


STATE OF ALABAMA)
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COUNTY OF SHELBY)


20041207000667550 Pg 1/6 131.00
Shelby Cnty Judge of Probate, AL
12/07/2004 08:29:00 FILED/CERTIFIED

REAL PROPERTY MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, that **JONATHAN W. BATES and JASON W. BATES** (hereinafter sometimes called "Debtor") is justly indebted to **KERMIT STEPHENS, SR.** (hereinafter sometimes called Mortgagee) in the sum of Seventy Thousand (\$70,000.00) Dollars for that amount of money this day loaned by the Mortgagee directly to Debtor on delivery of this instrument, the receipt of which sum is hereby acknowledged and which said indebtedness is evidenced by a promissory note of Debtor of even date herewith, which note is due and payable to the order of Mortgagee at Bibb County, Alabama, in the following manner:

AS SET FORTH IN THE PROMISSORY NOTE OF EVEN DATE HEREWITH.

NOW THEREFORE, in consideration of the premises, and in order to secure the payment of principal and interest of the said indebtedness as evidenced by the above described promissory note of Debtor and also any and all liability of Debtor to Mortgagee, whether now existing or whether hereinafter incurred, direct or indirect, absolute or contingent, including any renewal or extension thereof and any further advances made to Debtor by Mortgagee, or made by Mortgagee on behalf of the Debtor, under the terms of this agreement (all hereinafter called the "Obligation"). And for the further consideration of One and NO/100 (\$1.00) Dollar, paid to the Undersigned on delivery of this instrument, the receipt of which is hereby acknowledged, the undersigned **JONATHAN W. BATES and JASON W. BATES**, hereby grant, bargain, sell and convey unto Mortgagee, his successors and assigns in fee simple, real estate in Shelby County, Alabama, described as follows, to-wit:

For Description see Exhibit "A" attached hereto as if set out verbatim herein.

This conveyance is subject to all easements, restrictions and reservations of records as recorded in the aforesaid Office of the Probate Judge.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining. (All hereinafter referred to as "Property".)

TO HAVE AND TO HOLD, unto the Mortgagee, his successors and assigns, in fee simple, forever. And the undersigned does for himself, and for his successors and assigns, covenant with Mortgagee that he is seized of an indefeasible estate in fee simple in and to said property; that he has the lawful right to sell and convey the same in fee simple; that the said property is free from all mortgages, liens, and encumbrances, except those herein mentioned; that he is entitled to the immediate possession thereof; and that he will forever warrant and defend the title to the same and the possession thereof unto Mortgagee, his successors and assigns, against the lawful claims and demands of all persons, whomsoever.

But this conveyance is made upon the express condition that if the Debtor shall fully and promptly pay and discharge when the same respectfully falls due each and every principle and interest installment on the above described promissory notes, and all other amounts hereby secured, and also if he shall faithfully and promptly keep and perform all the other promises, covenants, conditions and undertakings herein contained, then this conveyance shall be void; otherwise it shall remain in full force and effect.

In addition to the warranties and covenants contained above, Debtor further warrants, covenants and agrees that:

- (1) This mortgage shall also secure any renewal or renewals, extension or extensions of the primary debt. It shall also secure any future advances of cash or its equivalent made by Mortgagee to Debtor and also any payments made or expenses incurred by Mortgagee, under this agreement, for or on behalf of Debtor or for the purpose of protecting Mortgagee's interest in Property. Any such renewal or renewals, extension or extensions, future advance or advances, payment or expense made or incurred, whether made to protect Mortgagee's interest in Property, with or without Debtor's consent; or whether made at the option of Mortgagee at the request of and with the consent of Debtor for any purpose whatsoever; shall become a part of the Obligations secured by this Mortgage. Any such renewal or renewals, extension or extensions, advance or advances, payment or expenditure made or incurred, shall have the same priority over other interests in Property as the original Obligation. Debtor will not enter into any agreement which in any way attempts to alter or modify this future advance agreement without the written consent of Mortgagee.
- (2) Debtor will, at his expense, and if applicable and required by Mortgagee, have and maintain insurance at all times insuring Property against risk of fire (including so-called extended coverage) and all expected risks to which the above described property may be exposed and such other risks as Mortgagee may require, containing a loss payable clause in favor of Mortgagee and containing such terms, for such amount, in such form, for such periods and written by such company as may be satisfactory to Mortgagee. All policies of insurance shall provide for ten (10) days written minimum cancellation notice to Mortgagee. Debtor shall furnish Mortgagee with a certificate or other evidence, satisfactory to Mortgagee, of compliance with this insurance provision. Debtor assigns to Mortgagee all rights to receive proceeds of insurance not exceeding the unpaid balance of the Obligations, directs insurer to pay all proceeds directly to Mortgagee, authorizes Mortgagee to act as attorney for Debtor in obtaining, adjusting, settling, and canceling such insurance and to endorse any draft for the proceeds.
- (3) Debtor will pay promptly when due, all taxes and assessments upon Property.
- (4) Debtor will promptly notify Mortgagee in writing of any change of his address
- (5) Debtor will not encumber or waste Property and Debtor will keep the same in good condition and the improvements thereon in good repair.
- (6) Debtor shall have the right to possession of Property at all times before default. However, Mortgagee shall have, at all times before or after default, the right to enter and inspect Property and any house, building or other improvements thereon at any reasonable time and as often as he may reasonably desire.
- (7) In the event of Debtor's failure to do so, Mortgagee may, but is not required to: discharge taxes, liens or other encumbrances at any time levied or placed on Property; secure and pay for insurance on Property; pay for the maintenance and preservation of Property; pay any other costs or take any other steps which Mortgagee deems payment made or expense incurred by Mortgagee shall be added to and become a part of the Obligations secured under this mortgage. The making of any such payment by Mortgagee or the failure to make or the choice not to make such payment, shall not be construed to be a waiver of any other right or agreement herein. The interest upon such payment made by Mortgagee on behalf of Debtor shall be at a rate equal to the legal interest allowed on judgments in the State of Alabama at the time of such payments.

Debtor shall be in default under this agreement upon the happening of any one of the following events or conditions:

- a. Upon the failure or default in the payment of any installment of principle or interest due on the above described indebtedness.
- b. Upon the failure or default in the payment or performance of any obligation, any covenant, warrant, agreement, or other liability contained or referred to in this mortgage or in the note or notes evidencing the same.
- c. If any warranty, representation or statement made or furnished to Mortgagee by or on behalf of Debtor proves to be false in any material respect when made or furnished.
- d. Upon the substantial damage, waste, danger of misuse, sale or encumbrance of or to the Property.
- e. Upon the death, dissolution, termination of existence, insolvency, business failure, appointment of receiver of any part of the property of, assignment for the benefit of creditors by, or the commencement of any procedure under the bankruptcy or insolvency laws by or against, or the filing of any garnishment, or attachment, or other judicial proceedings for collection against, or the filing of any garnishment, or attachment, or other judicial proceedings for collection against the property or funds of Debtor or any endorser, surety or guarantor in any note or notes evidencing the Obligations or of any of the Undersigned.
- f. If Mortgagee, in good faith, believes, that the prospects of the payment of any or all Obligations secured hereby is impaired.

Upon such default Mortgagee may, at his option declare all Obligations secured hereby immediately due and payable. The Undersigned hereby vests Mortgagee with full power and authority, upon the happening of any such default, to take possession of Property and appropriate the rents, issues and profits therefrom to the payment of the Obligations secured by this mortgage or any prior charge against Property or to the expense of foreclosing this mortgage and Mortgagee may proceed to foreclose this mortgage under the power contained herein, or by proceeding in a Court of competent jurisdiction. The Undersigned further vests the Mortgagee with full power and authority, upon the happening of any such default, to sell Property at public outcry at the Front door of the Court House of Shelby County, Alabama, (however, if none of Property be located in Shelby County, Alabama, then at the front door of the Court House in any county in which any part of property is situated) for cash to the highest bidder, after first giving notice by publication once a week for three successive weeks in some newspaper published in the county in which the sale is to be held. Said notice of sale shall give the time, place and terms of said sale, together with a description of the property to be sold. Said sale may be made with or without, or before or after, the taking of possession of Property. Property may be sold en masse, or in lots or parcels as Mortgagee deems best. The Undersigned does hereby authorize and empower Mortgagee to bid for and become the purchaser of Property or any portion thereof, whether said sale be made under the power contained in this mortgage, or under Decree of some Court of competent jurisdiction, and does hereby authorize the attorney for Mortgagee or the auctioneer making said sale, to execute a deed to the purchaser at any sale of the premises covered by this mortgage, hereby vesting in the purchaser all right, title, and interest of the Undersigned in and to all property, or any part thereof. Debtor further agrees to pay a reasonable attorneys fee to Mortgagee for the foreclosure of this mortgage whether the same be foreclosed under the power contained herein or in the same Court with competent jurisdiction.

