

RE: 24052'

**AMENDMENT TO PROMISSORY NOTE, MORTGAGE
AND SECURITY AGREEMENT,
AND ASSIGNMENT OF RENTS AND LEASES**

THIS AMENDMENT is made this 17th day of February, 1998, (the "Effective Date"), by and among **BMG PROPERTIES** an Alabama general partnership, ("Borrower"), **WERNER H. BEIERSDOERFER, DANNY O. MEADOWS, AND GEORGE C. GOULD, III**, jointly and severally, (collectively "Co-Makers"), and **THE OHIO NATIONAL LIFE INSURANCE COMPANY**, an Ohio corporation, ("Lender").

Inst # 1998-06211

RECITALS

1. Borrower and Co-Makers, executed a Promissory Note on May 22, 1987 (the "Note"), to evidence a loan (the "Loan") in the principal amount of \$400,000.00 payable to the order of The Ohio National Life Insurance Company, ("Ohio"), secured by, among other things:
 - a. Mortgage and Security Agreement, dated May 22, 1987 and recorded May 22, 1987 in Book 132, Page 80, in the Probate Office of Shelby County, Alabama ("Mortgage") encumbering the real and personal property as therein provided (the "Property"), and legally described in Exhibit "A" attached hereto and incorporated herein by this reference;
 - b. Assignment of Rents and Leases recorded May 22, 1987 in Book 132, Page 102 of said records;(Collectively, together with all other instruments securing the Note, the "Security Instruments").
2. The Note provides for monthly installments of principal and interest (at the rate of 9.875% per annum) each in the amount of \$3,600.00 until its intended maturity on June 1, 1997, which maturity has been extended by agreement of the parties herein.
3. Borrower and Lender desire to: adjust the interest rate payable herein to 8.00%; extend the maturity of the Note to March 1, 2013; provide for the remaining principal balance of the Note to be fully amortized over a 15 year period, with monthly installments of principal and interest to continue in the amount of \$2,943.00, and establish the premium to be due in the event of prepayment of the Note before maturity, among other things.

02/25/1998-06211
08:10 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
012 MCD 639.00

Alabama Title

AGREEMENT

Now, therefore, in consideration of the foregoing Recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby agree to amend the Note and Security Instruments, as follows:

1. Lender, Borrower and Co-Makers, herein agree that the Maturity Date as defined in the Note has been extended to allow the completion of this transaction.
2. As consideration for Lender's extending maturity of the Note, Borrower shall, pay to Lender an extension fee of \$3,079.17 an amount equal to one percent (1.00%) of the outstanding principal balance of the Loan, which is \$307,917.46 after application of the installment of principal and interest due February. Lender acknowledges that Borrower has paid one-half of the extension fee in the amount of \$1,539.59 to Lender, which fee shall be non-refundable and shall be retained by Lender whether or not this Amendment is completed. The balance of said fee shall be due on or before the Effective Date herein.
3. Beginning on the Effective Date, and continuing until maturity of the Note, interest shall accrue at the Note rate of 8.00%. On March 1, 1998, Borrower shall make an interest only payment, said payment to be pro-rated between the original Note rate and the Note rate as modified by this Amendment as of the Effective Date hereof. On April 1, 1998, and on the first day of each month thereafter, Borrower shall continue to pay monthly installments of principal and interest, each in the amount of \$2,943.00 until maturity of the Note, which is hereby extended to March 1, 2013. Such installments reflect a 15 year, amortization of principal, and will fully amortize the Note.
4. The prepayment provisions appearing in the Note are hereby amended to read, in their entirety, as follows:

"Borrower shall have the right to prepay this Note in full at any time during the term of this Note, on any installment payment date, upon sixty days prior written notice, by paying a prepayment fee equal to the sum of the present values, discounted on a monthly basis at the discount rate described below, of each of the then remaining scheduled monthly payments of principal and interest and the principal and interest due at the maturity date of this Note, less the then outstanding principal balance of this Note, but not less than one percent (1.00%) of the unpaid principal balance immediately prior to prepayment. The discount rate shall be determined as of the close of the

business day which is seven days prior to the date of prepayment and shall be calculated using the U.S. Treasury Note or Bill having a maturity date on or closest to the maturity date of this Note. This Loan may be prepaid in full during the last ninety (90) days of its term, without penalty."

