

STATE OF ALABAMA — UNIFORM COMMERCIAL CODE  
STATEMENTS OF CONTINUATION, PARTIAL RELEASE, ASSIGNMENT, ETC. — FORM UCC-3

Important: Read Instructions on Back Before Filling out Form.

REORDER FROM  
Registre, Inc.  
514 PIERCE ST.  
P.O. BOX 218  
ANOAKA, MN. 55303  
(612) 421-1713

☐ The Debtor is a transmitting utility  
as defined in ALA CODE 7-9-105(n).

No. of Additional  
Sheets Presented:

This FINANCING STATEMENT is presented to a Filing Officer for  
filing pursuant to the Uniform Commercial Code.

1. Return copy or recorded original to

Timothy D. Davis, Esquire  
Gordon, Silberman, Wiggins & Childs, P.C.  
1400 SouthTrust Tower  
Birmingham, Alabama 35203

Pre-paid Acct. #

2. Name and Address of Debtor

(Last Name First if a Person)

Jerry McGaha  
Leisa McGaha  
5455 Highway 280 South  
Birmingham, Alabama 35242

Social Security/Tax ID #

2A. Name and Address of Debtor

(IF ANY)

(Last Name First if a Person)

Social Security/Tax ID #

☐ Additional debtors on attached UCC-E

3. NAME AND ADDRESS OF SECURED PARTY (Last Name First if a Person)

Michael A. Windham  
605 25th Avenue, S.W.  
Birmingham, Alabama 35215

Social Security/Tax ID #

☐ Additional secured parties on attached UCC-E

5. ☐ This statement refers to original Financing Statement bearing File No.

1995-27733

Filed with

Shelby County

Date Filed

10-2

1995

6. ☐ Continuation. The original financing statement between the foregoing Debtor and Secured Party, bearing file number shown above, is still effective.

7. ☐ Termination. Secured Party no longer claims a security interest under the financing statement bearing the file number shown above.

8. ☐ Partial or Full Assignment. The Secured Party's right under the financing statement bearing file number shown above to the property described in item 11 or to all of the property listed on this file, is assigned to the assignee whose name and address appears in item 4.

9. ☐ Amendment. Financing statement bearing file number shown above is amended as set forth in item 11.

10. ☐ Partial Release. Secured Party releases the collateral described in item 11 from the financing statement bearing file number shown above.

11.

See Promissory Note attached as Exhibit "A"

11A. Enter Code(s) From  
Back of Form That  
Best Describes The  
Collateral Covered  
By This Filing:

Check X if covered: ☐ Products of Collateral are also covered.

Signature(s) of Debtor(s)

Signature(s) of Debtor(s) (necessary only if item 9 is applicable)

Type Name of Individual or Business

Signature(s) of Secured Party(ies)

Signature(s) of Secured Party(ies)

MICHAEL A. WINDHAM  
Type Name of Individual or Business

EXHIBIT "A"

PROMISSORY NOTE

FOR VALUE RECEIVED, Jerry McGaha and Leisa McGaha, each individually, (collectively hereinafter referred to as "Maker"), whose address is 5455 Highway 280 South, Birmingham, Alabama 35242 promises to pay to the order of Michael A. Windham, whose address is 605 25th Avenue N.W. Birmingham, Alabama 35215, or any subsequent holder hereof (collectively, the "Holder"), the principal sum of One Million & 00/100 Dollars (\$1,000,000.00) with interest, as specified below (collectively, the "Indebtedness"), in lawful money of the United States of America, which shall be legal tender in payment of all debts and dues, public and private, at the time of payment.

1. Payment of Principal and Interest. Maker shall pay to the order of Holder the Indebtedness, including interest at 7.5% per annum, it being understood that interest accrues on the date of this Promissory Note. The Indebtedness, including principal and interest shall be payable in three hundred sixty (360) equal consecutive monthly installments of \$6,990.74 each (subject to further terms below), the first installment being due and payable on the 1st day of November, 1995, and each subsequent installment being due and payable on the same day of each succeeding month thereafter until October 1, 2025, at which time the principal balance and any accrued interest shall balloon and become due and payable. Said payments shall be due and payable to the Holder at the address provided above, or at such other place as Holder shall designate.

2. Application of Payments. All payments made hereunder shall, at Holder's option, be applied first to any late charges and other sums due hereunder from Maker to Holder, then to accrued interest, and then to the principal due under this Note.

3. Late Payment. Any installment not received by the 10th of the month in which a payment is due shall be considered as past due; and, a \$100.00 late payment penalty shall be charged to the Maker.

4. Collateral. The payment of this Promissory Note shall be secured by a mortgage and a security interest in the collateral as more specifically set forth in that certain mortgage and security agreement by and between Maker and Holder executed concurrently herewith.

5. Acceleration Upon Default. Upon the occurrence of any Event of Default, the unpaid principal sum evidenced by this Note, and all accrued and unpaid interest thereon, at the option of Holder, without notice, and without demand or presentment, shall become immediately due and payable, and payment of the unpaid principal sum evidenced by this Note, and all accrued and unpaid interest thereon, recovered at once, except as provided in Section 6 below.

