

3848

LEASE

This lease made this 7th day of April, 1953, by and between J. R. Lewis

Montevallo, Alabama, Lessor, and PAN-AM SOUTHERN CORPORATION, a Delaware corporation, with its principal office at 944 St. Charles Avenue, New Orleans 13, Louisiana, Lessee:

WITNESSETH:

1. The Lessor hereby demises and leases to the Lessee, its successors, sublessees and assigns, the following described premises situated in the City of Montevallo County of Shelby and State of Alabama, to-wit:

One Drive-In service station on that part of Lot No. Forty-Two (42) according to the original plan of Montevallo located in the northernmost corner of the block in which said lot is located, being further described as follows:

Beginning at the southwest intersection of Broad and Shelby Streets running thence in a southwesterly direction along the south margin of Broad Street, a distance of Fifty (50) feet, thence in a southeasterly direction perpendicular to Broad Street, a distance of Seventy-Two (72) feet, thence in a northeasterly direction, parallel with Broad Street a distance of Fifty (50) feet, to the southwest margin of Shelby Street and thence in a northwesterly direction along the southwest margin of Shelby Street Seventy-feet (70) to the point of beginning.

If the said premises are improved, this lease includes the building, fixtures, equipment, machinery and appliances owned or controlled by the Lessor and located thereon.

TO HAVE AND TO HOLD unto the Lessee for the term of five (5) years, commencing on the 1st day of July, 1953, and ending on the 30th day of June, 1958.

2. Lessee agrees to pay to the Lessor as rental for the above described premises, building, fixtures, equipment, machinery and appliances (if any be included) the amounts shown in Clause "A", Clause "B", Clause "C", or any combination thereof, as indicated below, inapplicable rental provisions having been stricken before the execution of this lease.

"A". Cash monthly rental of One Hundred Twenty-Five and No/100 Dollars (\$125.00) for each month of the term hereof.

"B". A sum equal to cent per gallon on all gasoline delivered to such service station for sale, during each monthly period of the lease.

"C". Cash monthly rental as provided for in Clause "A" and in addition thereto a gallonage rental equal to cent per gallon on each and every gallon of gasoline in excess of gallons delivered to such service station for sale during each monthly period of the lease.

All rental herein provided for shall be payable on or about the tenth day of the succeeding calendar month. All rental payments may be made by check delivered to Lessor or mailed to Lessor at the address herein shown.

3. In consideration of the foregoing, Lessor hereby sets over and assigns unto Lessee, Lessor's licenses, consents and permits to maintain and operate a gasoline filling station on the above described premises; such assignment to be effective only during the term of this lease, and all renewals and extensions thereof.

4. At the expiration or termination of this lease by lapse of time or otherwise, Lessee shall have and is hereby given the right at any time, within thirty (30) days after such termination, to enter upon and remove from said premises, any improvements or equipment heretofore or hereafter purchased or placed by it or by third persons acting under arrangements with it upon the leased premises.

5. Lessor will keep the building, the water pipes, drains and sewers appurtenant thereto and all of Lessor's equipment on the demised premises in good and sufficient condition and repair during the whole of the term hereof. Lessee shall have the right to paint the entire building but shall not be obliged to do so.

6. Lessee shall have the option of extending this lease as hereinafter provided, upon the same terms and conditions which were in effect during the original term. The period or periods of such extension shall be in accordance with either one of the following two clauses, the inapplicable clause having been stricken before the execution of this lease:

- I. A period of five (5) years from the expiration of the original term hereof.
II. A total of not more than successive periods of year each.

The rental to be paid by the Lessee during said extension period or periods shall be the sums shown in Clause "A", Clause "B", Clause "C", or any combination thereof as indicated below, inapplicable rental provisions having been stricken before the execution hereof:

"A". Cash monthly rental for each month of One Hundred Twenty-Five & No/100 Dollars (\$125.00).

"B". A sum equal to cent per gallon on all gasoline delivered to such service station for sale, during each monthly period of the lease.

