

Shelby County, AL
Instrument #
20090618000235390
6-18-09

WHEN RECORDED MAIL TO:

Bank Independent
P O Box 5000
Sheffield, AL 35660



20101006000331400 1/6 \$29.00
Shelby Cnty Judge of Probate, AL
10/06/2010 12:10:12 PM FILED/CERT

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY



R1 Loan # 20605846
B1 Loan # 20481711

MODIFICATION OF MORTGAGE



000000000000000000074008312010

Notice: This Modification of Mortgage does not secure new indebtedness or an increased amount of debt under the Note (as defined below).

THIS MODIFICATION OF MORTGAGE dated August 31, 2010, is made and executed between Penman Russellville, LLC, PenEddie, LLC and PenBluffs, LLC (referred to below as "Grantor") and Bank Independent, whose address is P O Box 5000, Sheffield, AL 35660 (referred to below as "Lender").

MORTGAGE. Lender and Grantor have entered into a Mortgage dated June 12, 2009 (the "Mortgage") which has been recorded in Shelby County, Etowah County, Franklin County, State of Alabama, as follows:

That certain Mortgage recorded on June 15, 2009 at Instrument No. 3314911 in the Office of the Judge of Probate of Etowah County, Alabama.

REAL PROPERTY DESCRIPTION. The Mortgage covers the following described real property located in Shelby County, Etowah County, Franklin County, State of Alabama:

See Exhibit "A", which is attached to this Modification and made a part of this Modification as if fully set forth herein.

The Real Property or its address is commonly known as Franklin County Property: 15485 Highway 43, Russellville, AL 35653, Etowah County Property: 5700 US Highway 278, Hokes Bluff, AL, 35903 and Shelby County Property: 7985 Highway 119 Unit 3, Alabaster, AL 35007.

MODIFICATION. Lender and Grantor hereby modify the Mortgage as follows:

This Modification is being recorded to add that certain 0.18 acre tract, more or less, described in Exhibit "B" to the lien of said Mortgage.

CONTINUING VALIDITY. Except as expressly modified above, the terms of the original Mortgage shall remain unchanged and in full force and effect and are legally valid, binding, and enforceable in accordance with their respective terms. Consent by Lender to this Modification does not waive Lender's right to require strict performance of the Mortgage as changed above nor obligate Lender to make any future modifications. Nothing in this Modification shall constitute a satisfaction of the promissory note or other credit agreement secured by the Mortgage (the "Note"). It is the intention of Lender to retain as liable all parties to the Mortgage and all parties, makers and endorser to the Note, including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, shall not be released by virtue of this Modification. If any person who signed the original Mortgage does not sign this Modification, then all persons signing below acknowledge that this Modification is given conditionally, based on the representation to Lender that the non-signing person consents to the changes and provisions of this Modification or otherwise will not be released by it. This waiver applies not only to any initial extension or modification, but also to all such subsequent actions. Grantor hereby ratifies and affirms that Grantor's liability shall continue in full force and effect through and including the Note's now extended maturity date and that Grantor has no defenses, setoffs, or other claims against Lender arising out of this credit facility. If it is determined that any other person or entity other than Lender shall have a lien, encumbrance, or claim of any type which has a legal priority over any term of this Modification, the original terms of the Note and Mortgage shall be severable from this Modification and separately enforceable from the terms thereof as modified hereby in accordance with their original terms, and Lender shall maintain all legal or equitable priorities which were in existence before the date of execution of this Modification. It is understood by and is the intention of the parties hereto that any legal or equitable priorities of Lender over any party which were in existence before the date of execution of this Modification shall remain in effect after the execution of this Modification.

EXHIBIT "A". An exhibit, titled "Exhibit "A", is attached to this Modification and by this reference is made a part of this Modification just as if all the provisions, terms and conditions of the Exhibit had been fully set forth in this Modification.

EXHIBIT "B". An exhibit, titled "Exhibit "B", is attached to this Modification and by this reference is made a part of this Modification just as if all the provisions, terms and conditions of the Exhibit had been fully set forth in this Modification.

MODIFICATION OF MORTGAGE
(Continued)

Page 2

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MODIFICATION OF MORTGAGE AND GRANTOR AGREES TO ITS TERMS. THIS MODIFICATION OF MORTGAGE IS DATED AUGUST 31, 2010.

THIS MODIFICATION IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS MODIFICATION IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.

