

## **ASSIGNMENT OF NOTE, MORTGAGE AND LOAN DOCUMENTS**

**Loan Number 62764**

THIS ASSIGNMENT (this "Assignment") is made effective this 21st day of August 2009, by and between the **FEDERAL DEPOSIT INSURANCE CORPORATION, RECEIVER OF CAPITALSOUTH BANK, BIRMINGHAM, ALABAMA**, organized under the laws of the United States of America ("Assignor"), having an address of 1601 Bryan Street, Suite 1700, Dallas, Texas 75201, Attention: Settlement Manager, and **IBERIABANK** ("Assignee") with an address of 200 West Congress Street, Lafayette, Louisiana 70501, Attention: Elise Latimer.

WHEREAS, on August 21, 2009, in accordance with Alabama law and the Federal Deposit Insurance Act, 12 U.S.C §1821 *et. seq.* (the "FDIC Act"), the State of Alabama State Banking Department closed the operations of CapitalSouth Bank ("CapitalSouth") and appointed the Assignor as the receiver of CapitalSouth.

WHEREAS, in accordance with the Act, the Assignor is empowered to liquidate the assets of CapitalSouth in order to wind down the affairs of CapitalSouth.

WHEREAS, on or about August 21, 2009, in accordance with that certain Purchase and Assumption Agreement (Whole Bank, All Deposits) dated August 21, 2009 (the "Purchase Agreement"), by and among the Assignor, Assignee and the Federal Deposit Insurance Corporation ("FDIC"), the Assignor sold certain assets of CapitalSouth to Assignee, including, but not limited to, the following loan documents and other rights:

A. That certain Promissory Note and Security Agreement dated May 5, 2003 in the original principal amount of One Hundred Eighty Thousand and 00/100 Dollars (\$180,000.00), in favor of Bank of Alabama aka CapitalSouth Bank, as modified by a Renewal Promissory Note dated February 5, 2004 in the amount of Forty-five Thousand and 00/100 Dollars (\$45,000.00), as further modified by a Modification Loan Agreement dated August 5, 2004, as further modified by a Modification Loan Agreement dated January 5, 2005, as modified by a Renewal Promissory Note dated March 28, 2005 in the amount of \$44,973.75, as modified by a Renewal Promissory Note dated October 5, 2005 in the amount of \$44,923.75, as modified by a Renewal Promissory Note dated April 15, 2006, as modified by a Renewal Promissory Note dated February 7, 2007 in the amount of \$40,147.79, as modified by a Renewal Promissory Note dated August 31, 2007 in the amount of \$39,798.29, as modified by a Renewal Promissory Note dated December 31, 2007, as modified by a Renewal Promissory Note dated March 31, 2008 in the amount of \$39,798.29 executed and delivered by Creed Construction, L.L.C. as maker, in favor of CapitalSouth Bank (hereinafter referred to as the "Note");





B. That certain Real Estate Mortgage granted by the Borrower to Bank of Alabama aka CapitalSouth, dated May 5, 2003, and recorded June 5, 2003 in the Official Records Book, as Instrument No. #20030605000349610 in the office of the Probate Judge, Shelby County, Alabama, and a Partial Release of Recorded Lien granted by the Bank of Alabama aka CapitalSouth to the Borrower dated May 21, 2004 and recorded June 15, 2003 as Instrument No. #20040615000325000, a Partial Release of Recorded Lien dated May 21, 2004 and recorded June 15, 2003 as Instrument No. #20040615000325010 and a Partial Release of Recorded Lien dated October 8, 2004 and recorded January 5, 2005 as Instrument No. #20050105000005020 in the office of the Probate Judge, Shelby County, Alabama, with respect to the real property as more fully described on Exhibit "A" attached hereto (hereinafter collectively referred to as the "Mortgage"), which Mortgage secures the repayment of the Note;

