

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

IN RE:

THOMAS N. APPLETON, SR.,
DEBTOR.

CASE NO. 91-04947-RCF-7
CHAPTER 7

TRUSTEE DEED

This indenture, made this the 23rd day of March, 1992, by and between Max C. Pope, as Trustee of the bankruptcy estate of the above named Debtor, Thomas H. Appleton, Sr., Party of the First Part, and Michael Anderson and Holly O. Anderson, husband and wife, Parties of the Second Part,

WITNESSETH THAT

WHEREAS, on, to-wit, July 2, 1991, a voluntary petition was filed by the above named Debtor in the United States Bankruptcy Court for the Northern District of Alabama, Southern Division, Case No. 91-04947, under Chapter 7, and,

WHEREAS, on, to-wit, July 18, 1991, the Party of the First Part was duly appointed Trustee of said estate, that he qualified as such Trustee and entered into proper bond, and that the Party of the First Part has continued to act and is now acting and serving as such Trustee, and,

WHEREAS, said Party of the First Part did heretofore petition said Court for the right to sell to the Parties of the Second Part free and clear of all liens and encumbrances, except for certain exceptions, the bankruptcy estate's undivided one-half interest in the below described realty and all improvements situated thereon, all of said realty and all improvements, to include the bankruptcy

\$120,000.00 of the purchase price (\$180,500.00) recited herein was paid by a mortgage loan closed simultaneously herewith.

400 PAGE 221

Spain Gillon

estate's undivided one-half interest, to be sold at and for the sum of \$361,000.00 cash, and,

WHEREAS, said Court did ratify and confirm the sale of the bankruptcy estate's undivided one-half interest in the real property on the terms and conditions set out herein on, to-wit, March 9, 1992.

NOW THEREFORE, the Party of the First Part, Max C. Pope, as Trustee of the bankruptcy estate of Thomas H. Appleton, Sr., in consideration of the power and authority vested in him as aforesaid, and the payment to him of the sum of \$180,500.00, representing one-half of the total sales price of \$361,000.00, the receipt of which by him is hereby acknowledged, does hereby grant, bargain, sell and convey, free and clear of all liens and encumbrances, and specifically free and clear of the following:

BOOK 400 PAGE 222

- | | |
|--|---|
| a. Citizens Federal Savings Bank
c/o Walter Fletcher, Esq.
2121 Highland Avenue
P.O. Box 1387
Birmingham, AL 35201 | First mortgage dated October 27, 1989, in the original amount of \$275,000.00 on the real estate described herein, recorded in Real Volume 264, Page 427 in the Probate Records of Shelby County, Alabama |
| b. The Birmingham News Co.
c/o David H. Ward, Esq.
675 Financial Center
P.O. Box 2185
Birmingham, AL 35201-2185 | Judgment lien filed October 11, 1990, in the amount of \$204.68 plus court cost of \$26.00 recorded in Real Volume 313, Page 911 in the Probate Records of Shelby County, Alabama |
| c. National Bank of Commerce of Birmingham
c/o John G. Lowther, Esq.
3500 Independence Drive
Birmingham, AL 35209 | Judgment lien filed May 23, 1991, in the amount of \$46,711.00 plus court cost of \$107.00, recorded in Real Volume 346, Page 539 in the Probate Records of Shelby County, Alabama. |

d. State of Alabama
c/o Annette Skinner
Shelby County Tax Collector
Shelby County Courthouse
Main Street
Columbiana, AL 35051

Unpaid ad valorem taxes to be paid in full for 1990 and 1991 together with all penalties and interest, and property to be redeemed from tax sale under Tax Sale Docket 31, Page 7 upon payment of \$6,028.64 through February 29, 1992, plus 1% per month thereafter.

but excepting the following:

- a. Current year's property taxes, if any.
- b. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public record or attaching subsequent to the effective date of the title insurance commitment issued by Alabama Title Company, Inc. on February 5, 1992, but prior to the date the proposed insureds acquire for value of record the estate or interest or mortgage thereon covered by said title commitment.
- c. Transmission line permit to Alabama Power Company in Real Volume 1, Page 339.
- d. Easements as conveyed in Real Volume 201, Page 135 and Real Volume 110, Page 967.
- e. Mineral and mining rights and all rights incident thereto, excepted in Real Volume 200, Page 593.
- f. Rights or claims of parties other than Insured in actual possession not shown by the public records.
- g. Unfiled mechanics' and materialmen's liens.
- h. Unrecorded easements, discrepancies or conflicts in boundary lines, shortage in area and encroachments which an accurate and complete survey would disclose.

