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IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

JACK B. McNAMEE,

PLAINTIFF,

VS.

WILLIAM DAVID NICHOLS,
CARL NICHOLS, and WILLIAM R.
HILL, JR., d/b/a NICHOLS & HILL
CONSTRUCTION, WILLIAM DAVID
NICHOLS, CARL NICHOLS and WILLIAM
R. HILL, JR., NICHOLS & HILL
CONSTRUCTION, COMPANY, INC.,

DEFENDANTS.

CIVIL ACTION NO: CV88 4769

FILED IN OFFICE

AUG 2 1988

POLLY CONRADI
CLERK OF CIRCUIT COURT
JEFFERSON COUNTY, AL.

COMPLAINT
COUNT ONE

1. The plaintiff, JACK B. MCNAMEE, is an individual residing in Birmingham, Jefferson County, Alabama.

2. The defendants, WILLIAM DAVID NICHOLS, CARL NICHOLS, and WILLIAM R. HILL, JR., d/b/a NICHOLS & HILL CONSTRUCTION, WILLIAM DAVID NICHOLS, individually, CARL NICHOLS, individually, and WILLIAM R. HILL, JR., individually, are the proprietors, owners and operators of the entity known as NICHOLS & HILL CONSTRUCTION. NICHOLS AND HILL CONSTRUCTION COMPANY, INC., is an Alabama corporation.

3. In October, 1986, in Birmingham, Jefferson County, Alabama, the defendant, WILLIAM DAVID NICHOLS, in his own behalf and acting as agent, servant and employee of the co-defendants, approached the plaintiff with regard to the plaintiff's purchase of one or more condominium units in a condominium project to be built by the defendants in Shelby County, Alabama. The

Jack B. McNamee
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defendant, WILLIAM DAVID NICHOLS, represented that the defendants would begin construction no later than March of 1987 and would be completed no later than July of 1987. It was further represented by the defendant, WILLIAM DAVID NICHOLS, that all financing for the purchase of said condominiums would be handled by the defendants. It was represented to the plaintiff that each of the condominium units could be purchased for a down payment of Two Thousand Dollars (\$2,000.00) per condominium unit. The defendant, WILLIAM DAVID NICHOLS, further represented that it was yet to be determined which particular units would actually be purchased, but that by paying Two Thousand Dollars (\$2,000.00) for each condominium unit the plaintiff would be assured of buying units in the first phase of construction.

Based upon the representations made by the defendant, WILLIAM DAVID NICHOLS, the plaintiff, on October 31, 1986, paid to the defendants the sum of Twelve Thousand Dollars (\$12,000.00) which sum represented a down payment on six condominium units.

4. The representation that the construction project would begin in March and that the units would be completed in July of 1987 was false. In January, 1988 the condominium units lacked substantial completion. At said time the defendants came to the plaintiff and represented to the plaintiff that although construction was running behind that the units would be ready by mid-spring of 1988. At that time the defendants also represented to the plaintiff that the plaintiff would be purchasing five condominium units at the present and that the sixth condominium

unit would be available in the second phase of construction. The five units to be purchased were specifically identified by the defendants. Additionally, the defendants represented to the plaintiff that it was necessary for the plaintiff to sign new contracts with the defendant, NICHOLS AND HILL CONSTRUCTION COMPANY, INC., for the purchase of the units and further that it was necessary to sign an Addendum to the Contract for purchase of the additional units. The defendants represented that the contracts were necessary in order for the defendants to obtain the financing of the units.

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5. In May, 1988, the condominium units purchased by the plaintiff were not completed. Also, in May, 1988, the defendants advised the plaintiff that the financing which was to have been available was in fact not available and that if the plaintiff desired to purchase the units he would have to obtain additional financing. Further, the plaintiff ascertained that the specific condominium units which the plaintiff had purchased were in fact being negotiated to be sold or in fact were sold to other parties.

6. The representations made by the defendants were false and as a result of their false representations the defendants induced the plaintiff to pay to them the sum of Twelve Thousand Dollars (\$12,000.00). As a proximate result of said fraudulent representation, the plaintiff has been caused to lose the sum of Twelve Thousand Dollars (\$12,000.00), and the use of said Twelve Thousand Dollars (\$12,000.00) since October of 1986.

WHEREFORE, the plaintiff demands compensatory and punitive damages against the defendants in the sum of Five Hundred Thousand Dollars (\$500,000.00) and costs.


K. Stephen Jackson,
Attorney for Plaintiff

OF COUNSEL:

2140 11th Avenue, South
Suite 305
Birmingham, AL 35205
Telephone No: 933-1242

Plaintiff hereby demands a trial by struck jury on all issues and demands in this cause.


OF COUNSEL

Plaintiff's Address:

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Please serve defendants at:

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STATE OF ALA. SHELLEY
I CERTIFY THIS
INSTRUMENT WAS FILED

88 AUG -5 AM 8:44

Thomas G. Shanderson
JUDGE OF PROBATE

RECORDING FEES	
Recording Fee	\$ <u>12.50</u>
tax Fee	<u>3.00</u>
TOTAL	<u>15.50</u>