

IN THE CIRCUIT COURT OF SHELBY COUNTY

FIRST COMMERCIAL BANK VS AUTO SALVAGE POOL INC ET AL

DEFENDANT

PARTY'S ATTORNEY:

LOWERY RONALD W
2571 FOOTHILLS DR

BIRMINGHAM , AL 35226-0000

I, DAN REEVES , CLERK OF THE ABOVE NAMED COURT HEREBY
CERTIFY THAT ON 06/05/96 PLAINTIFF, FIRST COMMERCIAL BANK RECOVERED
OF DEFENDANT IN SAID COURT A JUDGEMENT FOR THE
SUM OF \$1,431,985.86 DOLLARS PLUS \$170.00 DOLLARS COURT COSTS, AND
THAT THE PLAINTIFF'S ATTORNEY(S) OF RECORD WAS: HARRIS, GEORGE BRYAN

GIVEN UNDER MY HAND THIS DATE 06/17/96

Dan Reeves
CLERK DAN REEVES
P.O. BOX 1810
COLUMBIANA, AL 35051
(205) 669-3760

OPERATOR: LOL
PREPARED: 06/17/96

PLAINTIFF'S ATTORNEY:

HARRIS, GEORGE BRYAN
BRADLEY ARANT ROSE WHITE
P O BOX 830709
BIRMINGHAM AL 35283

Inst # 1996-20232

06/21/1996-20232
02:08 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
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IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

FIRST COMMERCIAL BANK,

Plaintiff,

v.

AUTO SALVAGE POOL, INC.,

RONALD W. LOWERY, an individual,

Defendants.

CIVIL ACTION NO. CV-95-775

ORDER AND FINAL JUDGMENT

This action came before the Court on the 1st day of May, 1996, for hearing on plaintiff's motion for summary judgment. George B. Harris and Lauren E. Wagner, attorneys for plaintiff, First Commercial Bank ("First Commercial"), appeared for plaintiff. Defendant, Ronald W. Lowery (the "Defendant"), did not appear after proper notice of the hearing from the Court.

Upon consideration of plaintiff's written motion for summary judgment and accompanying submissions, the Court hereby makes the following findings:

1. Over a period of time including, but not limited to, January 1, 1994, to December 31, 1994, the Defendant knowingly and fraudulently drew checks on the checking account of his business, Auto Salvage Pool, Inc. ("Auto Salvage"), at First Commercial, knowing that the account contained insufficient collected or available funds to cover all checks written. First Commercial justifiably relied to its detriment on bogus deposits made with checks written on a checking account at AmSouth Bank of Walker County ("AmSouth"), which likewise contained insufficient collected or available funds. The bogus deposits and the Defendant's check kiting scheme deceived First Commercial and induced it to make payments on checks for which Auto Salvage's account contained insufficient funds.

2. In addition, the Defendant intentionally misrepresented material facts concerning the actual cash balances of Auto Salvage's checking account and the Defendant's checking accounts at First Commercial in written financial statements that the Defendant published with the intent to deceive First Commercial and induce it to loan money to Auto Salvage.

3. The representations made to First Commercial by the Defendant, as alleged above, and the checks drawn on the Auto Salvage account at both First Commercial and AmSouth were false when made, were known by the Defendant to be false at the time they were made, and were made willfully with the intent to deceive First Commercial with the expectation that First Commercial would rely on

them. First Commercial relied to its detriment on the false representations and bogus deposits of the Defendant.

4. The Defendant's intentional fraud caused First Commercial to incur losses totalling \$1,017,296.34 for money and credit that were obtained by the Defendant through actual fraud, false representations and false pretenses.

It is therefore ORDERED that the plaintiff's Motion for Summary Judgment is GRANTED.

It is further ORDERED, ADJUDGED and DECREED that judgment is hereby entered in favor of First Commercial Bank and against Ronald W. Lowery in the amount of One Million Seventeen Thousand Two Hundred Ninety-Six and 34/100 Dollars (\$1,017,296.34) in compensatory damages, and Three Hundred Twenty Thousand Dollars (\$320,000.00) in punitive damages, plus Seventy-Five Thousand Eight Hundred Ninety-Four and 09/100 Dollars (\$75,894.09) in interest and Eighteen Thousand Seven Hundred Ninety-Five Thousand and 43/100 Dollars (\$18,795.43) for attorney's fees. Court costs are hereby taxed as paid.

DONE and ORDERED this 4th day of June, 1996.

D. Al Crowson
D. AL CROWSON
CIRCUIT JUDGE

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