

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

ORIX CREDIT ALLIANCE, INC.

Plaintiff,

and

CIT GROUP/EQUIPMENT
FINANCING, INC.,

Plaintiff-Intervenor

-vs-

OAK MOUNTAIN ENERGY,
L.L.C., and ALABAMA POWER
COMPANY,

Defendants,

CV-98-AR-2636-S

Inst. # 1998-47637

12/02/1998-47637
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SHELBY COUNTY JUDGE OF PROBATE
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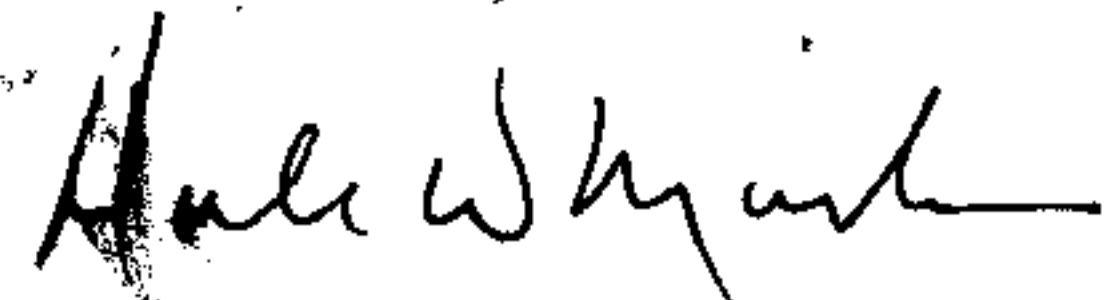
CERTIFICATE OF JUDGMENT

I, PERRY D. MATHIS, Clerk of the United States District Court for the Northern District of Alabama, do hereby certify that on the 19th day of November, 1998, a Final Summary Judgment was rendered by said court in the above-styled cause, wherein it was ORDERED by the Court as set in the Judgment hereto attached; and that Michael Leo Hall is the Attorney of Record for Orix Credit Alliance, Inc., in said cause.

WITNESS, My hand and the Seal
Of said Court, this the 25th day of
November, 1998.

PERRY D. MATHIS, CLERK

BY:



Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

ORIX CREDIT ALLIANCE, INC.)

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and)

CIT GROUP/EQUIPMENT)
FINANCING, INC.,)

Plaintiff-Intervenor)

-vs-)

CV-98-AR-2636-S

OAK MOUNTAIN ENERGY,)
L.L.C., and ALABAMA POWER)
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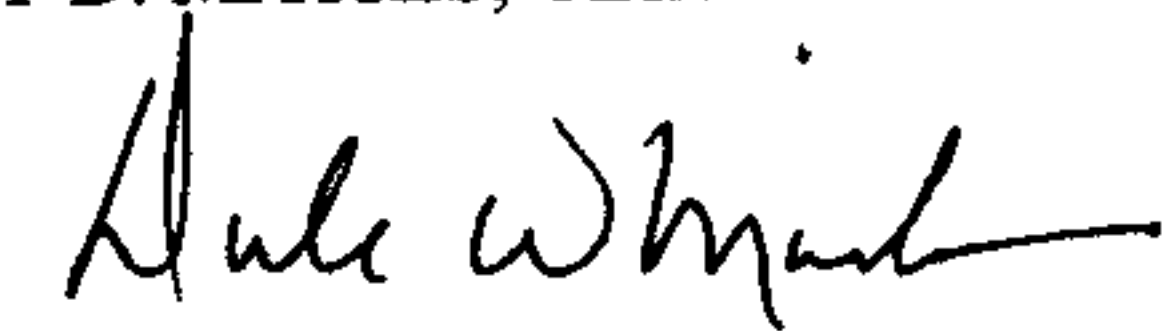
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U.S. DISTRICT COURT
N.D. OF ALABAMA

ORIX CREDIT ALLIANCE, INC.)

Plaintiff,)

and)

CIT GROUP/EQUIPMENT)
FINANCING, INC.,)

Plaintiff-Intervenor)

v.)

OAK MOUNTAIN ENERGY, L.L.C.,)
and ALABAMA POWER COMPANY,)
Defendants.)

CIVIL ACTION NO.

CV-98-AR-2636-S

ENTERED
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FINAL SUMMARY JUDGMENT

IN FAVOR OF ORIX AND AGAINST OME

This matter came on to be heard on the Motion for Summary Judgment filed by plaintiff ORIX Credit Alliance, Inc. ("ORIX") against the defendant Oak Mountain Energy, L.L.C. ("OME").

In accord with its Memorandum Opinion entered contemporaneously herewith that finds there is no genuine issue of material fact and that ORIX is entitled to a judgment as a matter of law, the Court hereby **ORDERS, ADJUDGES and DECREES** as follows:

1. ORIX's motion for summary judgment against OME is granted.
2. ORIX is awarded a money judgment against OME in the principal amount of \$1,876,579.64 plus interest and attorneys fees as provided below.
3. ORIX is awarded a money judgment for prejudgment interest at the rate of \$938.28 per diem from October 7, 1998, through date of judgment for a total amount of prejudgment interest of \$39,407.76.

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4. The total monetary judgment awarded to ORIX is \$1,915,987.40.

5. ORIX is entitled to recovery of its reasonable attorney's fees from OME. The Court reserves jurisdiction for the limited purpose of allowing ORIX to request on a duly filed and served motion a request for an additional amount to be added to its judgment for attorney's fees incurred now and in the future. ORIX may file such a motion only if and when it determines that it has located or recovered assets that may be sufficient to pay the existing amount of its judgment in full.

6. ORIX is awarded possession of the so-called Leased Equipment, which is more particularly described as follows:

One Johnson Industries White Lightning Personnel Carrier Model
JI 726C Diesel s/n WL0002

One Eimco Model 2810-1 Continuous Miner s/n 70880159

One Eimco Model 2810-1 Continuous Miner s/n 70880164

One Stamler BH-10 Battery Hauler s/n 1032

One Stamler BH-10 Battery Hauler s/n 1070

One J.H. Fletcher RR II-13 Roof Bolter s/n 97056

Two Pemco Power Centers 1,000 KVA s/n F433-697 & F434-697

One Pemco Power Center 300 KVA s/n F424-597

One Pemco Power Center 1250 KVA s/n F443-697

One Wallace 12 Passenger Mantrip DUV 12-4-418-P s/n 472

One Johnson Industries J1030 Rino Personnel Carrier, s/n D1-001

One Johnson Industries J1725C White Lightning Personnel Carrier,
WL001

One J. H. Fletcher DDR-13 Roof Bolter s/n 96318

7. ORIX shall dispose of the Leased Equipment in accord with its contractual obligations. The net proceeds of any disposition of the Leased Equipment shall be applied to reduce the balance owed on this judgment.

8. From and after the date of judgment, the unpaid balance owed by OME on this judgment shall bear interest at the contractual rate of 18% per annum.

9. There being no just reason for delay, this judgment is expressly entered as a final judgment pursuant to *Fed. R. Civ. P. 54(b)*.

10. ORIX may proceed immediately to enforce this judgment by all remedies as may be provided at law including the issuance and delivery of a certificate of this judgment, except that ORIX may not record a certificate of this judgment or execute on this judgment until December 1, 1998.

Dated the 19th day of November, 1998.



William M. Acker, Jr.,
United States District Judge

cc- Michael Leo Hall, attorney for ORIX
Jay Bender, attorney for OME
Scott Ford, attorney for CIT
Clark Hammond, attorney for APCo

Inst. # 1998-47697

12/02/1998-47697
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