C. That certain Commercial Loan Agreement between CapitalSouth and Borrower, dated October 5, 2005, the Commercial Loan Agreement, dated April 15, 2006, the Commercial Loan Agreement, dated February 7, 2007, the Commercial Loan Agreement, dated August 31, 2007, the Commercial Loan Agreement, dated December 31, 2007 and the Commercial Loan Agreement, dated March 31, 2008 (the "Loan Agreement");

D. That certain Guaranty, from Delton L Clayton, dated May 5, 2003, and that certain Guaranty, from Delton L Clayton, dated August 20, 2004, and that certain Guaranty, from Delton L Clayton, dated November 10, 2004, and that certain Guaranty, from Delton L Clayton, dated February 7, 2007 hereinafter referred to as the "Guaranty"); That certain Guaranty, from Howard M O'Neal, dated May 5, 2003, and that certain Guaranty, from Howard M O'Neal, dated August 20, 2004, and that certain Guaranty, from Howard M O'Neal, dated November 10, 2004, and that certain Guaranty, from Howard M O'Neal, dated February 7, 2007 hereinafter referred to as the "Guaranty");

E. N/A That certain UCC-1 Financing Statement from Borrower, as Debtor, filed in the Office of the Secretary of State of \_\_\_\_\_ on \_\_\_\_\_ bearing Instrument No. \_\_\_\_\_, continued \_\_\_\_\_ and recorded bearing Instrument No. \_\_\_\_\_, continued \_\_\_\_\_, \_\_\_\_\_ as Instrument No. \_\_\_\_\_, in the office of the \_\_\_\_\_, Alabama (hereinafter collectively referred to as the "Financing Statements"); and

F. N/A That certain Loan Policy of Title Insurance issued by \_\_\_\_\_ Insurance Company, Loan Policy # \_\_\_\_\_ in the amount of \$ \_\_\_\_\_, (hereinafter referred to as the "Title Policy").

G. N/A That certain Assignment of \_\_\_\_\_ Insurance Policy from \_\_\_\_\_, from \_\_\_\_\_, Policy # \_\_\_\_\_, dated \_\_\_\_\_, \_\_\_\_\_ (hereinafter referred to as the "Assignment of Insurance").

H. N/A Any and all claims, actions, causes of action, choses of action, judgments, demands, rights, damages and liens, together with the right to seek reimbursement of attorney's fees, costs or other expenses of any nature whatsoever, whether known or unknown, arising from, relating to or based upon that certain loan evidenced by the Note and Mortgage above, and/or which are the subject matter of the action filed in the \_\_\_\_\_ Court, \_\_\_\_\_



County, case-styled \_\_\_\_\_, Case Number \_\_\_\_\_ (the  
"Claims").

The documents identified in paragraphs A through H above are hereinafter collectively referred to as the "Collateral Documents."

NOW, THEREFORE, for valuable consideration granted by Assignee to Assignor, receipt of which is hereby acknowledged, Assignor hereby agrees as follows:

1. Assignment of Note, Mortgage and Collateral Documents. Assignor hereby unconditionally grants, transfers, and assigns to Assignee all of Assignor's right, title and interest in the Note, Mortgage and Collateral Documents, including all of Assignor's right to receive payments of principal and interest under the Note. Concurrently herewith, Assignor has endorsed to Assignee, without recourse, the Note.

2. All Other Loan Documents. Assignor hereby unconditionally grants, transfers, and assigns to Assignee all Assignor's right, title and interest in all other documents or agreements entered into by CapitalSouth (or its predecessor) in connection with or related to the loan evidenced by the Note, Mortgage and Collateral Documents (hereinafter referred to collectively as the "Loan"). In this Assignment, the Note, the Mortgage, the Collateral Documents, and all other documents evidencing or securing the Loan are referred to collectively as the "Loan Documents."

3. Assignment of Claims. Assignor hereby unconditionally grants, transfers, and assigns to Assignee all of Assignor's right, title and interest in and to the Claims.

4. Representations and Warranties. In accordance with the Act, Assignor has full power to sell and assign the Loan Documents to the Assignee. Assignor has made no prior assignment or pledge of the Loan Documents. This Assignment is made without recourse, representation or warranty, express or implied, by the FDIC in its corporate capacity or as Receiver.

