

No consideration - Mortgage recorded in Mortgage Book 397, Page 454, in the Office of the Judge of Probate of Shelby County, Alabama.

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Shelby Cnty Judge of Probate, AL
03/03/1981 00:00:00 FILED/CERTIFIED

MODIFICATION AGREEMENT

THIS AGREEMENT, made this 24th day of January, 1981, by and between Birmingham Trust National Bank, a national bank association, organized under the laws of the United States, party of the first part, hereinafter called Lender, and Benjamin Birkenfeld, Jr. and wife, Mary E. Birkenfeld, party or parties of the second part, hereinafter called Borrower, and W. Roscoe Markette and wife, Karen C. Markette party or parties of the third part, hereinafter called Purchaser.

WITNESSETH THAT:

WHEREAS, Lender is the holder of that certain Note dated October 12, 1979, in the original principal amount of Fifty Six Thousand Eight Hundred and No/100 (\$56,800.00) Dollars, executed by Benjamin Birkenfeld, Jr. and Mary E. Birkenfeld to Birmingham Trust National Bank, a national banking association, which Note is secured by that certain Mortgage of even date, given by Benjamin Birkenfeld, Jr. and Mary E. Birkenfeld to Birmingham Trust National Bank and recorded in Volume 397, Page 454, in the Probate Office of Shelby County, Alabama and

WHEREAS, the aforementioned Mortgage contained the following paragraph:

"17. Transfer of the Property: Assumption. If all or any part of the Property or an interest therein is sold or transferred by Borrower without Lender's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Mortgage, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of three years or less not containing an option to purchase, Lender may, at Lender's option, declare all the sums secured by this Mortgage to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the sale or transfer, Lender and the person to whom the Property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to Lender and that the interest payable on the sums secured by this Mortgage shall be at such rate as Lender shall request. If Lender has waived the option to accelerate provided in this paragraph 17, and if Borrower's successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender shall release Borrower from all obligations under this Mortgage and the Note.

If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with paragraph 14 hereof. Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by paragraph 18 hereof."

WHEREAS, the said Borrower has sold his interest in the real property which is covered by the aforementioned Mortgage to Purchaser, and

WHEREAS, the said Purchaser submitted certain credit information to the Lender for the Lender's approval of same prior to consummation of said sale as provided in Paragraph 17 of the aforementioned Mortgage, and

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WHEREAS, the Lender reviewed said credit information and approved same subject to the interest rate in the aforementioned Note being increased from Nine and One Quarter (9¼%) percent per annum to Twelve and One Half (12½%) percent per annum.

NOW, THEREFORE, in consideration of the premises and the mutual promises and agreements of the parties hereto, it is agreed:

1. The terms of said Note are hereby amended by increasing the interest contained therein from Nine and One Quarter (9¼%) percent per annum to Twelve and One Half (12½%) percent per annum.
2. The monthly payment of principal and interest required to amortize the unpaid balance is changed after the application of the December 1, 1980, January 1, 1981 and February 1, 1981 monthly installments to Six Hundred Three and 96/100 (\$603.96) Dollars beginning with the installment due the first day of March, 1981.
3. The Purchaser hereby accepts the above mentioned modifications and agrees to pay the indebtedness evidenced by said Note as amended. Receipt of a copy of the original note is hereby acknowledged, Purchaser agrees to perform each and every obligation contained therein or in any instrument at any time given to evidence or secure said indebtedness, or any part thereof.
4. Subject to the provisions in this paragraph contained, the Borrower is released from further liability for the payment of the indebtedness and other charges payable on and under said original Note and Mortgage. Nothing herein contained shall be deemed to release the said Borrower from any covenants, expressed or implied, of seisin, warranty of title or against encumbrances. In the event: (a) there is any judgment lien, inchoate lien, unrecorded mechanics and materialmen's lien, or lien of any kind, encumbrance, right, title, or interest against or in said property described in and covered by the aforementioned Mortgage in favor of any party or parties not a party hereto as of the date of the execution of this Agreement by the Lender; or (b) the said property has not as of said date been conveyed to Purchaser, or (c) any and all parties having or claiming any right, title, interest, estate, lien, claim, or encumbrance in, on, or to the property described in said Mortgage shall not have duly consented to and joined in this Agreement, then the release of the said Borrower shall have no force or effect.
5. Lender, Borrower and Purchaser agree that the unpaid principal balance as of the date hereof on the said Note is Fifty Six Thousand Four Hundred Forty Eight and 82/100 (\$56,448.82) Dollars wich is the November 1, 1980 balance. The December 1, 1980 and January 1, 1981 installments must be paid at the closing of this transaction.
6. This agreement applies to and inures to the benefit of and binds all parties hereto and their respective heirs, legatees, administrators, executors, successors, and assigns. In this agreement, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural and the plural number includes the singular. If this agreement be executed by more than one person, firm, or corporation as "Purchaser," the obligations of each such person, firm, or

