the Lease, except charges for Excessive Wear and Tear and excess mileage (Sections 10 and 33), plus
b. any official fees or taxes charged in connection with the purchase, plus
c. the Adjusted Lease Balance as defined in Section 30.

- 32. Obligations if You Do Not Purchase the Vehicle at the Scheduled Maturity Date. At the Scheduled Maturity Date, you must return the Vehicle to us at the location we specify, and pay us the following amounts:

- a. any Monthly Payments or other amounts due under the Lease, plus
b. any official fees or taxes charged in connection with the Lease termination, plus
c. any Excessive Wear and Use charges described in Section 33, plus
d. any excess mileage charge described in Section 10. You will not receive a refund if you do not use all of the mileage set forth in Section 10.

- 33. Excessive Wear and Use Charges. At the Scheduled Maturity Date, if you do not purchase the Vehicle, you must pay us the estimated cost to repair damage to the Vehicle which is excessive wear and use. Excessive wear and use includes, but is not limited to:

- a. excessive mechanical and electrical wear;
b. damage to the body, lights, trim or paint;
c. damaged, broken or cracked glass;
d. burn, damaged or stained interior;
e. damage from flood, water, hail or wind;
f. damage from removal of equipment or parts placed on the Vehicle;
g. missing equipment, parts and accessories; or
h. tires with less than 3/32 inch of tread remaining, or any tire not part of a matching set of 4 tires (or 6 with an emergency spare if the Vehicle was originally equipped with one).

ADDITIONAL INFORMATION

- 34. Refundable Security Deposit. Your security deposit may be used by us to pay any amounts that you owe under the Lease. Any amounts that security deposit will be returned to you at the end of the Lease Term. No interest, increase or profit will be paid to you on the security deposit.

- 35. Assignment. We can assign our interest in the Lease and in the Vehicle without your consent. After you sign this Lease, we will assign it to TMCC and you agree to make all payments to TMCC.

- 36. Refund of Optional Insurance or Other Products. If any optional insurance or product included in the Gross Capitalized Cost is cancelled before the end of the Lease Term, or if you are not accepted by the Provider for a requested optional insurance or product, we will credit any refund to your account.

- 37. Indemnity. You agree to indemnify us from, and to pay on our behalf, any claim or loss (including damages, costs, expenses and legal fees) which arises from or is related to the use, maintenance or operation of the Vehicle. Any insurance we provide is secondary to the Required Insurance.

- 38. Credit Information. You authorize us, at any time, to investigate any information provided on your credit application in order to establish, maintain and collect on the Lease account. You authorize us to provide information concerning your accounts to credit reporting agencies and others who may lawfully receive such information.

- 39. Liability. Lessee and Co-Lessee are jointly and severally liable if there is both a Lessee and Co-Lessee signing the Lease, on any release, repair or delay the enforcement of our rights against one of you, without affecting our rights as to the other one.

- 40. Notices. All Lessee and Co-Lessee correspondence and notices will be sent to the Lessee's Billing Address shown on the Lease, unless you give us a different address in writing.

- 41. Choice of Law and Severability. You agree that the law of the state in which this Lease is signed applies to this Lease. If any provision of this Lease violates the law, those provisions will be void, and the rest of the Lease will be enforceable.

- 42. No Waiver by Us. If we delay or refrain from exercising our rights under this Lease, we do not lose those rights. If we accept late or partial payments from you, we do not waive our right to receive full and timely payments.

EXHIBIT "B"

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TDMV1 (REV. 6/98)

CERTIFICATE OF TITLE

STATE OF NEW HAMPSHIRE

VEHICLE IDENTIFICATION NO. JT3HM84R0X0035392	MODEL YR. 1999	YR. OF MFG.	MAKE TOYT	MODEL 4RUNNR
TITLE NO. 8636746	BODY STYLE APURP	NEW/USED NEW	ODOMETER 246122	DATE OF ISSUE 05/10/01

ACTUAL MILEAGE

MAILING ADDRESS

TOYOTA MOTOR CREDIT CORP.
PO BOX 5038
WESTBORO MA 01581

OWNER(S) NAME AND ADDRESS
TOYOTA MOTOR CREDIT CORP LESSOR
GARLAND AKHIL D LESSEE
279 COBB HILL RD
HARRISVILLE NH 03450

FIRST LIENHOLDER NAME AND ADDRESS

LEGENDS

SECOND LIENHOLDER NAME AND ADDRESS

RELEASE OF LIEN

THE LIEN HOLDER ON THE VEHICLE DESCRIBED IN THIS CERTIFICATE DOES HEREBY STATE THAT THE LIEN IS RELEASED.

_____ FIRM NAME	BY	_____ SIGNATURE OF AUTHORIZED AGENT	_____ DATE
_____ FIRM NAME	BY	_____ SIGNATURE OF AUTHORIZED AGENT	_____ DATE

THE DIVISION OF MOTOR VEHICLES HEREBY CERTIFIES THAT THE APPLICANT HEREIN NAMED IS DULY REGISTERED AS THE OWNER OF THE VEHICLE DESCRIBED ABOVE, AND THAT FROM THE STATEMENTS OF THE OWNER AND THE RECORDS ON FILE WITH THIS DIVISION, THE VEHICLE DESCRIBED IS SUBJECT TO THE LIENS ENUMERATED, IF ANY, AND NO OTHERS.

CONTROL NUMBER
C 1532978

VIRGINIA C. BEECHER
DIRECTOR

VOID IF ALTERED

N.A.D.A. Official Used Car Guide
Automated Vehicle Valuation
2/13/2002

Guide Edition:	New England 2-2002	Stock #:	L24-65091
Vehicle Description:	1999 TOYOTA 4RUNNER WGN 4D 4WD 4 CYL	VIN:	JT3HM84R0X0035392
MSRP:	\$ 24,038	Weight:	3.770
Mileage:	45,001		

Base Retail	\$ 17,050	Base Trade-In	\$ 14,500	Base Loan	\$ 13,050
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Accessory Equipment:

Luggage Rack	\$	50
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Accessory Total	\$ 50
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Mileage Value	\$ 0
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Total N.A.D.A. Official Used Car Guide Values

Retail	\$ 17,100	Trade-In	\$ 14,550	Loan	\$ 13,100
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Appraiser Adjustments:

Appraiser Adjustment Total:	\$ 0
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TOTAL ADJUSTED VEHICLE VALUE

Retail	\$ 17,100	Trade-In	\$ 14,550	Loan	\$ 13,100
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Mid value
\$ 15,825.00