5. Successors and Assigns. This Assignment shall inure to the benefit of the successors and assigns of Assignor and Assignee, and be binding upon the successors and assigns of Assignor and Assignee.

IN WITNESS WHEREOF, Assignor has executed this Assignment to Assignee as of March 19, 2010.

**FEDERAL DEPOSIT INSURANCE  
CORPORATION, RECEIVER OF  
CAPITALSOUTH BANK, BIRMINGHAM,  
ALABAMA**, organized under the laws of the  
United States of America

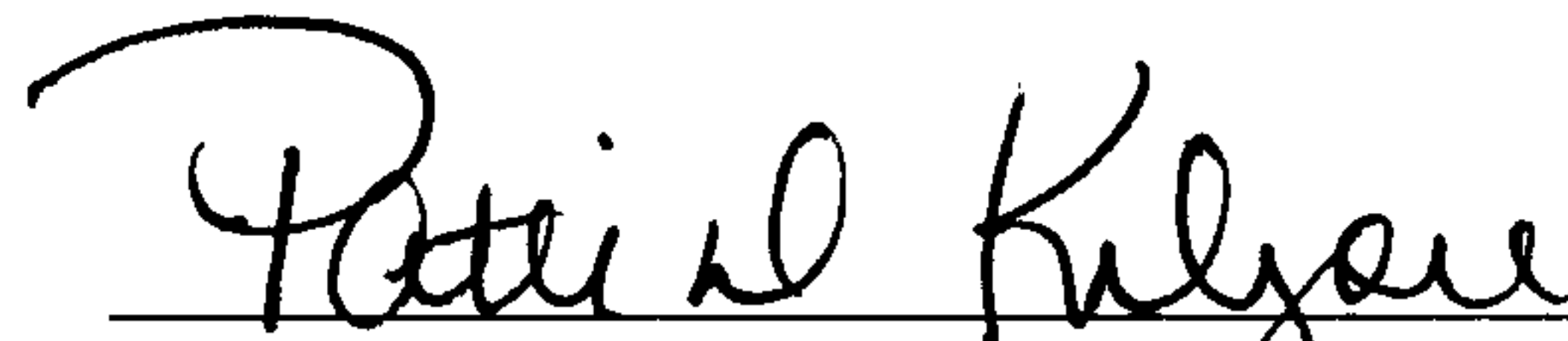
By: 

Name: WILLIAM STOCKTON

Title: Attorney-in-Fact

STATE OF ALABAMA  
COUNTY OF JEFFERSON

On the 19th day of March, 2010, before me, the undersigned, personally appeared William Stockton, the Attorney-in-Fact of the **FEDERAL DEPOSIT INSURANCE CORPORATION**, in its capacity as the **RECEIVER OF CAPITALSOUTH BANK, BIRMINGHAM, ALABAMA**, on behalf of the corporation, who is (check one) ☒ is personally known to me or \_\_\_\_\_ has provided me with (insert type of identification) \_\_\_\_\_ as satisfactory evidence that he/she is the person who executed this instrument..



Notary Public, Acting in the State and County

Aforesaid

(Print Name)


Patti D Kilgore

My Commission Expires: (See Notary Seal) May 25 2011

My Commission Number is: (See Notary Seal)

EXHIBIT "A"

Legal Description

  
20100329000093850 5/8 \$32.00  
Shelby Cnty Judge of Probate, AL  
03/29/2010 03:44:28 PM FILED/CERT

Lots 1, 3, 9 and 137, according to the final plat of Wild Timber, Phase I, as recorded in Map Book 31, Page 59, in the Probate Office of Shelby County, Alabama; Being situated in Shelby County, Alabama.


