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20101001000324290 1/12 \$46.00  
Shelby Cnty Judge of Probate, AL  
10/01/2010 02:04:34 PM FILED/CERT

20100923000542150 1/12 \$49.25  
Madison Cnty Judge of Probate, AL  
09/23/2010 02:40:09 AM FILED/CERT

ALABAMA

This instrument Was Prepared by:  
Julian L. Bibb  
Stites & Harbison PLLC  
Suite 800, 401 Commerce Street  
Nashville, Tennessee 37219  
(615) 244-5200

20100907000983160 1/12  
Bk: LR201063 Pg:868  
Jefferson County, Alabama  
I certify this instrument filed on  
09/07/2010 08:08:29 AM AS  
Judge of Probate- Alan L. King

38.00

After Recording, This Instrument Should Be Returned To The Preparer At The Address Shown Above.

ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT (this "Agreement") is entered into as of the 23<sup>rd</sup> day of August, 2010 by and between PNC BANK, NATIONAL ASSOCIATION, a national banking association and successor-in-interest to National City Bank (the "Assignor"), EZELL HOLDINGS, LLC, an Alabama limited liability company (the "Borrower"), W.E. EZELL (the "Guarantor"), and CAPSTAR BANK, a Tennessee state banking corporation (the "Assignee").

**RECITALS:**

WHEREAS, the Assignor holds certain indebtedness owed by the Borrower described in the instruments and documents identified on Exhibit A hereto (the "Loan Documents"), which indebtedness is guaranteed by the Guarantor; and

WHEREAS, the Assignor has agreed to transfer and assign WITHOUT RECOURSE its right, title and interest in the Loan Documents and the indebtedness evidenced thereby (the "Indebtedness") to Assignee.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Assignor and Assignee agree as follows:

1. Assignment. Effective upon receipt by Assignor of payment in full in immediately available funds of the amount set forth in Section 2(c) below, Assignor hereby assigns and transfers to Assignee WITHOUT RECOURSE its right, title and interest in the Loan Documents and the Indebtedness (other than any right of Assignor to indemnification and other



contingent rights involving any action, inaction or circumstance up to and through the execution of this Agreement).

2. Representations of Assignor. Assignor represents, warrants, and covenants to Assignee as of the date of this Agreement as follows, but not otherwise:

(a) Assignor is the true and lawful holder and owner of the Loan Documents and has full power, right, and authority to sell, transfer, and assign the Loan Documents to Assignee without the joinder or consent of any other party.

(b) Assignor has not pledged or assigned the Loan Documents to any other party, and Assignor has not released the liens and security interest evidenced by the Loan Documents.

(c) According to Assignor's records, as of August 23, 2010 the current outstanding amount of the Indebtedness is depicted on Exhibit B.

3. This Agreement is non-recourse to Assignor and is made on an "AS IS", "WHERE IS" basis, with all faults, and except as expressly set forth in Section 2 of this Agreement, Assignor has not made, does not make, and specifically disclaims any, representations, warranties, covenants, agreements or guaranties, of any kind or nature whatsoever, whether oral or written, express or implied, past, present or future or arising by operation of law concerning or with respect to the Loan Documents and the Indebtedness, including, without limitation, any representation or warranty with respect to: (i) the enforceability of the Loan Documents, (ii) the validity, existence or priority of any liens or security interest securing payment of the Indebtedness; (iii) the existence or basis for any claim, counterclaim, defense or offset relating to the Indebtedness or the Loan Documents; (iv) the condition (financial or otherwise) of Borrower, the Guarantor or any other person or entity guaranteeing or pledging collateral to secure the Indebtedness; (v) the compliance of the Indebtedness or the Loan Documents with any laws, ordinances or regulations of any government or other body; (vi) the economic, environmental or other value, condition or status of any collateral securing the Indebtedness; and (vii) the future performance of the Borrower, the Guarantor, the collateral or any other person or entity guaranteeing or pledging collateral to secure the Indebtedness. Assignee acknowledges and represents to Assignor that having been given the opportunity to undertake its own investigation of the Indebtedness and the Loan Documents, Assignee has made such independent investigation of the facts and circumstances as Assignee deemed necessary and appropriate to evaluate the Indebtedness and the Loan Documents and is relying solely on its own investigation of the Indebtedness and not on any information provided or to be provided by Assignor and is acquiring the Indebtedness and the Loan Documents for its own account and not with a view toward any public sale or distribution thereof.

4. The Assignee hereby indemnifies and holds Assignor harmless from and against any and all claims, liabilities, damages, expenses or obligations (including reasonable attorneys' fees) of any kind or character in connection with the Indebtedness and the Loan Documents arising on or after the date hereof as a result of Assignee's actions or inaction with respect to the Indebtedness or the Loan Documents. Borrower and Guarantor each acknowledge and agree that



Assignor shall have no obligation under the Loan Documents and with respect to the Indebtedness after execution of this Agreement.

5. The Borrower or the Guarantor shall pay all fees, taxes and expenses (including without limitation, legal fees and any recording expenses) incurred in connection with this Agreement and the transactions contemplated hereby.

