

SETTLEMENT AND LIEN AGREEMENT

COME NOW John P. Roper, doing business as Montevallo Flooring and Design (as "Creditor" herein), and Applewood Construction Company, Inc. (as "Debtor" herein), to agree as follows:

WHEREAS Debtor's legal counsel, Burttram and Henderson, Attorneys, are the recipients of benefits due to Debtor pursuant to a Promissory Note dated June 25, 1997, in the sum of Twenty-Eight Thousand Dollars, (\$28,000.00), a copy of which is attached hereto as **Exhibit "A"**, and;

WHEREAS, such benefits of such Promissory Note are actually the property of the Debtor herein, subject to any contingent recovery contract which said Debtor may have with his legal counsel pertaining to a prior tort action, and;

WHEREAS, the Creditor herein has previously recovered a judgment against said Debtor which serves as the basis of such debt hereinabove referenced, a copy of which is attached hereto, as **Exhibit "B"**, and fully incorporated herewith, and;

WHEREAS, the Debtor and Creditor herein have agreed that the Debtor will pay the principal amount due from Debtor to Creditor, plus \$1,000.00, from the proceeds of such Promissory Note, and;

WHEREAS, Debtor and Creditor have reached a resolution of this matter whereby Debtor shall pay Creditor the sum of **NINE THOUSAND, SEVENTY-FIVE DOLLARS AND 54/100, (\$9,075.54)**, as evidenced by **Exhibit "C"** which is attached hereto as the job invoice, in addition to the sum of \$1,000.00, thereby designating the total sum due from Debtor to Creditor to be in the sum of **TEN THOUSAND, SEVENTY-FIVE DOLLARS and 54/100, (\$10,075.54)**;

It is hereby agreed by and between the above designated Debtor and Creditor, as follows:

Inst # 1997-24097

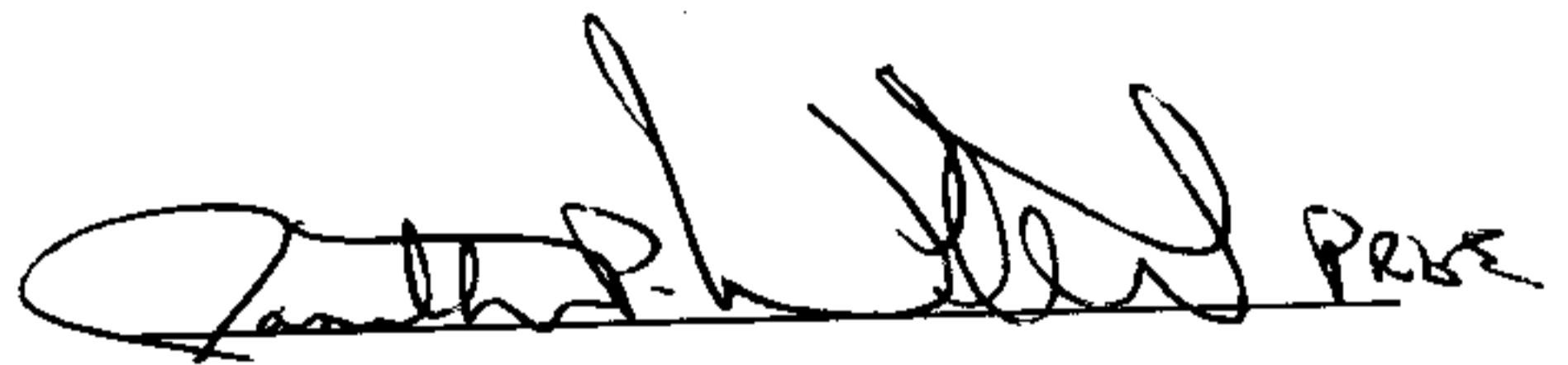
07/31/1997-24097  
03:29 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
007 MCD 24.50

