

LIMITED RELEASE AND COVENANT NOT TO SUE

KEN MITCHELL BUILDERS, INC., an Alabama corporation, (hereinafter referred to as "Mitchell") has filed certain notices of mechanics' and materialmen's liens on property presently owned by RUSSELL ROZOF and KATHY ROZOF (hereinafter collectively referred to as "Rozof"), and has made certain claims against said property in Civil Action No. CV-85-2795, in the Circuit Court of Jefferson County, Alabama. Mitchell's claims and liens as referred to above arise out of work, labor and materials furnished by Mitchell at the request of Chambers, King & Meade, Inc., an Alabama corporation, its agents, employees, representatives, successors in interest, predecessors in interest, or affiliate companies (all collectively hereinafter referred to as "CKM") for which Mitchell has not been paid. The property presently owned by Rozof was previously owned by CKM and is the basis of the mechanics' and materialmen's liens previously filed by Mitchell and the basis of claims made in Civil Action No. CV-85-2795.

Rozof does represent and warrant to Mitchell that they did purchase the property presently owned by them and made the basis of Mitchell's claim from CKM for good and valuable consideration which purchase was evidenced by a warranty deed executed by CKM where CKM did represent and warrant that the property was free and clear of any and all liens or encumbrances and did agree to defend the same against any claims of any and all persons, firms or corporation. Rozof did rely upon CKM's representations as set out above and paid to CKM the consideration made the basis of the warranty deed, Rozof did purchase said property without any knowledge, direct, indirect, constructive or otherwise, of any claims whatsoever by Mitchell for work, labor and materials furnished on the aforesaid property and was without any knowledge that CKM had had any past or present dealings with Mitchell or that CKM was in any way indebted or owed any money to Mitchell.

Mitchell has been contacted by representatives of Rozof requesting that the previously filed mechanics' liens against their property and claims asserted in Civil Action No. CV-85-2795, be dismissed due to the fact that Rozof had no previous knowledge or any dealings, involvement or relationship with CKM, did not know, at the time of the purchase of the subject property, that CKM was indebted to or owed Mitchell for any monies or for any work, labor or materials furnished on the property purchased by Rozof from CKM or that Mitchell had expend any monies on the subject property

Phillip J. Sarris

purchased by Rozof from CKM and was not aware of any claims which Mitchell might have against CKM for work, labor and materials furnished on the property purchased by Rozof from CKM. Rozof further represents that all monies made the basis of the consideration of the conveyance from CKM to Rozof have been paid in full and at the present time that no monies are owed by Rozof to CKM.

BY REASON OF THE FOREGOING RECITALS, the representations made by Rozof that they had no knowledge of any previous dealings between Mitchell and CKM, the fact that Rozof has paid all monies due to CKM, that CKM did represent that no monies were owed for work, labor or materials provided for the property to be purchased by Rozof, and as a convenience and accomodation to Rozof, Mitchell agrees as follows:

1. That in consideration of Rozof paying to Mitchell the sum of Ten & No/100 Dollars (\$10.00) and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, and other good and valuable consideration, Mitchell does agree to release and does hereby release with prejudice Rozof and SouthTrust Bank from any and all claims for mechanics' and materialmen's liens previously filed heretofore on the subject property purchased by Rozof from CKM as evidenced by that certain mechanics' lien verified statement as filed at Real Book 26, page 831, which pertains to property owned by Russell G. Rozof known as Lot 40, Meadow Brook, 11th Sector, as recorded in Map Book 9, Page 6A and B, in the office of the Judge of Probate of Shelby County, Alabama, and does dismiss Rozof as a party defendant in Civil Action No. CV-85-2795, with prejudice.

2. That it is specifically understood and agreed that a material consideration for the execution of this limited release and covenant not to sue by Mitchell to Rozof is that Rozof has represented and warranted at the time of the execution of this release that they had no knowledge, direct, indirect, constructive or otherwise, of any monies owed by CKM to Mitchell prior to the date of the conveyance between CKM to Rozof; Rozof further has represented that he is not indebted in any way, directly or indirectly, to CKM for any part of the consideration made the basis of the conveyance from CKM to Rozof.

3. That Rozof does, at the time of the execution of this covenant not to sue, represent that Rozof had no knowledge of any past representations made by CKM to Mitchell concerning the allegations set out in any mechanics' or materialmen's liens previously filed by Mitchell or any and all other matters, directly or indirectly, arising out of claims made the basis of Civil Action No. CV-85-2795.

4. That it is specifically understood and agreed that this document does not release any claim, demands, actions, causes of actions, rights of appeal, materialmen's or mechanics' liens or any and all other rights which Mitchell has

now, whether known or unknown, anticipated or unanticipated, which Mitchell may have in the future, whether known or unknown, anticipated or unanticipated, against any and all third parties other than Rozof, which is to include but not be limited to CKM or for any and all materialmen's or mechanics' liens that have been or may be filed by Mitchell or claims or actions otherwise alleged in Civil Action No. CV-85-2795, or any and all other actions that might be proper in any other jurisdiction, which parties' names are known or unknown arising out of any work, labor or materials or monies expended or provided by Mitchell.