6. The Borrower and the Guarantor hereby consent to this Agreement and the transactions contemplated hereby and each hereby RELEASES AND DISCHARGES Assignor and its predecessors, successors, assigns, officers, managers, directors, shareholders, employees, agents, attorneys, representatives, parents corporations, subsidiaries, and affiliates (collectively referred to as its "Affiliates"), and each does hereby, jointly and severally, indemnify and hold harmless Assignor and its Affiliates from any and all claims, counterclaims, demands, damages, debts, agreements, covenants, suits, contracts, obligations, liabilities, accounts, offsets, rights, actions and causes of action of any nature whatsoever, including, without limitation, all claims, demands, and causes of action for contribution and indemnity, whether arising at law or in equity (including without limitation, claims of fraud, duress, mistake, tortious interference or usury), whether presently possessed or possessed in the future, whether known or unknown, whether liability be direct or indirect, liquidated or unliquidated, whether presently accrued or to accrue hereafter, whether or not heretofore asserted, for or because of or as a result of any act, omission, communication, transaction, occurrence, representation, promise, damage, breach of contract, fraud, violation of any statute or law, commission of any tort, or any other matter whatsoever or thing done, omitted or suffered to be done by Assignor or its Affiliates, INsofar AS THE SAME ARISE OUT OF OR RELATE TO THE INDEBTEDNESS OR THE LOAN DOCUMENTS, which have occurred in whole or in part, or were initiated at any time up to and through the execution of this Agreement, except as may arise pursuant to this Agreement or any other document or instrument executed by Assignor in connection with this Agreement.

7. The Borrower and the Guarantor represent and warrant to Assignee as follows:

(a) The amount of the Indebtedness as set forth in Section 2(c) herein is true and correct; and

(b) The obligation of the Borrower and Guarantor as set forth in the Loan Documents to which each is a party are their valid and binding obligations, enforceable in accordance with their terms, subject to no counterclaim, setoff or defense.

8. Assignor authorizes Assignee to file applicable UCC-3 amendments to assign to Assignee the UCC Statements filed in connection with the Indebtedness.

9. This Agreement may be executed in a number of multiple identical counterparts which, when taken together, shall constitute collectively one agreement, but in making proof of this Agreement it shall not be necessary to produce or account for more than one such counterpart executed by the party to be charged.



ENTERED INTO as of the date first written above.

ASSIGNOR:

PNC BANK, NATIONAL ASSOCIATION

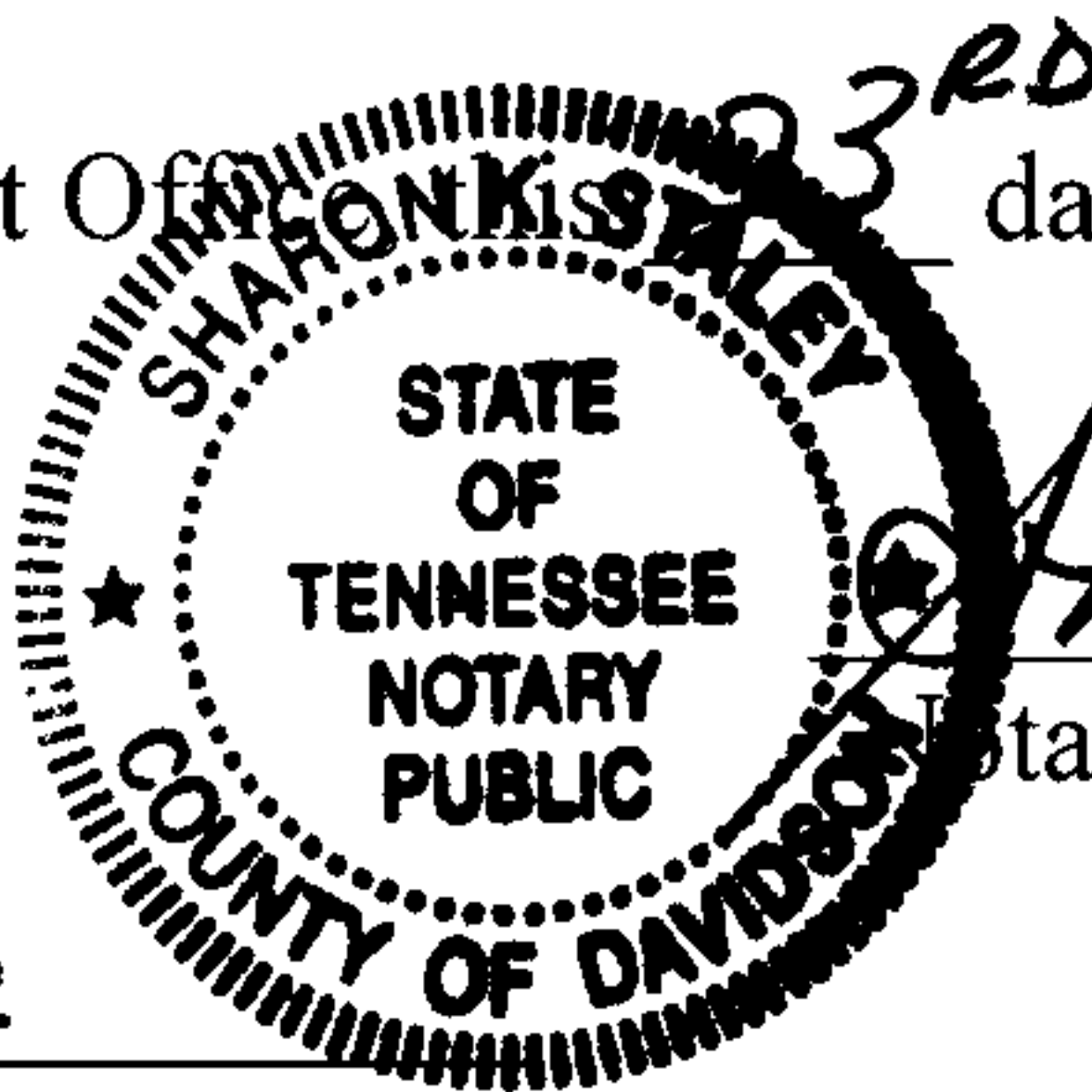
By: Jeff L Howard

Title: SVP

STATE OF TENNESSEE )  
COUNTY OF WILLIAMSON )

Before me, SHARON K. STALEY, a Notary Public of said County and State, personally appeared JEFFREY L. HOWARD with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be SR. VICE PRESIDENT (or other officer authorized to execute the instrument) of PNC BANK, NATIONAL ASSOCIATION, the within named bargainor, a national banking association, and that he as such SR. VICE PRESIDENT executed the foregoing instrument for the purposes therein contained, by signing the name of the national banking association by himself as SR. VICE PRESIDENT.