"C". Cash monthly rental as provided for in Clause "A" and in addition thereto a gallonage rental equal to cent per gallon on each and every gallon of gasoline in excess of gallons delivered to such service station for sale during each monthly period.

Lessee shall give Lessor written notice of its intention to exercise its extension privilege at least thirty (30) days prior to the expiration of the original term hereof, and if said extension privilege is for successive periods of year each as provided in Clause II of this Paragraph 6, Lessee shall give Lessor a like written notice at least thirty (30) days prior to the expiration of the then current period, of its intention to extend this lease for and during the next succeeding period. Time and manner of making rental payments during any such extension shall be the same as provided for during the original term hereof.

7. Lessee shall have, and is hereby given the privilege of purchasing said premises, service station building, fixtures, equipment, machinery and appliances included in this lease at any time during the period of this lease, or any extension hereof, for the sum of Dollars (\$), by giving Lessor notice in writing of its election to exercise said option of purchase, and

wife of Lessor, joins in this option of purchase and agrees in event of the exercise of this said option of purchase by Lessee, to join said Lessor in the execution of a proper deed of conveyance, and Lessor agrees that if said option of purchase is exercised, he will convey a merchantable title to said real estate by good and sufficient

See Assignment in Deed Book 186 page 383

warranty deed, with release of dower, homestead or other rights of his wife, and free from all encumbrances whatsoever, and will furnish a satisfactory abstract showing merchantable title to said land in said Lessor, free from all liens and encumbrances, and certified to on the date of conveyance. The Lessee shall have a reasonable time after receipt of said abstract in which to complete an examination thereof, and if such examination discloses objections to the title, the Lessor shall have a reasonable time in which to cure such defects.

8. It is mutually agreed that if the leased premises are damaged by fire, storm, or from any other cause, such damage shall be repaired by the Lessor forthwith after the same occurs, and if the extent of any such damage is such as to render said premises untenable, the obligation of the Lessee to pay rent shall cease until the Lessor shall have replaced said premises in a tenable condition.

9. It is further mutually agreed that Lessor shall pay all taxes and assessments that may be levied against the above described premises and the building and equipment belonging to Lessor thereon, and Lessee shall pay all taxes that may be levied or assessed against the equipment owned by Lessee thereon.

10. If, in the sole judgment of Lessee, it appears likely that Lessee or any of its assignees or sublessees may be obliged to pay any license, privilege or excise tax because of its or their interest in or use of the premises hereby leased, Lessee may terminate this lease or any renewal or extension thereof by giving Lessor thirty (30) days written notice of its intention so to do.

11. Lessee shall have the privilege of using said premises for any purpose including, but not limited to, the operation of a gasoline service station, and for the sale of tires, tubes, and automobile accessories and any other commercial activity, and shall have the privilege of erecting on said premises or to make arrangements with third persons to erect thereon such buildings, driveways, curbing or other improvements or equipment as may be necessary or desirable for the proper use of said premises for the aforesaid purposes. In case Lessee shall be unable to obtain from the proper public authorities, municipal, state or otherwise any permit or license necessary for the operation of a gasoline service station upon said premises, or in case any such permit or license, if obtained, be afterward revoked without fault of Lessee, or should the use of said premises for any of the purposes stated above be restricted by the enactment of any state or municipal law or ordinance or by legal proceedings or by any federal government action in such manner as to make the operation thereof unprofitable, or if the use of said premises for any of the purposes stated above be restrained or enjoined by judicial process or otherwise, then Lessee shall have the right to terminate this lease by giving Lessor ten days written notice of its intention so to do, and shall thereupon be relieved from all liability hereunder. In the event Lessee is deprived of the use of said property as a gasoline service station, in whole or in part, or in the event the normal operation of said gasoline service station be curtailed, by reason of any federal, state or local government action, the Lessee shall be entitled to a proportionate diminution of all rentals due hereunder during such period of deprivation of use or curtailment of said operations.

