

THE STATE OF ALABAMA )  
COUNTY OF SHELBY )

**AFFIDAVIT EVIDENCING SCRIVENER'S ERRORS**

Before me, the undersigned Notary Public, personally appeared Richard W. Theibert, Esquire, who being duly sworn deposes and says as follows:

My name is Richard W. Theibert, Esquire, and I was the preparer of that certain Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement from Donald J. Emilian, Sr. to Compass Bank, said Mortgage being filed in the Office of the Judge of Probate of Shelby County, Alabama and recorded in Instrument #1999-08986 being dated February 3, 1999.

Upon preparation of said Mortgage, the homestead of the Mortgagor was not reflected and the Mortgagors' spouse did not execute same. From this date forward, let the records reflect that no part of the mortgaged real property was the homestead of the Mortgagor, Donald J. Emilian, Sr., nor the Mortgagors' spouse.

As to Parcel II, the Mortgage was erroneously shown as being second and subordinate to the Mortgage recorded in Instrument 1998-24174. The Mortgage should have shown that it was subordinate to the Mortgage recorded in Instrument 1996-42701. Instrument 1998-24174 has been paid in full and released.

This Affidavit is made for the purpose of duly acknowledging the scrivener's errors in the drafting of said Mortgage filed in the Office of the Judge of Probate of Shelby County, Alabama and also to induce Chicago Title Insurance Company to issue its title insurance policy to said mortgagee covering said mortgage.

FURTHER, Affiant saith not.

*W. W. Theibert*

Richard W. Theibert

Sworn to and subscribed before me this 26<sup>th</sup> day of April, 1999.

*Raven Sue Underwood*

Notary Public

MY COMMISSION EXPIRES 6-23-2001

THIS INSTRUMENT WAS PREPARED BY: Richard W. Theibert, Attorney  
Najjar Denaburg, P.C., 2125 Morris Avenue, Birmingham, AL 35203

Inst # 1999-18720

05/05/1999-18720  
10:22 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
001 MMS 8.50