Witness my hand and seal, at Office of Sharon K. Staley 23<sup>rd</sup> day of August, 2010.



Sharon K. Staley  
Notary Public

My Commission Expires: 11/7/12

MY COMMISSION EXPIRES:  
NOVEMBER 7, 2012

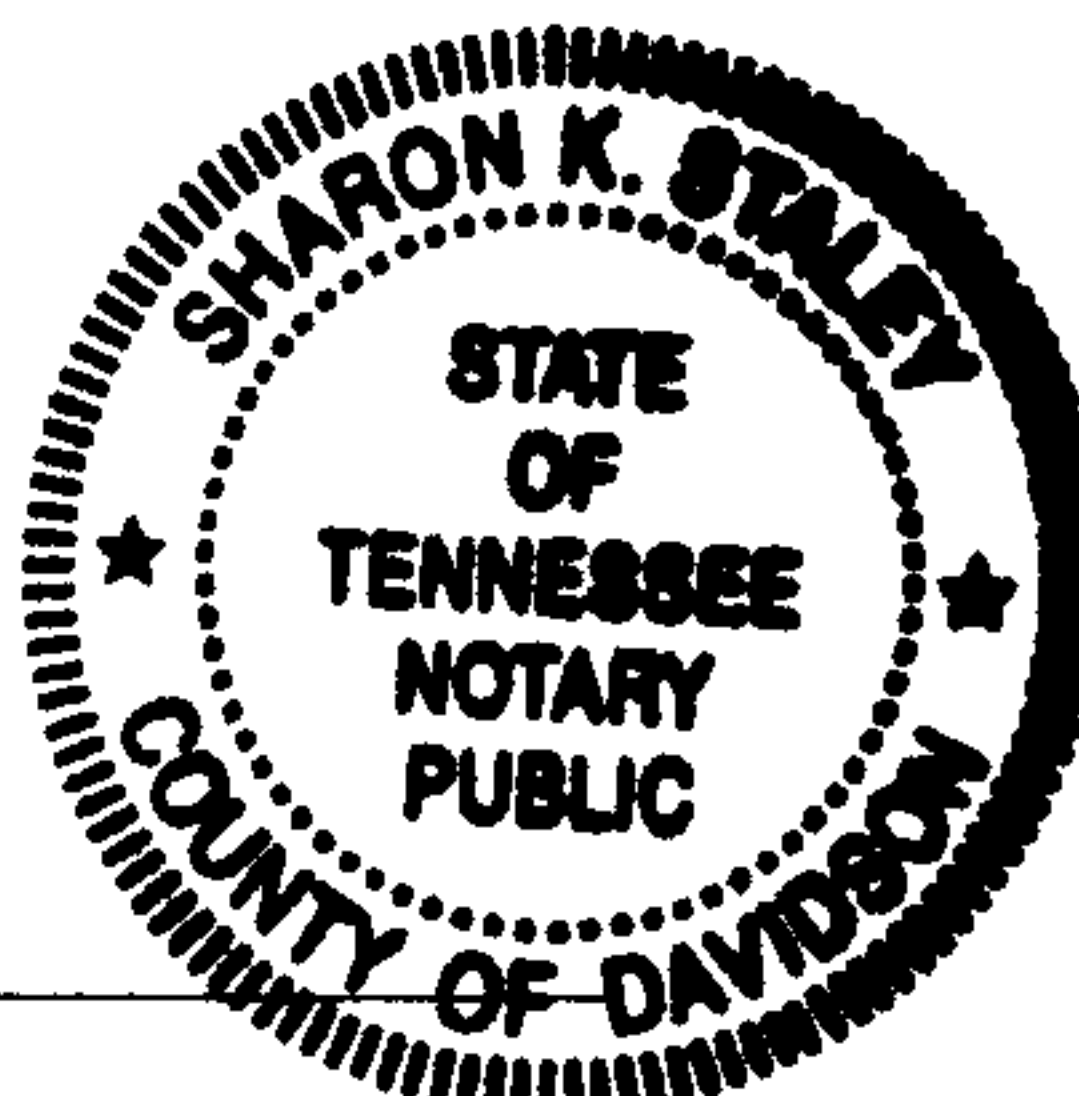
STATE OF TENNESSEE  
COUNTY OF WILLIAMSON

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that JEFFREY L. HOWARD whose name as SR. VICE PRESIDENT of PNC BANK, NATIONAL ASSOCIATION, 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 national banking association. Given under my hand and official seal this the 23<sup>rd</sup> day of August, 2010.

Sharon K. Staley  
Notary Public

[AFFIX SEAL]

My commission expires: 11/7/12



MY COMMISSION EXPIRES:  
4 of 12 NOVEMBER 7, 2012

ASSIGNEE:

CAPSTAR BANK

By: Brad Greer

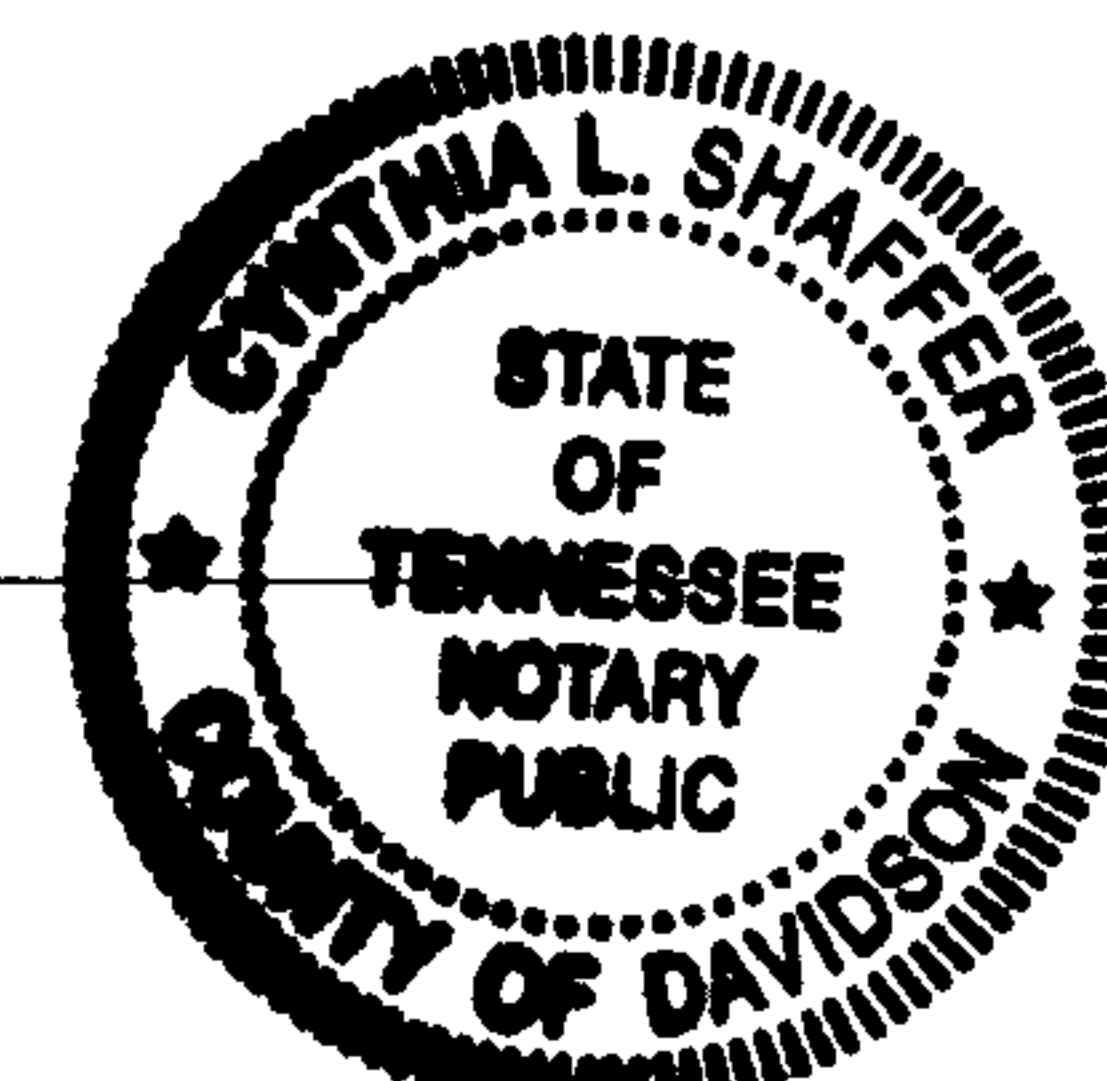
Title: SVP

STATE OF Tennessee )  
COUNTY OF Davidson )

Before me, Cynthia L. Shaffer, a Notary Public of said County and State, personally appeared Brad Greer, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be Senior Vice President (or other officer authorized to execute the instrument) of CAPSTAR BANK, the within named bargainor, a Tennessee state banking corporation, and that he as such Senior Vice President executed the foregoing instrument for the purposes therein contained, by signing the name of the state banking corporation by himself as Senior Vice President

Witness my hand and seal, at Office, this 23<sup>rd</sup> day of August, 2010.

Cynthia L. Shaffer  
Notary Public



My Commission Expires: 5/6/2013

STATE OF Tennessee )  
COUNTY OF Davidson )

MY COMMISSION EXPIRES:  
MAY 6, 2013

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Brad Greer, whose name as Senior Vice President of Capstar Bank, a Tennessee state banking corporation, 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 state banking corporation. Given under my hand and official seal this the 23<sup>rd</sup> day of August, 2010.