GRANTOR:

PENMAN RUSSELLVILLE, LLC

By: H. Eliot Subin, Co-Manager of Penman Russellville, LLC (Seal)

By: Michael E Lewis, Co-Manager of Penman Russellville, LLC (Seal)

PENEDDIE, LLC

M & A HOLDINGS, LLC, Member of PenEddie, LLC

By: Michael E Lewis, Member/Manager of M & A Holdings, LLC (Seal)

CONDALE GROUP, LLC, Member of PenEddie, LLC

By: H. Eliot Subin, Manager of Condale Group, LLC (Seal)

PENBLUFFS, LLC

CONDALE GROUP, LLC, Member of PenBluffs, LLC

By: H. Eliot Subin, Managing Member of Condale Group, LLC (Seal)

KAJOQUIN HOLDINGS, LLC, Member of PenBluffs, LLC

By: Michael E. Lewis, Managing Member of Kajoquin Holdings, LLC (Seal)

LENDER:

BANK INDEPENDENT

X Will Alexander (Seal)
Authorized Signer

This Modification of Mortgage prepared by:

Name: Will Alexander, Bank Independent
Address: P O Box 5000
City, State, ZIP: Sheffield, AL 35660



20101006000331400 2/6 \$29.00
Shelby Cnty Judge of Probate, AL
10/06/2010 12:10:12 PM FILED/CERT

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Florida)
) SS
COUNTY OF Seminole)

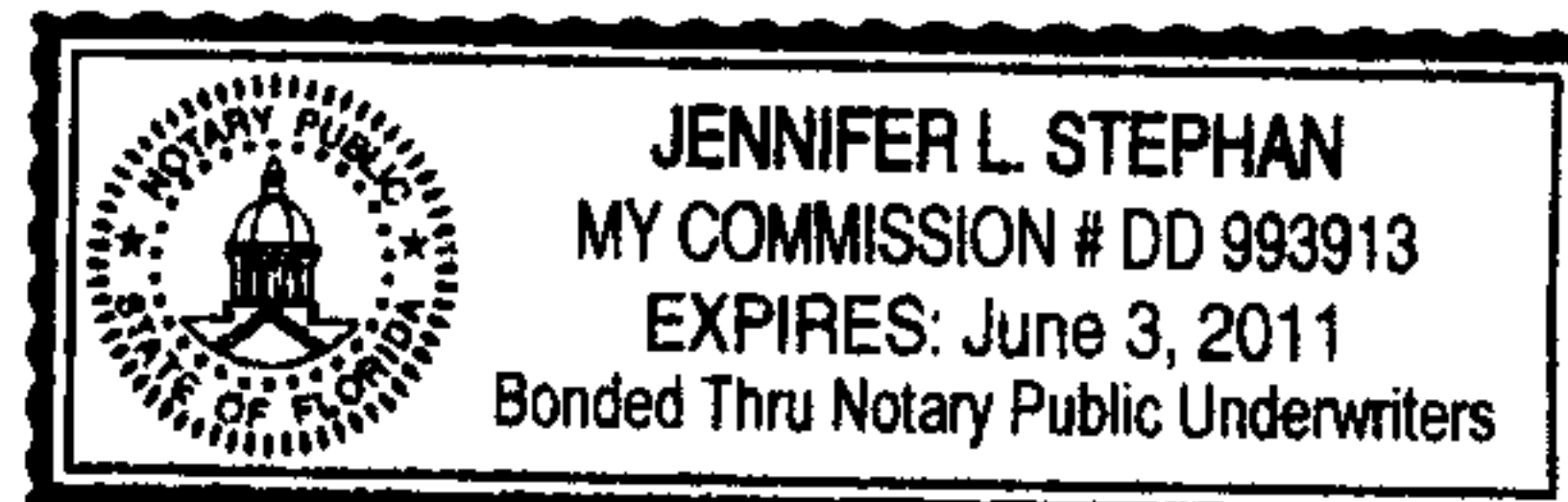


I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that H. Elliot Subin, Co-Manager of Penman Russellville, LLC and Michael E Lewis, Co-Manager of Penman Russellville, LLC, a limited liability company, are signed to the foregoing Modification and who are known to me, acknowledged before me on this day that, being informed of the contents of said Modification, they, as such managers 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 _____ day of _____, 20____
My commission expires 6/3/11
Notary Public

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Florida)
) SS
COUNTY OF Seminole)

