


STATE OF ALABAMA)

COUNTY OF SHELBY)

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Shelby Cnty Judge of Probate, AL
07/21/2004 12:33:00 FILED/CERTIFIED

MORTGAGE FILING PRIVILEGE TAXES HAVE PREVIOUSLY BEEN PAID ON INDEBTEDNESS IN THE AMOUNT OF \$595,000.00 IN CONNECTION WITH THE RECORDATION OF THAT CERTAIN MORTGAGE DATED OCTOBER 23, 2002 RECORDED WITH THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA AT INSTRUMENT NO. 2002/1114000569080. ADDITIONAL MORTGAGE FILING PRIVILEGE TAXES ON INDEBTEDNESS IN THE AMOUNT OF \$100,000.00 ARE DUE IN CONNECTION WITH THE RECORDING OF THIS INSTRUMENT.

MORTGAGE MODIFICATION AGREEMENT

This Agreement is by and between National Bank of Commerce of Birmingham ("Bank") and Douglas A. Levene and Monica M. Levene, husband and wife ("Borrowers") and is dated May 13, 2004.

WHEREAS, one of the Borrowers, Douglas A. Levene, is currently indebted to Bank pursuant to a certain loan in the original principal amount of \$595,000 (the "Loan"), as evidenced by a certain Adjustable Rate Note dated October 23, 2002, as amended by that certain Note and Loan Modification Agreement dated October 31, 2003 and that certain Note and Loan Modification Agreement dated as of the date hereof (the "Modification Agreement") (as amended, the "Note"). The terms of the Loan are further set forth and evidenced in that certain Construction/Permanent Loan Agreement dated October 23, 2002, as amended by that certain Note and Loan Modification Agreement dated October 31, 2002 and the Modification Agreement (as amended, the "Loan Agreement"). As of today, the outstanding principal balance of the loan is \$595,000.

WHEREAS, the Loan is secured by a certain Mortgage dated October 23, 2002 executed by Borrowers in favor of Bank and recorded in the Office of the Judge of Probate of Shelby County, Alabama as Instrument Number 2002/1114000569080, as amended by that certain Mortgage Modification Agreement dated October 31, 2003 and recorded in the Office of the Judge of Probate of Shelby County, Alabama as Instrument No. 20031110000745610 (as amended, the "Mortgage").

WHEREAS, concurrently herewith, Borrowers have requested that Bank modify certain provisions of the Note and the Loan to (among other things): (i) provide for an extension of an additional \$100,000.00 of credit; and (ii) modify the maturity date of the Note to May 13, 2005, pursuant to the terms of the Modification Agreement.

WHEREAS, Bank is willing to enter into the Modification Agreement on the condition, among others, that Borrowers enter into this Agreement to amend and modify the Mortgage to reflect the modification to the Note and Loan secured thereby as set forth in the Modification Agreement and to make certain other changes thereto.

NOW, THEREFORE, for and in consideration of the foregoing premises, Borrowers and Bank agree as follows:

1. The Mortgage is hereby modified and amended as follows:

(a) On Page 2, the definition of the term "Note" is hereby amended by inserting the phrase: "(as modified and amended by that certain Note and Loan Modification Agreement executed May 13, 2004 executed by the Borrower and the Bank)" after the date "October 31, 2003".

(b) On Page 2, the definition of the term "Note" is further hereby amended by deleting the term "Five Hundred Ninety-Five Thousand and no/100 Dollars (U.S. \$595,000.00) and substituting the term "Six Hundred Ninety-Five Thousand and no/100 Dollars (U.S. \$695,000.00) therefore.

(c) On Page 2 in Section (D), the date "November 1, 2033" is deleted and the date "May 13, 2005" is substituted therefor.

2. All other provisions of the Mortgage and any and all other instruments executed in connection with the Loan that are inconsistent with this Amendment are hereby modified so as to be consistent herewith.

3. Except as modified herein or in the Modification Agreement, all of the terms and conditions of the Mortgage, Loan Agreement, the Note and of any and all other instruments executed in connection with the Loan shall remain in full force and effect. Nothing contained in this Agreement shall be deemed to constitute a novation of the terms of the Mortgage nor impair any liens granted to Bank thereunder, nor affect any of the rights, powers or remedies of Bank under the Mortgage, nor constitute a waiver of any provision thereof.

[signatures to appear on following page]

IN WITNESS WHEREOF, parties hereto have caused this instrument to be executed on May 13, 2004.

Douglas A. Levene
Douglas A. Levene

Monica M. Levene
Monica M. Levene

ATTEST:

NATIONAL BANK OF COMMERCE OF
BIRMINGHAM

By: Stephen F. Vickery
Stephen F. Vickery
Its Senior Vice President

STATE OF ALABAMA)
COUNTY OF Jefferson)

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that Douglas A. Levene and wife, Monica M. Levene, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this 13th day of May, 2004.

Blenda B. Usher
Notary Public

AFFIX SEAL

My commission expires: NOTARY PUBLIC STATE OF ALABAMA BY LICENSE
MY COMMISSION EXPIRES: Aug 1, 2007
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA)
COUNTY OF Jefferson)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Stephen F. Vickery, whose name as Senior Vice President of National Bank of Commerce of Birmingham, a national banking association, 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 said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said banking association.

Given under my hand and official seal, this 13th day of May, 2004.

Blenda B. Usher
Notary Public

AFFIX SEAL

My commission expires: NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Aug 1, 2007
BONDED THRU NOTARY PUBLIC UNDERWRITERS

This instrument prepared by:
Matthew W. Grill, Esq.
Maynard, Cooper & Gale, P.C.
1901 Sixth Avenue North
2400 AmSouth/Harbert Plaza
Birmingham, Alabama 35203
(205) 254-1000

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