Cynthia L. Shaffer  
Notary Public



My Commission Expires: 5/6/2013



**BORROWER:**

EZELL HOLDINGS, LLC

By: Elissa E. Watkins

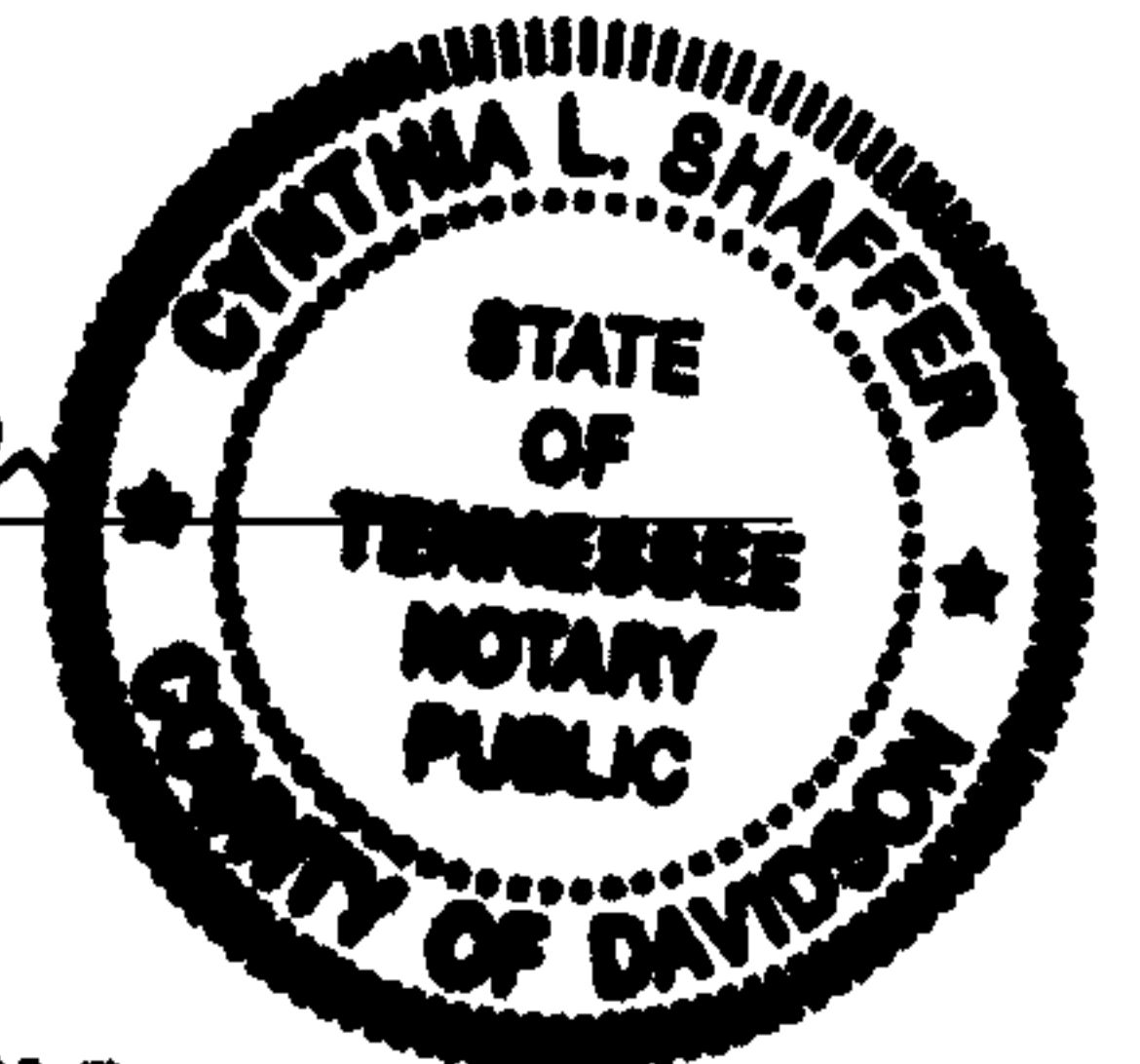
Title: authorized member

STATE OF Tennessee )  
COUNTY OF Davidson )

Before me, Cynthia L. Shaffer, a Notary Public of said County and State, personally appeared Elissa E. Watkins, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged ~~himself~~<sup>her</sup> to be authorized member (or other officer authorized to execute the instrument) of EZELL HOLDINGS, LLC, the within named bargainor, an Alabama limited liability company, and that she as such authorized member executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by ~~himself~~<sup>her</sup> as its authorized member.

Witness my hand and seal, at Office, this 23<sup>rd</sup> day of August, 2010.

