


643  
MODIFICATION AGREEMENT

THIS AGREEMENT, made this 11th day of December, 1980, by and between Jackson Company, a corporation organized under the laws of the State of Delaware, party of the first part, hereinafter called Lender, and Glen P. Gainer and Tina S. Gainer, party or parties of the second part, hereinafter called Borrower, and Allen E. Willey and Carol H. Willey, party or parties of the third part, hereinafter called Purchaser.

  
19801216000142410 1/4 \$ .00  
Shelby Cnty Judge of Probate, AL  
12/16/1980 12:00:00 AM FILED/CERT

WITNESSETH THAT:

WHEREAS, Lender is the holder of that certain Note dated September 28, 1978, in the original principal amount of One Hundred Four Thousand and No/100 (\$104,000.00) Dollars, executed by Glen P. Gainer and Tina S. Gainer to Jackson Company, said Note having been duly endorsed to Lender, which Note is secured by that certain Mortgage of even date, given by Glen P. Gainer and Tina S. Gainer to Jackson Company and recorded in Volume 383, Page 729, in the Probate Office of Shelby County, Alabama.

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

BOOK 38 PAGE 726

**Jackson Company**  
**250 Office Park Dr.**  
**Birmingham, Alabama 35253**

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 Half (9 ½%) percent per annum to Twelve (12%) percent per annum.

WHEREAS, the parties hereto desire to modify the terms of said Note accordingly:

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 Half (9 ½%) percent per annum to Twelve (12%) percent per annum.
2. The monthly payment of principal and interest required to amortize the unpaid balance is changed to One Thousand Sixty-Three and 32/100 (\$1,063.32) Dollars beginning with the installment due the first day of February, 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 One Hundred Two Thousand Five Hundred Twenty-Five and 23/100 (\$102,525.23) Dollars.
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

BOOK 38 PAGE 727




19801216000142410 2/4 \$ .00  
Shelby Cnty Judge of Probate, AL  
12/16/1980 12:00:00 AM FILED/CERT

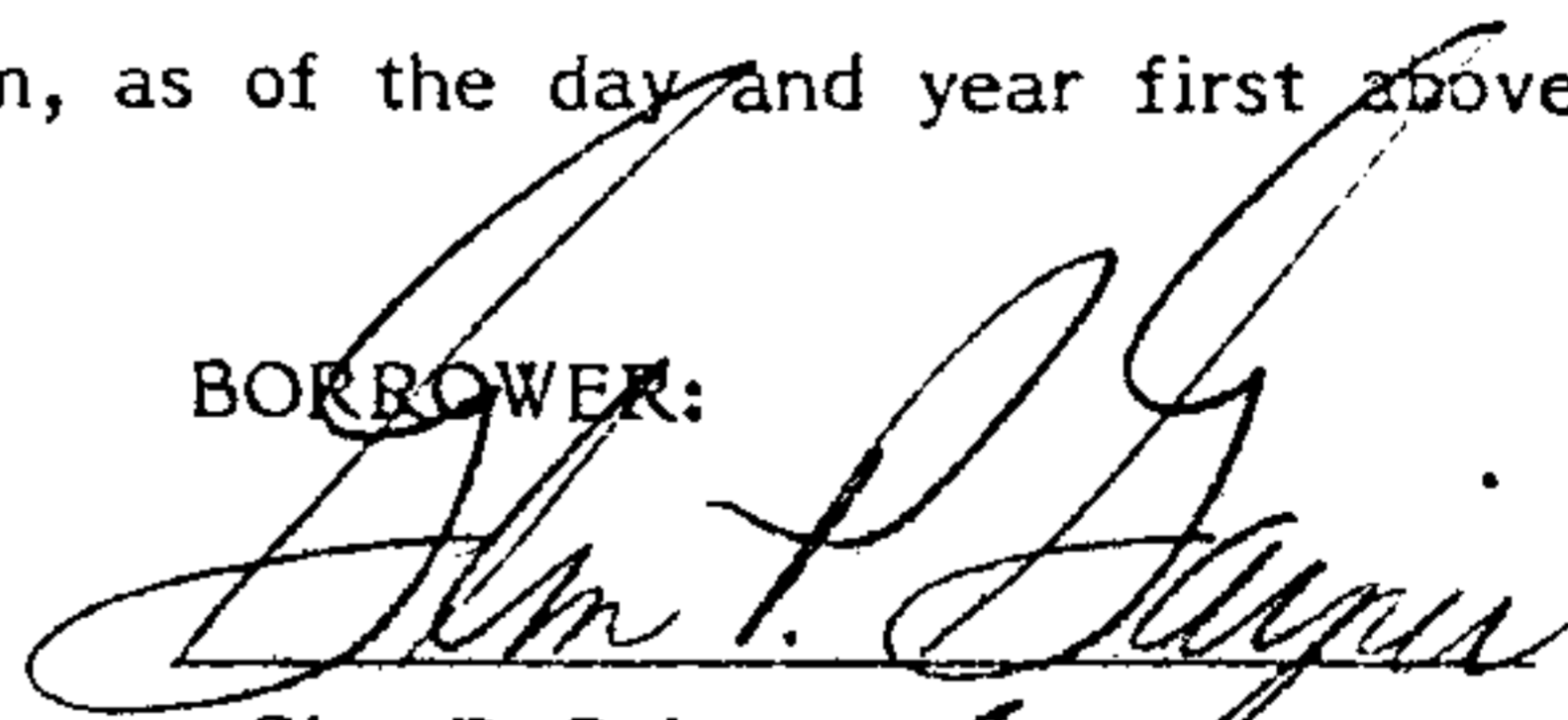
agreement, or other instrument evidencing the indebtedness herein referred to, and to include such instrument, whether originally made and delivered to Mortgagee, or assigned and/or endorsed to Mortgagee; and the word "mortgage" shall be construed to mean mortgage, deed of trust, loan deed or other instrument 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.

