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Shelby Cnty Judge of Probate, AL
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IN THE CIRCUIT COURT OF TUSCALOOSA COUNTY, ALABAMA

THORNTON CONSTRUCTION
COMPANY, INC.,

Plaintiff,

v.

CAPSTONE DEVELOPMENT, L.L.C,
ET AL.,

Defendants.

CV-2001-1011

ORDER ON CONSENT JUDGMENT

This matter coming before this Court on June 25, 2002 for the trial of this cause, and prior to said trial the parties being represented by counsel having reached a settlement by mutual agreement of all parties, and the parties having consented to the following terms, and, therefore, the Court issues the following Order:

It is hereby ORDERED, ADJUDGED and DECREED as follows:

1. A consent money judgment is hereby entered against Capstone Development, L.L.C. ("Capstone") and in favor of Thornton Construction Company, Inc. ("TCC") for \$85,000.00. Capstone shall have the right to satisfy this Judgment by the timely payment of \$50,000.00 as set forth below:

a) \$5,000.00 payable by Capstone to TCC on or before 14 days from the date of the rendition of this Judgment;

b) an additional \$5,000.00 payable by Capstone to TCC on or before 45 days from the date of the rendition of this Judgment;

c) the balance of this Judgment may be satisfied upon the payment of \$50,000.00 [less payments made in Paragraphs 1(a) and 1(b) above] on or before 180 days from the date of the rendition of this Judgment [Paragraph 1(a) through 1(c) hereinafter referred to as "Accelerated Payments"], provided that the two (2) \$5,000.00 payments referred to in Paragraphs 1(a) through 1(b) above are timely paid;

In the event that any payment set out above is not paid when due, Capstone will be considered in default and TCC may immediately record this entire Judgment in the amount of Eighty-Five Thousand and no/100 Dollars (\$85,000.00) less any prior payments made by Capstone to TCC. In the event of the default as set forth herein, this Judgment will bear interest at 12% on the full \$85,000.00 less any payments received from the later to occur of the date of this Judgment or the date of the last payment;

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2. This Judgment may not be recorded by TCC until after a default in the payment of any installment set forth in Paragraph 1 above or unless and until any of the following occurs:

- (a) any subsequent lien or encumbrances are placed on any of the property or assets of Capstone from the date of this Judgment; or
- (b) any judgment is recovered against Capstone, in any jurisdictional Court whether or not the underlying action is appealed.

Upon the happening of one of the events referred to hereinabove which shall be considered a default under this Judgment, TCC shall be released to record this Judgment.

3. Once the condition against recordation of this Judgment is removed, after a default as described in paragraphs one (1) and/or two (2) hereinabove, and at least one hundred eighty (180) days has elapsed since this Judgment is entered by this Court, TCC will be entitled to exercise all of its rights and remedies to perfect this Judgment and execute thereon. If Capstone pays to TCC Fifty Thousand and no/100 Dollars (\$50,000.00) less any payments previously made within one hundred eighty days (180) after this Judgment is entered, this Judgment will be deemed satisfied. If within one hundred eighty days (180) after this Judgment is entered by this Court, Capstone has not paid TCC the total of Fifty Thousand and no/100 Dollars (\$50,000.00), this Judgment amount remains against Capstone and in favor of TCC for Eighty-Five Thousand and no/100 Dollars (\$85,000.00) less any payment previously made by Capstone and will be satisfied only upon full payment of any remaining amount.

4. Capstone will not further encumber any of the property or assets of Capstone without complete satisfaction of the conditions of this Judgment, that is the payment of the Accelerated Payments or the full amount of this Judgment less any payments received and any applicable interest accruing thereon if the Accelerated Payments have not been made;

5. Capstone will immediately notify TCC of any and all lawsuits, liens and threats in the past, present, and future from the date that this Judgment is entered until this Judgment is satisfied in full or the date TCC has recorded this Judgment.

6. Capstone will not transfer any of its assets for less than full and adequate consideration. In addition, all of the proceeds generated from any such transfer will be applied to the reduction of the outstanding Bonds related to the assets of Capstone provided, however, that Capstone may pay ordinary and necessary expenses incurred in the ordinary course of business for utilities, repair, maintenance and improvements to the property.

7. Capstone will take no adverse action against TCC.

8. Within ten (10) days following the entry of this Judgment by this Court, TCC will release its option to purchase additional lots under the existing agreements. TCC will no longer serve as the exclusive builder in the Tidewater and Lakeridge subdivisions of The Capstone, A Championship Community.

9. Court costs are taxed as paid.

Done and Dated this 2 day of August, 2002.



CIRCUIT COURT JUDGE

cc: Bruce L. Gordon
Nicole L. Gordon
Mr. David E. Rains
Mr. Justin G. Williams