The proceeds of said sale shall be applied first to the payment of any prior liens such as taxes, assessments or other prior charges against the property; second, to any reasonable attorneys fee and other legal expenses incurred in collecting or attempting to collect any of the Obligations secured hereby, whether by suit or otherwise, and in protecting Mortgagee's lien and other rights hereunder and in foreclosing this mortgage;

third, to the payment of all other expenses of foreclosing this mortgage including but not limited to, the cost of advertising, the cost of executing and recording deeds to the purchaser, and auctioneer's fees, if any; fourth, any balance remaining to the payment of the unpaid Obligations secured by this mortgage; and fifth, any balance shall be paid to the Undersigned or to Debtor.

(8) If any provision of this mortgage shall, for any reason, be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof, but this agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.

(9) No agreement, representation, or warranty shall be binding on Mortgagee unless expressly contained herein. No waiver by Mortgagee of any default shall operate as a waiver of any other default or of the same default on a future occasion. All rights of Mortgagee hereunder shall inure to the benefit of his successors and assigns; and all obligations of the Debtor shall bind his heirs, next of kin, executors, or administrators or his successors or assigns. If there be more than one Debtor, their Obligations shall be joint and several. Neither the execution of this instrument nor anything contained herein shall supersede, invalidate or in any way affect any prior securities heretofore existing in favor of Mortgagee for the security of any and all indebtedness of Debtor to Mortgagee shall and do remain in full force and effect.

(10) The acceptance of a partial payment or of part of the arrears due under this mortgage or any notes secured by this mortgage shall not be deemed to be a waiver of default and, even though accepting such payment or such portion of an amount in arrears, Mortgagee may still, at his option, declare all obligations secured hereby immediately due and payable.

(11) The terms "Debtor" and "Undersigned" are used in this instrument as if singular, but they shall be construed as singular or plural to correspond with the number of persons executing this mortgage as Debtor or Undersigned. The pronouns used in this instrument are in the masculine gender but shall be construed as feminine or neuter as the occasion may require.

By signing below, the Undersigned hereby certifies that he has received a copy of this instrument and a copy of all instruments executed by them in connection with this transaction.

WITNESS my hand and seal on this the 19th day of November, 2004.