"If this Note is prepaid involuntarily, upon default and acceleration or otherwise, to the extent permitted by law, the undersigned shall pay the prepayment fee calculated in accordance with this paragraph."

5. Paragraph 4(iii), of Article I of the Mortgage is hereby deleted in its entirety, and the following is substituted in its stead:

"Borrower agrees to pay to Lender a fee of one percent (1.00%) of the outstanding principal balance of the Loan, plus all legal and administrative expenses of Lender required to complete the transaction, including, but not limited to a title examination showing no adverse title consequences and such formal opinions of counsel as Lender, in its sole discretion shall require."

6. The following shall also be added to Paragraph 4 of Article I of the Mortgage"

"The right of transfer shall apply only to Borrower and not any subsequent transferee."

7. Paragraph 4.4 of Article IV of the Mortgage shall be amended by the addition of the following:

"Borrower shall further provide comprehensive public liability insurance covering claims for bodily injury, death and property damage, in an amount reasonably required by Lender, naming Lender as an additional insured, said insurance to be provided on forms and from companies acceptable to Lender."

8. All improvements on the Property, including, but not limited to, parking areas, building entrances, common areas within the building, and tenant spaces, must be in substantial compliance with all applicable requirements of the Americans with Disabilities Act ("ADA") and provide barrier free access to the improvements and all common areas. Borrower hereby unconditionally indemnifies Lender from and against all obligations, liabilities, losses, damages, fees and expenses Lender may incur resulting from, as well as to rectify, any noncompliance with the ADA with respect to improvements on the Property. Borrower agrees that all future leases of

any portion of the Property will contain a provision which requires the tenant to comply with Title I and Title III of the ADA as they apply to such leased premises.

9. Henceforth, Borrower shall in a timely manner deliver to Lender each of the following:
 - a. Unless otherwise requested by Lender in writing, annually, a certified rent roll with respect to the Property showing the names of all tenants, the unit number, the area of the leased premises, the annual rental amount being paid, the amount of any tenant reimbursements or common area maintenance charges, the lease expiration date and the amount of vacant space; and
 - b. Annually, financial statements, signed and dated, of Borrower and Co-Makers, within three months after close of Borrower's fiscal year; and
 - c. Annually, detailed income and expense statements for the Property, prepared by a Certified Public Accountant satisfactory to Lender, within three months after close of Borrower's fiscal year.
10. Borrower hereby represents and warrants that as of the date hereof, there is no "hazardous material" present on or under the Property nor in any groundwater on or under the surface of the Property, the Property is not threatened by the off-premises presence of any such material, and no release or spill of any hazardous material has occurred onto or into the Property, or from the Property affecting adjacent lands. "Hazardous materials" shall include all substances defined or regulated as hazardous under federal, state and local statutes, ordinances and regulations, and specifically include, without limitation, crude oil, all substances containing any form of petroleum and petroleum based products. Borrower further represents that it and all tenants of space in the Property will comply with all applicable laws relating to the environment, and will not generate, store, handle or otherwise deal with hazardous materials on the Property, except in compliance with all applicable laws. Borrower and Co-Makers hereby unconditionally indemnify Lender from and against all obligations, liabilities, losses, damages, fees and expenses Lender may incur resulting from hazardous material affecting the Property.
11. Borrower and Co-Makers represent and warrant that none of them is a judgment debtor under any unsatisfied judgment for more than \$5,000.00, nor is any of them a defendant in any pending proceeding to collect secured indebtedness and/or to foreclose a mortgage or deed of trust lien (nor has any of Borrower or Co-Makers agreed to grant a deed-in-lieu of foreclosure) nor has any such foreclosure or deed in lieu of foreclosure been completed within five (5) years prior to the date hereof, involving either of them. For purposes of this Paragraph, the terms "Borrower" and

"Co-Makers" also include every entity in which any of them has any beneficial interest or authority to act on behalf of such entity.

