

15984

IN THE CIRCUIT COURT  
FOR THE TENTH JUDICIAL CIRCUIT  
JEFFERSON COUNTY, ALABAMA  
EQUITY DIVISION

THOMPSON PROPERTIES 119AA  
370, LTD., an Alabama limited  
partnership; THOMPSON PROPERTIES  
123 AA 370, LTD., an Alabama  
limited partnership; and BROOKHAVEN  
PROPERTIES, III, INC., an Alabama  
corporation,

Plaintiffs,

vs.

RONALD ROCKHILL, an individual,

Defendant.

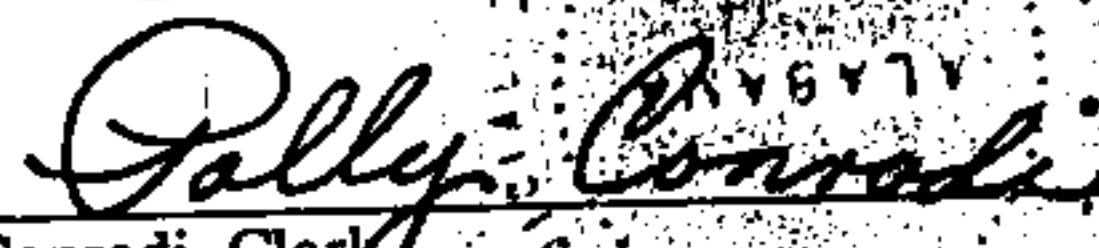
CIVIL ACTION NO.

CV 90-2293

CERTIFICATE OF JUDGMENT

I, Polly Conradi, Clerk of the above-named Court, hereby certify that on November 20, 1990, plaintiffs, Thompson Properties 119 AA 370 Ltd., an Alabama limited partnership, and Thompson Properties 123 AA 370, Ltd., an Alabama limited partnership, recovered of defendant, Ronald Rockhill, 6591 Quail Run Drive, Helena, Alabama 35080, in said Court in the above-styled action a judgment without waiver of exemptions in the amount of \$250,359.32 and \$177,801.19, respectively, with each party to bear its own costs (Plaintiffs' costs \$—; Defendant's costs \$ .00) as is set forth in the Order entered by Judge Marvin Cherner of this Court.

Given under my hand and seal this the 17th day of January, 1991.

  
Polly Conradi, Clerk  
Circuit Court of Jefferson County, Alabama

Defendant's Attorney:  
Pro Se

Plaintiffs' Attorney:  
David B. Anderson  
Cabaniss, Johnston, Gardner,  
Dumas and O'Neal  
1700 AmSouth-Sonat Tower  
Birmingham, Alabama 35203

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IN THE CIRCUIT COURT  
FOR THE TENTH JUDICIAL CIRCUIT  
JEFFERSON COUNTY, ALABAMA  
EQUITY DIVISION

FILED IN OPEN COURT  
DATE 20 Nov 90  
By [Signature] E. R.  
E. O. D. [Signature]

THOMPSON PROPERTIES 119 AA  
370, LTD., an Alabama limited  
partnership; THOMPSON PROPERTIES  
123 AA 370, LTD., an Alabama  
limited partnership; and BROOK-  
HAVEN PROPERTIES III, INC., an  
Alabama corporation,

Plaintiffs,

vs.

RONALD ROCKHILL, an individual,

Defendant.

CIVIL ACTION NO.

CV 90-2293

ORDER

Pursuant to this Court's order dated October 2, 1990, granting plaintiffs' Verified Motion for Entry of Default and Default Judgment, a hearing was held in accordance with Rule 55(b), Ala.R.Civ.P., on Monday, October 29, 1990, at 4:30 p.m. in order to determine the amount of damages to be awarded plaintiffs in the above-styled action. Upon consideration of plaintiffs' complaint, the testimony of Mr. Albert F. Thomasson, and the exhibits offered and introduced into evidence by plaintiffs, the Court enters the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. From approximately August 1979 until approximately June 1989, defendant, Ronald Rockhill, served as general partner of the two plaintiff Alabama limited

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partnerships, Thompson Properties 119 AA 370, Ltd. ("TP 119"), and Thompson Properties 123 AA 370, Ltd. ("TP 123"). These two limited partnerships were formed to each own an undivided interest in approximately 370 acres of undeveloped land (TP 119 56% and TP 123 44%) located off Highway 280 in Shelby County, Alabama, and otherwise known and described as "Parcel South." Plaintiff Brookhaven Properties III, Inc., an Alabama corporation, is the successor general partner to Ronald Rockhill of TP 119 and TP 123.