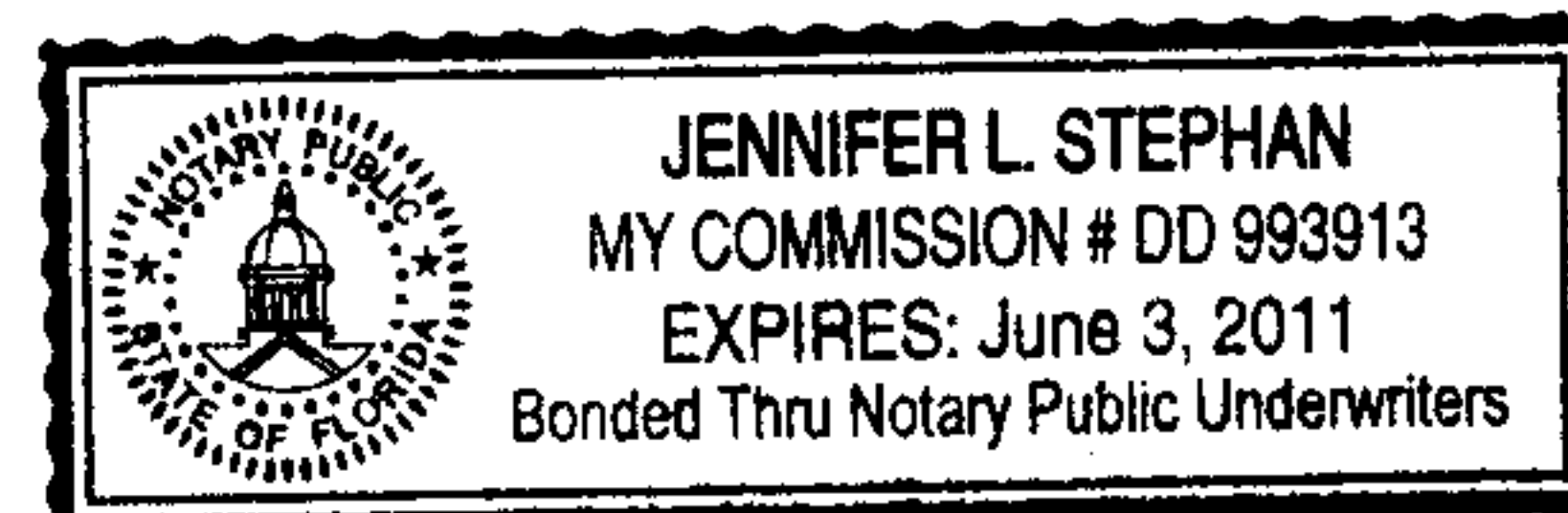


I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that Michael E Lewis, Member/Manager of M & A Holdings, LLC, Member of PenEddie, LLC and H. Elliot Subin, Manager of Condale Group, LLC, Member of PenEddie, LLC, a limited liability company, are signed to the foregoing Modification and who are known to me, acknowledged before me on this day that, being informed of the contents of said Modification, they, as such managers or members 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 _____ day of _____, 20____
My commission expires 6/3/11
Notary Public

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Florida)
) SS
COUNTY OF Seminole)



I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that H. Elliot Subin, Managing Member of Condale Group, LLC, Member of PenBluffs, LLC and Michael E. Lewis, Managing Member of Kajoquin Holdings, LLC, Member of PenBluffs, LLC, a limited liability company, are signed to the foregoing Modification and who are known to me, acknowledged before me on this day that, being informed of the contents of said Modification, they, as such members 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 _____ day of _____, 20____
My commission expires 6/3/11
Notary Public

LENDER ACKNOWLEDGMENT

STATE OF Alabama)
) SS
COUNTY OF Franklin)

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that Larry Archer whose name as Area President of Bank Independent is signed to the foregoing Modification and who is known to me, acknowledged before me on this day that, being informed of the contents of the Modification of Mortgage, he or she, in his or her capacity as such Area President of Bank Independent, executed the same voluntarily on the day same bears date.

Given under my hand and official seal this 20th day of September, 2010
Linda Pounders
Notary Public

My commission expires MY COMMISSION EXPIRES 04-13-2011



EXHIBIT "A"

This EXHIBIT "A" is attached to and by this reference is made a part of the Modification of Mortgage, dated August 31, 2010, and executed in connection with a loan or other financial accommodations between BANK INDEPENDENT and Penbluffs LLC.

FRANKLIN COUNTY PROPERTY:

PARCEL I:

A parcel of land lying in the SW ¼ of Section 20, Township 6 South, Range 11 West of Franklin County, Alabama, and being more particularly described as follows: Commence at the Southwest corner of the Southwest ¼ of Section 20, Township 6 South, Range 11 West; thence run North 89° 19' West a distance of 644.3 feet to a point; thence North 06° 42' East a distance of 728.2 feet to a point lying on the Northerly right of way of Linden Street and the Westerly right of way of U.S. Highway #43; thence North 07° 57' 23" East along the Westerly right of way of U. S. Highway #43 a distance of 301.7 feet to a 5/8" rebar set (SMW LS 19753) and the Point of Beginning; thence North 88° 08' 34" West and leaving said right of way a distance of 551.9 feet to a 5/8" rebar set (SMW LS 19753); thence North 01° 56' 08" East a distance of 400.00 feet to a 2" open top found; thence South 88° 08' 52" East a distance of 594.1 feet to a 5/8" rebar set (SMW LS 19753), said point lying on the Westerly right of way of U. S. Highway #43; thence South 07° 57' 23" West and along said right of way a distance of 402.3 feet to the Point of Beginning. Less and except any part of subject property lying within a road right of way.