**#62764 Creed Construction, L.L.C.**



## LIMITED POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that the FEDERAL DEPOSIT INSURANCE CORPORATION, a corporation organized and existing under an Act of Congress, hereafter called the "FDIC", hereby designates the individual(s) of IBERIABANK, set out below (the "Attorney(s)-in-Fact") for the sole purpose of executing the documents outlined below:

Anthony Restel  
Mike Brown  
Greg Strader  
Vincent Orgeron  
Fred Malzahn  
Michael Moers  
William Stockton  
Steven Kelley

  
20100329000093850 6/8 \$32.00  
Shelby Cnty Judge of Probate, AL  
03/29/2010 03:44:28 PM FILED/CERT

WHEREAS, the undersigned has full authority to execute this instrument on behalf of the FDIC under applicable Resolutions of the FDIC's Board of Directors and redelegations thereof.

NOW THEREFORE, the FDIC grants to the above-named Attorney(s)-in-Fact the authority, subject to the limitations herein, as follows:

1. To execute, acknowledge, seal and deliver on behalf of the FDIC as Receiver of CapitalSouth Bank, all instruments of transfer and conveyance, appropriately completed, with all ordinary or necessary endorsements, acknowledgments, affidavits and supporting documents as may be necessary or appropriate to evidence the sale and transfer of any asset of CapitalSouth Bank, including all loans held by CapitalSouth Bank to IBERIABANK pursuant to that certain Purchase and Assumption Agreement, dated as of August 21, 2009 between FDIC as CapitalSouth Bank and IBERIABANK.

The form which the Attorney(s)-in-Fact shall use for endorsing promissory notes or preparing allonges to promissory notes is as follows:

Pay to the order of

Without Recourse

FEDERAL DEPOSIT INSURANCE CORPORATION as  
Receiver for CapitalSouth Bank, Birmingham, Alabama

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Attorney-in-Fact

All other documents of assignment, conveyance or transfer shall contain this sentence: "This assignment is made without recourse, representation or warranty, express or implied, by the FDIC in its corporate capacity or as Receiver."

2. FDIC further grants to each Attorney-in-Fact full power and authority to do and perform all acts necessary to carry into effect the powers granted by this Limited Power of Attorney as fully as FDIC might or could do with the same validity as if all and every such act had been herein particularly stated, expressed and especially provided for.

This Limited Power of Attorney shall be effective from August 21, 2009 and shall continue in full force and effect through August 21, 2010, unless otherwise terminated by an official of the FDIC authorized to do so by the Board of Directors ("Revocation"). At such time this Limited Power of Attorney will be automatically revoked. Any third party may rely upon this document as the named individual(s)' authority to continue to exercise the powers herein granted unless a Revocation has been recorded in the public records of the jurisdiction where this Limited Power of Attorney has been recorded, or unless a third party has received actual notice of a Revocation.

IN WITNESS WHEREOF, the FDIC, by its duly authorized officer empowered by appropriate resolution of its Board of Directors, has caused these presents to be subscribed in its name this 24 day of August, 2009.

FEDERAL DEPOSIT INSURANCE CORPORATION

By: Janice S. Hearn  
Name: Janice S. Hearn  
Title: Manager of Customer Service  
Dallas Regional Office

Signed in the presence of:

LOL Thompson  
Witness  
Name: LOL Thompson

Rose Thomas  
Witness  
Name: Rose Thomas

Limited Power of Attorney  
IBERIABANK

Prepared by Darlene Waller, Federal Deposit Insurance Corporation, Dallas Regional Office, Legal Division