6. Events of Default. The Maker shall be in default under this Promissory Note if any of the following shall occur:

(a) Maker fails to pay: (i) any amount due under this Note (whether principal, interest, or costs of collection); or (ii) any amounts due under any of the Transactional Documents (as hereinafter defined) within ten days of due date;

(b) Maker shall:

(i) apply for or consent to the appointment of a Receiver, Trustee or Liquidator for any portion of its property;

(ii) admit in writing its inability to pay its debts as they mature;

(iii) make a general assignment for the benefit of creditors;

(iv) be adjudicated a bankrupt or insolvent;

(v) file a voluntary Petition in Bankruptcy or a Petition or answer seeking reorganization or an arrangement with creditors or to take advantage of any insolvency law or similar debtor's relief provision; or



(vi) file an Answer admitting the material allegations of a Petition filed against it in any Bankruptcy or Insolvency proceeding;

© Any order, judgment or decree shall be entered, without the application, approval or consent of Maker, by any court of competent jurisdiction, approving a Petition seeking reorganization of Maker or of all or a substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for a period of thirty (30) days, whether or not consecutive;

(d) Maker shall be dissolved, voluntarily or involuntarily, by operation of law or otherwise;

(e) Maker shall default in the performance when due of any other obligation hereby secured;

(f) Maker shall breach any warranty made herein or in any of the Transactional Documents (as hereinafter defined);

(g) Maker shall at any time fail to do or perform any other act or thing required or agreed to be done herein or in any of the Transactional Documents (as hereinafter defined);

(h) Any interest of Holder in any of the Collateral becomes endangered by reason of the enforcement of any lien or encumbrance thereon;

(I) Any financing statement or security agreement is filed by anyone other than the Holder under the statutes of Alabama relating to the Collateral;

(j) Maker shall transfer, assign, convey, pledge, sell all or substantially all of the assets of Maker.

7. Interest Upon Default. Upon the occurrence of any Event of Default (including, without limitation, the failure of Maker to pay any sum herein specified when due), the unpaid principal sum evidenced by this Note, all accrued and unpaid interest thereon, and all other sums evidenced and/or secured by this Note shall bear interest at 12% per annum per annum (the "Default Rate"). The

Default Rate shall be in lieu of any other interest rate otherwise applicable and shall commence, without notice, immediately upon and from the occurrence of such Event of Default and shall continue until all defaults are cured and all sums then due and payable hereunder are paid in full.

8. Fees Upon Default. Upon the occurrence of any Event of Default, Maker agrees to pay Holder and Holder's assignee all attorney's fees, accountants's fees and court costs or other expenses which may be incurred or expended by Holder or assignee in taking any action hereunder with regard to this Note, the Collateral, or any of the Transactional Documents (as hereinafter defined).

9. Negative Covenants. Maker covenants and agrees that, without the prior written consent of Holder, so long any indebtedness remains outstanding under this Note, Maker shall not:

(a) If Maker should be a corporation or form one, pay or declare any dividend on any of its capital stock after the date hereof, provided, however, that if Maker is an S Corporation, it may pay dividends not to exceed the amount of income taxes payable by its shareholders attributable to Maker's income; or

(b) Grant any lien on or security interest in, or otherwise encumber, any of its properties or assets including, without limitation, the Collateral, and, except for liens for taxes not yet due and payable or which are being actively contested in good faith by appropriate proceedings and for which adequate reserves are being maintained by Maker and those liens disclosed to Holder by Maker in writing prior to the execution of this Note, Maker shall not permit to exist any lien, security interest or other encumbrance on any of its properties or assets.

10. Limitation on Interest. All agreements made by Maker relating directly or indirectly to the Indebtedness evidenced by this Note are expressly limited so that in no event or contingency whatsoever shall the amount of interest received, charged or contracted for by Holder exceed the highest lawful amount of

interest permissible under applicable law. If, under any circumstances whatsoever, performance of any provision of this Note, at the time performance of such provision shall be due, shall result in the highest lawful rate of interest permissible under applicable law being exceeded, then, ipso facto, the amount of interest received, charged or contracted for by Holder shall be reduced to the highest lawful amount of interest received, charged or contracted for by Holder shall be reduced to the highest lawful amount of interest permissible under applicable law, and if for any reason whatsoever, Holder shall ever receive, charge or contract for, as interest, an amount which would be deemed unlawful, such amount of interest deemed unlawful shall be refunded to Maker (if theretofore paid) or applied to the payment of the last maturing installment or installments of principal to be paid on this Note (whether or not due and payable) and not to the payment of interest.

11. Prepayment Privilege. Maker shall have the privilege of prepaying all or any part of the then outstanding Indebtedness evidenced by this Note without penalty.

