

THE STATE OF ALABAMA)
:
COUNTY OF SHELBY)

AFFIDAVIT EVIDENCING SCRIVENER'S ERROR

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

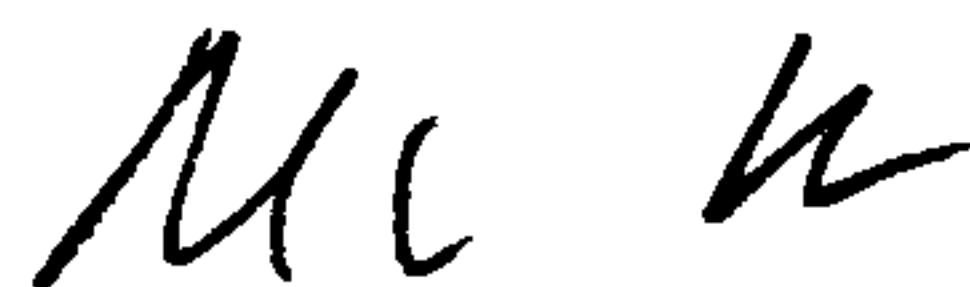
My name is Richard W. Theibert, Esquire and I am with the law firm Najjar Denaburg, P.C., who was the preparer of that certain Mortgage Modification Agreement filed in the Office of the Judge of Probate of Shelby County, Alabama and recorded in Instrument No. 2000-28450 being dated August 11, 2000, whereby the mortgage from Weatherly Partners, L.L.C. to Compass Bank dated November 23, 1999 and recorded in Instrument #1999-48510 was modified to include additional acreage.

The undersigned has examined the Mortgage Modification Agreement prepared and finds that a typographical error was made relative to the legal description attached to said Mortgage Modification Agreement as Exhibit "A". The correct legal description of the property is attached hereto as Exhibit "A".

From this date forward, let the records reflect that the correct legal description of the Mortgage Modification Agreement between Compass Bank and Weatherly Partners, L.L.C. is attached hereto as Exhibit "A".

This Affidavit is made for the purpose of duly acknowledging the scrivener's error in that drafting of said deed filed in the Office of the Judge of Probate of Shelby County, Alabama and also to induce Lawyers Title Insurance Corporation to issue its title insurance policy to said owner and mortgagee reflecting said correction.

FURTHER, Affiant saith not.

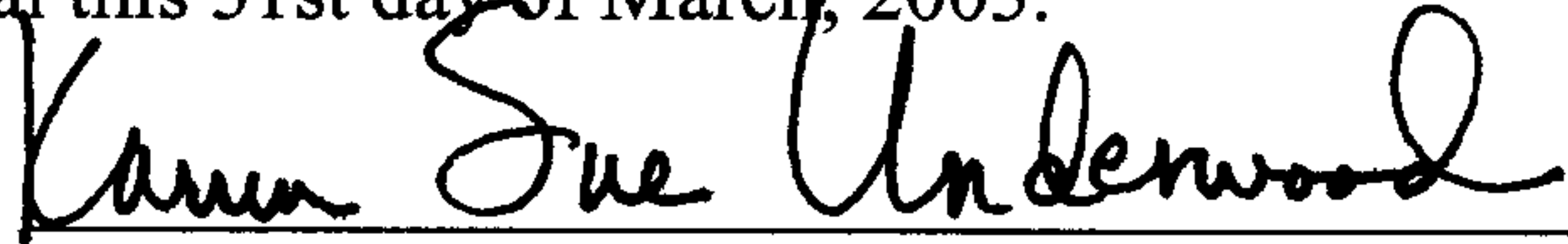


Richard W. Theibert, Esquire

STATE OF ALABAMA
COUNTY OF JEFFERSON

I, the undersigned, a notary public in and for said county in said state, hereby certify that Richard W. Theibert, 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 such instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 31st day of March, 2003.