Page 2 of 3  
August 24, 2009



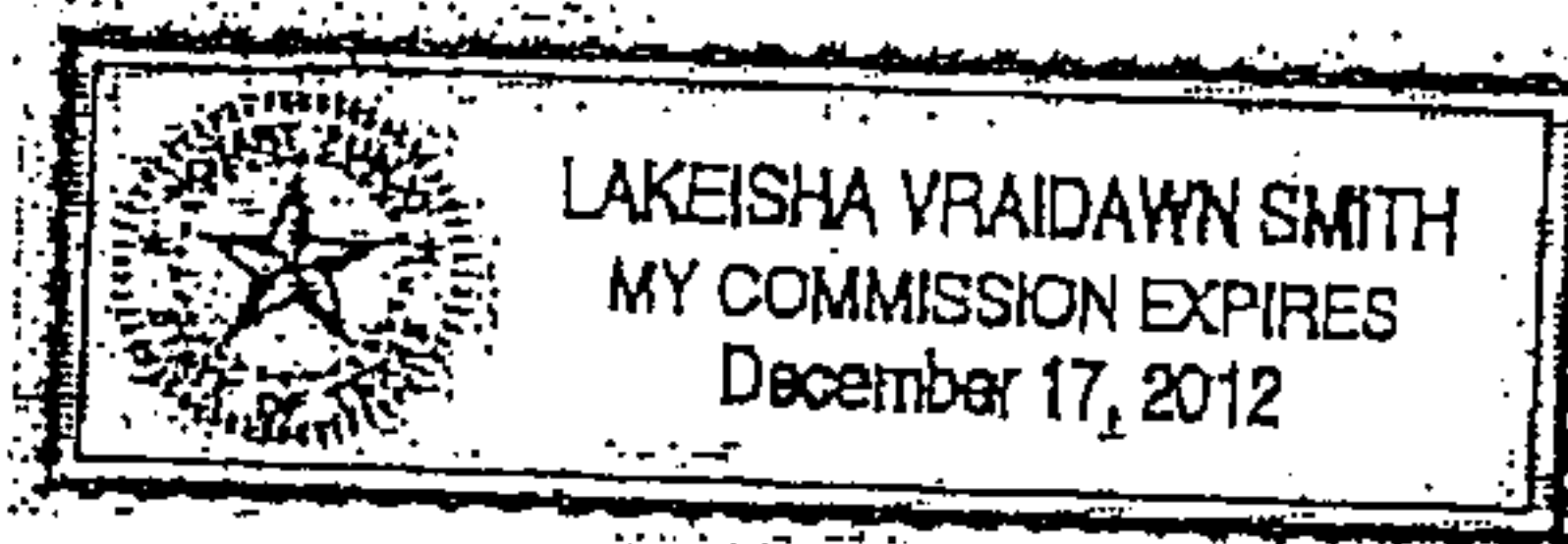
20100329000093850 7/8 \$32.00  
Shelby Cnty Judge of Probate, AL  
03/29/2010 03:44:28 PM FILED/CERT



STATE OF TEXAS  
COUNTY OF DALLAS

On this 24 day of August, 2009, before me, a Notary Public in and for the State of Texas, appeared Janice S. Hearn, to me personally known, who, being by me first duly sworn did depose that she is Manager of Customer Service, Dallas Regional Office of the Federal Deposit Insurance Corporation (the "Corporation"), in whose name the foregoing Limited Power of Attorney was executed and subscribed, and the said Limited Power of Attorney was executed and subscribed on behalf of the said Corporation by due authority of the Corporation's Board of Directors, and the said Janice S. Hearn, acknowledged the said Limited Power of Attorney to be the free act and deed of said Corporation.

Lakeisha Vraidawn Smith  
Notary Public  
My Commission expires: 12/17/2012



STATE OF TEXAS  
COUNTY OF DALLAS

On this 26 day of August, 2009, before me, a Notary Public in and for the State of Texas appeared Eckl Thompson (witness #1) and Rose Trebino (witness #2), to me personally known to be the persons whose names are subscribed as witness to the foregoing instrument of writing, and after being duly sworn by me stated on oath that they saw Janice S. Hearn, Manager of Customer Service, Dallas Regional Office of the Federal Deposit Insurance Corporation, the person who executed the foregoing instrument, subscribe the same, and that they had signed the same as a witness at the request of the person who executed the same.


Lakeisha Vraidawn Smith  
Notary Public  
My Commission expires: 12/17/2012



Limited Power of Attorney  
IBERIABANK

Prepared by Darlene Waller, Federal Deposit Insurance Corporation, Dallas Regional Office, Legal Division

Page 3 of 3  
August 24, 2009

  
20100329000093850 8/8 \$32.00  
Shelby Cnty Judge of Probate, AL  
03/29/2010 03:44:28 PM FILED/CERT