Inst # 1997-24097

1. Creditor shall have a lien against the Promissory Note executed in favor of Debtor, or Debtor's legal counsel, dated June 25, 1997, hereto attached as Exhibit "A", as regarding payment numbers 2 and 3 designated therein, to the extent of the sum of \$10,075.54. Furthermore, **on or before** ~~August~~ <sup>OCT.</sup> 30, 1997, Debtor shall direct his attorney, Honorable Bruce Burttram, to pay to the Creditor the sum of \$2,075.54 from the proceeds of said Promissory Note. **On or before** ~~October~~ <sup>NOVEMBER</sup> 30, 1997, Debtor shall direct his legal counsel to pay the sum of \$8,000.00 from the proceeds of said Promissory Note, and the cumulative payments designated herein shall serve as full accord and satisfaction of the indebtedness owed by Debtor to Creditor.

2. Debtor hereby authorizes his attorney, Bruce Burttram, to make disbursements, as hereinabove designated to Mitchell A. Spears, Attorney for Creditor, and all terms of this Agreement shall be fully effectuated by Debtor and Creditor, and any and all attorneys, agents, or other persons or entities employed by either party for the purpose of the effectuation of this Agreement.

3. In the event that either party defaults in regard to the terms of this Agreement, the non-defaulting party may pursue appropriate actions and remedies available under the laws of the State of Alabama, and shall be entitled to recover a reasonable attorney's fee for the pursuit or collection of such matter, against the party which is guilty of any default, as hereinabove designated.



Applewood Construction Company, Inc.

By: Jonathan P. Williams

Its: President

DEBTOR

STATE OF ALABAMA )  
COUNTY OF SHELBY )

Sworn to and subscribed before me this the 17<sup>th</sup> day of July, 1997.

Bruce A. Burttram

Notary Public

My commission expires: 1/9/98

John P. Roper

John P. Roper

d/b/a Montevallo Flooring and Design

CREDITOR

STATE OF ALABAMA )  
COUNTY OF SHELBY )

Sworn to and subscribed before me this the 30<sup>th</sup> day of July, 1997.

Debra J. Speer

Notary Public

My commission expires: 9/98

Accepted and Approved:

M.A.S.

Mitchell A. Spears, Attorney for Creditor

Bruce A. Burttram

Bruce Burttram, Attorney for Debtor

EXHIBIT "A"

STATE OF ALABAMA )

DATE: June 25, 1997

COUNTY OF JEFFERSON)

PROMISSORY NOTE

The undersigned, for value received, promises to pay to the order of Burttram & Henderson, Attorneys, the sum of Twenty-eight Thousand and No/100 Dollars (\$28,000.00).

Said note is payable as follows:

1. \$10,000.00 shall be paid on or before 60 days from date.
2. \$10,000.00 shall be paid on or before 120 days from date.
3. \$8,000.00 shall be paid on or before 180 days from date.

The payments will be made payable to the order of Burttram & Henderson, Attorneys.

The total sum due and owing on this Promissory Note shall be paid without interest. In the event of default of the payment on any one or more of said installments, the entire amount shall become due and owing immediately. Furthermore, in the event of default, interest shall accrue at the rate of twelve (12%) percent per annum on the outstanding balance. The holder hereof may note the fact of acceleration hereon without stating the ground for accelerating maturity, and whether or not noted hereon such election to accelerate shall be effective. In the event of death of, insolvency of, general assignment, judgment against, filing of petition of bankruptcy by or against, filing of application in a court for receivership, or issue of writ of garnishment or

attachment as suits or action against any party liable hereon or against any of the assets of any of the parties liable hereon, or the happening of any one or more of the said events, the indebtedness evidenced hereby shall immediately become due and payable unless the holder, notice of such effect, elects to waive such acceleration by written notation hereon.

In the event that it is necessary to pursue action against the undersigned for breach of the Promissory Note, the undersigned shall be liable for all costs associated therewith, including reasonable attorneys' fees and court costs.