#### CONCLUSIONS OF LAW

1. During his tenure as general partner, defendant Ronald Rockhill engaged in the following acts and omissions:

- a. The failure to maintain and/or retain separate and accurate books, records, and accounts of the partnerships;
- b. The unauthorized and undisclosed conversion of funds of the partnerships to his own personal use and benefit in the principal amount of \$37,156.00 for TP 119 and \$10,440.00 for TP 123;
- c. The failure to properly manage, to the best interest of each of the partnerships, the affairs of the partnerships, including: (1) the failure to pay ad valorem taxes when due which caused certain tax parcels of the property held by the partnerships to be sold for taxes; (2) the failure in 1986 to correct a discovered clerical error in the legal description of the property for "Parcel South" when Rockhill participated in the correction made on behalf of the adjacent owners of "Parcel North"; (3) the failure to collect unauthorized "loans" or accounts receivable of the partnerships with interest thereon; and, (4) the failure to pursue and to collect for over 9.5 years condemnation proceeds received from the state after a portion of "Parcel South" was condemned and, thereafter, to disburse those proceeds, with any interest earned thereon, to the limited partners; and

- d. The unauthorized transfer of 20.96 prime acres of the partnerships' property to the owners of "Parcel North" for \$1.00 without disclosing to his limited partners (i) this transaction, which was out of the ordinary course of the partnerships' business, or (ii) his conflict of interest which arose out of his receipt of a commission from the sale of the "Parcel North" acres, including the 20.96 acres he transferred for \$1.00.

2. As the general partner of TP 119 and TP 123, defendant Ronald Rockhill had a duty to, among other things, maintain separate and accurate books, records, and accounts on behalf of the partnerships; manage and preserve the partnerships' assets; keep each of the limited partners informed of the business of, and transactions related to, the partnerships; and, generally, to manage and defend the partnerships' interests. Furthermore, the relationship between defendant Ronald Rockhill, as general partner, and the limited partners of each partnership was one that was fiduciary in nature such that he is accountable as a fiduciary.

3. Defendant Ronald Rockhill by his actions and omissions with respect to the management of the partnerships' business and by his defalcation of the partnerships' assets as set forth above acted willfully and wantonly and in gross abuse of his trust and fiduciary duty owed to the partnerships.

Accordingly, it is hereby ORDERED, ADJUDGED AND DECREED that

- a. With respect to Counts I and II of plaintiffs' complaint, defendant Ronald Rockhill and all persons, firms, and entities acting for or on behalf of defendant Ronald Rockhill or otherwise having notice are hereby ordered to immediately surrender all books and records of TP 119 and TP 123 which are in their possession, custody or control to plaintiffs;

- b. With respect to Counts V and VI, plaintiffs TP 119 and 123 shall have and recover from defendant Ronald Rockhill compensatory damages in the amount of \$250,359.32 for TP 119 and \$177,801.19 for TP 123.

Done this 20 day of November, 1990.

  
CIRCUIT JUDGE

COPIES TO:

Anne B. Stone  
Ronald L. Rockhill

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**SCHEDULE OF DAMAGES OF  
THOMPSON PROPERTIES 119 AA 370 LTD. AND THOMPSON  
PROPERTIES 123 AA 370 LTD.**

**A. THOMPSON PROPERTIES 119 AA 370 LTD:**

1. Unauthorized "Loans" to entities which appear on partnership's income tax returns as accounts receivable:

	<u>Principal Amount</u>	<u>Interest at 6%</u>	<u>Total Amount</u>
1979 "Loan" to Thompson Properties	\$3,704.00	\$2,444.64	<u>\$6,148.64</u>

2. Unauthorized "loans" and unearned "advance" commission and management fees to Ronald Rockhill, entities in which Ronald Rockhill has or had an interest, and relatives of Ronald Rockhill as reflected in the partnership's check register for the period from August 1979 until September 1986. (The amounts for each year have been adjusted to reflect Mr. Rockhill's \$1,500.00 for management fees per year until 1986 and for commission owed to him for the "Scotch Sale"):

<u>Year</u>	<u>Principal Amount</u>	<u>Interest at 6%</u>	<u>Total Amount</u>
1979	\$1,696.00	\$1,119.36	\$ 2,815.36
1980	4,400.00	2,640.00	7,040.00
1981	10,100.00	5,454.00	15,554.00
1982	1,500.00	720.00	2,220.00
1983	1,500.00	630.00	2,130.00
1984	1,600.00	576.00	2,176.00
1985	6,000.00	1,800.00	7,800.00
1986	---	---	---
1987	---	---	---
1988	---	---	---
1989 (56% of 18,500)	<u>10,360.00</u>	<u>621.60</u>	<u>10,981.60</u>
<b>TOTAL</b>	<u><b>\$37,156.00</b></u>	<u><b>\$13,560.96</b></u>	<u><b>\$50,716.96</b></u>

3. Increased property taxes were paid in tax year 1989 due to certain tax parcels of the property being sold for taxes in 1987 and, as a result, being placed in higher tax categories.

The partnerships had to pay property taxes of \$900.00 in 1989 for one parcel which would have been \$93.20 if not sold for taxes.

The partnerships had to pay property taxes of \$1,540 in 1989 for another parcel which would have been \$93.20 if not previously sold for taxes.