5. That neither Mitchell nor Rozof admits any liability by the execution of this agreement or the payment of any monies referred to hereinabove and that said payment is made as a settlement between Mitchell and Rozof only in compromise and is made to terminate further controversy concerning Rozof and their property, and so as to prevent any further inconvenience, expense or trouble associated with said claims between Mitchell and CKM for Rozof and so as to accommodate and convenience Rozof considering their lack of knowledge of any dealings between CKM and Mitchell and considering that CKM did represent and warrant by the execution of a warranty deed that no monies were owed by CKM to any third parties at the time of the conveyance of the property and the payment of monies by Rozof to CKM.

6. That it is understood and agreed that a material basis and consideration for the execution of this covenant not to sue by Mitchell is that Rozof has represented that they had no previous knowledge of any dealings or monies owned by CKM to Mitchell and that Rozof was in effect by his lack of knowledge or ignorance, an innocent party without any prior notice, knowledge, direct, constructive or otherwise, of any dealings between Mitchell and CKM prior to the time Rozof purchased the property from CKM, prior to the filing of the liens referred to above and Civil Action No. CV-85-2795; it is further agreed that this limited release and covenant not to sue is made as an accommodation and convenience to Rozof and is not to be construed in any way of releasing any and all claims which Mitchell might have against CKM or any and all other third parties relating to any work, labor and materials furnished by Mitchell at the request of CKM or for any monies owed by CKM to Mitchell.

7. That it is further understood and agreed that as a further material consideration for the execution of this covenant not to sue that Rozof agrees to execute a general release releasing Mitchell from any and all claims or causes of action arising out of any previously filed materialmen's

or mechanics' liens or arising out of any matters which directly or indirectly relate to any matters alleged in Civil Action No. CV-85-2795 or which could have been alleged or contended in said civil action; further that the execution of this limited release and covenant not to sue is made in conjunction with the execution of the general release referred to above, a copy of which is attached hereto as Exhibit "A" and made a part hereof, and is a full and final resolution of all controversies or claims arising between Mitchell and Rozof, whether such claims or causes of action are known or unknown at the time of the execution of this Agreement; that the execution of the limited release and exhibit is in full and final settlement of any and all matters or controversies, directly or indirectly, which related to any and all previously filed mechanics' and materialmen's liens and any and all matters which have been or could have been alleged or which do or could have arisen out of the matters alleged in Civil Action No. CV-85-2795.

All parties hereto mutually understand and agree that they have read carefully the foregoing release and general release attached hereto and that they each know and understand the contents of said release and that they have executed the same of their own free will and deed this the 25th day of July, 1985.

KEN MITCHELL BUILDERS, INC. and
KEN MITCHELL, Individually

By

Ken Mitchell
Ken Mitchell, Its President
and Ken Mitchell, Individually

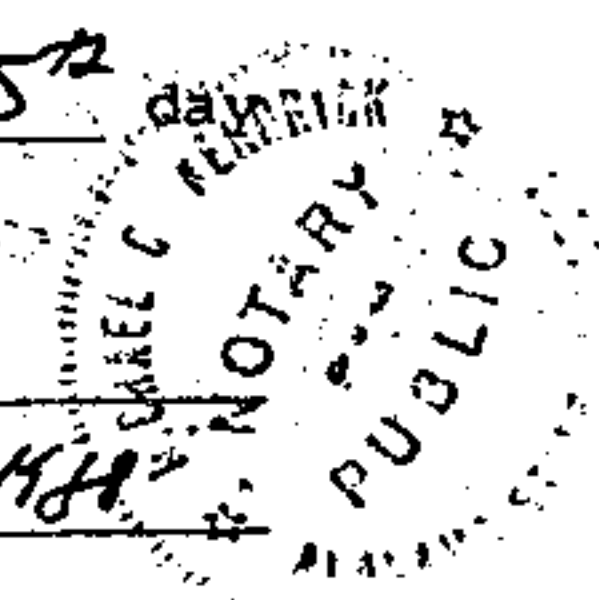
STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that KEN MITCHELL, whose name as President of KEN MITCHELL BUILDERS, INC., a corporation, 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 said 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 seal of office, this 25th day of July, 1985.