PARCEL II:

A parcel of land lying in the SW ¼ of Section 20, Township 6 South, Range 11 West of Franklin County, Alabama, and being more particularly described as follows: Commence at the Southwest corner of the Southwest ¼ of Section 20, Township 6 South, Range 11 West; thence run North 89° 19' West a distance of 644.3 feet to a point; thence North 06° 42' East a distance of 728.2 feet to a point lying on the Northerly right of way of Linden Street and the Westerly right of way of U. S. Highway #43; thence North 88° 03' 57" West along the Northerly right of way of Linden Street a distance of 205.76 feet to a 5/8" rebar set (SMW LS 19753) and the Point of Beginning; thence continue the last described course a distance of 314.51 feet to a 2" open top found; thence North 01° 56' 08" East a distance of 299.26 feet to a 5/8" rebar set (SMW LS 19753); thence South 88° 08' 34" East a distance of 551.90 feet to a 5/8" rebar set (SMW LS 19753) said point lying on the Westerly right of way of U. S. Highway #43; thence South 07° 57' 23" West along said right of way a distance of 138.11 feet to a 5/8" rebar set (SMW LS 19753); thence North 88° 03' 40" West a distance of 222.87 feet to a 5/8" rebar set (SMW LS 19753); thence South 01° 56' 19" West a distance of 162.57 feet to the Point of Beginning. Less and except any part of subject property lying within a road right of way.

ETOWAH COUNTY PROPERTY

TRACT I

Commence at a pinched pipe marking the intersection of the West line of Northwest ¼ - SE ¼, Section 14, Township 12 South, Range 7 East and the Northerly right of way of U.S. Highway #278 (right of way varies) also being the Southeast corner of Lot 10 of Morris Meadows Subdivision as recorded in Pint Book "H", Page 111, in the Probate Office of Etowah County, Alabama; thence leaving said lot corner and said forty Line South 75 degrees 53 minutes 48 seconds East 399.97 feet along said right of way to a 3/8 inch rebar capped (Dowdy); thence South 78 degrees 39 minutes 05 seconds East 88.14 feet along said right of way to a 3/8 inch rebar; thence North 84 degrees 55 minutes 40 seconds East 212.59 feet along said of way to a 3/8 inch rebar capped (Dowdy) also being the point of beginning; thence leaving said right of way North 03 degrees 45 minutes 37 seconds East 36.31 feet to a ½ inch rebar capped (CA-497-LS); thence North 85 degrees 03 minutes 56 seconds East 149.82 feet to a nail; thence North 04 degrees 57 minutes 27 seconds West 149.99 feet to a nail; thence South 85 degrees 62 minutes 09 seconds West 126.89 feet to a 3/8 inch rebar capped (Dowdy); thence North 03 degrees 46 minutes 49 seconds East 111.37 feet to a nail; thence North 04 degrees 46 minutes 28 seconds West 28.53 feet to a nail; thence North 86 degrees 51 minutes 55 seconds West 26.57 feet to a ½ inch rebar capped (CA-491-LS); thence North 04 degrees 16 minutes 56 seconds West 46.83 feet to a 1/2 inch rebar capped (CA-497-LS); thence along a curve having a radius of 83.54 feet and a chord bearing and distance of North 15 degrees 26 minutes 42 seconds East 56.49 feet to a ½ inch rebar capped (CA-497-LS); thence along a curve having a radius of 127.10 feet and a chord bearing and distance of North 36 degrees 27 minutes 08 seconds East 8.99 feet to a ½ inch rebar capped (CA-497-LS); thence continue along said curve having a radius of 127.16 feet and a chord bearing and distance of North 53 degrees 12 minutes 13 seconds East 65.87 feet to a ½ inch rebar capped (CA-497-LS); thence North 69 degrees 14 minutes 45 seconds East 143.82 feet to a ½ inch rebar capped (CA-497-LS); thence North 85 degrees 20 minutes 28 seconds East 159.38 feet to a ½ inch rebar capped (CA-497-LS) on the Westerly right of way of Alford Bend Road (60 foot right of way); thence South 16 degrees 57 minutes 13 seconds East 414.45 feet along said right of way to a ½ inch rebar capped (CA-497-LS) on the Northerly right of way of U.S. highway #278 (right of way varies); thence South 27 degrees 47 minutes 25 seconds West 125.07 feet along said right of way to a concrete monument; thence South 85 degrees 26 minutes 02 seconds West 417.56 feet along said right of way to the point of beginning.

TRACT 2:

Commence at a pinched pipe marking the intersection of the West line of Northwest ¼ - Southeast ¼, Section 14, Township 12 South, Range 7 East and the Northerly right of way of U.S. Highway #278 (right of way varies) also being the Southeast corner of Lot 10 of Morris Meadows Subdivision as recorded in Plat Book "H", Page 111, in the Probate Office of Etowah County, Alabama; thence leaving said lot corner and said forty line South 75 degrees 53 minutes 48 seconds East 369.50 feet along said right of way to a point; thence leaving said right of way North 03 degrees 48 minutes 18 seconds East 322.24 feet to a 3/8 inch rebar capped (Dowdy) also being the point of beginning; thence North 21 degrees 43 minutes 50 seconds West 193.82 feet to a 3/8 inch capped (Dowdy); thence North 87 degrees 55 minutes 25 seconds East 113.65 feet to a 3/8 inch rebar; thence North 87 degrees 59 minutes 46 seconds East 264.82 feet to a 3/8 inch rebar capped (Dowdy); thence South 05 degrees 05 minutes 27 seconds East 84.31 feet to a ½ inch rebar capped (CA-497-LS); thence along a curve having a radius of 127.10 feet and a chord bearing and distance of South 36 degrees 27 minutes 08 seconds West 8.99 feet to a ½ inch rebar capped (CA-497-LS); thence along a curve having a radius of 83.54 feet and a chord bearing and distance of South 15 degrees 26 minutes 42 seconds West 56.49 feet to a ½ inch rebar capped (CA-497-LS); thence South 04 degrees 16 minutes 56 seconds East 46.83 feet to a ½ inch rebar capped (CA-497-LS); thence South 89 degrees 47 minutes 38 seconds West 297.06 feet to the point of beginning.