Notary Public

[Notarial Seal]

My Commission Expires: 6-23-04

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

Part of Section 31 and part of Section 32, both in Township 20 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:
Beginning at an existing iron rebar being the most Southerly corner of Lot 1331, Amended Map of Weatherly Wixford Forest-Sector 13, as recorded in the Office of the Judge of Probate, Shelby County, Alabama, in Map Book 22, Pages 23 A and B, run in a Northeasterly direction along the Southeast line of Lots 1331, 1332, 1333, 1334, 1335 and 1336 for a distance of 1075.0 feet to an existing iron rebar being the most Easterly corner of said Lot 1336; thence turn an angle to the right of 2 degrees 0 minutes and run in a Northeasterly direction along the Southeast lines of Lots 1337 and 1338 for a distance of 490.0 feet to an existing iron rebar; thence turn an angle to the left of 11 degrees 53 minutes 31 seconds and run in a Northeasterly direction along the Southeast lines of Lots 37, 38, 39, 40, 41 of Weatherly Windsor Sector 11, as recorded in the Office of the Judge of Probate, Shelby County, in Map Book 18, Page 80, and also the Southeast line of Lot 42, A Resurvey of Lots 41, 42 and 43, Weatherly Windsor Sector 11, as recorded in the Office of the Judge of Probate, Shelby County, Alabama, in Map Book 18, page 84, for a distance of 1378.99 feet to an existing iron rebar; thence turn an angle to the left of 29 degrees 59 minutes 17 seconds and run in a Northerly direction along the East line of said Lot 42 and Lot 43 of A Resurvey of Lots 41, 42 and 43, Weatherly Windsor Sector 11 for a distance of 141.95 feet; thence turn an angle to the right of 89 degrees 52 minutes 48 seconds and run in an Easterly direction along the South line of Lot 43 of said subdivision for a distance of 154.29 feet; thence turn an angle to the left of 90 degrees 00 minutes 28 seconds and run in a Northerly direction along the East line of said Lot 43 and along the East line of Lots 48, 49, 50 and 51 of Weatherly Windsor Sector 11, as recorded in Map Book 18, Page 80 for a distance of 1311.82 feet; thence turn an angle to the right of 96 degrees 41 minutes 40 seconds and run in an Easterly direction along the South line of Lot 113, Weatherly Windsor Sector 8, as recorded in the Office of the Judge of Probate, Shelby County, Alabama, in Map Book 16, Page 110 for a distance of 374.31 feet to an existing iron pin; thence turn an angle to the right of 0 degrees 10 minutes 06 seconds and run in an Easterly direction along the South line of Lot 112 of said Weatherly Windsor Sector 8 for a distance of 310.11 feet to an existing iron pin; thence turn an angle to the left of 0 degrees 19 minutes 38 seconds and run in an Easterly direction along the South line of Lot 109, Weatherly Oxford Sector 10, as recorded in the Office of the Judge of Probate, Shelby County, Alabama, in Map Book 9, Page 38, for a distance of 225.29 feet to an existing iron pin; thence turn an angle to the left of 0 degrees 03 minutes 35 seconds and run in an Easterly direction for a distance of 63.19 feet to an existing iron pin; thence turn an angle to the right of 0 degrees 12 minutes 54 seconds and run in an Easterly direction along the South line of Lot 108, Weatherly Oxford Sector 10, as recorded in Map Book 9, Page 38, for a distance of 240.0 feet to an existing iron pin; thence turn an angle to the right of 0 degrees 31 minutes 47 seconds and run in an Easterly direction for a distance of 450.38 feet to an existing iron rebar; thence turn an angle to the left of 0 degrees 39 minutes 28 seconds and run in an Easterly direction for a distance of 314.0 feet to an existing iron rebar set by Laurence D. Weygand; thence turn an angle to the right of 115 degrees 48 minutes 11 seconds and run in a Southwesterly direction for distance of 1,914.62 feet to an existing iron rebar set by Laurence D. Weygand; thence turn an angle to the left of 59 degrees 12 minutes 48 seconds and run in a Southeasterly direction for a distance of 219.08 feet to a point on a