Cynthia L. Shaffer  
Notary Public



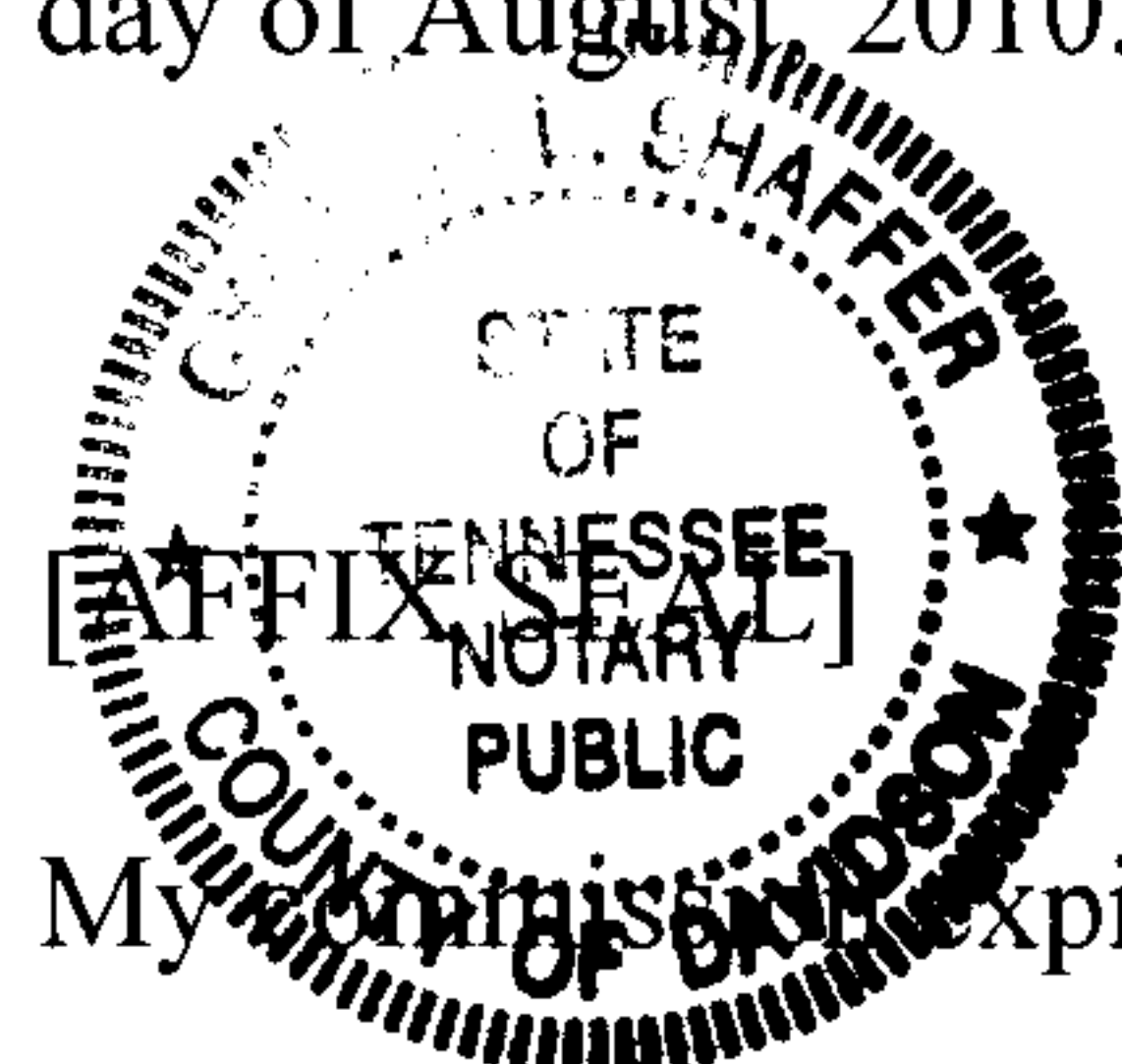
My Commission Expires: 5/6/2013

STATE OF Tennessee )  
COUNTY OF Davidson )

MY COMMISSION EXPIRES:  
MAY 6, 2013

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Elissa E. Watkins, whose name as authorized member of EZELL HOLDINGS, LLC, an Alabama limited liability company, 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, she, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company. Given under my hand and official seal this the 23<sup>rd</sup> day of August, 2010.

Cynthia L. Shaffer  
Notary Public



My Commission Expires: 5/6/2013

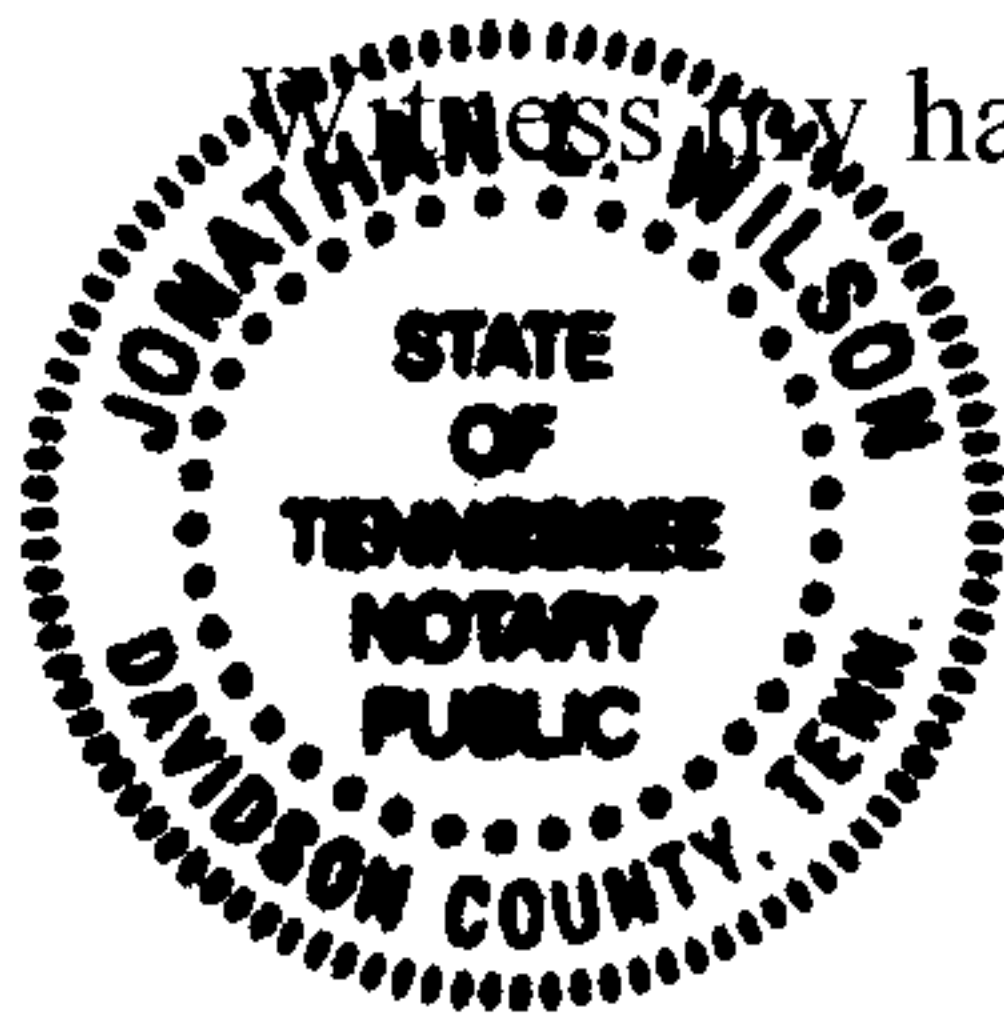
MY COMMISSION EXPIRES:  
MAY 6, 2013

**GUARANTOR:**

W. E. Ezell  
W.E. EZELL

STATE OF TN)  
COUNTY OF DAVIDSON)

Personally appeared before me, JONATHAN L. WILSON, a Notary Public of said County and State, W.E. EZELL, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the within instrument for the purposes therein contained.