There is also a 30.00 feet access easement to said property, the centerline being more particularly described as follows: Commence at the point of intersection of the Northerly Right of Way of U.S. Highway #218 (80 foot Right of Way) with the West line of the Northwest ¼ of the Southeast ¼, Section 14, Township 12 South, Range 7 East, and run South 75 degrees 56 minutes 37 seconds East, leaving said West line and along said Right of Way, 384.88 feet to the point of beginning of said access centerline; thence run North 03 degrees 47 minutes 00 seconds East, leaving said Right of Way and along said centerline, 311.29 feet to a point; thence run North 89 degrees 52 minutes 27 seconds East along said centerline 310.61 feet to the end of said access easement.

SHELBY COUNTY PROPERTY:

Beginning at the Northeast corner of Lot 1, Block 1, of Willow Glen Subdivision, as recorded in Map Book 7, page 101, in the Probate Office of Shelby County, Alabama and run thence North 90° 00' 00" East along the North line of Open Space 'A' and the South line of Meadowlark Place, a public street, a distance of 130.08 feet to a corner and the point of beginning of the property being described; thence continue last described course a distance of 240.32 feet to the P.C. of a curb return to the right having a central angle of 90° 00' 00" and a radius of 35.0 feet; thence run along the arc of said curve an arc distance of 50.26 feet to the P.T. of said curve and on a curve to the left having a central angle of 05° 11' 35" and a radius of 2,125.19 feet; thence run along the arc of said curve an arc distance of 192.62 feet to a corner; thence run North 89° 57' 22" West a distance of 309.67 feet to a corner; thence run North 00° 02' 27" East a distance of 219.49 feet to the point of beginning. Less and except any portion of subject property lying within a road right of way.

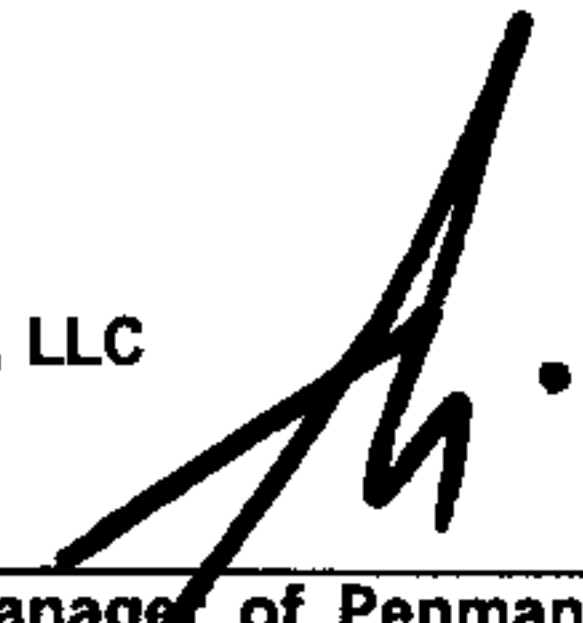


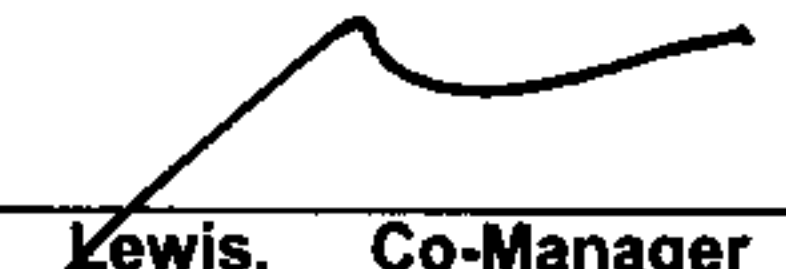
20101006000331400 4/6 \$29.00
Shelby Cnty Judge of Probate, AL
10/06/2010 12:10:12 PM FILED/CERT

THIS EXHIBIT "A" IS EXECUTED ON AUGUST 31, 2010.