12. It is further understood and agreed that all notices given under this lease shall be deemed to be properly given if delivered in writing personally, or sent by registered mail to the Lessor at the address herein shown, or to the Lessee at its principal office at 944 St. Charles Avenue in New Orleans 13, Louisiana. Date of giving of such notice by mail shall be the date on which such notice is deposited in a post office of the United States Post Office Department.

13. If the Lessor is not the owner of the demised premises and shall default in the payment of any rent due Lessor's landlord, Lessee may, at its option pay said rent to Lessor's landlord and the amount or amounts so paid shall be credited upon the rent herein reserved to the same extent as if said sum or sums had been paid to the Lessor. If at any time during the term hereof, Lessor shall be indebted to Lessee on any account whatsoever, Lessee shall have the right to apply accrued rental upon said unpaid indebtedness of Lessor, and Lessor agrees that the amount so applied shall constitute rental payment hereunder.

14. The Lessor hereby agrees to repair and improve the within described premises and service station according to plans and specifications agreed upon between Lessor and Lessee, at Lessor's sole expense and at a cost of approximately two thousand five hundred dollars (\$2500.00). It is further agreed that no rent shall be due under this lease until such repairs and improvements have been completed and the station is delivered ready for operation.

IN WITNESS WHEREOF, the said Lessor... hereunto set... his... hand... and seal..., and the said Lessee has caused this instrument to be executed as of the day and year first above written.

Witnesses: AS TO LESSOR: H. J. Sutter, M. S. Sutter

J. R. Lewis by Frances Lewis (Seal) Attorney in Fact Wife of Lessor

AS TO LESSEE: M. P. Evans, L. L. Bond, Jr.

PAN-AM SOUTHERN CORPORATION By J. P. Rollins General Manager of Sales Lessee

ACKNOWLEDGEMENT FOR LESSOR (INDIVIDUAL)

STATE OF Alabama COUNTY OF Shelby PARISH

SS.

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, Frances Lewis Givhan, Attorney in Fact for J. R. Lewis

and... his wife, personally known to me to be the party who executed the foregoing instrument, and acknowledged that... executed the same as... free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead; and the said... on a private examination before me, she being separate and apart from her said husband, acknowledged that she executed the same freely and voluntarily and without any compulsion, constraint, apprehension or fear of or from her said husband.

Given under my hand and notarial seal this 9th day of April, 1953 A. D.

Mary Lee Mahaffey NOTARY PUBLIC

My Commission expires Dec 6, 1955

CONSENT OF OWNER

The undersigned, owner in fee simple of the premises described in the within lease, hereby consents to the same and agrees to all the terms and conditions thereof and hereby specifically consents and agrees with said Pan-Am Southern Corporation that it may enter the hereinabove demised premises and remove therefrom any and all pumps, tanks and equipment placed thereon by the said Pan-Am Southern Corporation at any time within thirty (30) days after the expiration or prior termination of the undersigned's lease with the aforesaid Lessor. The undersigned further agrees that if the Lessor shall default in his obligation, either by the nonpayment of the rent reserved in his lease with the undersigned or otherwise, the undersigned will forthwith give to the said Pan-Am Southern Corporation written notice of such default, and the said Pan-Am Southern Corporation may, at its option, pay said rent or otherwise cure such default and will thereupon succeed to the rights of the Lessor in the demised premises to the same extent as if the Lessor had assigned his lease to the said Pan-Am Southern Corporation.

certify that the within... was filed in this office for record the 26 day of June 1953 at 4 o'clock P. M. and recorded in Deed Record 161 page 98 and examined 11-2-53 and the Mortgage Tax of \$... Deed Tax of \$ 650 has been paid.

Approved as to Form: Attorney for Pan-Am Southern Corporation

J. C. Walker Judge of Probate Fee \$ 250.00

Filed in the office of the Probate Judge on the 26 day of June 1953 at 4 o'clock P. M. and recorded in Deed Book 161 Page 98 this 2 day of July 1953. Deed Tax 650 Mortgage Tax has been paid. L.C. Walker Judge of Probate