corporation hereunder shall be joint and several. The word "note" as used herein shall be construed to mean note, bond, extension or modification agreement, or other instrument evidencing the indebtedness herein referred to, and to include such instrument, whether originally made and delivered to Mortgagee, or assigned and/or endorsed to Mortgagee; and the word "mortgage" shall be construed to mean mortgage, deed of trust, loan deed or other instrument securing the indebtedness herein referred to, and to include such instrument, whether originally made and delivered to Mortgagee as mortgagee, or made and delivered to some other mortgagee and purchased by Mortgagee and now owned by Mortgagee. The "Borrower" referred to herein may be an original maker of the note or any person obligated thereon by endorsement, assumption of the debt, or otherwise; but in no event shall the term be construed to include anyone but the party or parties of the second part named herein.

7. The existence of any provision in Paragraph 4 by reason of which the release of the Borrower is not effective, shall not, at the option of the Lender, affect any of the agreements of the Borrower and Purchaser herein, and the assumption of liability by the Purchaser as contained in Paragraph 3 shall be and continue in full force and effect.
8. The real property, and the whole thereof, described in said Mortgage, is and shall remain subject to the first and valid lien, charge, or encumbrance of said Mortgage and nothing herein contained or done pursuant hereto shall be construed to impair the lien, charge, or encumbrance of the Mortgage, or the priority thereof over other liens, charges, or encumbrances, or, except as herein otherwise expressly provided, to release or affect the liability of any party or parties whomsoever who may now or hereafter be liable under said Note and/or said Mortgage, or any extension or renewal thereof.
9. It is understood and agreed that all terms and/or conditions of the above mentioned Note and Mortgage, including modifications thereof, if any, shall remain in full force and effect without change except as hereinabove otherwise specifically provided.

IN WITNESS WHEREOF, This instrument has been executed by the parties hereto in manner and form sufficient, to bind them, as of the day and year first above written.

BORROWER:

Benjamin Birkenfeld, Jr.
Benjamin Birkenfeld, Jr.

Mary E. Birkenfeld
Mary E. Birkenfeld

PURCHASER:

W. Roscoe Markette
W. Roscoe Markette

Karen C. Markette
Karen C. Markette

LENDER:

Birmingham Trust National Bank

By: Hubert E. Rawson, Jr.
Its Vice President

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned a Notary Public in and for said State and County, hereby certify that Benjamin Birkenfeld, Jr., ~~and wife~~ ^{Back} Mary E. Birkenfeld, ^{conjugate} whose names are signed to the foregoing instrument and who are known to me, acknowledged before me on this day, that, being informed of the contents of the instrument they executed the same voluntarily, on the day the same bears date.

Given under my hand and seal this 24th day of January, 1981.

[Signature]

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned a Notary Public in and for said State and County, hereby certify that W. Roscoe Markett ^{wife} and Karen C. Markett, whose names are signed to the foregoing instrument and who are known to me, acknowledged before me on this day, that, being informed of the contents of the instrument they executed the same voluntarily, on the day the same bears date.

Given under my hand and seal this 24th day of January, 1981.

[Signature]
Notary Public

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said State, in said County, hereby certify that Hubert E. Rawson, Jr. whose name as Vice President of Birmingham Trust National Bank, a national bank association, organized under the laws of the United States, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the instrument, he, as such officer, and with full authority executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 24th day of January, 1981.

Maile L. McManus
Notary Public

My Commission Expires 2/29/83

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The undersigned, do hereby certify that this is a true and correct copy of the original instrument executed by me on October 12, 1979.

Benjamin Birkenfeld, Jr. - Borrower
US\$ 56,800.00

[Signature]
Pelham, Alabama
City

NOTE

... October 12, 1979 ...