12. Waiver by Maker. Maker and all endorsers, guarantors and sureties of this Note, and each of them, hereby waive diligence, demand, presentment for payment, notice of non-payment, protest, notice of dishonor and notice of protest, notice of intent to accelerate and notice of acceleration and specifically consent to, and waive notice of, any renewals or extensions of this Note, whether made to or in favor of Maker or any other person or persons, and hereby waive any defense by reason of extension of time for payment or other indulgence granted by Holder. Maker and all endorsers, guarantors and sureties of this Note, and each of them, further hereby waive as to this debt, or any renewal or extension thereof, all rights of exemption under the Constitution or laws of Alabama, or any other state as to personal property.

13. Fees and Expenses. If this Note is placed in the hands of an attorney at law for collection by reason of default on the part of Maker, Maker hereby agrees to pay to Holder or Holder's assignee, in addition to the sums stated above, the costs and expenses of collection, including, without limitation, a reasonable sum as an attorney's fee.



14. No Modifications. This Note may not be changed, amended or modified, except in a writing expressly intended for such purpose and executed by Maker and Holder.

15. Governing Law. This Note is to be construed and enforced in all respects in accordance with the laws of the State of Alabama.

16. Construction. The captions herein are inserted only for convenience of reference and in no way define, limit or describe the scope or intent of this Note or any particular paragraph or section hereof, or the proper construction hereof.

17. Severability. If any provision hereof should be held unenforceable or void, then such provision shall be deemed separable from the remaining provisions and shall in no way affect the validity of this Note, except that if such provision relates to the payment of any monetary sum, then Holder may, at its option, declare the Indebtedness evidenced hereby immediately due and payable.

18. Cross Default. The occurrence of an Event of Default under the Transaction Documents (as hereinafter defined) shall constitute an Event of Default under any of the Transaction Documents. The Transaction Documents shall be defined as: this Promissory Note in the original amount of One Million & 00/100 (\$1,000,000.00), that certain Security Agreement, and that certain mortgage, all executed simultaneously herewith, and all executed by the undersigned.

19. No Recourse. Notwithstanding any other term of this Mortgage or the Note to the contrary, if the Mortgagee shall enforce collection of the indebtedness evidenced by the Note or otherwise secured by this Mortgage by judicial proceedings, or otherwise, the Mortgagee will not institute any action at law against Jerry McGaha and Leisa McGaha for personal liability for the payment of any sum of money which is or may be payable under the Note or this Mortgage or to enforce the performance of the covenants of the Note and this Mortgage and the Mortgagee will not seek against Jerry McGaha and Leisa McGaha any judgment for deficiency in an action to foreclose this Mortgage; provided,

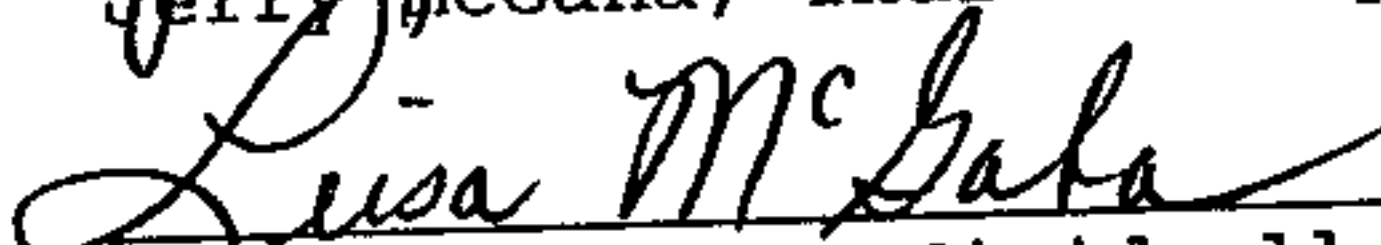
however, that nothing in this paragraph 19 shall (i) release or impair the Note or the lien of this Mortgage, (ii) prevent the Mortgagee from exercising any other remedy against the Mortgaged Property, or (iii) prevent or in any way hinder the Mortgagee from exercising its remedies in respect of any insurance proceeds, condemnation awards or other monies or other collateral securing the Note held by the Mortgagee, the Mortgagor or any other person.

IN WITNESS WHEREOF, Maker caused this Note to be executed as of the 28<sup>th</sup> day of September, 1995.

MAKER:



Jerry McGaha, Individually



Leisa McGaha, Individually



GUARANTY

For value received and in order to induce extension of credit by Holder, the undersigned J & L McGaha, Inc. guarantees all obligations of Maker in the above referenced Promissory Note. The "Guarantor" being J & L McGaha, Inc. undertakes full responsibility and liability for the performance of all obligations of Jerry and Leisa McGaha as directly referenced above. This Guaranty is extended with the full understanding that the debt of \$1,000,000.00 is non-recourse as to Jerry McGaha and Leisa McGaha, individually; but, J & L McGaha, Inc. Shall be responsible for the entire indebtedness if Jerry McGaha and Leisa McGaha default and the Holder or his successors and assigns shall have full recourse against J & L McGaha, Inc.

Date: Sept. 28, 1995

J & L MCGAHA, INC.

By: Jerry McGaha  
Jerry McGaha, its Pres.

By: Leisa McGaha  
Leisa McGaha, its Sec.

Inst # 1995-27734

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10/02/1995-27734  
04:23 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
009 MEL 20.00