Jeff W. Parmer  
Witness

Jeff W. Parmer  
Witness

OXYTIRE, INC.  
By: Terry M. Habshey  
Terry Habshey  
Its President

Terry M. Habshey  
Terry Habshey

IN THE CIRCUIT COURT OF SHELBY COUNTY

JOHN P. ROPER VS APPLEWOOD CONSTRUCTION ET AL

DEFENDANT

PARTY'S ATTORNEY:

APPLEWOOD CONSTRUCTION COMPA  
626 MAIN STREET  
MONTEVALLO, AL 35115-0000

I, DAN REEVES, CLERK OF THE ABOVE NAMED COURT HEREBY  
CERTIFY THAT ON 11/29/95 PLAINTIFF, ROPER JOHN P. RECOVERED  
OF DEFENDANT IN SAID COURT A JUDGEMENT FOR THE  
SUM OF \$9,438.56 DOLLARS PLUS \$139.00 DOLLARS COURT COSTS, AND  
THAT THE PLAINTIFF'S ATTORNEY(S) OF RECORD WAS: SPEARS, MITCHELL A

GIVEN UNDER MY HAND THIS DATE 12/19/95

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

OPERATOR: TAT  
PREPARED: 12/19/95

DEFENDANT:

APPLEWOOD CONSTRUCTION COMPA  
626 MAIN STREET  
MONTEVALLO, AL 35115-0000

Inst # 1996-01210

01/12/1996-01210  
12:43 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
001 MCD 8.50

Inst # 1996-01210

**MONTEVALLO FLOORING & DESIGN**

(205) 665-2717

Remit To:  
P. O. Box 702  
MONTEVALLO, AL 35115

Showroom:  
808 N. Main St.  
MONTEVALLO, AL 35115

JOB 0001286

**INVOICE**

SOLD BY: *M. B. K.* DATE OF ORDER: *3/31/95*

SCHEDULED INSTALLATION DATE

SOLD TO: *Applwood Inc.*

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_

HOME PHONE: \_\_\_\_\_ JOB PHONE: \_\_\_\_\_

JOB LOCATION: *Circle*

ROOM	MFGR./DISTR.	STYLE NO.	PRODUCT NAME	COLOR NO.	COLOR NAME	TYPE OF FLOORING	WIDTH	LENGTH	TOTAL SQ.-YD./FT.	PRICE PER SQ.-YD./FT.	AMOUNT
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1											
2											
3											
4											
5											
6											
7											
8											
9											

1 Kitchen flooring  
2 wood #1 Commercial (Foyer, LR & Dine)  
3 Carpet in Hall where wood is wood  
4 Vinyl for D.S. Bath  
5 Carpet in Rest of house  
6 Ceramic tile for Baths (walk-in)  
7 Vinyl in hallway  
8 Parquet tile

DATE: *07/18/95*

TYPE FLOOR:  WOOD  CERAMIC  VINYL  CARPET  OTHER

FURNITURE:  YES  NO

APPLIANCES:  YES  NO

PREP: \_\_\_\_\_

**CUSTOMER READ BEFORE SIGNING:** Buyer understands that there may be a dye lot variation from sample. Seller is not responsible for chips, dents or conditions of existing moldings, doors, jambs or fixtures. Room must be clear of obstacles at time of installation. Seller is not responsible for manufacturer or shipper delays. Unforeseen structural problems upon installation may change the amount due on this invoice. A FINANCE CHARGE OF *15%* PER ANNUM will be charged to accounts past *30* days in the event Buyer defaults under the terms of this agreement. Buyer agrees to pay reasonable attorney fees, if the sums due are collected by or through an attorney.

**PAYMENT IN FULL TO BE MADE UPON COMPLETION OF INSTALLATION, UNLESS OTHERWISE NOTED.**

(I/WE THE BUYER(S) HEREBY ACCEPT THE ABOVE TERMS AND CONDITIONS. SIGNED: \_\_\_\_\_)

SUB-TOTAL	5029.51
LABOR	3643.67
SALES TAX	402.36
TOTAL	9075.54
DEPOSIT	
BALANCE DUE	9075.54

DATE COMPLETED AND PAID IN FULL: \_\_\_\_\_

**Thank You!**

DUPLICATE

**FOR**

550 64  
1238<sup>85</sup>  
15-08  
844.50  
27.02  
450.02