FOR VALUE RECEIVED, the undersigned ("Borrower") promise(s) to pay Birmingham Trust National Bank, a national banking association, or order, the principal sum of Fifty-six Thousand Eight Hundred and no/100-----Dollars, with interest on the unpaid principal balance from the date of this Note, until paid, at the rate of nine and one-half (9½) percent per annum. Principal and interest shall be payable at Jackson Company, 250 Office Park Drive, Birmingham, AL 35223, or such other place as the Note holder may designate, in consecutive monthly installments of Four Hundred Seventy-Seven and 68/100-----Dollars (US\$ 477.68), on the first day of each month beginning December, 1979. Such monthly installments shall continue until the entire indebtedness evidenced by this Note is fully paid, except that any remaining indebtedness, if not sooner paid, shall be due and payable on November 1, 2009.

If any monthly installment under this Note is not paid when due and remains unpaid after a date specified by a notice to Borrower, the entire principal amount outstanding and accrued interest thereon shall at once become due and payable at the option of the Note holder. The date specified shall not be less than thirty days from the date such notice is mailed. The Note holder may exercise this option to accelerate during any default by Borrower regardless of any prior forbearance. If suit is brought to collect this Note, the Note holder shall be entitled to collect all reasonable costs and expenses of suit, including, but not limited to, reasonable attorney's fees.

Borrower shall pay to the Note holder a late charge of 4 percent of any monthly installment not received by the Note holder within 15 days after the installment is due.

Borrower may prepay the principal amount outstanding in whole or in part. The Note holder may require that any partial prepayments (i) be made on the date monthly installments are due and (ii) be in the amount of that part of one or more monthly installments which would be applicable to principal. Any partial prepayment shall be applied against the principal amount outstanding and shall not postpone the due date of any subsequent monthly installments or change the amount of such installments, unless the Note holder shall otherwise agree in writing. If, within five years from the date of this Note, Borrower make(s) any prepayments in any twelve month period beginning with the date of this Note or anniversary dates thereof ("loan year") with money lent to Borrower by a lender other than the Note holder, Borrower shall pay the Note holder (a) during each of the first three loan years 4.75 percent of the amount by which the sum of prepayments made in any such loan year exceeds twenty percent of the original principal amount of this Note and (b) during the fourth and fifth loan years 3 percent of the amount by which the sum of prepayments made in any such loan year exceeds twenty percent of the original principal amount of this Note.

Presentment, notice of dishonor, and protest are hereby waived by all makers, sureties, guarantors and endorsers hereof. This Note shall be the joint and several obligation of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their successors and assigns.

Any notice to Borrower provided for in this Note shall be given by mailing such notice by certified mail addressed to Borrower at the Property Address stated below, or to such other address as Borrower may designate by notice to the Note holder. Any notice to the Note holder shall be given by mailing such notice by certified mail, return receipt requested, to the Note holder at the address stated in the first paragraph of this Note, or at such other address as may have been designated by notice to Borrower.

The indebtedness evidenced by this Note is secured by a Mortgage, dated October 12, 1979, and reference is made to the Mortgage for rights as to acceleration of the indebtedness evidenced by this Note.

The attached addendum is made a part of this Note and incorporated herein by reference.

2502 Hamilton Circle
Pelham, Alabama 35124
Property Address

Benjamin Birkenfeld, Jr. (Seal)
Mary E. Birkenfeld (Seal)

(Execute Original Only)

This loan is a loan on which a previously issued approval and commitment to purchase has been received from the Federal National Mortgage Association and which is to be purchased by the Federal National Mortgage Association; said loan constituting a debt or extension of credit incurred pursuant to a provision or provisions of the Act of Congress known as the National Housing Act and being therefore exempt from any law of the State of Alabama relating to usury or prescribing or limiting interest rates.

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This 12th day of October, 1979.

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

1981 MAR -3 AM 9:04

Thomas A. Snowdon, Jr.
JUDGE OF PROBATE

Rec. 10.00
Ind. 1.00
11.00

[Signature] (SEAL)
Mary E. Birkhead (SEAL)

____ (SEAL)

1474

... hereafter, without further notice or demand on Borrower, invoke any remedies permitted by paragraph 18 hereof."

WHEREAS, the said Borrower has sold his interest in the real property which is covered by the aforementioned Mortgage to Purchaser, and

WHEREAS, the said Purchaser submitted certain credit information to the Lender for the Lender's approval of same prior to consummation of said sale as provided in Paragraph 17 of the aforementioned Mortgage, and

Jackson
P.O. Box 7344-A