

This instrument was prepared by:

Rita H. Dixon
Burr & Forman LLP
420 N. 20th Street Suite 3100
Birmingham, Alabama 35203

STATE OF ALABAMA)
)
JEFFERSON COUNTY)

inst # 2000-04920

02/16/2000-04920
12:20 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
13.50
003 HNS

AFFIDAVIT REGARDING FORECLOSURE DEED
RECORDED FEBRUARY 14, 2000 AS INSTRUMENT 2000-04584

Before me, this undersigned authority, personally appeared, Michael C. Ivey, CLA, who,
being known to me and being by me duly sworn, affirms and says as follows:

1. I am Michael C. Ivey, CLA, and I am a legal assistant employed at the law firm of Burr & Forman LLP ("Burr & Forman").
2. I am one of the persons who has custody and control of Burr & Forman's records (including access to electronically stored data) concerning its representation of SouthTrust Bank, N.A. ("SouthTrust") in the foreclosure of that certain Mortgage (the "Mortgage") executed by Michael J. Evans and Kay H. Evans (together the "Evans") in favor of SouthTrust and recorded in the Office of the Judge of Probate of Shelby County, Alabama as Instrument Number: 1997-16752, on May 30, 1997. These records were made at or near the time of the event recorded by a person with knowledge of the event and charged with the responsibility for recording such events. These records are kept in the ordinary course of Burr & Forman's regularly conducted business activity which is Burr & Forman's customary practice. I have thoroughly reviewed Burr & Forman's file on this account, which leads me to the summary which is set forth below. All facts set forth herein are

either (a) facts of which I have personal knowledge; or (b) an accurate summary of Burr & Forman's business records as set forth above.

3. Default having been made in the payment of the indebtedness secured by the Mortgage, SouthTrust elected to foreclose the Mortgage under and by virtue of the power of sale contained therein. The foreclosure of the Mortgage was scheduled to take place on February 14, 2000 (the "Foreclosure Date").

4. SouthTrust advertised the impending foreclosure once a week for three weeks prior to the Foreclosure Date, in the *Shelby County Reporter* on January 26, 2000, February 2, 2000, and February 9, 2000.

5. At approximately 10:15 a.m. on the Foreclosure Date, I left Burr & Forman's Birmingham office to travel to Columbiana to conduct the foreclosure of the Mortgage as auctioneer

6. At approximately 11:15 a.m. that day, I conducted the foreclosure on the front steps of the Shelby County Courthouse in Columbiana, Alabama. SouthTrust purchased the property subject to and described in the Mortgage (the "Property") at the foreclosure for a credit on the indebtedness secured by the Mortgage.

7. As auctioneer, I executed a foreclosure deed conveying the Property SouthTrust (the "Foreclosure Deed") which was recorded with the Office of the Judge of Probate for Shelby County, Alabama as Instrument 2000-04584 (the "Foreclosure Deed") on February 14, 2000 at 11:29 a.m.

8. At 10:52 a.m. while I was traveling to Columbiana to conduct the foreclosure sale, Burr & Forman received in its Birmingham office notice that Michael J. Evans had filed a voluntary petition under Chapter 13 of Title 11 U.S.C. in the United States Bankruptcy Court for the Northern

District of Alabama at 10:34 a.m. that day. The case initiated by said petition was assigned case number 00-00933 (the "Bankruptcy Case").

9. No one at Burr & Forman's Birmingham Office was able to contact me from the time I left for Columbiana to the time I returned after recording the Foreclosure Deed.

10. Because of the filing of the petition initiating the Bankruptcy Case, the Foreclosure Deed is null, void, and of no effect.

FURTHER THE AFFIANT SAITH NAUGHT.


Michael C. Ivey, CLA, Affiant

Sworn to and subscribed before me
this 15th day of Feb, 2000


Notary Public
My Commission Expires: Nov 11, 2000

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