

STATE OF ALABAMA )  
SHELBY COUNTY )

1435

AMENDED PARTIAL SATISFACTION OF JUDGMENT

Comes now the Plaintiff S. M. BIRD, JR. individually, and d/b/a BIRD BUILDING MATERIAL COMPANY by and through WADE H. MORTON, JR., Attorney at Law, Attorney of Record for said Plaintiff, and hereby amends or updates the Partial Satisfaction Judgment dated April 27, 1982 and recorded in Miscellaneous Book 44, at Page 869, in the Office of the Judge of Probate of Shelby County, Alabama, by annexing hereto as Exhibit "A" the final order entered on February 8, 1988 in the United States Bankruptcy Court adjudicating Plaintiff's Adversary Complaint in favor of Defendant/Judgment Debtor JOHNNY WILLIAM O'GRADY, JR. Thus, the Certificate of Judgment dated October 26, 1979 and recorded in Judgment Book 0, at Page 952, in said Probate Records, reflecting the judgment in favor of Plaintiff and against JOHNNY WILLIAM O'GRADY, JR. is satisfied in full by operation of law in connection with said Judgment Debtor's Chapter 7 proceedings in the United States Bankruptcy Court.

DONE this 22nd day of February, 1988.

WADE H. MORTON, JR.  
ATTORNEY AT LAW  
POST OFFICE BOX 1227  
COLUMBIANA, ALABAMA 35051-1227  
TELEPHONE: 205/669-4147

WADE H. MORTON, JR.

*Wade H. Morton, Jr.*  
\_\_\_\_\_  
Attorney for Plaintiff

STATE OF ALABAMA )  
SHELBY COUNTY )

I, the undersigned Notary Public in and for said County and State, hereby certify that Wade H. Morton, Jr., whose name as Attorney of Record for the Plaintiff is signed to the foregoing instrument, acknowledged before me on this date that, being informed of the contents of this instrument, he, as such attorney, executed the same voluntarily for and as the act of said Plaintiff.

Given under my hand and official seal on this 22nd day of February, 1988.

*Walter M. Morton*  
\_\_\_\_\_  
Notary Public

RETURN TO: Wade H. Morton, Jr.

BOOK 172 PAGE 323

IN THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

In the Matter of

JOHNNY WILLIAM O'GRADY, JR.,

Debtor.

CASE NO. AP 80 0524

BK 80 1775

S.M. BIRD, JR., Individually, and  
d/b/a BIRD BUILDING MATERIAL COMPANY,

Plaintiff,

vs.

JOHNNY WILLIAM O'GRADY, JR.;  
LINDA L. O'GRADY; GEORGE F. SEIER;  
PAGE SEIER; FIRST FEDERAL SAVINGS &  
LOAN ASSOCIATION OF BESSEMER, et al,

Defendants.

**FILED**

FEB 8 1988

STEPHEN B. COLEMAN  
BANKRUPTCY JUDGE

**ORDER**

This is an action to recover a deficiency after execution of judgment enforcing mechanics' liens.

This Adversary Proceeding was begun by Complaint charging fraud and deceit in the construction of a barn on a portion of Defendant's land that was encumbered. The Complaint also charged that the Debtor/Defendant contracted to construct the barn on the un-encumbered portion of his property and that Defendant did so, willfully, with intent to defraud the Plaintiff.

Upon the trial of this matter, Plaintiff offered the testimony of the Debtor, Johnny William O'Grady, Jr. and the testimony of Richard Harliss, who was the Agent and Credit Manager for twenty (20) years, and the principal with whom the Defendant dealt.

The Plaintiff was wholly unable to produce any evidence of fraud, willful intent to fraud, or deceit on the part of the Defendant. From the testimony offered, Debtor owned the entire tract, part of which had been left unencumbered so that the Defendant could finance construction on a plot of approximately 3½ acres. There was

Exhibit "A"

absolutely no evidence that Defendant ever represented or bound himself to place the barn on the encumbered tract.

Plaintiff's own witnesses testified that there was no such representation and no promise to this effect. In fact, the testimony is that it was not discussed.

**THE COURT, THEREFORE, FINDS that the Plaintiff has wholly failed to support the burden of proof and the Complaint is, accordingly, DISMISSED and the case closed. Judgment is for the Defendant.**

**DONE AND ORDERED** this 8th day of February, 1988.

  
Stephen B. Coleman  
United States Bankruptcy Judge

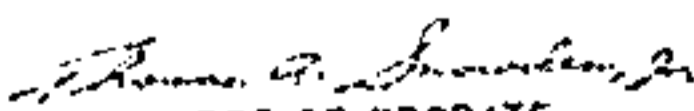
SBC/wa

xc: Debtor/Defendant  
G. W. Nicholson, Attorney  
Hilton Tomlinson, Attorney  
Mark H. Friedman, Attorney  
John F. Whitaker, Attorney  
J. Dan Taylor, Attorney  
Earl D. Hendon, Attorney  
Wade H. Morton, Jr., Attorney  
Roy J. Brown, Attorney

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

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JUDGE OF PROBATE

**RECORDING FEES**

|               |                |
|---------------|----------------|
| Recording Fee | \$ 7.50        |
| Index Fee     | 2.00           |
| <b>TOTAL</b>  | <b>\$ 9.50</b> |