CAUTION - IT IS IMPORTANT THAT YOU THOROUGHLY READ THE CONTRACT BEFORE YOU SIGN IT


Borrower, JONATHAN W. BATES


Borrower, JASON W. BATES

STATE OF ALABAMA

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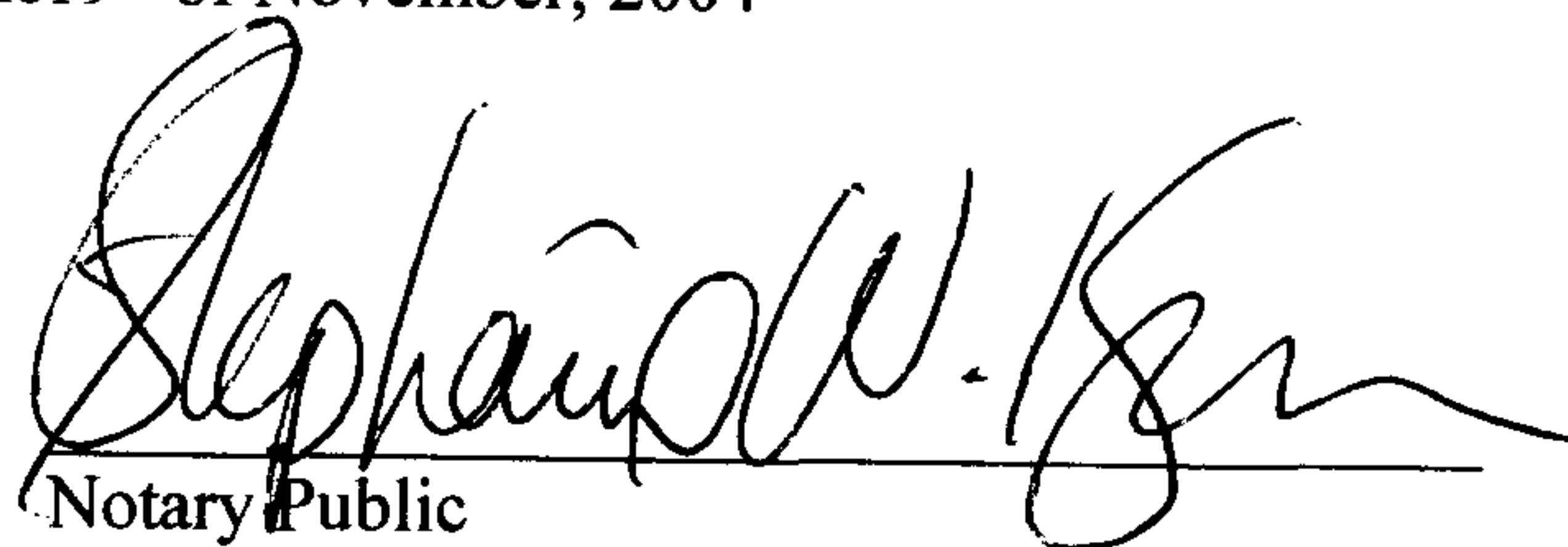
COUNTY OF BIBB

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I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that **JONATHAN W. BATES and JASON W. BATES**, whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal, this the 19th of November, 2004



Notary Public

My Commission Expires: _____

This instrument prepared by:
KEMMER & KEMMER, P.C.
1124 Walnut Street
Post Office Box 282
Centreville, AL 35042
(205)926-5304

MY COMMISSION EXPIRES MARCH 6, 2007

EXHIBIT "A"

A part of the W $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 2, Township 24 North, Range 12 East in Shelby County, Alabama, more particularly described as follows: Commence at the Northwest corner of Section 2, Township 24 North, Range 12 East; thence 1365.74 feet east along the North line of Section 2 to an iron in the East line of the W $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 2; thence 1927.87 feet southerly along the East line of the W $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 2 to the north right of way line of Alabama Highway No. 25 (50 foot overall right of way width); thence 95 degrees 25 minutes right along the North right of way line of Alabama Highway No. 25 for 573.0 feet to an iron pin located at the PC of a curve to the right, also the point of beginning of the property hereinafter described; thence continue along the North right of way line of Alabama Highway No. 25, which lies on a curve to the right to an iron pin whose deflection is 5 degrees 08 minutes right from the point of beginning and which lies a cord distance of 252.10 feet from the point of beginning; thence 90 degrees 26 minutes right for 214.35 feet to an iron pin; thence 27 degrees 59 minutes left for 119.00 feet to an iron pin; thence 20 degrees 01 minute left for 176.33 feet to an iron pin; thence 113 degrees 53 minutes right for 360.74 feet to an iron pin in the western right of way line of the Montevallo Industrial Park access road, which road is on a curve having a radius to the right of way line of 507.46 feet, which curve is concave to the East, with the line last described radial to the curve of the right of way line at its intersection with the right of way line; thence Southerly along the westerly right of way line of Industrial Park Road to an iron pipe which is the PC of the curve which PC lies from the point last described a cord distance of 87.87 feet and a deflection angle from the curve at that point of 4 degrees 58 minutes; thence continue along the right of way line of Industrial Park Road and tangent to the curve from the PC for 63.94 feet to an iron pin which is the PT of a curve to the right, which curve has a central angle of 28 degrees and a radius to the right of way line of 447.46 feet; thence continue along the right of way line and the curve last described to the PC of the curve which is an iron pin and lies a cord distance of 216.50 feet from the PT last described; thence continue along the right of way line of access road and tangent to the curve last described from the PC 169.95 feet to an iron pin; thence deflect right 43 degrees 09 minutes a distance of 101.17 feet to the point of beginning with a closing angle to the right of 52 degrees 20 minutes; being situated in Shelby County, Alabama.