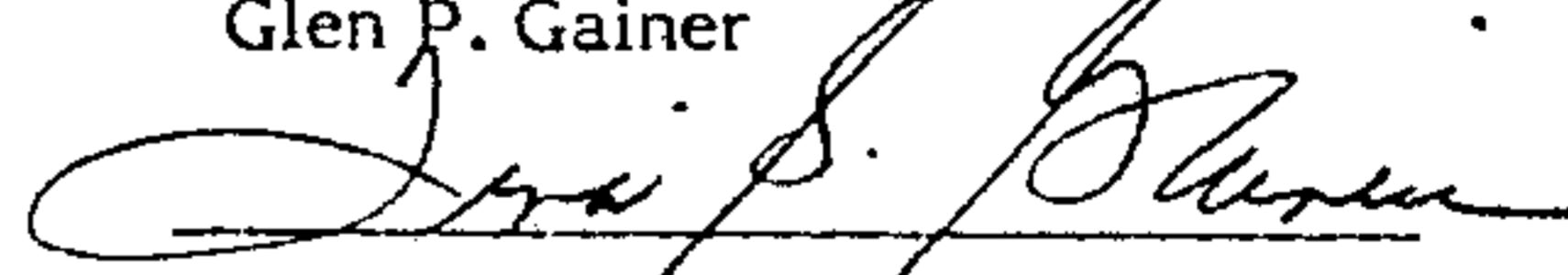
IN WITNESS WHEREOF, This instrument has been executed by the parties hereto in manner and form sufficient, to bind them, as of the day and year first above written.

  
19801216000142410 3/4 \$ .00  
Shelby Cnty Judge of Probate, AL  
12/16/1980 12:00:00 AM FILED/CERT

BORROWER:

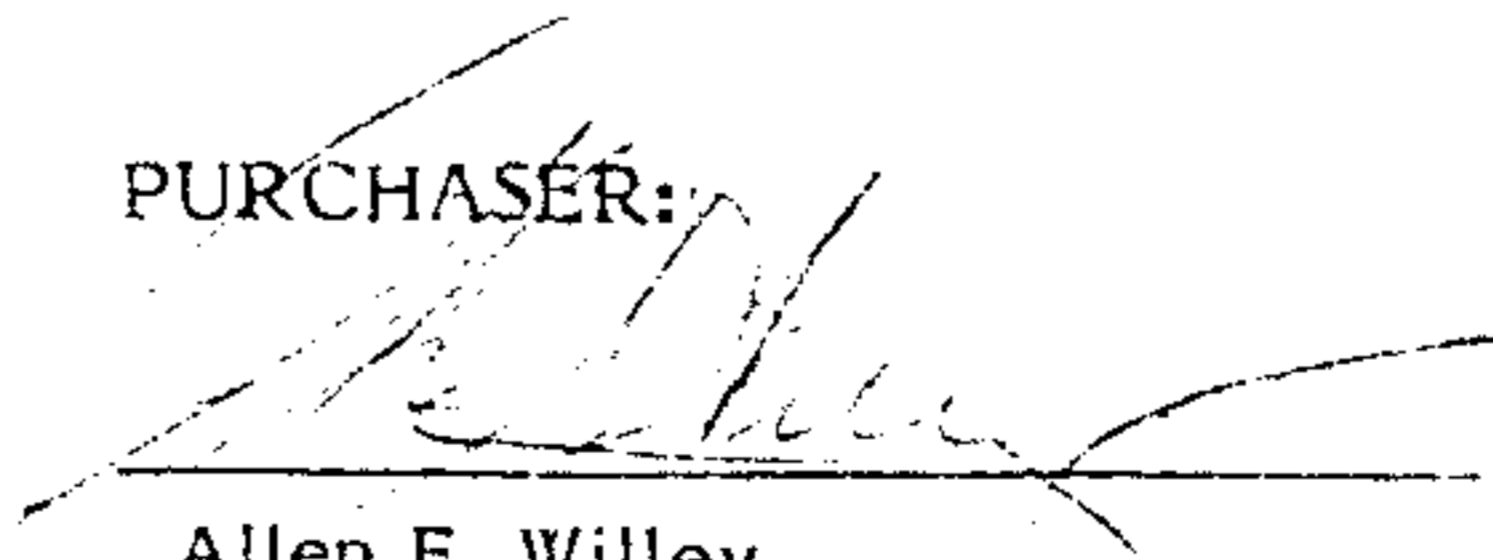


Glen P. Gainer

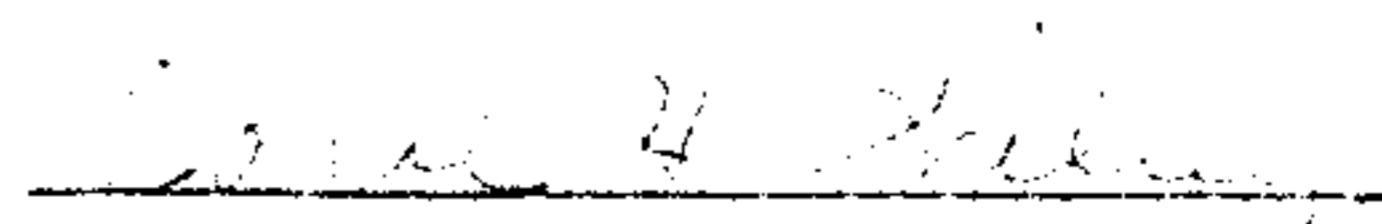


Tina S. Gainer

PURCHASER:



Allen E. Willey



Carol H. Willey

LENDER:

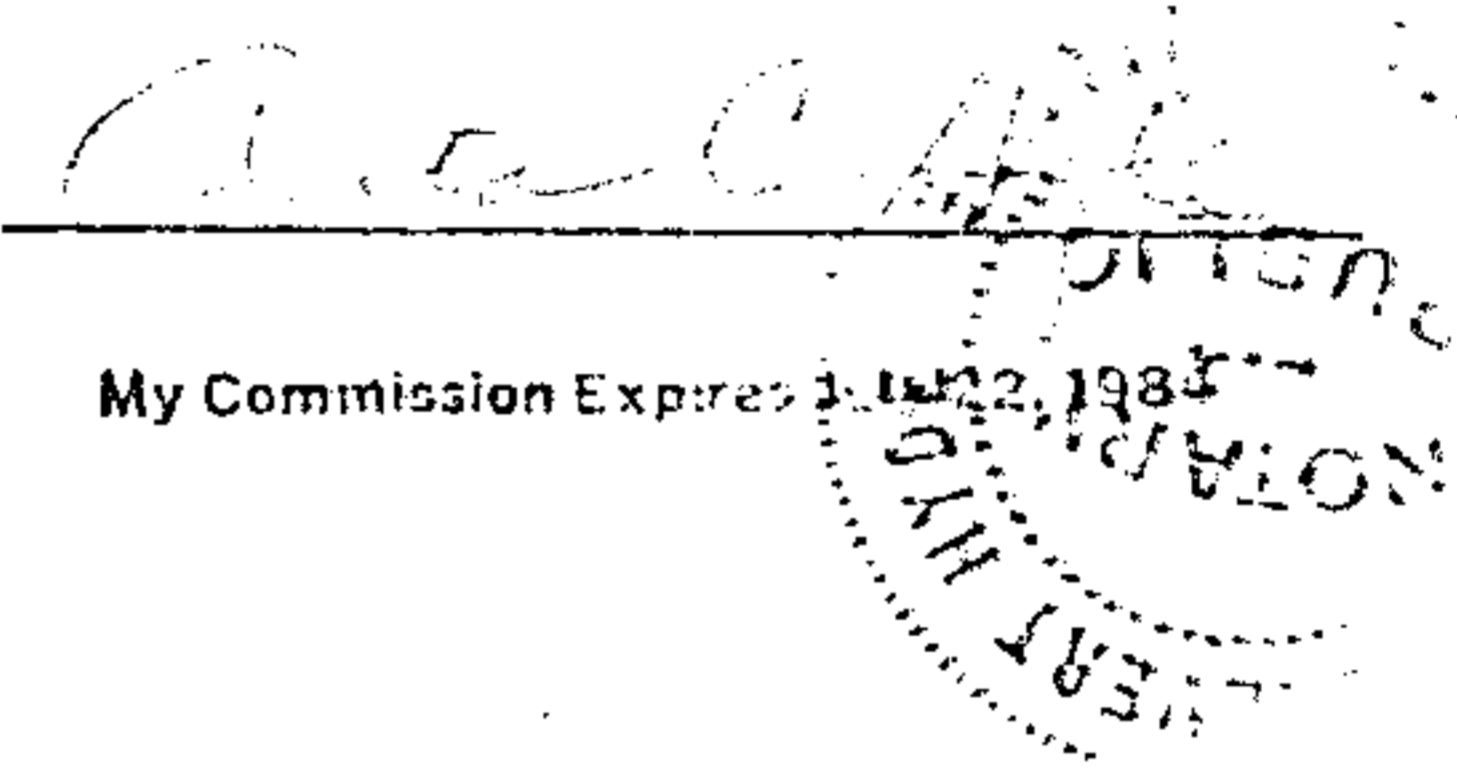
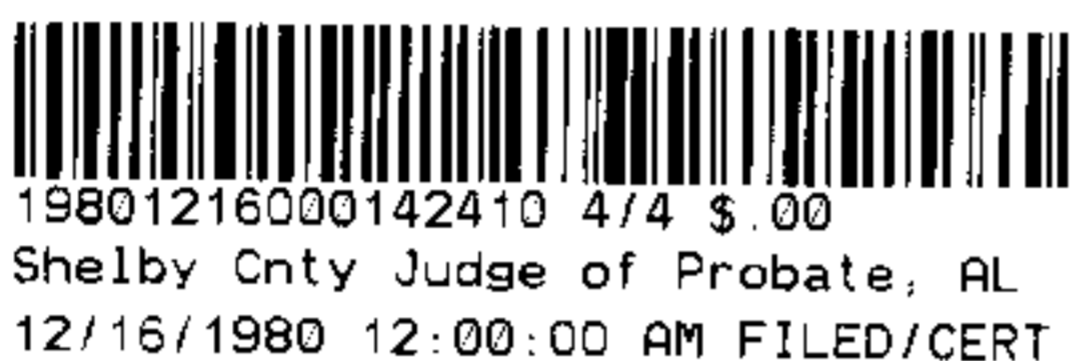
Jackson Company

By: *Robert E. Johnson*  
Its Vice President

STATE OF ALABAMA )  
SHELBY COUNTY )

I, the undersigned a Notary Public in and for said State and County, hereby certify that Glen P. Gainer and wife Tina S. Gainer, 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 12 day of December, 1980.



BOOK 38 PAGE 729

STATE OF ALABAMA )  
SHELBY COUNTY )

I, the undersigned a Notary Public in and for said State and County, hereby certify that Allen E. Willey and wife Carol H. Willey, 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 12 day of December, 1980.

*Robert E. Johnson*  
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 \_\_\_\_\_ whose name as Vice President of Jackson Company, a corporation organized under the laws of the State of Delaware, 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 \_\_\_\_\_ day of December, 1980.

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS INSTRUMENT WAS FILED  
1980 DEC 16 AM 10:46  
*Thomas A. [Signature]*  
NOTARY PUBLIC  
Rec. 6.00  
Arch. 1.00  
7.00

*[Signature]*  
Notary Public