GRANTOR:

PENMAN RUSSELLVILLE, LLC

By:  (Seal)
H. Eliot Subin, Co-Manager of Penman Russellville, LLC

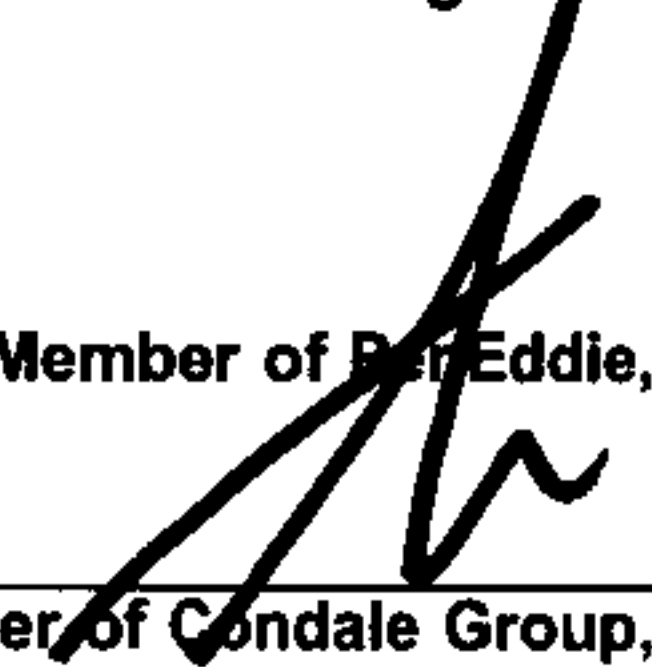
By:  (Seal)
Michael E. Lewis, Co-Manager of Penman Russellville, LLC

PENEDDIE, LLC

M & A HOLDINGS, LLC, Member of PenEddie, LLC

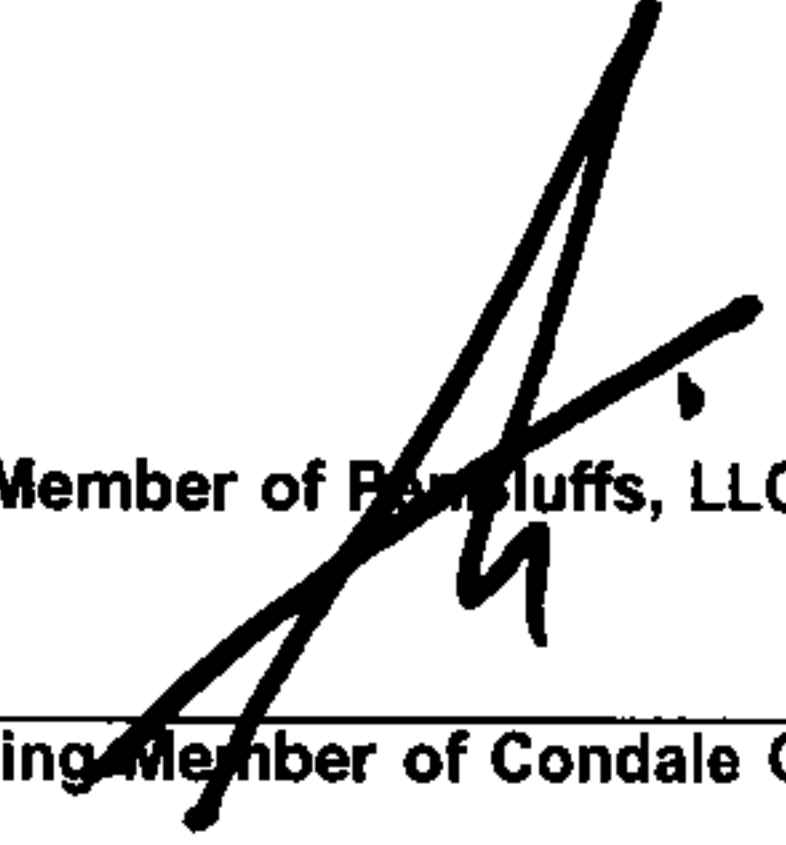
By:  (Seal)
Michael E. Lewis, Member/Manager of M & A Holdings, LLC

CONDALE GROUP, LLC, Member of PenEddie, LLC

By:  (Seal)
H. Eliot Subin, Manager of Condale Group, LLC

PENBLUFFS, LLC

CONDALE GROUP, LLC, Member of PenBluffs, LLC

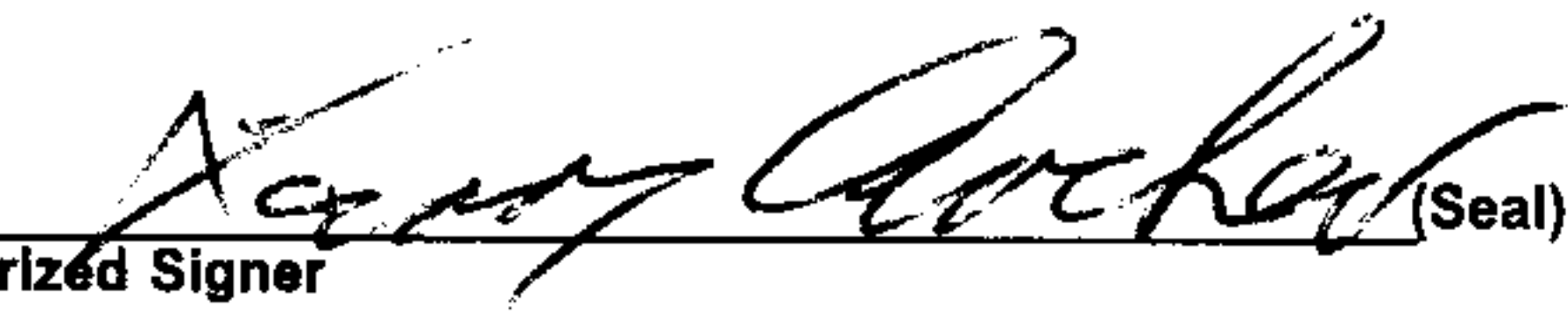
By:  (Seal)
H. Eliot Subin, Managing Member of Condale Group, LLC