unto the parties of the Second Part, Michael Anderson and Holly O. Anderson, the Trustee's undivided one-half interest in and to the following described real property, to wit:

A part of the Southeast 1/4 of Section 34, Township 21 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

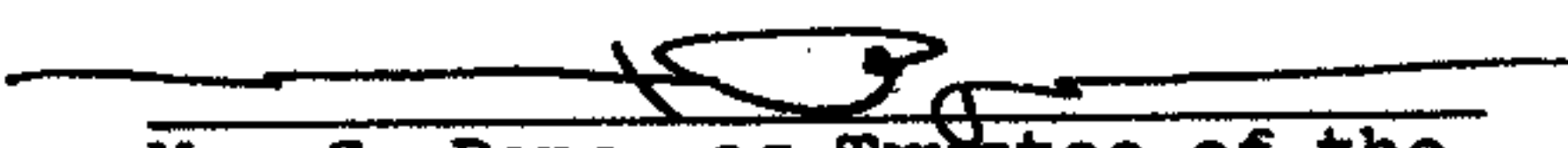
Beginning at the Southeast corner of Section 34, Township 21 South, Range 3 West, thence run North 0 degrees 35 minutes 48 seconds West along and with the East Section line 1,323.42 feet to a point; thence North 86 degrees 39 minutes West for 647.58 feet to a point; thence South 0 degrees 27 minutes 51 seconds West for 1,321.96 feet to a point on the South boundary of a public road, said road being 60 feet in width; thence South 86 degrees 39

minutes East for 672.12 feet along said southerly road boundary to the Point of Beginning. Subject to an easement for ingress and egress being 30 feet in width running inside the west property line from the road on the south boundary to the north boundary of said property.

Thomas H. Appleton, one of the grantees of deed in Real Volume 200, Page 593 in the probate records of Shelby County, Alabama, is the one and same person as Thomas H. Appleton, Sr. in the Bankruptcy Case No. 91-04947.

TO HAVE AND TO HOLD unto the said Michael Anderson and Holly O. Anderson, as joint tenants, with right of survivorship, their heirs and assigns, forever; it being the intention of the parties to this conveyance, that (unless the joint tenancy hereby created is severed or terminated during the joint lives of the grantees herein) in the event one grantee herein survives the other, the entire interest in fee simple shall pass to the surviving grantee or grantees, and if one does not survive the other, then the heirs and assigns of the grantees herein shall take as tenants in common.

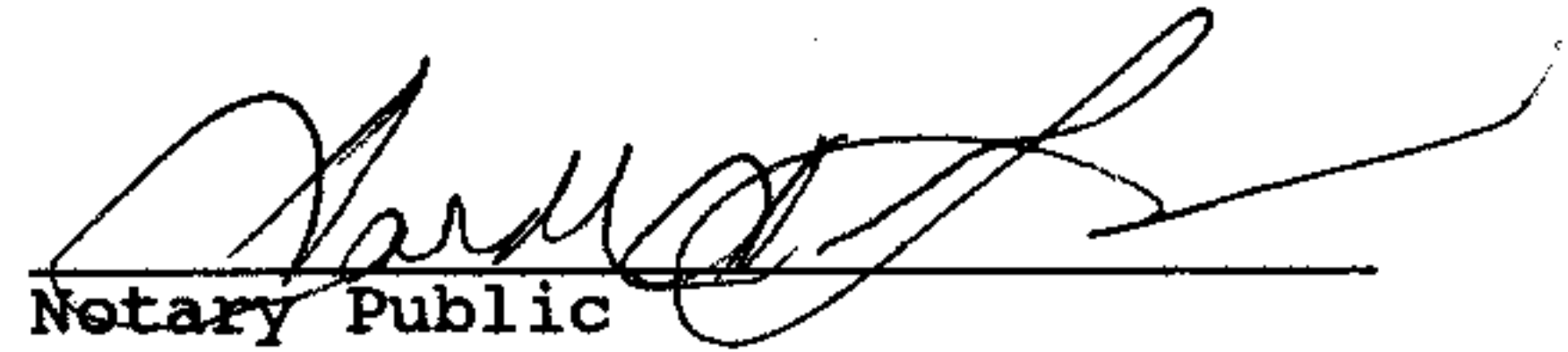
IN WITNESS WHEREOF, the Party of the First Part has hereunto set his hand and seal on this the 23 day of March, 1992.