Witness my hand and seal, at Office in , this 23 day of August, 2010.  
My Commission Expires 9-3-12

Jonathan L. Wilson  
Notary Public

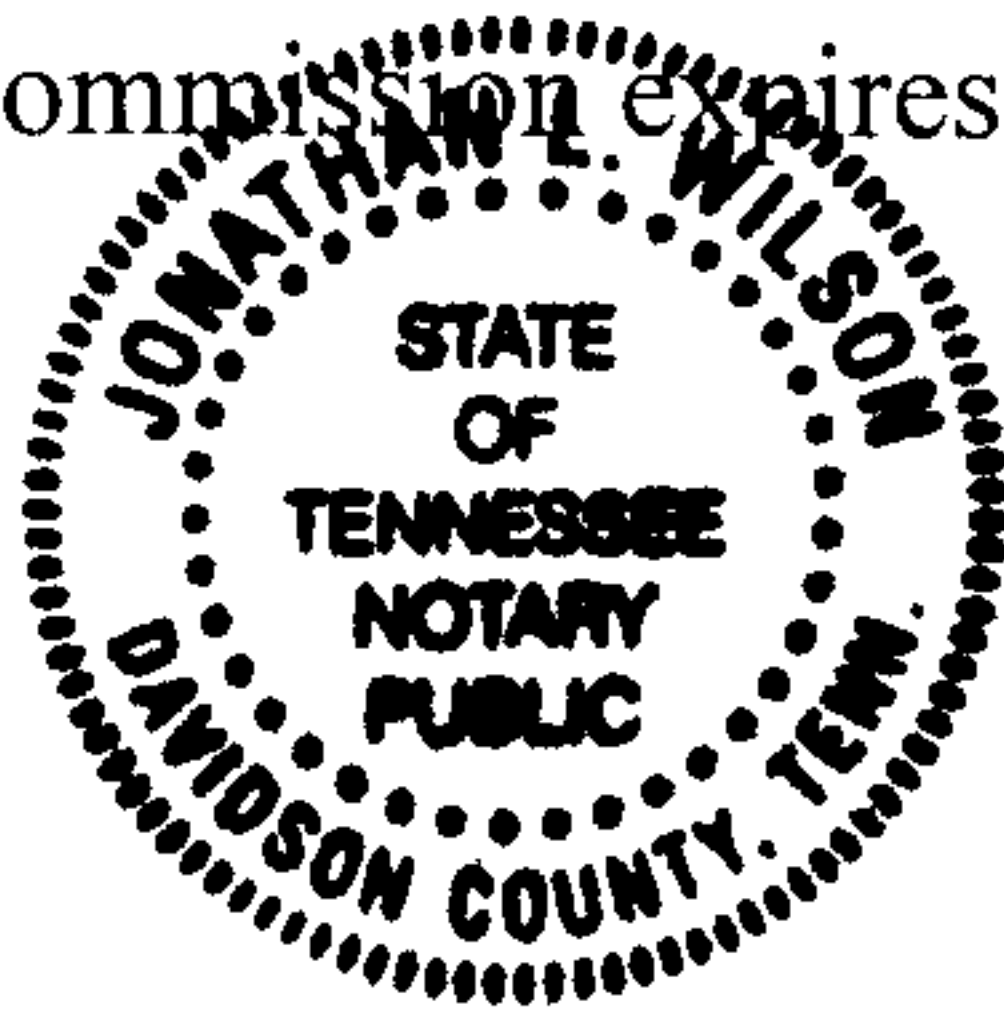
STATE OF TN)  
COUNTY OF DAVIDSON)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that W.E. EZELL, 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 said instrument, he executed the same voluntarily. Given under my hand and official seal this the 23 day of August, 2010.

Jonathan L. Wilson  
Notary Public

[AFFIX SEAL]

My commission expires: 9-3-12



My Commission Expires SEPT. 3, 2012



**EXHIBIT A**

**LOAN DOCUMENTS**

1. Credit Agreement between Borrower and Lender dated as of December 27, 2006.
2. Promissory Note in the original principal amount of \$5,500,000.00 issued by Borrower to the order of Lender and dated as of December 27, 2006.
3. Tennessee Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing executed by Borrower in favor of Lender and of record at Book T713, Page 725, Register's Office for Coffee County, Tennessee. (Unit #886)
4. Tennessee Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing executed by Borrower in favor of Lender and of record at Instrument No. 20070208-0016424, Register's Office for Davidson County, Tennessee, as amended by a First Amendment to Tennessee Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing of record at Instrument No. 20100201-0007881, Register's Office for Davidson County, Tennessee. (Unit #834, #843, #906, #940, #1095, #472)
5. Tennessee Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing executed by Borrower in favor of Lender and of record at Volume V926, Page 746, Register's Office for Dickson County, Tennessee. (Unit #490)
6. Tennessee Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing executed by Borrower in favor of Lender and of record at Book 45, Page 817, Register's Office for Grundy County, Tennessee. (Unit #916)
7. Tennessee Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing executed by Borrower in favor of Lender and of record at Book R1968, Page 661, Register's Office for Maury County, Tennessee. (Unit #1329)
8. Tennessee Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing executed by Borrower in favor of Lender and of record at Book 374, Page 34, Register's Office for Putnam County, Tennessee. (Unit #931)
9. Tennessee Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing executed by Borrower in favor of Lender and of record at Book 1172, Page 374, Register's Office for Robertson County, Tennessee. (Unit #1264)
10. Tennessee Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing executed by Borrower in favor of Lender and of record at Book 724, Page 1202, Register's Office for Rutherford County, Tennessee. (Unit #1218)
11. Tennessee Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing executed by Borrower in favor of Lender and of record at Book 2709, Page 441, Register's Office for Sumner County, Tennessee. (Unit #819, #865)