12. Borrower and Co-Makers, hereby waive, discharge and forever release Lender, Lender's employees, officers, directors, attorneys, stockholders, successors and assigns from and of any and all claims, causes of action, allegations or assertions that Borrower and Co-Makers may have made at any time up through and including the date of this Amendment, regardless of whether any of such claims, causes of action, allegations, or assertions are known to Borrower and Co-Makers against any or all of the foregoing persons released, regardless of whether any of such claims, causes of action, allegations or assertions arose as a result of Lender's actions or omissions in connection with the Security Instruments, Lender's administration of the Loan, or any other obligations of any kind or nature of Borrower and/or Co-Makers to Lender.
13. Borrower and Co-Makers acknowledge and agree that the mortgage lien and security interests granted to Lender by Borrower and Co-Makers in the Property remain properly perfected, first and valid liens thereon, and Borrower and Co-Makers represent and warrant that as of the date of this Amendment, there are no claims, setoffs or defenses to Lender's exercise of any rights or remedies available to it as a creditor in realizing upon the Property under the terms and conditions of this Amendment and the Security Instruments. Borrower and Co-Makers represent and warrant that neither of them has assigned any claim, setoff or defense to any person, individual and/or entity.
14. Borrower and Co-Makers acknowledge and agree that Borrower's and Co-Makers' obligations evidenced by the Note, this Amendment and the Security Instruments are valid obligations of Borrowers and Co-Makers, and as of the Effective Date of this Amendment, there are no claims, setoffs or defenses to the payment in full by Borrower and Co-Makers of any of their obligations under the Note, hereunder and under the Security Instruments, and Lender may enforce the payment of Borrower's and Co-Makers' obligations as set forth in the Note, this Amendment and the Security Instruments against the Borrower and/or Co-Makers, as applicable.
15. Borrower and Co-Makers hereby extend all liens and security interests created by the Security Instruments until the Note, as modified herein, has been fully paid, and agree that such amendment shall in no manner affect or impair the Note or the liens and security interests securing the same and that said liens and security interests shall not in any manner be waived, the purpose of this instrument being simply to modify the manner of payment of the Note and to carry forward all liens and security interests securing the same, which are acknowledged by Borrower and Co-Makers to be valid and subsisting. Borrower and Co-Makers further agree that all terms and provisions in the Note and the Security Instruments shall be and remain

in full force and effect as therein written, except as otherwise expressly provided herein. Any default or breach by Borrower and Co-Makers hereunder shall be an event of default under the Note and Security Instruments entitling Lender to exercise all of its remedies for default thereunder. This Amendment is intended as a modification and not a novation of the Note and Security Instruments. Nothing herein shall be construed as a novation of the Note or any of the Security Instruments.

16. This Amendment shall not become effective until it has been executed by Borrower, Co-Makers, and Lender, and Lender has received the payments herein set forth, and the items to be furnished pursuant to the Lender's Commitment Letter to Byars & Company, Inc., dated November 5, 1997, together with any subsequent amendments, together with any subsequent amendments, have been obtained by Borrower at its expense, and provided to, reviewed and approved by Lender, and Borrower has paid all recording fees, filing fees and miscellaneous fees.
17. Each of the Security Instruments shall be deemed to have been modified, as appropriate, in accordance with the provisions of this Amendment. All references in the Note and the Security Instruments to themselves and to each other shall be deemed to be references to such instruments as modified by this Amendment.
18. Whenever used, the singular number shall include the plural, the plural the singular, and any use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the effective date set forth above.