Michael O. Kuchak
Notary Public

My Commission Expires: June 1989



THE ABOVE HAS BEEN REVIEWED AND EXAMINED BY RUSSELL ROZOF AND KATHY ROZOF, THAT ALL REPRESENTATIONS AND ALLEGATIONS SET OUT ABOVE ARE TRUE AND CORRECT AND THAT IT IS THE INTENT OF RUSSELL ROZOF AND KATHY ROZOF THAT THEY BE BOUND BY THIS AGREEMENT AND THE GENERAL RELEASE ATTACHED HERETO. THE UNDERSIGNED STATE THAT THE REAL ESTATE IN QUESTION IS OWNED BY RUSSELL ROZOF AND THAT THE EXECUTION OF THIS AGREEMENT DOES NOT IN ANY WAY PROHIBIT OR LIMIT THE ROZOFs FROM ANY CLAIM THEY MIGHT HAVE AGAINST ANY OTHER PERSON, FIRM, CORPORATION OR LEGAL ENTITY OTHER THAN KEN MITCHELL AND KEN MITCHELL BUILDERS, INC.

Russell Rozof
RUSSELL ROZOF

Kathy Rozof
KATHY ROZOF

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Russell Rozof and Kathy Rozof, whose names are signed to the foregoing, and who are known to me, acknowledged before me on this day, that being informed of the contents of said instrument, they executed the same voluntarily.

Given under my hand and seal of office, this 24th day of July, 1985.

Barbara Whitsett
Notary Public
My Commission Expires: 10-7-86

BARBARA WHITSETT
Notary Public, Alabama State at Large
My Commission Expires October 7, 1986

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EXHIBIT "A"

R E L E A S E

STATE OF ALABAMA)

JEFFERSON COUNTY)

KNOW ALL MEN BY THESE PRESENTS, that in consideration of the payment by KEN MITCHELL BUILDERS, INC., to the undersigned of the sum of Ten & No/100 Dollars (\$10.00), and the undersigned being dismissed with prejudice as a party defendant in Civil Action No. CV-85-2795, in the Circuit Court of Jefferson County, Alabama, and the release of any and all mechanics' liens filed by KEN MITCHELL or KEN MITCHELL BUILDERS, INC., against the property of the undersigned, the receipt and sufficiency of which is hereby acknowledged, we, RUSSELL ROZOF and KATHY ROZOF, lawful citizens of the State of Alabama, and SOUTHTRUST BANK, a banking corporation, do hereby completely release, remise and forever discharge the said KEN MITCHELL and KEN MITCHELL BUILDERS, INC., of and from any and all claims, demands, causes of actions, liabilities, damages, expenses, and suits of every kind and nature, whether known or unknown at this time, which we may now have or may hereafter have resulting from, predicated upon or arising out of the filing of any and all notice of an affidavit of mechanics' or materialmen's liens, and all matters relating, directly or indirectly, or arising out of any claims alleged or which could have been alleged in Civil Action No. CV-85-2795, in the Circuit Court of Jefferson County, Alabama, and any and all matters and things which transpired thereafter and up to the date hereof, or resulting or arising out of the filing of any and all mechanics' or materialmen's liens, and all matters relating directly or indirectly or arising out of any claims alleged in Civil Action No. CV-85-2795, in the Circuit Court of Jefferson County, Alabama, resulting or arising out of any act(s), omission(s), or representation(s) occurring or failing to occur up to the date hereof.

The undersigned hereby declares that they are the owners (except that Kathy Rozof states that she makes no claim as a title holder to the subject property and SouthTrust is only a mortgage holder) of the property made the basis of a mechanics' or materialmen's lien previously filed by KEN MITCHELL BUILDERS, INC., and made the basis of Civil Action No. CV-85-2795, and that no other parties, firms or corporations have any interest in said property since the time of the filing of said mechanics' or materialmen's lien or since the time of the filing of Civil Action No. CV-85-2795,

or any claims made by KEN MITCHELL BUILDERS, INC. against said property except for the interest arising from a construction loan issued to ROZOF by SOUTHTRUST BANK, and that they have not heretofore assigned to any person or party all or any portion of any claim that they have or may have had on account of the transactions set forth above. That no representations about the degree or extent of any claim made by any attorney or agent of any party hereby released has induced them to make this release; and the undersigned is acting upon their own judgment, belief and knowledge of the nature and extent of their claims. The execution of this release does not limit or prohibit in any way the undersigned being able to make claim against any other person, firm, corporation or legal entity other than Ken Mitchell and Ken Mitchell Builders, Inc. for any damages they might have with reference to this matter.

IN WITNESS WHEREOF, the undersigned has executed this release on this the 24th day of July, 1985.

Russell Rozof
RUSSELL ROZOF

Kathy Rozof
KATHY ROZOF

SOUTHTRUST BANK

By W. Larry Warren 7/25/85
Its Vice President

APPROVED:

Phillip J. Lantz 7/25/85

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
1985 JUL 31 AM 9:55

RECORDING FEES
Recording Fee \$ 17.50
Index Fee 1.00
TOTAL \$ 18.50

Thomas A. Snowden, Jr.
JUDGE OF PROBATE

THIS INSTRUMENT PREPARED BY: MICHAEL G. KENDRICK, Attorney at Law
1507 City Federal Bldg., Birmingham,
AL 35203

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