curve, said curve being concave in an Northwesterly direction, having a central angle of 9 degrees 04 minutes 34 seconds and a radius of 1,440.28 feet; thence turn an angle to the right (90 degrees to the tangent) and run in a Southwesterly direction along the arc of said curve for a distance of 228.15 feet to the point of ending of said curve; thence run in a Southwesterly direction along a line tangent to the end of said curve for a distance of 827.97 feet to the point of beginning of a new curve, said curve being concave in a Southeasterly direction and having a central angle of 20 degrees 13 minutes 34 seconds and a radius of 604.44 feet; thence turn an angle to the left and run in a Southwesterly direction along the arc of said curve for a distance of 213.37 feet to the point of ending of said curve and the point of beginning of a new curve, said newest curve being concave in a Southeasterly direction and having a central angle of 49 degrees 38 minutes 38 seconds and a radius of 639.13 feet; thence turn an angle to the left and run in a Southwesterly and Southerly direction along the arc of said curve for a distance of 553.77 feet to the point of ending of said curve; thence run in a Southerly direction along a line tangent to the end of said curve for a distance of 490.39 feet to the point of beginning of a new curve, said latest curve being concave in a Northwesterly direction and having a central angle of 37 degrees 06 minutes 32 seconds and a radius of 481.06 feet; thence turn an angle to the right and run in a Southerly and Southwesterly direction along the arc of said curve for a distance of 311.57 feet to the point of ending of said curve; thence run in a Southwesterly direction along a line tangent to the end of said curve for a distance of 1,302.67 feet to the point of beginning of another curve, said curve being concave in a Northwesterly direction and having a central angle of 31 degrees 51 minutes 26 seconds and a radius of 345.35 feet; thence turn an angle to the right and run in a Southwesterly direction along the arc of said curve for a distance of 192.02 feet to the point of ending of said curve; thence run in a Southwesterly direction along a line tangent to the end of said curve for a distance of 12.07 feet to the point of beginning of another curve, said latest curve being concave in a Southeasterly direction and having a central angle of 24 degrees 59 minutes 01 seconds and a radius of 366.22 feet; thence turn an angle to the left and run in a Southwesterly direction along the arc of said curve for a distance of 159.69 feet to the point of ending of said curve; thence run in a Southwesterly direction along a line tangent to the end of said curve for a distance of 248.82 feet to the point of beginning of a new curve, said latest curve being concave in a Northwesterly direction and having a central angle of 13 degrees 15 minutes 37 seconds and a radius of 442.61 feet; thence turn an angle to the right and run in a Southwesterly direction along the arc of said curve for a distance of 102.43 feet to the point of ending of said curve; thence run in a Southwesterly direction along a line tangent to the end of said curve for a distance of 191.62 feet to the point of beginning of a curve, said curve being concave in a Northerly direction and having a central angle of 34 degrees 25 minutes 37 seconds and a radius of 272.08 feet; thence turn an angle to the right and run in a Westerly direction along the arc of said curve for a distance of 163.49 feet to the point of ending of said curve; thence run in a Westerly direction along a line tangent to the end of said curve for a distance of 20.11 feet to the point of beginning of a new curve, said newest curve being concave in a Southerly direction and having a central angle of 14 degrees 13 minutes 31 seconds and a radius of 571.06 feet; thence turn an angle to the left and run in a Westerly direction along the arc of said curve for a distance of 141.78 feet to the point of ending of said curve; thence run in a Westerly direction along a line tangent to the end of said curve for

a distance of 147.54 feet to the point of beginning of a new curve, said curve being concave in a Northeasterly direction and having a central angle of 87 degrees 42 minutes 40 seconds and a radius of 466.35 feet; thence turn an angle to the right and run in a Northwesterly and Northerly direction along the arc of said curve for a distance of 713.91 feet to the point of ending of said curve; thence run in a Northerly direction along a line tangent to the end of said curve for a distance of 250.0 feet to a point at the end of a road right-of-way for Weatherly Club Drive; thence turn an angle to the right of 90 degrees and run in an Easterly direction along the end of said road right-of-way for a distance of 60.0 feet; thence turn an angle to the right of 90 degrees and run in a Southerly direction for a distance of 250.0 feet to the point of beginning of a curve, said curve being concave in a Northeasterly direction and having a central angle of 50 degrees 22 minutes 26 seconds and a radius of 406.35 feet; thence turn an angle to the left and run in a Southerly and Southeasterly direction along the arc of said curve for a distance of 357.26 feet; thence turn an angle to the left of (90 degrees 38 minutes 29 seconds to tangent) and run in a Northeasterly direction for a distance of 360.06 feet to an existing iron rebar; thence turn an angle to the right of 7 degrees 59 minutes 59 seconds and run in a Northeasterly direction for a distance of 552.73 feet to an existing iron rebar being on the Southeast line of Lot 1323 of said Amended Map of Weatherly Wixford Forest-Sector 13; thence turn an angle to the right of 2 degrees 33 minutes 44 seconds and run in a Northeasterly direction along the Southeast lines of Lots 1323, 1324, 1325, 1326, 1327, 1328, 1329 and 1330 Amended Map of Weatherly Wixford Forest-Sector 13 for a distance of 786.52 feet, more or less, to the point of beginning.

LESS AND EXCEPT:

Lots 2606, 2607, 2611, 2612, 2613, 2614, 2615, 2623, 2624 in Weatherly Highlands, The Ledges – Sector 26 Phase One as recorded in Map Book 26, Page 145, in the Office of the Judge of Probate of Shelby County, Alabama.