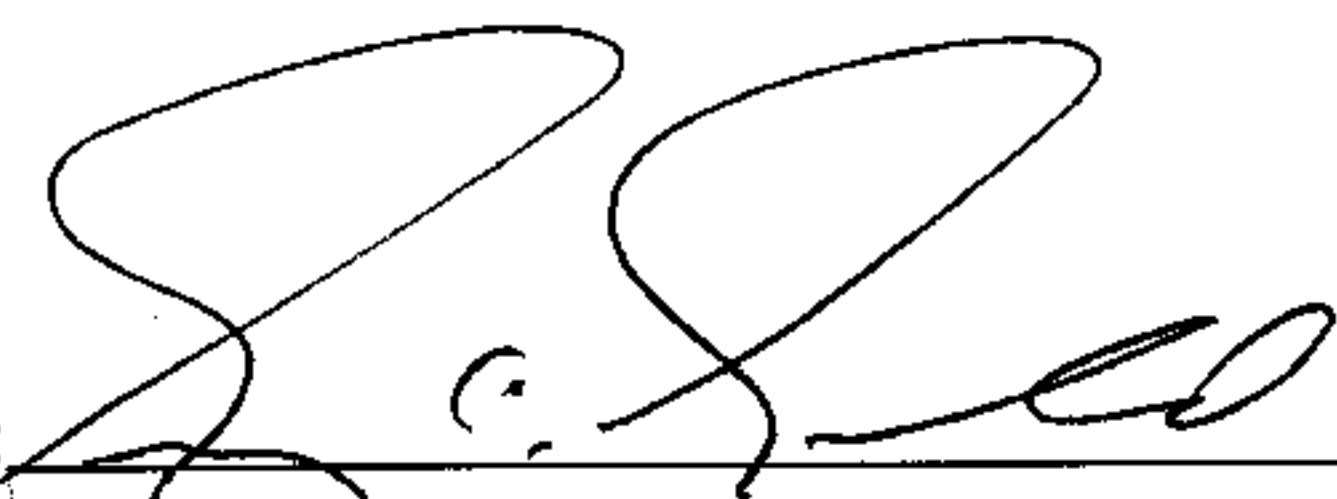
BORROWER:

BMG PROPERTIES,
an Alabama general partnership

BY: Werner H. Beiersdoerfer
WERNER H. BEIERSDOERFER,
General Partner

BY: Danny O. Meadows
DANNY O. MEADOWS,
General Partner

BY:

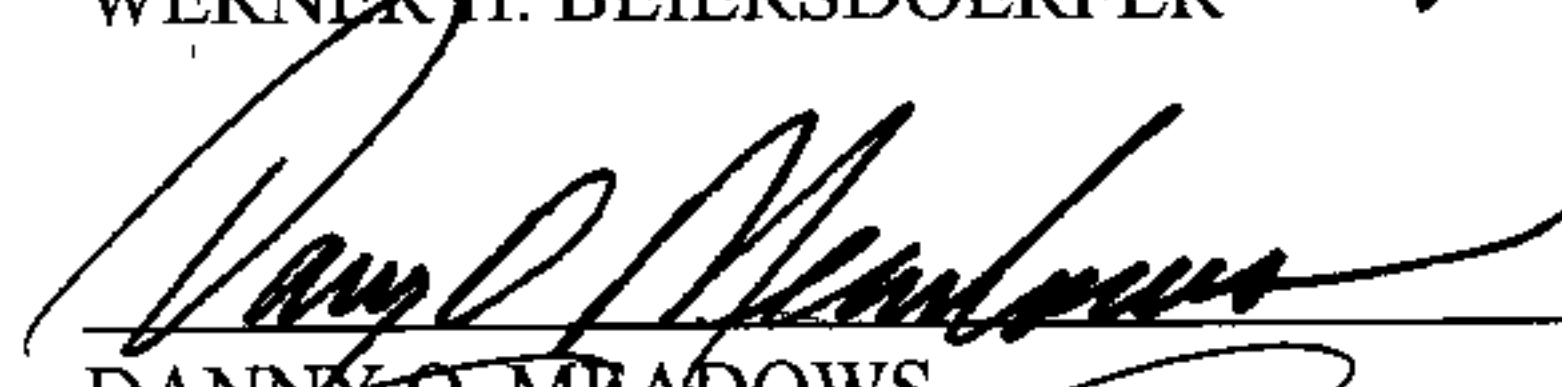


GEORGE C. GOULD, III,
General Partner

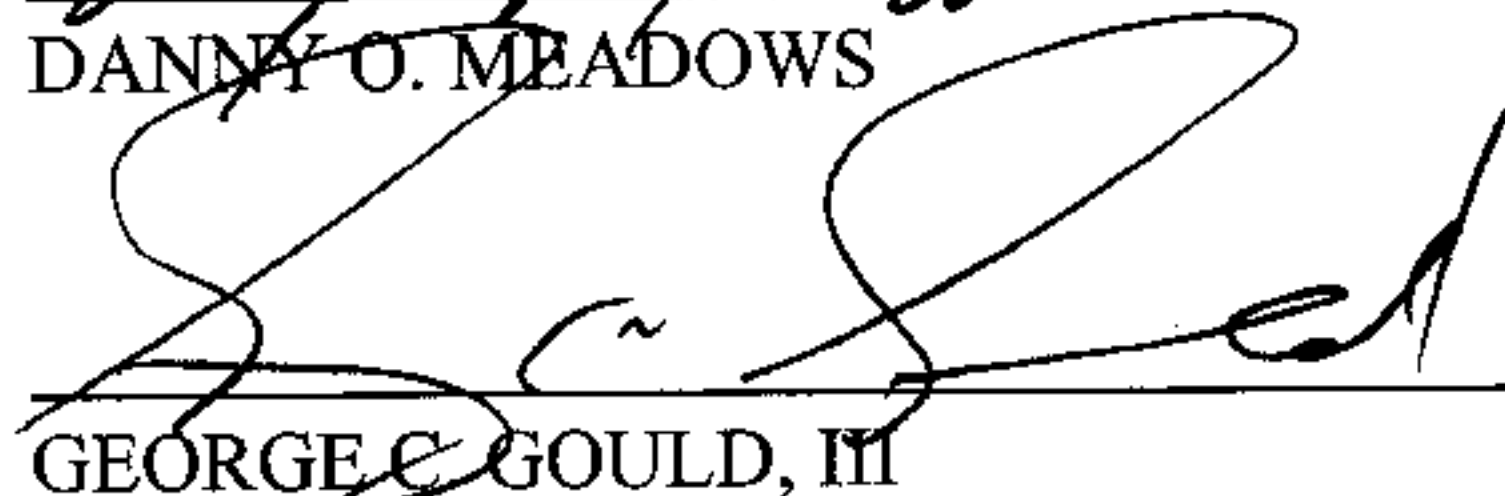
CO-MAKERS:



WERNER H. BEIERSDOERFER



DANNY O. MEADOWS



GEORGE C. GOULD, III

LENDER:

THE OHIO NATIONAL LIFE
INSURANCE COMPANY

BY: *Michael D. Stohler*
MICHAEL D. STOHLER
Vice-President

STATE OF OHIO)
)
COUNTY OF HAMILTON)

SS:

The foregoing instrument was acknowledged before me, this 12th day of February, 1998,
by MICHAEL D. STOHLER, Vice-President of THE OHIO NATIONAL LIFE
INSURANCE COMPANY, an Ohio corporation, on behalf of the corporation.

WITNESS my hand and official seal.

Virginia L. Elliot
NOTARY PUBLIC



VIRGINIA L. ELLIOT
Notary Public, State of Ohio
My Commission Expires April 24, 1999

STATE OF)
)
COUNTY OF) SS:

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that WERNER H. BEIERSDOERFER, whose name as general partner of BMG Properties, an Alabama general partnership, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this date that, being informed of the contents of said instrument, he as general partner and with full authority, executed the same voluntarily for and as the act of said general partnership on the day the same bears date.

Given under my hand and official seal this 17 day of February, 1998.

[NOTARIAL SEAL]

Tina Stewart
Notary Public

My Commission Expires: MY COMMISSION EXPIRES APRIL 6, 1998

STATE OF)
)
COUNTY OF) SS:

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that DANNY O. MEADOWS, whose name as general partner of BMG Properties, an Alabama general partnership, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this date that, being informed of the contents of said instrument, he as general partner and with full authority, executed the same voluntarily for and as the act of said general partnership on the day the same bears date.

Given under my hand and official seal this 17 day of February, 1998.