12. Tennessee Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing executed by Borrower in favor of Lender and of record at Book 182, Page 44, Register's Office for Warren County, Tennessee. (Unit #1160)
13. Tennessee Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing executed by Borrower in favor of Lender and of record at Book 1231, Page 1030, Register's Office for Wilson County, Tennessee. (Unit #848)
14. Mortgage, Assignment of Leases, Rents and Profits, Security Agreement, and Fixture Financing Statement of record at Book LR 200703, Page 11539, Probate Office for Jefferson County, Alabama. (Unit #1033)
15. Mortgage, Assignment of Leases, Rents and Profits, Security Agreement, and Fixture Financing Statement of record at Book 2007, Page 12897, Probate Office for Lauderdale County, Alabama. (Unit #1283)
16. Mortgage, Assignment of Leases, Rents and Profits, Security Agreement, and Fixture Financing Statement of record at Instrument No. 20070312000173980, Probate Office for Madison County, Alabama. (Unit #287)
17. Mortgage, Assignment of Leases, Rents and Profits, Security Agreement, and Fixture Financing Statement of record at Book 03514, Page 0450, Probate Office for Montgomery County, Alabama. (Unit #835)
18. Mortgage, Assignment of Leases, Rents and Profits, Security Agreement, and Fixture Financing Statement of record at Book 2010, Page 24433, Probate Office for Morgan County, Alabama. (Unit #908)
19. Mortgage, Assignment of Leases, Rents and Profits, Security Agreement, and Fixture Financing Statement of record at Instrument No. 20070306000099720, Probate Office for Shelby County, Alabama. (Unit #1295)
20. Absolute Assignment of Rents and Leases of record at Book T713, Page 757, Register's Office for Coffee County, Tennessee. (Unit #886)
21. Absolute Assignment of Rents and Leases of record at Instrument No. 20070208-0016425, Register's Office for Davidson County, Tennessee, as amended by a First Amendment to Absolute Assignment of Leases and Rents of record at Instrument No. 20100201-0007882, Register's Office for Davidson County, Tennessee. (Unit #834, #843, #906, #940, #1095, #472)
22. Absolute Assignment of Rents and Leases of record at Volume V926, Page 778, Register's Office for Dickson County, Tennessee. (Unit #490)
23. Absolute Assignment of Rents and Leases of record at Book 45, Page 849, Register's Office for Grundy County, Tennessee. (Unit #916)

24. Absolute Assignment of Rents and Leases of record at Book R1968, Page 693, Register's Office for Maury County, Tennessee. (Unit #1329)
25. Absolute Assignment of Rents and Leases of record at Book 374, Page 66, Register's Office for Putnam County, Tennessee. (Unit #931)
26. Absolute Assignment of Rents and Leases of record at Book 1172, Page 406, Register's Office for Robertson County, Tennessee. (Unit #1264)
27. Absolute Assignment of Rents and Leases of record at Book 724, Page 1234, Register's Office for Rutherford County, Tennessee. (Unit #1218)
28. Absolute Assignment of Rents and Leases of record at Book 2709, Page 473, Register's Office for Sumner County, Tennessee. (Unit #819, #865)
29. Absolute Assignment of Rents and Leases of record at Book 182, Page 76, Register's Office for Warren County, Tennessee. (Unit #1160)
30. Absolute Assignment of Rents and Leases of record at Book 1231, Page 1062, Register's Office for Wilson County, Tennessee. (Unit #848)
31. Absolute Assignment of Rents and Leases of record at Book LR200703, Page 11571, Probate Office for Jefferson County, Alabama. (Unit #1033)
32. Absolute Assignment of Rents and Leases of record at Book 2007, Page 12930, Probate Office for Lauderdale County, Alabama. (Unit #1283)
33. Absolute Assignment of Rents and Leases of record at Instrument No. 20070312000173990, Probate Office for Madison County, Alabama. (Unit #287)
34. Absolute Assignment of Rents and Leases of record at Book 03514, Page 0483, Probate Office for Montgomery County, Alabama. (Unit #835)
35. Absolute Assignment of Rents and Leases of record at Book 2010, Page 24466, Probate Office for Morgan County, Alabama. (Unit #908)
36. Absolute Assignment of Rents and Leases of record at Instrument No. 20070306000099730, Probate Office for Shelby County, Alabama. (Unit #1295)
37. Assignment and Security Agreement executed by Borrower in favor of Lender and dated as of December 27, 2006.
38. UCC-1, filed with the Alabama Secretary of State as File No. B 07-0168250 FS.
39. Guaranty of Payment executed by William E. Ezell, III in favor of Lender and dated as of December 27, 2006.
40. Consent, Subordination, Non-Disturbance and Attornment Agreements.



41. Environmental Indemnity Agreement executed by Borrower and William E. Ezell, III in favor of Lender and dated as of December 27, 2006.
42. Letter of Opinion from Borrower's Counsel dated as of December 27, 2006.
43. Lender's Policy of Title Insurance issued by Commonwealth Land Title bearing Policy No. H65-0587836 (originally issued as B66-0571123) and all endorsements thereto. (*Alabama properties*)
44. Lender's Policy of Title Insurance issued by Lawyers Title Insurance Company bearing Policy No. G47-3241761 and all endorsements thereto. (*Tennessee properties*)

**EXHIBIT B**

  
20101001000324290 12/12 \$46.00  
Shelby Cnty Judge of Probate, AL  
10/01/2010 02:04:34 PM FILED/CERT

Principal:	\$5,022,599.78
Accrued Interest:	\$18,332.49
Other Fees:	\$52,547.71
<u>Total:</u>	<u>\$5,093,479.98</u>

Per Diem:	\$1,018.47
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20100907000983160 12/12  
**Bk: LR201063 Pg:868**  
**Jefferson County, Alabama**  
09/07/2010 08:08:29 AM AS  
Fee - \$38.00

Total of Fees and Taxes-\$38.00  
KWBESS

20100923000542150 12/12 \$49.25  
Madison Cnty Judge of Probate, AL  
09/23/2010 09:40:09 AM FILED/CERT