Max C. Pope, as Trustee of the
Bankruptcy Estate of Thomas H.
Appleton, Sr.

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said State and County, hereby certify that Max C. Pope, whose name as Trustee of the Bankruptcy Estate of Thomas H. Appleton, Sr., is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this date that, being informed of the contents of the conveyance, he, in his capacity as such Trustee, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the 23rd day of March,
1992.


Notary Public

This instrument was prepared by:
Frederick M. Garfield, Esquire
Hughes & Maxey
Suite 400 Park Place Tower
2001 Park Place
Birmingham, AL 35203

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

IN RE:

THOMAS N. APPLETON, SR.,

DEBTOR.

CASE NO. 91-04947-RCF-7
CHAPTER 7

ORDER AUTHORIZING SALE BY TRUSTEE
FREE AND CLEAR OF LIENS

This matter came on to be heard on the Trustee's Motion For Authority To Sell Bankruptcy Estate's Undivided One-Half Interest In Real Property At Private Sale Free And Clear Of All Liens And Encumbrances and was considered this day after notice and service were certified by the Trustee.

The Motion as originally filed proposed a sale of the subject property to James Baker and Beverly P. Baker for the sum of \$350,000.00. Daniel Sparks, attorney for the Debtor, objected to the proposed sale on the basis that the Trustee, subsequent to the filing of the Motion, received a higher and better offer in the amount of \$361,000.00 from Michael and Holly O. Anderson. The court, having considered the objection in the light of the Anderson offer to purchase, finds the objection to be well taken and sustains the objection. Upon oral motion made at the hearing, the Trustee has requested that the Anderson purchase offer be confirmed.

No written objections to the proposed sale of the bankruptcy estate's interest in the property to Michael and Holly O. Anderson have been made or filed. It appears to the court from Trustee's Motion and upon representation of counsel that the non-debtor spouse, Lillybel M. Appleton, consents to sell her undivided one-

400 PAGE 226

half interest in the property to the purchasers and agrees to join the Trustee as a co-owner in executing a deed of conveyance to the purchasers, or to convey her undivided one-half interest by separate warranty deed. It further appears to the court from Trustee's motion that the proposed sale of the bankruptcy estate's interest is authorized under Section 363(f) of the Bankruptcy Code. Accordingly, the sale proposed by the Trustee to Michael and Holly O. Anderson, husband and wife, be, and the same is hereby, confirmed and the Trustee is authorized to execute and deliver to the purchasers, upon the payment to him of one-half of the total purchase price of \$361,000.00, or \$180,500.00, the following described real estate:

A part of the Southeast 1/4 of Section 34, Township 21 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Beginning at the Southeast corner of Section 34, Township 21 South, Range 3 West, thence run North 0 degrees 35 minutes 48 seconds West along and with the East Section line 1,323.42 feet to a point; thence North 86 degrees 39 minutes West for 647.58 feet to a point; thence South 0 degrees 27 minutes 51 seconds West for 1,321.96 feet to a point on the South boundary of a public road, said road being 60 feet in width; thence South 86 degrees 39 minutes East for 672.12 feet along said southerly road boundary to the Point of Beginning. Subject to an easement for ingress and egress being 30 feet in width running inside the west property line from the road on the south boundary to the north boundary of said property.

The sale of the bankruptcy estate's undivided one-half interest in the property as confirmed and authorized is specifically free and clear of the following liens and interests, to-wit:

a. Citizens Federal Savings
Bank
c/o Walter Fletcher, Esq.