[NOTARIAL SEAL]

Dessa B. Medley
Notary Public

My Commission Expires: 9-21-00

STATE OF)
) SS:
COUNTY OF)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that GEORGE C. GOULD, III, whose name as general partner of BMG Properties, an Alabama general partnership, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this date that, being informed of the contents of said instrument, he as general partner and with full authority, executed the same voluntarily for and as the act of said general partnership on the day the same bears date.

Given under my hand and official seal this 13 day of ~~January~~ ^{February}, 1998.

[NOTARIAL SEAL]

Vina Stewart
Notary Public

My Commission Expires: MY COMMISSION EXPIRES APRIL 5, 1998

STATE OF)
) SS:
COUNTY OF)

I the undersigned, a Notary Public in and for said County in said State, hereby certify that WERNER H. BEIERSDOERFER, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 17 day of ~~January~~ ^{February}, 1998.

[NOTARIAL SEAL]

Dessa B. Medley
Notary Public

My Commission Expires: 9-21-00

STATE OF)

COUNTY OF) SS:
)

I the undersigned, a Notary Public in and for said County in said State, hereby certify that DANNY O. MEADOWS, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 17 day of February, 1998.

[NOTARIAL SEAL]

Dessa B. Medley
Notary Public

My Commission Expires: 9-21-00

STATE OF)
COUNTY OF) SS:

I the undersigned, a Notary Public in and for said County in said State, hereby certify that GEORGE C. GOULD, III, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 13 day of February, 1998.

[NOTARIAL SEAL]

Anna Stewart
Notary Public

My Commission Expires: COMMISSION EXPIRES APRIL 5, 1998

This instrument prepared by:
The Ohio National Life Insurance Company
One Financial Way
Cincinnati, Ohio 45242
(513) 794-6100

EXHIBIT "A"

Inst # 1998-06211

Part of the East 1/2 of the SW 1/4 of Section 30, Township 19 South, Range 2 West, Shelby County, Alabama; being more particularly described as follows:
Beginning at the SW corner of Lot 2, 2nd Amendment Commercial Subdivision Riverchase East, First Sector, as recorded in the Office of the Judge of Probate of Shelby County, Alabama, in Map Book 6 page 99, run in a northerly direction along the West line of said Lot 2 for a distance of 175.00 feet; thence turn an angle of the left of 90 deg. and run in a westerly direction for a distance of 161.95 feet to an existing iron pin being the point of beginning; thence continue along last mentioned course for a distance of 161.94 feet to a point on the East right of way line of Business Center Drive; thence turn an angle of 89 deg. 57 min. and run in a southerly direction along said East right of way line for a distance of 346.74 feet; thence turn an angle to the left of 61 deg. 15 min. 15 sec. and run in a southeasterly direction for a distance of 33.66 feet to a point on the North right of way line of Valleydale Road; thence turn an angle to the left of 61 deg. 19 min. 28 sec. and run a northeasterly direction along said North right of way line for a distance of 157.45 feet to an existing iron pin; thence turn an angle to the left of 57 deg. 28 min. 17 sec. and run in a northerly direction for a distance of 278.29 feet, more or less, to the point of beginning.

Less and Except the following:

A parcel situated in the East 1/2 of the SW 1/4 of Section 30, Township 19 South, Range 2 West, Shelby County, Alabama, and being more particularly described as follows:

Commence at the NW corner of the East 1/2 of the SW 1/4 of Section 30, Township 19 South, Range 2 West; thence run East along the North line of said 1/4 section for 663.97 feet; thence turn 87 deg. 41 min. right and run southerly 1337.93 feet; thence turn 90 deg. 00 min. 00 sec. right and run Westerly 161.95 feet to the point of beginning; thence continue along the last described course for 162.07 feet to a point on the Easterly right of way of Business Center Drive; thence turn 89 deg. 57 min. left and run southerly along said road right of way for 84.82 feet; thence turn 89 deg. 50 min. 35 sec. left and run easterly 162.14 feet; thence turn 90 deg. 12 min. 25 sec. left and run northerly 85.41 feet to the point of beginning.

Being situated in Shelby County, Alabama.

Inst # 1998-06211

02/25/1998-06211
08:10 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
012 MCD 639.00