KAJOQUIN HOLDINGS, LLC, Member of PenBluffs, LLC

By:  (Seal)
Michael E. Lewis, Managing Member of Kajoquin Holdings, LLC

LENDER:

BANK INDEPENDENT

X  (Seal)
Authorized Signer


20101006000331400 5/6 \$29.00
Shelby Cnty Judge of Probate, AL
10/06/2010 12:10:12 PM FILED/CERT

EXHIBIT "B"

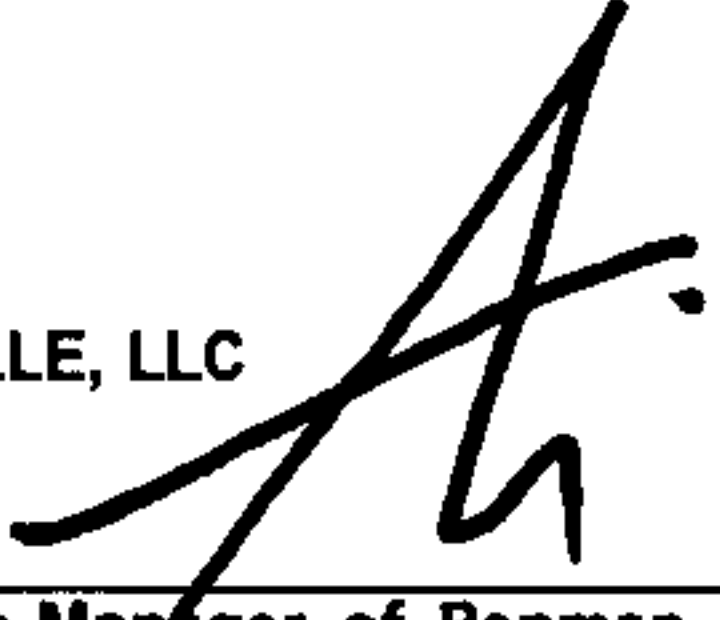
This EXHIBIT "B" is attached to and by this reference is made a part of the Modification of Mortgage, dated August 31, 2010, and executed in connection with a loan or other financial accommodations between BANK INDEPENDENT and Penbluffs LLC.

Commence at a pinched pip marking the intersection of the West line of the NW ¼ of the SE ¼, Section 14, Township 12 South, Range 7 East, and the Northerly R/W of U. S. Highway #278 (R/W varies), also being the SE corner of Lot 10 Morris Meadows Subdivision, recorded in Plat Book "H" Page 111, Probate Office, Etowah County, Alabama; thence leaving said lot corner and said forty line and along said R/W the following bearings and distances: South 78 degrees 53' 48" East 399.97 feet to a 3/8" rebar capped (Dowdy); thence South 78 degrees 39' 05" East 88.14 feet to a 3/8" rebar; thence North 84 degrees 55' 40" East 212.59 feet to a 3/8" rebar capped (Dowdy); thence North 85 degrees 26' 02" East 417.56 feet to a concrete monument; thence North 27 degrees 47' 25" East 125.07 feet to a 1/2" rebar capped (CA-497-LS) on the Westerly R/W of Alford Bend Road (60' R/W); thence North 16 degrees 57' 13" West 414.45 feet along said R/W to a 1/2" rebar capped (CA-497-LS), also being the point of beginning; thence leaving said R/W South 85 degrees 20' 28" West 159.38 feet to a 1/2" rebar capped (CA-497-LS); thence South 69 degrees 14' 45" West 91.35 feet to a 1/2" rebar capped (CA-497-LS); thence North 02 degrees 25' 02" West 53.87 feet to a 1/2" rebar capped (CA-497-LS); thence North 85 degree 20' 28" East 238.83 feet to a 1/2" rebar capped (CA-497-LS) on the Westerly R/W of Alford Bend Road (60' R/W) thence South 16 degrees 57' 13" East 29.17 feet along said R/W to the point of beginning, containing 0.18 acre, more or less.

THIS EXHIBIT "B" IS EXECUTED ON AUGUST 31, 2010.