First mortgage dated
October 27, 1989, in the
original amount of

400 PAGE 227

2121 Highland Avenue
P.O. Box 1387
Birmingham, AL 35201

\$275,000.00 on the real estate described herein, recorded in Real Volume 264, Page 427 in the Probate Records of Shelby County, Alabama

- b. The Birmingham News Co.
c/o David H. Ward, Esq.
675 Financial Center
P.O. Box 2185
Birmingham, AL 35201-2185

Judgment lien filed October 11, 1990, in the amount of \$204.68 plus court cost of \$26.00 recorded in Real Volume 313, Page 911 in the Probate Records of Shelby County, Alabama

- c. National Bank of Commerce of Birmingham
c/o John G. Lowther, Esq.
3500 Independence Drive
Birmingham, AL 35209

Judgment lien filed May 23, 1991, in the amount of \$46,711.00 plus court cost of \$107.00, recorded in Real Volume 346, Page 539 in the Probate Records of Shelby County, Alabama. (The Trustee Disputes the validity of the judgment lien against the Trustee and will file an adversary proceeding under 11 USC Section 547 to avoid the judgment lien.)

400 PAGE 228
BOOK

- d. State of Alabama
c/o Annette Skinner
Shelby County Tax Collector
Shelby County Courthouse
Main Street
Columbiana, AL 35051

Unpaid ad valorem taxes to be paid in full for 1990 and 1991 together with all penalties and interest, and property to be redeemed from tax sale under Tax Sale Docket 31, Page 7 upon payment of \$6,028.64 through February 29, 1992, plus 1% per month thereafter.

but the sale is subject to the following, to-wit:

- a. Current year's property taxes, if any.
b. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public record or attaching subsequent to the effective date of the title insurance commitment issued by Alabama Title Company, Inc. on February 5, 1992, but prior to the date the proposed insureds acquire for value of record the estate or interest or mortgage thereon covered by said title commitment.

BOOK 400 PAGE 229

- c. Transmission line permit to Alabama Power Company in Real Volume 1, Page 339.
- d. Easements as conveyed in Real Volume 201, Page 135 and Real Volume 110, Page 967.
- e. Mineral and mining rights and all rights incident thereto, excepted in Real Volume 200, Page 593.
- f. Rights or claims of parties other than Insured in actual possession not shown by the public records.
- g. Unfiled mechanics' and materialmen's liens.
- h. Unrecorded easements, discrepancies or conflicts in boundary lines, shortage in area and encroachments which an accurate and complete survey would disclose.

All valid liens and interests against the bankruptcy estate's undivided one-half interest reported by the Trustee shall attach to the proceeds of the sale of the bankruptcy estate's undivided one-half interest and shall be paid by the Trustee from the proceeds of the sale of the bankruptcy estate's undivided one-half interest and after the sale is closed and consummated. The Trustee shall pay from the proceeds of sale one-half of the valid mortgages and encumbrances described above, to the extent outstanding balances remain, the Trustee's pro rata share of the current years ad valorem taxes, one-quarter of the owners title insurance premium, the sum of \$5,000.00 or such other amount as agreed between the Debtor and the Trustee to the Debtor as payment of his homestead exemption and such other necessary expenses of closing, with the balance of the Trustee's share of the proceeds of sale to be held by the Trustee pending further orders of this Court. After the closing, if there is a legitimate controversy regarding the amount due to be paid by the bankruptcy estate on any lien or interest, encumbering or asserted against the bankruptcy estate's undivided one-half interest, or its priority, then the Trustee shall bring proper proceedings in the court to resolve same.

The Trustee shall file with the Clerk of this Court a report

of the sale pursuant to Bankruptcy Rule 6004(f)(1) promptly after the sale is closed.

IT IS SO ORDERED, this 9th day of MARCH,
1992.


CLIFFORD FULFORD
United States Bankruptcy Judge

xc: Debtor

Max C. Pope

Frederick M. Garfield, Esquire

Walter Fletcher, Esquire, atty for Citizens Federal Savings
Bank

Dan Sparks, Esquire, atty for the Debtor

Annette Skinner, Tax Collector

Benjamin Cohen, Esquire, Bankruptcy Administrator

David Ward, Esquire

John G. Lowther, Esquire

W. Dennis Schilling, Attorney for Michael & Holly Anderson

BACK 400 PAGE 230

04/06/1992 3381 12:18:00 PM
SHELBY COUNTY PROBATE
010 NCB 89.50