<u>Parcel No.</u>	<u>Total 1989 Tax "Penalty"</u>	<u>Interest at 6%</u>	<u>T.P. 119's Share (56%)</u>
093080002001001	\$ 806.80	\$ 48.41	\$ 478.92
093070002002	<u>1,446.80</u>	<u>86.81</u>	<u>858.82</u>
<b>TOTAL</b>	<u>\$2,253.60</u>	<u>\$135.22</u>	<u>\$1,337.74</u>

4. Value of 20.96 acres transferred by Ronald Rockhill for \$1.00 to Thompson and Franklin, owner of "Parcel North":

	<u>Total</u>	<u>T.P. 119's Share (56%)</u>
\$15,000/acre x 20.96 acres	\$314,400.00	<u>\$176,064.00</u>

5. Proceeds from condemnation of land adjacent to Highway 280 were held by partnership owning "Parcel North" from April 1979 until December 27, 1988, at which time \$18,303.00 was deposited in Thompson Properties 123 AA 370 Ltd.'s checking account. The records do not indicate that Ron Rockhill collected interest on this sum for the 10 year the sums were held.

<u>Principal</u>	<u>Interest at 6%</u>	<u>Total</u>	<u>T.P. 119's Share (56%)</u>
\$18,303.00	\$10,432.71	\$28,735.71	<u>\$16,091.98</u>

B. THOMPSON PROPERTIES 123 AA 370 LTD:

1. Unauthorized "Loans" to entities which appear on partnership's income tax returns as accounts receivable:

Not applicable



2. Unauthorized "Loans" and unearned "advance" commission and management fees to Ronald Rockhill, entities in which Ronald Rockhill has or had an interest, and relatives of Ronald Rockhill, as reflected in the partnership's check register for the period from September 1979 until March 1989. (The amounts for each year have been adjusted to reflect Mr. Rockhill's \$3,000.00 for management fees per year until 1986 and for commission owed to him for the "Scotch Sale");

<u>Year</u>	<u>Principal Amount</u>	<u>Interest at 6%</u>	<u>Total Amount</u>
1979	\$1,500.00	\$ 990.00	\$ 2,490.00
1980	3,000.00	1,800.00	4,800.00
1981	3,800.00	2,052.00	5,852.00
1982	(500.00)	---	(500.00)
1983	(500.00)	---	(500.00)
1984	(2,500.00)	---	(2,500.00)
1985	(2,500.00)	---	(2,500.00)
1986	---	---	---
1987	---	---	---
1988	---	---	---
1989 (44% of 18,500)	<u>8,140.00</u>	<u>488.40</u>	<u>8,628.40</u>
TOTAL	<u>\$10,440.00</u>	<u>\$ 5,330.40</u>	<u>\$15,770.40</u>

3. Increased property taxes paid in tax years 1989 due to property being sold for taxes in 1987 and, as a result, being placed in higher tax categories:

1. The partnerships had to pay property taxes of \$900.00 in 1989 for one parcel which would have been \$93.20 if not sold for taxes.

The partnerships had to pay property taxes of \$1,540 in 1989 for one parcel which would have been \$93.20 if not previously sold for taxes.



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<u>Parcel No.</u>	<u>Total Tax "Penalty"</u>	<u>Interest at 6%</u>	<u>T.P. 123's Share (44%)</u>
093080002001001	\$ 806.80	\$ 48.41	\$ 376.29
09307002002	<u>1,446.80</u>	<u>86.81</u>	<u>674.79</u>
<b>TOTAL</b>	<b>\$2,253.60</b>	<b>\$135.22</b>	<b>\$1,051.08</b>

4. Value of 20.96 acres transferred by Ronald Rockhill for \$1.00 to Thompson and Franklin, owner of "Parcel North":

	<u>Total</u>	<u>T.P. 123's Share (44%)</u>
\$15,000 acre x 10.96 acre	\$314,400.00	<u>\$138,336.00</u>

5. Proceeds from condemnation of land adjacent to Highway 280 were held by partnership owning "Parcel North" from April 1979 until December 27, 1988, at which time \$18,303.00 was deposited in Thompson Properties 123 AA 370 Ltd.'s checking account. The records do not indicate that Ron Rockhill collected interest on this sum for the 10 year the sums were held.

<u>Principal</u>	<u>Interest at 6%</u>	<u>Total</u>	<u>T.P. 119's Share (56%)</u>
\$18,303.00	\$10,432.71	\$28,735.71	<u>\$12,643.71</u>

C. TOTAL DAMAGES:

Thompson Properties 119 AA 370 Ltd.	<u>\$250,359.32</u>
Thompson Properties 123 AA 370 Ltd.	<u>\$177,801.19</u>
<b>TOTAL</b>	<b><u>\$428,160.51</u></b>

STATE OF ALA. JEFFERSON CO.  
I CERTIFY THIS INSTRUMENT  
WAS FILED ON

1991 JAN 17 PM 4:05

RECORDED & INDEXED  
DEED TAX HAS BEEN PAID ON THIS INSTRUMENT

*George R. Spiller*  
JUDGE OF PROBATE

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

91 MAR 21 PM 12:49

*James P. Jernigan*  
JUDGE OF PROBATE

1. Deed Tax ——— \$  
2. Mtg. Tax ——— \$  
3. Recording Fee ——— \$23.80  
4. Indexing Fee ——— \$3.80  
5. No Tax Fee ——— \$  
6. Certification Fee ——— 1.00  
**Total** ——— \$27.50

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