GRANTOR:

PENMAN RUSSELLVILLE, LLC

By:  (Seal)
H. Eliot Subin, Co-Manager of Penman Russellville, LLC

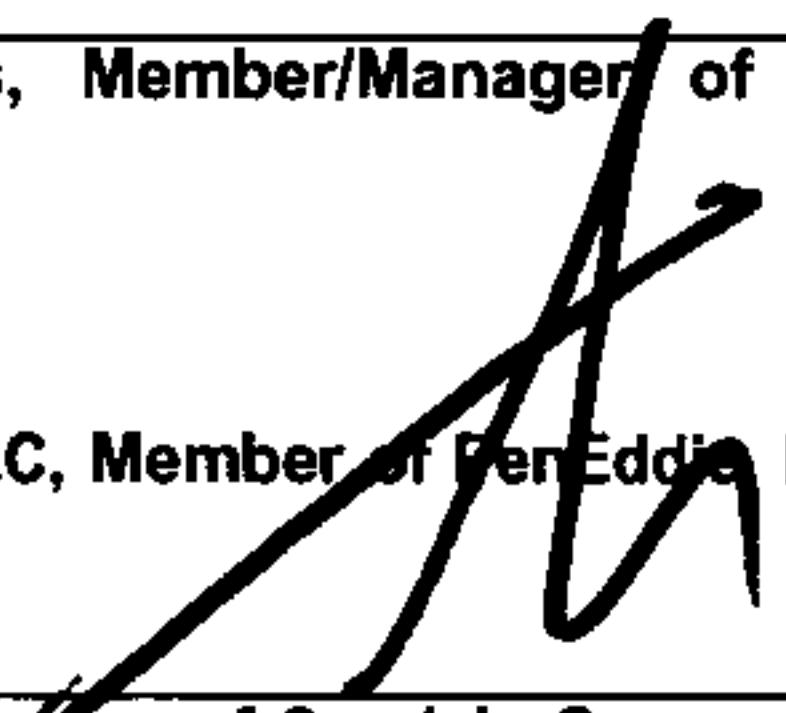
By:  (Seal)
Michael E. Lewis, Co-Manager of Penman Russellville, LLC

PENEDDIE, LLC

M & A HOLDINGS, LLC, Member of PenEddie, LLC

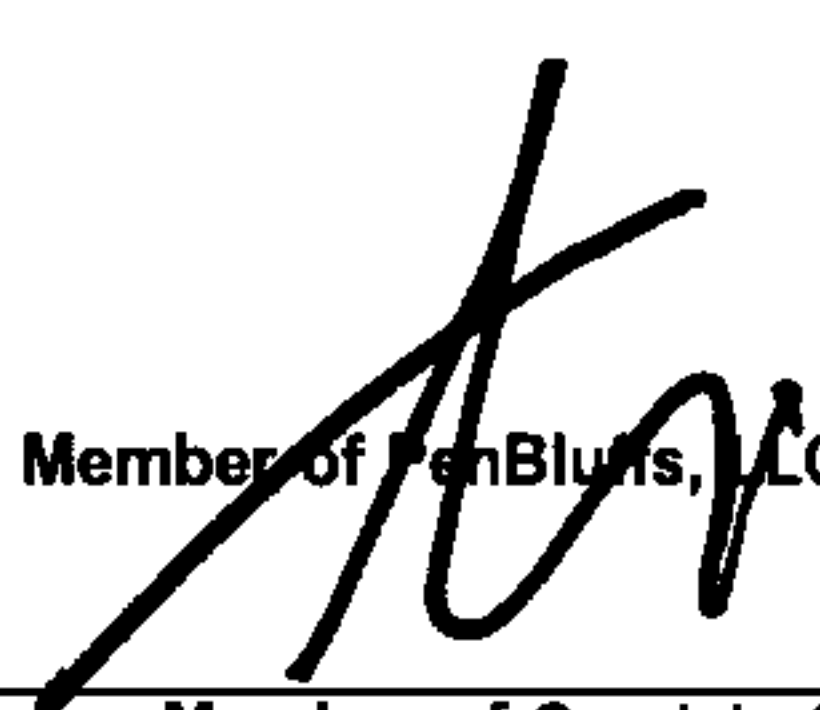
By:  (Seal)
Michael E. Lewis, Member/Manager of M & A Holdings, LLC

CONDALE GROUP, LLC, Member of PenEddie, LLC

By:  (Seal)
H. Eliot Subin, Manager of Condale Group, LLC

PENBLUFFS, LLC

CONDALE GROUP, LLC, Member of PenBluffs, LLC

By:  (Seal)
H. Eliot Subin, Managing Member of Condale Group, LLC

KAJOQUIN HOLDINGS, LLC, Member of PenBluffs, LLC

By:  (Seal)
Michael E. Lewis, Managing Member of Kajoquin Holdings, LLC

LENDER:

BANK INDEPENDENT

X  (Seal)
Authorized Signer



20101006000331400 6/6 \$29.00
Shelby Cnty Judge of Probate, AL
10/06/2010 12:10:12 PM FILED/CERT