

AFFIDAVIT OF JAMES W. FUHRMEISTER

STATE OF ALABAMA)

COUNTY OF SHELBY)

Before me, the undersigned, a Notary Public in and for said county and said state, personally appeared James W. Fuhrmeister, who after being duly sworn, deposes and says as follows:

“My name is James W. Fuhrmeister and I am a practicing attorney in the State of Alabama. On November 6, 2003, I prepared a Mortgage in which Michael S. Capps, a married man, and Jeffrey G. Layton, a married man, are Mortgagors and First Commercial Bank is Mortgagee. This mortgage was recorded November 10, 2003 and appears of record in the Office of the Judge of Probate of Shelby County, Alabama as Instrument Number 20031110000745330.

The property described in the Mortgage is not the homestead of the mortgagors and should have stated on its face:

THIS IS NOT THE HOMESTEAD OF THE MORTGAGORS.

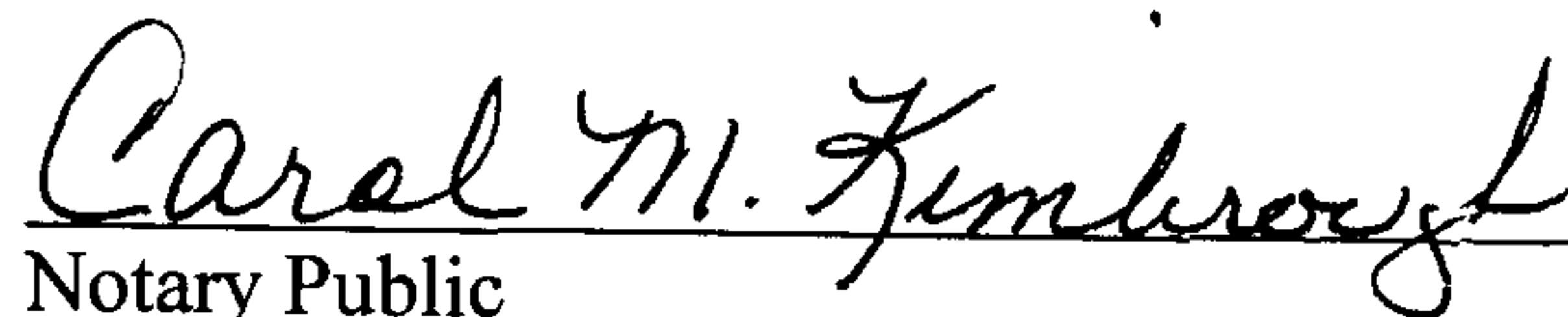
I give this affidavit of my own personal knowledge of the facts set out herein.”

In Witness Whereof, I have hereunto set my hand and seal on this the 10th day of March, 2004.



JAMES W. FUHRMEISTER

Sworn to and subscribed before me this 10th day of March, 2004.



Notary Public
My Commission Expires: 2-2-05